

Pages 1 through 74 redacted for the following reasons:

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s.14

s.3

## **Wilkinson, Anita JAG:EX**

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**From:** s.15 JAG:EX  
**Sent:** Thursday, April 3, 2014 4:13 PM  
**To:** Anderson, Kathy E JAG:EX; Wilkinson, Anita JAG:EX  
**Subject:** RE: s.22  
**Attachments:** irp s.22 docx

As requested.

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**From:** Anderson, Kathy E JAG:EX  
**Sent:** Thursday, April 3, 2014 4:11 PM  
**To:** s.15 JAG:EX  
**Subject:** s.22

Can you please send the decision electronically to me and to Anita Wilkinson. Thanks!

*Kathy Anderson*

Pages 76 through 136 redacted for the following reasons:

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s.13

s.13, s.14

## Wilkinson, Anita JAG:EX

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**From:** Burchnall, Shelly K JAG:EX  
**Sent:** Monday, April 7, 2014 2:54 PM  
**To:** Anderson, Kathy E JAG:EX s.15 JAG:EX  
**Cc:** Esposito, Tony JAG:EX  
**Subject:** FW: irp s.22 FINAL  
**Attachments:** irp s.22 FINAL.docx

Hi all,

Please find attached a copy of Kathryn's signed s.22 decision for filing on the W: drive. I will convert the file to PDF to share with Melanie, Silvia, Steve Roberts and Sam.

Thanks,  
Shelly

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**Shelly Burchnall**  
Director, Administrative Justice  
Office of the Superintendent of Motor Vehicles  
Ministry of Justice

Tel: (250) 356-0601  
Fax: (250) 356-5577



*This communication and all attachments are intended only for the addressee and are privileged and confidential. Any distribution, disclosure, copying or other use by anyone else is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and destroy all electronic and printed versions. Thank you.*

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**From:** Chapman, Kathryn JAG:EX  
**Sent:** Monday, April 7, 2014 2:49 PM  
**To:** Burchnall, Shelly K JAG:EX  
**Subject:** RE: irp s.22 FINAL

Draft with my signature.

Kathryn Chapman  
Deputy Superintendent  
Office of the Superintendent of Motor Vehicles  
Ministry of Justice  
Phone: (250) 953-3818  
Assistant: (250) 356-8640

This communication (both the message and any attachments) is confidential. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.

**From:** Burchnall, Shelly K JAG:EX  
**Sent:** Monday, April 7, 2014 2:32 PM  
**To:** Chapman, Kathryn JAG:EX  
**Subject:** irp s.22 FINAL  
**Importance:** High

As discussed, please find attached the s.22 decision for your electronic signature please.

Thanks,  
Shelly

April 3, 2014

s.22

**REVIEW DECISION Immediate Roadside Prohibition ("IRP") No.**

s.22

**Introduction**

On February 12, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review. I am making the decision in your case, in my role as Deputy Superintendent of Motor Vehicles, because of the issue you raise in relation to the British Columbia Supreme Court's decisions in ***Richardson v. Superintendent of Motor Vehicles*** BCSC S13775 and ***Wilson v. British Columbia (Superintendent of Motor Vehicles)*** 2013 C.C.S. No. 1855.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- an approved screening device ("ASD") registered a "FAIL" as a result of your blood alcohol concentration ("BAC") being not less than 80 milligrams of alcohol in 100 millilitres of blood ("80 mg%");
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

## Preliminary Matters

When you applied for this review, you checked all grounds listed on the application form. However, I find that not all of the grounds listed are applicable to your situation, because of the reason for which your prohibition was issued. In any event, in order to ensure that you benefit from a thorough review of your prohibition, I have considered all grounds that apply in your case.

Records at this office confirm that full disclosure of the documents before me was provided to you. I proceeded with this review based on that confirmation.

In your written statement you indicated that s.22 and rely on a car to make a living. You also submit that your driving record "proves that you are a careful, responsible driver".

I understand and appreciate that receiving a 90-day driving prohibition can have serious consequences in a person's life. However, I am not authorized by the *Motor Vehicle Act* to consider personal circumstances, employment or transportation needs or a person's driving record in this review. I can consider only those grounds of review authorized under the *Motor Vehicle Act*.

You also submit the officer noticed an odour of alcohol on your breath, but that he did not provide any evidence that your ability to drive was affected by alcohol. You argued that the IRP should be revoked on this basis. You submitted the first page of a newspaper article from the *Vancouver Sun* in support of this argument. The article addresses a decision of the BC Supreme Court in the case of **Richardson v. Superintendent of Motor Vehicles** BCSC S13775 ("*Richardson*") and it reports that *Richardson* held "that the Superintendent of Motor Vehicles has the responsibility to overturn any prohibition issued by a police officer who hasn't provided evidence that the driver's abilities were affected by alcohol, even if they blew a "warn" or "fail" in a roadside breathalyzer test." In my view, this article inaccurately describes the court's ruling in *Richardson* which I will explain below. I understand that *Richardson* refers to **Wilson v. British Columbia (Superintendent of Motor Vehicles)** 2013 C.C.S. No. 1855 ("*Wilson*"). Thus, as a preliminary matter, I have considered the decisions in *Richardson* and *Wilson*.

In *Wilson*, the Court held that there was no presumption that the ability to drive was affected by alcohol solely on the basis of the ASD result. In *Richardson*, the Court did not confirm this finding in *Wilson*, but rather held that if an adjudicator does not follow *Wilson*, reasons must be given. As I have set out below, I find that both the BCSC decision in **Sivia v. British Columbia (Superintendent of Motor Vehicles)**, 2011 BCSC 1639 and the British Columbia Court of Appeal in **Sivia v. British Columbia (Superintendent of Motor Vehicles)** 2014 BCCA 79 ("*Sivia*") have found that BAC readings within the 0.05 - 0.08 range (a "Warn" reading on an ASD) and possibly below confirm that driving skills are significantly impaired. In other words, a "Warn" or "Fail" ASD result is evidence that a person's ability to drive is affected. As such, it is unnecessary for me to consider further evidence on that point, and the grounds of review I may

consider are limited to those specified in the *Motor Vehicle Act*. Accordingly, I have set out below my reasons for declining to follow the line of reasoning set out in *Wilson*.

In *Wilson*, the driver was stopped at a road check. The only observation noted by the officer about Mr. Wilson's alcohol consumption was an odour of alcohol on his breath. Mr. Wilson admitted to drinking four beers earlier that evening and provided two breath samples, both of which registered a "Warn". The officer then served Mr. Wilson with a 3 day IRP notice. It was argued that the officer was wrong to issue the IRP because there was no evidence the officer had reasonable grounds to believe his ability to drive was affected by alcohol. That is, s. 215.41 (3.1) required this evidence in addition to a "Warn" reading. The adjudicator found that the fact the officer served the Notice was evidence that he believed Mr. Wilson's ability to drive was affected by alcohol and this belief was reasonable given the "Warn" readings.

On judicial review Mr. Justice Dley held that a "plain reading" of the legislation (s. 215.41 (3.1)) required an officer to have more than just the results of an ASD analysis in order to reasonably believe a driver's ability to drive was affected by alcohol. In the court's opinion, there was no evidence in the record to establish that, and as a result the adjudicator's decision was unreasonable.

In *Richardson*, the issue before the Madam Justice Dardi was whether it was reasonable for the adjudicator to conclude that she did not have the jurisdiction to consider and revoke a driving prohibition on the ground that the officer did not have reasonable grounds to believe the driver's ability to drive was affected by alcohol. It was argued that the adjudicator's decision was unreasonable because in determining she had no jurisdiction to consider this ground of review the adjudicator declined to follow a binding court decision i.e., *Wilson*.

Although Madam Justice Dardi agreed that the adjudicator erred by not applying *Wilson*; what is imperative to note is that she did not confirm or validate the correctness of the findings in *Wilson*. Rather, what she held was this: since Mr. Justice Dley had decided how to interpret s. 215.41 (3.1), the adjudicator was obliged to apply that interpretation, unless sufficient and reasonable reasons were provided for not following that interpretation. The Court found that the adjudicator's decision in *Richardson* was unreasonable because she failed to explain the basis upon which she may have distinguished *Wilson*, and failed to provide "sufficiently transparent and intelligible reasons as to why she was not bound to follow *Wilson*". Further, Mr. Justice Dley's implied conclusion that the Superintendent had authority to revoke the prohibition was "predicated on the underpinning that the Superintendent had the requisite jurisdiction" (see paragraphs 31 and 35-37 of *Richardson*). Therefore, the adjudicator erred in not *explaining why *Wilson* was not being followed*. As a result, if I decline to follow *Wilson*, I must explain the basis upon which I am distinguishing that decision, which I will do now.

Mr. Justice Dley's finding in *Wilson* was premised on the understanding (at paragraph 20) that: "There is no presumption that a driver's ability to drive is affected by alcohol solely on the basis of a WARN reading." The findings in the *Sivia* decisions have held otherwise. In *Sivia v. British Columbia (Superintendent of Motor Vehicles)*, 2011 BCSC 1639, Mr. Justice Sigurdson heard expert evidence on the effect of alcohol on a driver's ability to drive at "Warn" and "Fail" levels and made the following findings (which were not overturned by the Court of Appeal). At paragraphs 267 to 270 of *Sivia*:



Under the ARP regime, drivers are removed promptly from the road when they are over the level of impairment prescribed by the *Criminal Code* (.08), and also when they are in the 0.05 – 0.08 range; a range which, although under the criminal limit, still, according to the evidence, significantly affects a driver's ability to drive safely.

The efficacy of this approach finds support in the opinion evidence of Robert E. Mann, an associate professor and specialist in addiction and mental health. He has written on the subject of impairment of driving by alcohol, drugs and other factors. Mr. Mann provided a number of opinions on drinking and driving-related issues that support the objective of this law. In particular he noted that: police officers have difficulty detecting impaired drivers; administrative suspensions are consistent with reducing recidivism, collisions and injury; and evidence supports that driving-related skills are significantly impaired at a 0.05 blood-alcohol level.

Although counsel for the petitioners argues that there is no evidence justifying the necessity of the ARP regime to go beyond the scope of the ADP regime, Mr. Mann's evidence clearly shows that by extending to drivers whose blood-alcohol concentration is in the "warn" range (0.05 – 0.08), this law helps to remove drivers from the highway who, although not necessarily at the criminal level of impairment, may nonetheless be a significant risk to themselves and others.

I refer to the comments in *R v. Ladouceur*, [1990] 1 S.C.R. 1257 where the Court said (at para. 48), "[t]he studies on this subject have been well publicized over recent years ... the evidence is overwhelming in its confirmation of the relationship between serious accidents and driving under the influence of alcohol or other drugs."

[emphasis added]

The Court of Appeal in *Sivia v. British Columbia (Superintendent of Motor Vehicles)* 2014 BCCA 79, (at paragraph 100) agreed that the expert evidence indicated "collision risks are significantly increased beginning in the .05-.08% range and possibly below" and "[a]t BAC levels of .05% and above, driving skills are significantly impaired and the likelihood of being involved in a collision is significantly elevated".

These findings stand in direct contrast to Mr. Justice Dley's finding that there was no presumption to suggest a "Warn" reading would affect a person's ability to drive. Mr. Justice Dley did not refer to Justice Sigurdson's decision in *Sivia* (and could not have mentioned the Court of Appeal's decision). As a result, I am satisfied that both decisions in *Sivia* have determined that a "Warn" or "Fail" reading on an ASD verifies that a person's ability to drive is affected and it is unnecessary for me to consider further evidence on that point.

If I am mistaken, I would still decline to follow *Wilson* on the basis of numerous authorities, including Court of Appeal authorities (which are binding on me), which have confirmed that the Superintendent's powers are circumscribed by the legislation. In *Ricard v. the Superintendent of Motor Vehicles*, 2014 BCSC 129, Madam Justice Dardi found that "... the Superintendent's

*powers are purely statutory. He has no 'inherent jurisdiction' but is limited to the powers specifically assigned to him by the statute."*

In **Kang v. British Columbia (Superintendent of Motor Vehicles)**, 2014 BCSC 71, Mr. Justice Blok found: "*The adjudicator said that she was restricted to those grounds of review set out in the Motor Vehicle Act and the petitioner's argument did not fall within those grounds. On this level, at least, the adjudicator's decision was both reasonable and correct.*"

The BC Court of Appeal decisions of **Rapton v. British Columbia (Superintendent of Motor Vehicles)** [2011] B.C.J. No. 1867 and **Proctor v. British Columbia (Superintendent of Motor Vehicles)** [2011] B.C.J. No. 2198, both confirm that the Superintendent only has the statutory powers that are expressly set out in sections concerning what the Superintendent may and must do on a review. In *Rapton*, the Court of Appeal found that there was no power to revoke a 24-hour driving prohibition on the basis that the officer did not have reasonable and probable grounds to issue the driving prohibition at first instance, even though that too would be a "pre-condition" under the relevant legislation.

In *Sivia*, although the Court of Appeal dealt with the prior version of this legislation, the "pre-conditions" in s. 215.41 (referred to by Justice Dley in *Wilson*) were the same as they are now under the current s.215.41. The Court of Appeal found that a driver would have no ability to challenge the results of the ASD. However, the reliability of the ASD would necessarily be a "pre-condition" since the officer must "have reasonable grounds to believe, as a result of the analysis". Similarly, at paragraph 176, the Court of Appeal quoted Justice Sigurdson's finding that under the former legislation there were "really only two issues to be decided under the statutory review: was the applicant a 'driver', and did the screening device register a 'warn' or 'fail' (or did the motorist refuse to blow) as the case may be?" In my view, the Court of Appeal in *Sivia* implicitly confirmed that only the specified grounds in s. 215.5 can be considered on a review and I am bound by that finding. The Court of Appeal had not yet released its decision in *Sivia* when Mr. Justice Dley and Madam Justice Dardi made their decisions.

Based on these authorities, I conclude that I am restricted to those grounds of review set out in the Act, and I have no authority to revoke a prohibition on any basis not expressly given to me in s. 215.5(4).

Lastly, I note that in addition to the "FAIL" recorded by the officer, the officer also noted the following evidence of alcohol consumption: the report of an intoxicated man driving the vehicle you were found to be driving, the smell of a strong odour of liquor from your breath, slurred speech and wobbling balance, and vomit on the floor by the driver's seat. However, because I have determined that based on the authorities a "FAIL" result on an ASD verifies that a person's ability to drive is affected by alcohol, and because I have also determined that I do not have the authority to revoke a prohibition in a situation where the officer lacked reasonable grounds to believe a person's ability to drive is affected, I do not need to consider whether this additional evidence is necessary to determine that your ability to drive was affected by alcohol.

## Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

### **Facts, Evidence and Analysis**

#### Were you a driver within the meaning of section 215.41(1) of the Act?

In the Occurrence Reports 1 and 3 (the "OR1" and "OR3", respectively), Constable Tutt indicated that a named employee of the s.22, s.15 had called the Richmond RCMP to report "a possible impaired" driver. In his narrative, Constable Tutt states that the person making the call, s.22, s.15

s.22, s.15 ' Constable Tutt said Constable Chow of the Greater Vancouver Transit Authority Police Services witnessed the vehicle driving toward the s.22 exit at 2347 hours. Constable Tutt said he attended the scene at approximately 2358 hours and spoke with the driver of the vehicle. Constable Tutt's evidence is that "[t]he driver identified himself as s.22 and that you produced a valid driver's licence confirming your identity.

You have not submitted evidence or submissions claiming that you were not the driver. Accordingly, I am satisfied that you were a driver within the meaning of section 215.41(1) of the Act.

#### Did the ASDs register "FAIL"?

In the Report to Superintendent (the "RTS"), Constable Tutt said you provided breath samples into two ASDs and that the devices both registered "FAIL", as a result of the analyses. There is no evidence before me to the contrary. I am satisfied that the ASDs registered "FAIL" at 2354 and 0007 hours, respectively.

#### Were you advised of your right to a second analysis?

In the RTS and the OR3, Constable Tutt indicated that he informed you of your right to a second breath test analysis. There is no evidence before me to the contrary. I am satisfied that you were advised of your right to a second breath test analysis.

Was the second analysis provided by the officer?

Based on all the evidence before me, I am satisfied that the second analysis was provided by the officer.

Was the second analysis performed on a different ASD?

In the RTS, the Narrative and in the Certificates of a Qualified ASD Calibrator (the "Certificates"), the officer provided evidence that two distinct ASDs were used for two analyses. I am satisfied that the second analysis was performed on a different ASD.

Was the Notice served on the basis of the lower analysis result?

In the RTS, the constable stated that both ASDs used to analyze your breath registered "FAIL". I am satisfied that the Notice was served on the basis of the lowest available result, which was "FAIL".

Was the ASD reliable?

The evidence provided by the police in the Certificates regarding the ASDs used in your case indicates that the devices were found to be functioning correctly and were found to be within the recommended limits. There is no evidence before me to the contrary on this point. I am satisfied that the ASDs were reliable.

Was your BAC less than 80 mg% even though the ASD registered a "FAIL"?

In your written statement you said you were sick and had taken cough syrup and Tylenol and you submit that these medications affected the test results. You did not indicate the type of cough syrup you took, when you took it or how much you ingested. Nor did you set out in your written statement that you advised the officer that you were sick and had taken cough syrup and Tylenol. The officer's evidence has no note of being provided with this information from you.

In addition, you did not explain why you think these medications would cause two reliable ASDs to register "FAIL" readings. There are two possible arguments that I can think of that you might have had in mind in making this submission. The first is that the cough syrup contained alcohol and the alcohol was still present in your mouth when the samples were provided, so that the ASD was registering mouth alcohol rather than blood alcohol, and the second is that the medications were present in your blood stream and this somehow caused or affected the "FAIL" result.

The Police evidence is that "[b]reath samples should be taken at least 15 minutes after the last drink was consumed to allow for elimination of mouth alcohol. Mouth alcohol can cause falsely high breath test readings".

On review of the RTS and police narrative evidence I find that you were driving at 2343, the police approached your vehicle at 2347 and that the suspicion that your driving was affected by alcohol was formed at 2350. The evidence shows that the first ASD sample was obtained at 2354; and the second at 0007. Therefore, the second ASD sample was obtained 17 minutes after the suspicion was formed and 20 minutes after an officer first approached your vehicle. Therefore, even without knowing the timing or content of your claimed consumption of cough syrup, I am satisfied that the second ASD result was not affected by any mouth alcohol as it was taken at least 15 minutes after any cough syrup consumption, and is therefore evidence that your BAC was not less than 80mg% . Accordingly, I find that mouth alcohol did not affect the second ASD result.

With respect to the possibility of the medications you took being present in your blood stream and affecting the result, in the absence of any specific evidence regarding the contents of the medication, the amount you ingested, the time you ingested it, or any other information about the medication, there is no basis for me to conclude that this medication caused the "FAIL" result.

You did not provide any persuasive evidence that would cause me to doubt the "FAIL" readings. Section 215.41(2) of the Act states that a "FAIL" result on an ASD indicates that the concentration of alcohol in an individual's blood is not less than 80 mg%. I am satisfied that your BAC was not less than 80 mg%.

### Decision

As a result of my findings, I confirm your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(1) of the Act. You are prohibited from driving for 90 days. I note that as you have already served 15 days of the prohibition, you need to serve the remaining 75 days. Your prohibition commences April 14, 2014. When your prohibition ends, you may resume driving once you have obtained a driver's licence from the ICBC.

Please note that as a result of receiving this driving prohibition, you may be required to participate in the Responsible Driver Program and the Ignition Interlock Program. This driving prohibition may be considered by the Superintendent of Motor Vehicles in a review of your driving record. A further prohibition may be imposed.



Kathryn Chapman  
Deputy Superintendent

Pages 147 through 196 redacted for the following reasons:

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s.14, s.16, s.22

s.14, s.22

## **Wilkinson, Anita JAG:EX**

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**From:** Turner, Kimberley JAG:EX  
**Sent:** Thursday, April 3, 2014 1:00 PM  
**To:** Anderson, Kathy E JAG:EX; s.15 JAG:EX  
**Cc:** Caldwell, Arlene M JAG:EX  
**Subject:** RE: s.22

Yes. s.15 can you drop them by my office when you have a chance. I'll take a look at re-assigning them. If I can't, I'll extend them myself.

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**From:** Anderson, Kathy E JAG:EX  
**Sent:** Thursday, April 3, 2014 12:33 PM  
**To:** s.15 JAG:EX  
**Cc:** Turner, Kimberley JAG:EX; Caldwell, Arlene M JAG:EX  
**Subject:** RE: s.15

I'll check to see how long into Monday you have. s.22 has to be your priority and only file to work on today. The other 2 files will either need to be extended or given to other adjudicators. Kim, can you please assist s.15 in getting these other files dealt with by someone else?

*Kathy Anderson*

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**From:** s.15 JAG:EX  
**Sent:** Thursday, April 3, 2014 12:29 PM  
**To:** Anderson, Kathy E JAG:EX  
**Cc:** Turner, Kimberley JAG:EX; Caldwell, Arlene M JAG:EX  
**Subject:** RE: s.22

Eeek, talk about pressure!!! Do I have until the end of the day on Monday?

I took two of s.15 files, one I have just completed and it is in for peer review and the other I have yet to begin, it is due Monday, but it is not very complicated I could get it done, but that is all that is urgent that cannot wait until Tuesday.

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**From:** Anderson, Kathy E JAG:EX  
**Sent:** Thursday, April 3, 2014 12:21 PM  
**To:** s.15 JAG:EX  
**Cc:** Turner, Kimberley JAG:EX; Caldwell, Arlene M JAG:EX; Anderson, Kathy E JAG:EX  
**Subject:** RE: s.22

s.15 just so you know your decision must be sent by Monday. Is there anything on your schedule that we can remove so that you can get your decision done?

*Kathy Anderson*

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**From:** Anderson, Kathy E JAG:EX  
**Sent:** Wednesday, April 2, 2014 4:22 PM  
**To:** s.15 JAG:EX  
**Cc:** Turner, Kimberley JAG:EX; Caldwell, Arlene M JAG:EX  
**Subject:** s.22  
**Importance:** High

Hi s.15

I have your file in my office. Can you please come see me at 8:30 on Thurs,  
lawyer has set a hearing for April 9 bc we haven't made a decision.

s.22

The

***Kathy Anderson***



Pages 199 through 201 redacted for the following reasons:

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s.14

## Wilkinson, Anita JAG:EX

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**From:** s.15 JAG:EX  
**Sent:** Thursday, April 3, 2014 5:55 PM  
**To:** Anderson, Kathy E JAG:EX; Burchnall, Shelly K JAG:EX  
**Cc:** Turner, Kimberley JAG:EX; Caldwell, Arlene M JAG:EX  
**Subject:** s.22

Hello,

I have made my decision, I revoked.

I have updated the system(s) and faxed the lawyer the decision and mailed the original to s.22

If anyone needs the file, it is on my desk, as I have not logged it yet and was wrapping up my notes.

Have a great Friday and weekend everyone ☺

Kindest Regards,

s.15

Adjudicator

Ministry of Justice - OSMV

Email s.15

Pages 203 through 231 redacted for the following reasons:

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## ASD ACCURACY CHECK LOG

Alc. Std.	(Dry Gas) Value @ Sea level 52 mg/l	(Sim Sol'n) Expected value: 100 mg/l
Info.	Manufacturer: AIRGAS	Manufacturer: CILVANE

ASD S/N: 101365  
Location: Richmond

Simulator S/N: 613956
True-Cal S/N: 006511

[illegible]



Royal Canadian Gendarmerie royale  
Mounted Police du Canada

### Certificate of a Qualified ASD Calibrator

ASD Serial Number <b>101865</b>	ASD Service Expiry Date <b>2014-08-02</b> (YYYY-MM-DD)	ASD Calibration Expiry Date (may not exceed Service Expiry) <b>2014-02-23</b> (YYYY-MM-DD)
------------------------------------	--	--

I, Cst Michael Stringer, certify that:  
Given Name(s) and Surname

I am an ASD Calibrator, qualified to calibrate this (choose one) ☒ Alco-Sensor IV DWF  
☐ Alco-Sensor FST

and (choose one)

☒ On the 26 day of January, 2014, I checked the calibration of the ASD with the above noted serial number by means of a dry gas Alcohol Standard,  
Manufacturer: Airgas Lot Number: AG217901, Expiry: 2014-06-27  
(YYYY-MM-DD)  
It was found to be within the recommended limits.

OR

☐ On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, I recalibrated the ASD with the above noted serial number by means of a wet bath Alcohol Standard,  
Manufacturer: \_\_\_\_\_ Lot Number: \_\_\_\_\_, Expiry: \_\_\_\_\_ and  
(YYYY-MM-DD)  
checked the calibration by means of a dry gas Alcohol Standard,  
Manufacturer: \_\_\_\_\_ Lot Number: \_\_\_\_\_, Expiry: \_\_\_\_\_  
(YYYY-MM-DD)  
It was found to be within the recommended limits.

and

The ASD calibration was conducted in accordance with the training that I received.

The Alcohol Standard(s) used to check and/or calibrate the ASD was/were suitable for this purpose.

To the best of my knowledge the ASD is functioning correctly. The ASD has a calibration expiry date of  
23 day of February, 2014

Dated this 26 day of January, 2014, at  
Richmond in the Province of British Columbia.

Agency: Richmond RCMP

M.R. Stringer  
Cst M.R. Stringer

53024

Calibrator Signature

Reg. No./PIN No.

Calibrator: Attach the following Technical Information sheets to this Certificate when submitting to the OSMV

Filing Instructions Original to master ASD Calibrator Certificate log

## Certificate of a Qualified ASD Calibrator

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### Technical Information on the Operation and Calibration of ASDs in British Columbia

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The following information has been prepared by the BC Association of Chiefs of Police (BCACP) and pertains to the operation and calibration of Approved Screening Devices (ASDs) in BC and is provided to assess and interpret the validity of ASD results. The information in this document has been verified by the BCACP Breath Test Advisory Committee.

The Intoximeter Alco-sensor IV DWF (AS IV) is currently the only ASD used by police agencies in BC.

#### Serial Numbers:

AS IV devices used in BC have a six digit serial number, however leading zeros may not be recorded in the ASD Calibrator Certificate, and therefore some AS IV serial numbers may be recorded that have only five or four digits.

#### ASD Calibration and Tolerance:

ASDs used in BC are currently calibrated to display a "Warn" reading at a blood alcohol concentration of 60 mg% (milligrams of alcohol in 100 millilitres of blood) to 99 mg%, and a "Fail" reading at a blood alcohol concentration of 100 mg% or over. ASDs have a tolerance of plus or minus 10 mg%.

#### Calibration Expiry Date:

The accuracy of ASDs are valid for at least 28 days after an accuracy check by a qualified ASD calibrator. An "ASD Calibration Expiry Date" is placed on the ASD by the calibrator and indicates when the ASD will require the next accuracy check. The calibration expires at 23:59 hours on the indicated date.

#### Service Expiry Date:

ASDs are serviced annually and a "Service Expiry Date" is placed on the ASD by the service company. Dates are displayed in the following manner: Year/Month, or Year/Month/Day. Where a date appears as year and month the annual service expiry occurs at 23:59 hours of the last day of the expiry month. Where a date is a full date the annual service expiry occurs at 23:59 hours on the date indicated.

#### Breath Samples and the Last Drink:

Breath samples should be taken at least 15 minutes after the last drink was consumed to allow for elimination of mouth alcohol. Mouth alcohol can cause falsely high breath test readings.

#### ASD Operating Temperature:

The AS IV is designed to provide maximum accuracy when the internal unit temperature is between 10 and 40 degrees C. The ASD temperature is displayed briefly before a test is started and operators are trained to ensure the unit is within the acceptable temperature range before conducting a test.

The AS IV does not prevent taking breath samples outside of the acceptable temperature range, and breath tests taken outside this range may result in falsely low readings.

#### ASD Ambient Operating Temperature:

The AS IV has an acceptable ambient temperatures range of -18°C to 40°C (0°F to 104°F).

#### Acceptable Breath Samples:

The AS IV measures breath flow and breath volume to capture a sample acceptable for analysis. The minimum breath flow required is 12 litres per minute and the minimum volume is 1.2 litres.

## Certificate of a Qualified ASD Calibrator

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### Technical Information on the Operation and Calibration of ASDs in British Columbia (continued)

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#### **"NOGO" and "VOID" Messages:**

The AS IV will display a "NOGO" if breath flow falls to less than 12 L/min after blowing has started and before 1.2 liters has been expelled. The "NOGO" display tells an operator an acceptable breath sample was not provided because a subject didn't blow long, or hard enough.

A test sequence starts when a mouthpiece is inserted into the AS IV and will allow as many as three attempts to provide a breath sample within the following one minute. The first two attempts will end in a "NOGO" and automatically reset the device to ready for another attempt to blow. The third and final attempt will end in a "VOID" and cause the sequence to end. After a "VOID" the mouthpiece must be ejected to end the test sequence.

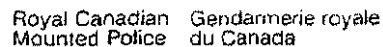
If no acceptable sample is provided within one minute of the start of the test sequence it will end with a "VOID" message displayed.

#### **Reference Manuals:**

Two different AS IV manuals govern the operation and calibration of this device used by police agencies in BC. A resource reading material for operators of approved screening devices (ASD) (revised March 2011) is the current manual used for training operators of the AS IV in BC. The Alco-Sensor IV DWF Calibration Manual (April 2012) is the current manual used for training AS IV calibrators.

Manuals and documents other than the two manuals indicated above (including documents published by the AS IV manufacturer) may refer to procedures that are not followed by police agencies in BC, and may be based on AS IVs that have different programming and operation compared to the AS IVs used by police agencies in BC.

Revised: September 2013



Alcohol Standard Info	Dry Gas value @ sea level: <u>82</u> mg/100mL	Wet Bath expected value: <u>100</u> mg/100mL	ASD serial number:  101862	Serial No.	Simulator: A	True-Cal: X
	Manufacturer: AIRGAS	Manufacturer: CALWAVE	Location: RICHMOND		B	Y

[illegible]

RCMP GRC ED6125 (2012-11)

Canadä





Royal Canadian Gendarmerie royale  
Mounted Police du Canada

### Certificate of a Qualified ASD Calibrator

ASD Serial Number <b>101862</b>	ASD Service Expiry Date <b>2014-08-14</b> (YYYY-MM-DD)	ASD Calibration Expiry Date (may not exceed Service Expiry) <b>2014-02-23</b> (YYYY-MM-DD)
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I, Cst Michael Stringer, certify that:  
Given Name(s) and Surname

I am an ASD Calibrator, qualified to calibrate this (choose one) ☒ Alco-Sensor IV DWF  
☐ Alco-Sensor FST

and (choose one)

☒ On the 26 day of January, 2014, I checked the calibration of the ASD with the above noted serial number by means of a dry gas Alcohol Standard,  
Manufacturer: Airgas Lot Number: AG217901, Expiry: 2014-06-27  
(YYYY-MM-DD)  
It was found to be within the recommended limits.

OR

☐ On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, I recalibrated the ASD with the above noted serial number by means of a wet bath Alcohol Standard,  
Manufacturer: \_\_\_\_\_ Lot Number: \_\_\_\_\_, Expiry: \_\_\_\_\_ and  
(YYYY-MM-DD)  
checked the calibration by means of a dry gas Alcohol Standard,  
Manufacturer: \_\_\_\_\_ Lot Number: \_\_\_\_\_, Expiry: \_\_\_\_\_  
(YYYY-MM-DD)  
It was found to be within the recommended limits.

and

The ASD calibration was conducted in accordance with the training that I received.

The Alcohol Standard(s) used to check and/or calibrate the ASD was/were suitable for this purpose.

To the best of my knowledge the ASD is functioning correctly. The ASD has a calibration expiry date of

23 day of February, 2014

Dated this 26 day of January, 2014, at  
Richmond in the Province of British Columbia.

Agency: Richmond RCMP

Cst M.R. Stringer

53024

Calibrator Signature

Reg. No./PIN No.

Calibrator: Attach the following Technical Information sheets to this Certificate when submitting to the OSMV

Filing Instructions Original to master ASD Calibrator Certificate log

## Certificate of a Qualified ASD Calibrator

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### Technical Information on the Operation and Calibration of ASDs in British Columbia

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The following information has been prepared by the BC Association of Chiefs of Police (BCACP) and pertains to the operation and calibration of Approved Screening Devices (ASDs) in BC and is provided to assess and interpret the validity of ASD results. The information in this document has been verified by the BCACP Breath Test Advisory Committee.

The Intoximeter Alco-sensor IV DWF (AS IV) is currently the only ASD used by police agencies in BC.

#### Serial Numbers:

AS IV devices used in BC have a six digit serial number, however leading zeros may not be recorded in the ASD Calibrator Certificate, and therefore some AS IV serial numbers may be recorded that have only five or four digits.

#### ASD Calibration and Tolerance:

ASDs used in BC are currently calibrated to display a "Warn" reading at a blood alcohol concentration of 60 mg% (milligrams of alcohol in 100 millilitres of blood) to 99 mg%, and a "Fail" reading at a blood alcohol concentration of 100 mg% or over. ASDs have a tolerance of plus or minus 10 mg%.

#### Calibration Expiry Date:

The accuracy of ASDs are valid for at least 28 days after an accuracy check by a qualified ASD calibrator. An "ASD Calibration Expiry Date" is placed on the ASD by the calibrator and indicates when the ASD will require the next accuracy check. The calibration expires at 23:59 hours on the indicated date.

#### Service Expiry Date:

ASDs are serviced annually and a "Service Expiry Date" is placed on the ASD by the service company. Dates are displayed in the following manner: Year/Month, or Year/Month/Day. Where a date appears as year and month the annual service expiry occurs at 23:59 hours of the last day of the expiry month. Where a date is a full date the annual service expiry occurs at 23:59 hours on the date indicated.

#### Breath Samples and the Last Drink:

Breath samples should be taken at least 15 minutes after the last drink was consumed to allow for elimination of mouth alcohol. Mouth alcohol can cause falsely high breath test readings.

#### ASD Operating Temperature:

The AS IV is designed to provide maximum accuracy when the internal unit temperature is between 10 and 40 degrees C. The ASD temperature is displayed briefly before a test is started and operators are trained to ensure the unit is within the acceptable temperature range before conducting a test.

The AS IV does not prevent taking breath samples outside of the acceptable temperature range, and breath tests taken outside this range may result in falsely low readings.

#### ASD Ambient Operating Temperature:

The AS IV has an acceptable ambient temperatures range of -18°C to 40°C (0°F to 104°F).

#### Acceptable Breath Samples:

The AS IV measures breath flow and breath volume to capture a sample acceptable for analysis. The minimum breath flow required is 12 litres per minute and the minimum volume is 1.2 litres.

## Certificate of a Qualified ASD Calibrator

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### Technical Information on the Operation and Calibration of ASDs in British Columbia (continued)

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#### **"NOGO" and "VOID" Messages:**

The AS IV will display a "NOGO" if breath flow falls to less than 12 L/min after blowing has started and before 1.2 liters has been expelled. The "NOGO" display tells an operator an acceptable breath sample was not provided because a subject didn't blow long, or hard enough.

A test sequence starts when a mouthpiece is inserted into the AS IV and will allow as many as three attempts to provide a breath sample within the following one minute. The first two attempts will end in a "NOGO" and automatically reset the device to ready for another attempt to blow. The third and final attempt will end in a "VOID" and cause the sequence to end. After a "VOID" the mouthpiece must be ejected to end the test sequence.

If no acceptable sample is provided within one minute of the start of the test sequence it will end with a "VOID" message displayed.

#### **Reference Manuals:**

Two different AS IV manuals govern the operation and calibration of this device used by police agencies in BC. A resource reading material for operators of approved screening devices (ASD) (revised March 2011) is the current manual used for training operators of the AS IV in BC. The Alco-Sensor IV DWF Calibration Manual (April 2012) is the current manual used for training AS IV calibrators.

Manuals and documents other than the two manuals indicated above (including documents published by the AS IV manufacturer) may refer to procedures that are not followed by police agencies in BC, and may be based on AS IVs that have different programming and operation compared to the AS IVs used by police agencies in BC.

Revised: September 2013

Pages 240 through 243 redacted for the following reasons:

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s.14

s.15, s.16, s.22