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Abridgment Digests

R. v. Jones
2006 CarswellAlta 350
Supreme Court of Canada, 2006
Subject: Criminal; Constitutional

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Subject Title: Criminal law
Classification Number: **IV.5** [Find all digests under this classification]
Digest Number: [2005] C.C.L. 4157

Charter of Rights and Freedoms -- Waiver

Officer stopped accused after observing that his front windshield was completely frosted over -- Officer noted symptoms consistent with consumption of alcohol and arrested accused -- Accused indicated his wish to contact counsel when read his rights -- At police station, accused was not able to reach his lawyer -- Officer again advised accused of availability of other lawyers and phone book -- Accused indicated he did not wish to speak to any other counsel, and officer requested accused to accompany him to breathalyzer where accused provided breath samples -- Trial judge held no breach of accused's right to counsel under s. 10(b) of Canadian Charter of Rights and Freedoms existed and admitted breathalyzer certificate into evidence -- Summary conviction appeal court judge dismissed accused's appeal from conviction for driving with excessive alcohol -- Accused appealed -- Appeal dismissed by majority -- Officer reasonably concluded from accused's actions that he had terminated his efforts to contact his own lawyer -- Additional Prosper warning was not required to be read to accused, as it was not applicable in present case -- Such warning may be required where detained person, who has been reasonably diligent in exercising his right but has not been successful, subsequently wishes to waive his right to counsel.

R. v. Jones (2005), 2005 CarswellAlta 1471, 53 Alta. L.R. (4th) 14, 134 C.R.R. (2d) 167, 25 M.V.R. (5th) 169, 201 C.C.C. (3d) 268, 2005 ABCA 289 (Alta. C.A.) affirming (2004), 2004 CarswellAlta 319, 2004 ABOB 169, 350 A.R. 177, 4 M.V.R. (5th) 294, 40 Alta. L.R. (4th) 276 (Alta. Q.B.) leave to appeal refused (2006), 2006 CarswellAlta 351, 2006 CarswellAlta 350 (S.C.C.) [Alberta]

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Subject Title: Criminal law
Classification Number: **IV.18.a** [Find all digests under this classification]
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1. Subject Title: Criminal law-- Classification Number: **IV.5**-- Charter of Rights and Freedoms -- Waiver 133 Digests

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Subject Title: Criminal law
Classification Number: **IV.5** [Find all digests under this classification]
Digest Number: [2005] C.C.L. 35005

Charter of Rights and Freedoms -- Waiver

Accused was involved in automobile collision in which he received head injury -- Officer arrested accused for impaired driving and advised him of right to counsel -- Officer testified that accused declined to exercise right -- Accused was charged with impaired causing bodily harm after evidence was obtained -- At trial, Crown applied to admit evidence of statements and breathalyzer readings -- Evidence admitted -- Crown established that accused waived right to counsel -- It was preferable but not necessary that officer record verbatim what accused said -- There was no reason to believe that officer misunderstood accused -- Accused's injury did not render him incapable of making informed waiver -- Accused lacked sophistication and analytical ability but had operating mind -- Accused generally understood jeopardy he was facing at time he took breath tests -- It was apparent from facts at scene of accident that matter was serious -- Accused would not have asked for counsel even if informed of actual charge.

R. v. Bennett (2005), 22 M.V.R. (5th) 36, 2005 CarswellOnt 3922 (Ont. S.C.J.) [Ontario]

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Subject Title: Criminal law
Classification Number: **IV.5** [Find all digests under this classification]
Digest Number: [2006] C.C.L. 10923

Charter of Rights and Freedoms -- Waiver

Right to counsel -- Accused convicted under s. 254(5) of Criminal Code for refusing to comply with demand made under s. 254(3) to provide breathalyzer samples -- Accused appealed -- Appeal dismissed -- Trial judge did not err in finding that police complied with requirement to hold off from

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