

ONTARIO COURT (PROVINCIAL DIVISION)

HER MAJESTY THE QUEEN

- against

DARIO DEANGELIS

--- Before His Honour Judge R. Bogusky,
at Newmarket, Ontario, on Thursday, November 10, 1994

RULING

A P P E A R A N C E S

K. NEDELKOPOULOS

for the Crown

P. DIMONTE

for the Accused

NOVEMBER 10, 1994

THE COURT: Well I am just trying to expedite this thing. I am sure that if the accused had appeared before a Justice of the Peace when he was paying the fine and explained that even though he may have contravened a "don't walk" sign that he was knocked down, I think he would have persuaded the J.P. the punishment should stop at a certain point and the fine should have been very small and not the \$90 as set out. I know that argument was not raised in the appeal papers but I think it was adequately discussed here for me to consider it.

This decision is meant just to finalize things and to allow one side or the other to appeal my decision rather than putting it back into the trial court inconveniencing policemen and drivers, et cetera. I feel that when the certificate of offence was issued the out of court payment was set at \$90, which meant that on a given day the only way the accused could get rid of it was to pay \$90. It is true that he could approach a J.P. and try to discuss the quantum and have it reduced, but if on a given day he could not make out a good case the only way he was getting rid of the ticket was to pay the \$90 plus costs.

I am satisfied the law says the maximum a

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pedestrian can or has to pay is \$50, so I do
take the position the document has defects on
its face. Of course when it was
administratively signed, or when judgment was
signed, that would have been unknown to anybody
signing it.

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So just to expedite things, I will allow
the appeal and I will quash the conviction as
the ticket is incorrect on its face. I
appreciate the Crown was given very short notice
on this but there are better ways to resolve
this.

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CERTIFIED:


Angela Weijs, C.S.R.