

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** R. v. Temple, 2004 NSSC 191

**Date:** 20040927

**Docket:** "CR"SD213965

**Registry:** Digby

**Between:**

Her Majesty The Queen

Informant

v.

Denise Marie Temple

Defendant

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**Judge:** The Honourable Justice Allan P. Boudreau

**Heard:** September 21 and 22, 2004 in Digby, Nova Scotia

**Oral Decision:** September 27, 2004

**Subject:** Criminal Law - Criminal Negligence in operation of vehicle - burden of proof.

**Summary:** During the early morning hours of April 18, 2003 Denise Marie Temple exited a parallel parking spot on the main street through Digby by backing up and colliding with the car parked behind her vehicle, and then putting her car in forward and pressing the acceleration to the floor. Ms. Temple's car squealed tires all the while exiting the parking space and while her car veered left and then straightened out and went directly across the street, striking Brandy Cook in the process. Ms Cook was seriously injured.

As a result, Denise Marie Temple is charged on a two count indictment dated September 21, 2004 with dangerous driving of a motor vehicle causing bodily harm to Brandy Cook and criminal negligence in the operation of a motor vehicle causing bodily harm to Brandy Cook, contrary to sections 249 (3) and 221 of the Criminal Code, respectively. It is agreed by the parties that the 249 (3) charge is an included offence in the 221 charge and that Ms. Temple can therefore not be found guilty of both counts.

**Issue:** It is common ground that Brandy Cook suffered serious bodily harm when she was struck by the motor vehicle operated by Ms. Temple. The main question is whether Ms. Temple was operating the motor vehicle in a criminally negligent manner or in a manner that was dangerous to the public.

**Result:** Found accused guilty of Criminal Negligence causing bodily harm.

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