

IN THE SUPREME COURT OF NOVA SCOTIA

Citation:[R. v. MacLellan, 2004 NSSC 5]

Date: 20040109

Docket: S.AT. 203539

Registry: Antigonish

Between:

Robert Anthony MacLellan

Appellant

v.

Her Majesty the Queen

Respondent

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**Judge:** The Honourable Justice Douglas L. MacLellan

**Heard:** December 9, 2003 in Antigonish, Nova Scotia

**Subject:** **Criminal Law -Appeal from conviction for impaired driving.**

**Summary:** Fisheries officers attempted to stop appellant's vehicle for *Fisheries Act* violation. Appellant did not stop until after being chased on back roads. Charges of failing the breathalyzer and two charges under the *Fisheries Act* dismissed because of Charter violations. Appellant convicted of impaired driving based on some symptoms of drinking observed by peace officers and based on conclusion by trial judge that appellant's reaction to being pulled over was evidence of impairment.

**Issue:** Was the trial judge's conclusion the Crown had proven impaired driving reasonable in circumstances?

**Result:** Appeal allowed. Trial judge should not have concluded that because appellant refused to stop when signalled to do so by Fisheries officers that this was evidence of impairment by alcohol. (*R v. Ryan* (2002), 210 N.S.R. (2d) 194 applied)

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION. QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***