

NOVA SCOTIA COURT OF APPEAL
Citation: *Meister v. Coyle*, 2011 NSCA 119

Date: 20111220
Docket: CA 335866
Registry: Halifax

Between:

Charles Benjamin Meister

Appellant

v.

Michael Vaughan Coyle

Respondent

Judge: The Honourable Justice Linda L. Oland

Appeal Heard: September 15, 2011, in Halifax, Nova Scotia

Subject: Professional Negligence - Lawyers - Standard of Care

Summary: The bus the appellant was driving came upon the scene of an accident and collided with a car, killing two of its occupants. The respondent lawyer represented the appellant at the preliminary inquiry and the trial before a judge and jury, on the charges of dangerous driving causing death. He did not object to the admission of a video re-enactment of the accident or to opinion evidence as to the response time available to his client. Rather, the respondent sought to show through cross-examination that there was no factual basis for a critical aspect on which the video and opinion relied, and presented other expert evidence. The appellant was convicted. This court overturned those convictions and ordered a new trial; the Crown subsequently withdrew the indictment.

The appellant sued the respondent, claiming professional negligence. The trial judge heard evidence including conflicting expert evidence. She held that the respondent had not breached the standard of care of a reasonably competent counsel.

Issue: Whether the trial judge erred in finding that the respondent's failure to object did not breach the standard of care of counsel acting in a criminal proceeding.

Result: Appeal dismissed. On the facts of the case before her, the judge found that the respondent's failed strategy to allow the evidence to go before the jury without objection did not amount to negligence. Her conclusion was based on the judge's reasonable assessment of all the evidence, and does not reflect palpable and overriding error.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 15 pages.