

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Sergalis, 2014 ONCA 624

DATE: 20140908

DOCKET: C58329

Hoy A.C.J.O., Gillese and MacFarland JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

Joseph Sergalis

Appellant

Mitchell Eisen, for the appellant

Molly Flanagan, for the respondent

Heard and released orally: September 4, 2014

On appeal from the order of Justice Salmers, of the Summary Conviction Appeal Court, dated February 3, 2014, dismissing the summary conviction appeal.

ENDORSEMENT

[1] The appellant was convicted of over .80 and his conviction was upheld by the Summary Conviction Appeal Court judge. The issue throughout was whether the appellant had raised a reasonable doubt that the intoxilyzer, that measured his blood alcohol levels, functioned or was operating properly.

[2] In this case, the intoxilyzer results were printed to an external printer. The technician therefore did not check whether the intoxilyzer's internal printer was operating properly before conducting the test, as required where an internal printer is used. The technician did not check the external printer before operating the intoxilyzer, but testified that the external printer functioned properly.

[3] The trial judge was satisfied that the intoxilyzer was in proper working order and that the external printer accurately recorded the appellant's readings and the Summary Conviction Appeal Court judge upheld his decision. We see no basis for interfering with the Summary Conviction Appeal Court judge's decision.

[4] This appeal is accordingly dismissed.

"Alexandra Hoy A.C.J.O."

"E.E. Gillese J.A."

"J. MacFarland J.A."