

## Statutory Interpretation and the *Traffic Safety Act*

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Case Commented On: *R v Kirollos*, [2015 ABQB 474](#)

Anyone who drives a vehicle in Alberta knows the law requires the vehicle be registered and insured. The two requirements effectively go hand-in-hand since obtaining a current registration at a registry office will require that you produce evidence of insurance coverage for the vehicle. The legal rules themselves are set out in the *Traffic Safety Act*, [RSA 2000 c T-6](#) and if you fail to comply with these rules before a police officer you may find yourself in [Traffic Court](#). *R v Kirollos* is decision by Madam Justice J.B. Veit concerning the appeal by Kirollos to the Court of Queen's Bench of his conviction in Traffic Court on two counts: (1) failure to have insurance for his vehicle; and (2) failure to produce a certificate of registration for his vehicle. Justice Veit overturns the conviction of Kirollos on count #1 and she orders a new trial on count #2. This comment serves as a reminder on the importance of statutory interpretation in the law as I prepare to introduce the subject to a new class of law students next month.

Kirollos was in a parked vehicle in a commercial parking lot during the night of May 5, 2014. He testified he was sleeping at the time. At approximately 3am that night, police officers approached Kirollos and asked for registration and insurance. Kirollos was unable to produce registration and insurance, and he was charged under sections 54 and 167 of the *Traffic Safety Act*.

Section 54(1)(b) prohibits a person from having a motor vehicle on a highway unless it is an insured vehicle. The legal issue in this case is whether Kirollos was on a highway. The evidence established he was in a commercial parking lot, and a sign at the entrance to the lot stated the public was not permitted to park in the lot. Is a private parking lot a highway?

When working with terms or phrases in legislation it is essential to determine whether those terms or phrases are defined in the legislation. The term 'highway' is defined in section 1(1) of the *Traffic Safety Act*. As students learn in first year law, words are usually defined in statutes to either restrict or expand their ordinary meaning. With respect to 'highway' in the *Traffic Safety Act*, the objective appears to be to expand its ordinary meaning:

(p) "highway" means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place or any part of any of them, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use for the passage or parking of vehicles and includes

- (i) a sidewalk, including a boulevard adjacent to the sidewalk,
- (ii) if a ditch lies adjacent to and parallel with the roadway, the ditch, and
- (iii) if a highway right of way is contained between fences or between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be,

but does not include a place declared by regulation not to be a highway;

Justice Veit overturns the 54(1)(b) conviction on the evidence that the parking lot in question did not allow for public usage (at paras 13 - 18). Justice Veit reasons this fact excludes the parking lot from being a highway under the literal reading of the term in the *Traffic Safety Act*, as set out above. One might also question whether a parking lot is of the same genre as the other words included under highway, all of which seem to suggest something more linear than a parking lot, but this argument is not raised in the decision.

Section 167(1)(b) requires a person who is driving or otherwise has the care or control of a motor vehicle to produce a certificate of registration when demanded by a police officer. Justice Veit orders a new trial for Kirollos on this charge because she finds the Traffic Commissioner who heard the prosecution in Traffic Court failed to consider the meaning of ‘care or control’ (at paras 20 – 25). The testimony at trial was conflicted on the exact state of the vehicle when approached by the police officers. They testified it was running, but Kirollos testified he was sleeping. Under either or both accounts, it seems Kirollos was not ‘driving’ so the issue here is whether he had ‘care or control’ of his vehicle at the time.

Justice Veit observes the phrase ‘care or control’ is not defined in the *Traffic Safety Act*, but she also notes the phrase is used in the *Criminal Code*, [RSC 1985, c C-46](#) where it has received some judicial consideration (at para 22). The general rule of statutory interpretation in Canada is that the meaning of words in a statute adhere to the overall objective of the legislation. Where a word or phrase is not explicitly defined in a statute and its ordinary meaning is not particularly insightful, one may look to external sources of meaning such as how the words are defined in other statutes or the common law. Justice Veit does not have to engage in this interpretive act here, but presumably the new trial for Kirollos on the section 167(1)(b) charge will.

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