

Case Name:
R. v. Whalen

Between
Her Majesty the Queen, Respondent, and
Roderick Whalen, Appellant

[2010] O.J. No. 4556

2010 ONCA 712

Docket: C50030

Ontario Court of Appeal
Toronto, Ontario

M. Rosenberg, E.A. Cronk and J.L. MacFarland J.J.A.

Heard: October 22, 2010.
Judgment: October 22, 2010.
Released: October 26, 2010.

(2 paras.)

Appeal From:

On appeal from conviction entered by Justice H. McLean of the Ontario Court of Justice, dated September 10, 2008.

Counsel:

Philip Norton, for the Appellant.

Elliott Behar, for the Respondent.

APPEAL BOOK ENDORSEMENT

The following judgment was delivered by

1 THE COURT:-- The conviction on refusing did not depend on accepting the police evidence. The appellant's own evidence established both the *actus reas* and *mens rea* of the offence. The trial judge was entitled to accept this evidence and find, as he did, that the appellant did not want to provide adequate samples.

2 Appeal dismissed.

cp/e/qllxr/qljxr

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