

**IN THE SUPREME COURT OF NOVA SCOTIA**

Citation: R. v. Abbass, 2004 NSSC 109

**Date:** 20040608

**Docket:** S.H. 214552A

**Registry:** Halifax

**Between:**

Her Majesty The Queen

Appellant

v.

Todd Stephen Abbass

Respondent

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**Judge:** The Honourable Justice C. Richard Coughlan

**Heard:** April 29, 2004

**Decision:** June 8, 2004

**Subject:** Summary Conviction Appeal - *Charter of Rights and Freedoms* - Trial within reasonable time

**Summary:** The Appellant was charged with impaired driving and failure of a Breathalyzer test. The Appellant, through experienced counsel, entered a not guilty plea and requested a full day hearing. Counsel was informed by the court clerk of the first available date. The trial date was approximately fourteen and one half months after the date of the charge. The Appellant alleged his right to be tried within a reasonable time had been infringed. The trial judge found his right to be tried within a reasonable time had been infringed and ordered a stay of proceedings.

**Issue:** The issue for the Court is whether the trial judge erred in ruling the Appellant's rights pursuant to s. 11(b) of the *Charter* had been infringed or denied.

**Result:** There was no evidence of actual prejudice to the Appellant. From the facts, the Appellant appeared to be content with the pace at which matters were proceeding. The trial judge erred in inferring prejudice from the passage of time on the facts of the case in the absence of evidence of actual prejudice.

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