

IMPAIRED DRIVING - 8 & 24 - EXCLUSION OF CERTIFICATE

R. v. Dupras 2010 ABPC 138 per Kerby, PCJ:

Impaired driving trial. Reasonable grounds issue. Random vehicle stop. Reasonable grounds to arrest based upon: fumbling with licence; strong smell of alcohol on breath; and slightly red eyes. Court found s. 8 breach. Issue regarding exclusion of Certificate pursuant to 24(2).

Held: Certificate excluded.

Negligent disregard of accused's Charter rights. There was no evidence above a reasonable suspicion. "This was more than an error in judgment. In my opinion the officer did not act in good faith." As per *Haut* 2010 ABPC 2, significant intrusion upon accused's Charter protected interests. Society's interest in having the case adjudicated on the merits outweighed by the serious nature of the breach and the intrusion upon the accused's liberty occasioned by the unlawful arrest.