

Date: 20011213  
Docket No.: CAC 169686

**NOVA SCOTIA COURT OF APPEAL**

[Cite as: R. v. Wile 2001 NSCA 183]

**Bateman, Flinn and Hamilton, JJ. A.**

**BETWEEN:**

KEVIN BRUCE WILE

Appellant

- and -

HER MAJESTY THE QUEEN

Respondent

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**REASONS FOR JUDGMENT**

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Counsel: Mark G. Gosine for the appellant  
Edward R. Sawa for the respondent

Appeal Heard: December 13, 2001

Judgment Delivered: December 13, 2001

THE COURT: Leave to appeal is denied per oral reasons for judgment of Flinn, J.A.; Bateman and Hamilton, JA. concurring.

**FLINN, J.A. (Orally):**

[1] The appellant was convicted in Provincial Court of driving a motor vehicle while his driver's license was suspended, contrary to s. 287(2) of the **Motor Vehicle Act R.S., c. 293, s. 1**. On appeal, Justice Robertson, the summary conviction appeal court judge, confirmed the decision of the trial judge that the defence of due diligence was not available to the appellant in the circumstances of this case.

[2] An appeal to this court on a summary conviction matter may, with the leave of the court, be taken on any ground that involves a question of law alone (s. 839(1) **Criminal Code of Canada**).

[3] In our opinion the decision of the summary conviction appeal court judge discloses no error of law, even taking into account the fresh evidence which the appellant introduced. Leave to appeal is denied. The Crown's application for costs is dismissed.

Flinn, J.A.

Concurred in:

Bateman, J.A.

Hamilton, J.A.