

IMPAIRED DRIVING - 253(1)(A) - FATIGUE AND ALCOHOL

R. v. Comte 2010 ABPC 131 per Shriar, PCJ:

Impaired driving trial. Driving pattern and some indicia noted. Accused testified that he had not consumed alcohol for many hours prior to driving, and mostly was suffering from fatigue. Certificate entered in evidence, but over .08 charge dismissed as the samples were taken outside of two hours.

Held: Conviction entered.

“There is authority from across the country for the proposition that a person can be convicted of impaired driving where the ability to drive is impaired partly by fatigue and partly by alcohol.” (see: *Pelletier* (1989) 51 CCC (3d) 161 (Sask QB), *Campbell* [1981] BCJ 320). Although the Certificate could not be used to prove the over .08 charge, the court can infer from the Certificate that alcohol was present in the accused’s system: *Dinelle* [1986] 44 MVR 109, *Randell* [1994] SJ No. 14.