

NOVA SCOTIA COURT OF APPEAL

Cite as: R. v. Nauss, 1993 NSCA 159

Clarke, C.J.N.S., Hart and Jones, J.J.A.

**BETWEEN:**

PAUL RUSSELL NAUSS

)  
David F. Walker, Q.C.  
) for the Appellant

)  
Appellant )

- and - )

)  
Kenneth W.F. Fiske, Q.C.  
) for the Respondent

HER MAJESTY THE QUEEN

)  
Respondent )

)  
Appeal Heard:  
) June 15, 1993

)  
Judgment Delivered:  
) June 15, 1993

**THE COURT:** Appeal dismissed per oral reasons for judgment of Jones, J.A.; Clarke, C.J.N.S. and Hart, J.A. concurring.

The reasons for judgment of the court were delivered orally by:

JONES, J.A.:

This is an application for leave to appeal on a question of law from a decision of Justice Carver convicting the appellant on a charge of imprudent driving contrary to s. 100(2) of the **Motor Vehicle Act**. The charge arose as a result of a police pursuit. The appellant panicked when he thought that he was about to be stopped by police. His car was driven off the highway onto a private road. He eventually returned to the public highway for a short distance and then onto a private road past private dwellings and into a field. The public had access to the last stretch of road which lead to the owner's auto repair shop. There was evidence that the appellant was driving at 40 to 50 m.p.h. past the residences and that the tires were spinning. The appellant testified that he had the car under control as he went through the driveway. The trial judge acquitted the appellant on the ground that she had a reasonable doubt as to whether there was a lack of careful and prudent driving in the circumstances. The Crown appealed to the County Court. Judge Carver reviewed the record to determine whether the verdict was unreasonable or could not be supported by the evidence. He concluded that the verdict was unreasonable and entered a conviction. That was essentially a question of fact for the appeal judge. No issue of credibility arose on the appeal. There was ample evidence to support

Judge Carver's decision and accordingly the application for leave to appeal is dismissed.

J.A.

Concurred in:

Clarke, C.J.N.S.

Hart, J.A.

