

In the Court of Appeal of Alberta

Citation: Nooy v Alberta (Director of SafeRoads), 2026 ABCA 248

Date: 20260723
Docket: 2401-0258AC
Registry: Calgary

Between:

Sheena Nooy

Appellant

- and -

Director of SafeRoads Alberta

Respondent

The Court:

**The Honourable Justice Bernette Ho
The Honourable Justice Alice Woolley
The Honourable Justice Karan M. Shaner**

Memorandum of Judgment

Appeal from the Order by
The Honourable Justice K. Horner
Dated the 20th day of September, 2024
Filed on the 1st day of October, 2024
(Docket: 2308-00182)

Memorandum of Judgment

The Court:

Background

[1] On March 11, 2023, a police officer stopped the appellant for speeding. The officer then made an alcohol screening demand. After several attempts to obtain a reading on the approved screening device (ASD), a “fail” reading was obtained. The officer advised the appellant she had a right to provide a second sample on a second ASD, a process known as the “roadside appeal”. The appellant indicated she wished to provide a second sample, so the officer returned to his vehicle to retrieve the second ASD. He returned to the appellant’s vehicle with it about 10 minutes later. The appellant provided another sample, and another fail reading was obtained. The officer issued a Notice of Administrative Suspension (NAP), pursuant to s 88.1 of the *Traffic Safety Act*, RSA 2000, c T-6.

[2] Later on March 11, the officer uploaded the NAP and its supporting documents to the Administrative Penalty Information System (APIS), a platform used to provide NAP recipients with records related to their NAP. The documents he uploaded were: (1) the NAP; (2) the Roadside Appeal Form; (3) the driver’s copy of the Seizure Notice; (4) police investigation notes; (5) pictures of the two ASDs used to obtain the breath samples; (6) a photo of the appellant’s driver’s license; and (7) a copy of the speeding ticket. These documents were accompanied by a Supporting Document Declaration Form (SDD). On March 12, a second officer uploaded two more documents related to the appellant’s NAP: a tow form and a second SDD. It is undisputed that the appellant had access to each of these documents. Finally, there were two portal certifications, one completed by the first officer on March 11 and the other completed by the second officer on March 12. Both certified the authenticity of the materials uploaded and, in the case of the March 11 certification, that the uploaded photographs had not been altered.

Review before SafeRoads Adjudicator

[3] The appellant sought a review of the NAP before a SafeRoads adjudicator, pursuant to s 7 of the *Provincial Administrative Penalties Act*, SA 2020, P-30.8 [*PAPA*]. The argument she made that is relevant to this appeal was that the NAP should be cancelled pursuant to ss 4(e)(iii) and 4(f)(iii) of the *SafeRoads Regulation*, Alta Reg 224/2020 [*SAR*] because the Director of SafeRoads failed to provide complete records to her as required by s 12 of *PAPA* and as set out in s 2 of the *SAR*. Her primary concern was that the SDDs were not properly completed and the documents to which they pertained were therefore not properly authenticated. Further, she argued she could not discern which officer uploaded which documents to APIS and, relatedly, she alleged she was unable to determine with certainty whether the officer who uploaded the documents on March 11 was the same officer who issued the NAP. In sum, the appellant argued the documents uploaded to APIS were confusing, contradictory, and failed to provide the evidentiary basis to authenticate

the documents as required under s 17 of the *Provincial Administrative Penalties Regulation*, Alta Reg 217/2020 [*PAPR*] and in accordance with this Court's conclusion in *Demars v Alberta (Director of SafeRoads)*, 2024 ABCA 132.

[4] The adjudicator dismissed the appeal and confirmed the NAP. He agreed with the appellant that, given the number of documents uploaded by the first officer, the SDD he prepared was both incomplete and confusing. He noted, however, that the SDD was not a required form and that police officers routinely declare the contents of their submissions using the portal declaration, which is what happened here. The adjudicator then confirmed he had placed "little or no weight" on both the second SDD and the tow document uploaded by the second officer on March 12. He found the documents uploaded by the first officer were properly authenticated by the portal certification, in compliance with s 17(2) of the *PAPR*.

Judicial Review Application

[5] The appellant sought judicial review of the adjudicator's decision in the Court of King's Bench. She advanced three grounds, only two of which are relevant to this appeal. First, she argued the adjudicator erred in finding the documents uploaded to APIS were properly authenticated. The second ground for review arose in the course of filing documents related to the judicial review. Specifically, when the certified record of proceedings was produced, the appellant discovered the adjudicator had access to information the appellant did not have. That information was: the size, in kilobytes, of the files uploaded; duplicative copies of the seizure notice; the word "published", which appeared next to the documents of which the appellant was aware; the word "hidden", which appeared next to the duplicative copies of the seizure notice; the word "required", which appeared next to each file; and, a statement indicating who had uploaded the file. The appellant argued not having access to this information denied her procedural fairness before the adjudicator.

[6] The chambers judge concluded the adjudicator's finding that the documents uploaded on March 11 were properly authenticated and could be relied upon as true and unaltered was reasonable. She also found any unfairness that arose from the appellant's confusion about who uploaded the documents, and when, was minor and did not support cancelling the NAP (Transcript of Proceedings at 67, ll 19-22):

The unfairness, if it can be said to exist, is minor because the party uploading the documents can be inferred from the dates of the uploads and the dates of the declarations. Additionally, these are minor because the information does not relate to the core of the substantive claims made by the police against her.

Grounds of Appeal

[7] The appellant alleges she was denied procedural fairness. Her arguments can be distilled to these: (1) the chambers judge erred by applying a reasonableness standard of review to a question of procedural fairness; (2) she was unable to respond to the case against her because she

could not determine which officer uploaded which documents and further, she could not determine if the documents were properly authenticated; and (3) she did not have access to certain information that was before the adjudicator.

Standard of Review

[8] On an appeal from judicial review, this Court must determine whether the reviewing judge identified and applied the appropriate standard of review. No deference is owed to the lower court on either question. This Court conducts a review of the administrative decision *de novo*. ***Lausen v Alberta (Director of Safe Roads)***, 2023 ABCA 176 at para 27; ***Northern Regional Health Authority v Horrocks***, 2021 SCC 42 at para 10; ***Agraira v Canada (Public Safety and Emergency Preparedness)***, 2013 SCC 36 at paras 45-47.

[9] Questions of procedural fairness are reviewed to determine whether a party received the degree of procedural fairness to which they were entitled in law. ***Leeuwenburg v Alberta (Director of SafeRoads)***, 2026 ABCA 143 at para 13 [***Leeuwenburg***]; ***Park v Virtue***, 2025 ABCA 274 at para 12; ***Sandhu v College of Physicians and Surgeons of Alberta***, 2023 ABCA 61 at para 36.

Discussion

[10] We begin by highlighting key aspects of the SafeRoads regime, as articulated recently in ***Leeuwenburg*** at paras 14-16, 33.

[11] The SafeRoads regime is neither penal nor criminal; it is administrative in nature and, accordingly, the duty of procedural fairness is determined by the particular legislative and administrative context in which these proceedings took place. See ***Leeuwenburg*** at paras 17, 33; ***Rusinko v Alberta (Director of SafeRoads)***, 2025 ABCA 121 at para 34; ***Canada (Attorney General) v Mavi***, 2011 SCC 30 at para 41. Unlike criminal proceedings, which attract heightened disclosure, “the scope of records the Director must disclose on a NAP review are carefully circumscribed” by the legislative regime. ***Leeuwenburg*** at para 20; *PAPA*, s 12; *SAR*, s 2. The Director is required to disclose the records specified in s 2 of the *SAR*, including “any other relevant records ... that are in the opinion of the Director relevant and necessary” to review the basis for issuing the NAP. *SAR*, s 2(h). What records will be “relevant and necessary” is contextual and “cannot be determined in the abstract”. ***Leeuwenburg*** at para 22.

[12] Although the chambers judge did not specifically articulate the test for procedural fairness in her reasons, we reject the appellant’s argument that she erred by applying the wrong standard of review and in failing to find the appellant was denied a fair process. The chambers judge referred to a reasonableness standard of review; however, it is clear from the substance of her reasons that she considered and applied the correct legal principles in undertaking her analysis of the appellant’s procedural fairness argument. She considered the effect of the flawed SDDs and the appellant’s resulting confusion on the appellant’s ability to respond to the case against her and to

effectively seek review of the NAP. She determined the appellant was afforded a fair process. This finding was readily available on the record. There is no basis for this Court to interfere.

[13] Similarly, we see no reason to interfere with the conclusion reached by both the adjudicator and the chambers judge respecting the uploading and authentication of the documents. The officers ought to have completed the SDD fully and appropriately. Nonetheless, the fact remains that the required documents were disclosed and properly authenticated in accordance with the *PAPR*.

[14] Finally, we turn to the additional information the appellant discovered when the certified record of proceedings was filed, and to which the appellant had previously been denied access. As noted, this information consists of duplicative paperwork (when the appellant had access to the primary copy), the size of the files on APIS, the name of the party who uploaded the documents, and words “published”, “hidden”, and “required”, which appeared beside the titles of certain documents. In the circumstances of this case, this material was irrelevant or duplicative, or both. It was unnecessary for the appellant to have this information to allow her to fully understand and respond to the case against her. It did not affect procedural fairness and, clearly, it could not have affected the result.

Disposition

[15] The appeal is dismissed.

Appeal heard on January 14, 2026

Memorandum filed at Calgary, Alberta
this 23rd day of July, 2026

Ho J.A.

Woolley J.A.

Shaner J.A.

Appearances:

T.E. Foster, KC (no appearance)
K. Beyak
for the Appellant

A. Norton
P. Buijs (no appearance)
for the Respondent