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ONTARIO COURT OF JUSTICE

10
THE CITY OF CALEDON

15
V.

EUGENE DOPP

P. O. A. A P P E A L

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BEFORE THE HONOURABLE JUSTICE ALLEN
On Tuesday, July 18TH, 2000, at Brampton, Ontario

25
CHARGE:
speeding

APPEARANCES:

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Ms. C. Grant
Mr. G. Burd

Counsel for the City
Agent for the accused

TUESDAY, JULY 18TH, 2000

MS. GRANT: Mr. Burd also has number 23,
Eugene Dopp.

MR. BURD: That's correct, Your Honour.

THE COURT: Mr. Dopp, yes.

MS. GRANT: I think there's been some
argument last time, Your Honour. It was
put over. I'm not certain if there was to
be further argument. This was a case where
the section number of the speeding charge
was not on the certificate, if you recall
that. I believe it was argued before His
Honour.

THE COURT: I can't say I do.

MR. BURD: No, it didn't get completely
argued. We were going to put it over to
find out whether either party could find
some case law, specifically on the point
and we've both come up dry this morning.

THE COURT: Sure.

MR. BURD: The argument is basically that
the certificate should have failed under
the deem not to dispute provisions as it
was not complete on its face in that the
section number required by the pre-printed
certificate form...

THE COURT: Oh, it's starting to come back
to me.

MR. BURD: ...was not...

THE COURT: I've heard some submissions on
this

MR. BURD: Yes.

THE COURT: And had I put it over to a date.

MR. BURD: Yes.

THE COURT: Is this what I had done?

MR. BURD: Not for judgement.

THE COURT: I see.

MR. BURD: You put it over to see if there was any case law...

THE COURT: Okay.

MR. BURD: ...specifically on the point.

THE COURT: Sure.

MR. BURD: And as I say, we both...

THE COURT: Yeah.

MR. BURD: It falls back in this Court's court.

THE COURT: Now had there been some - what's this? I'm just going through the papers here. Was it - I guess it was in court initially on April 18th. It looks like it.

MR. BURD: I think that's correct.

THE COURT: Yeah. Now let's see what was endorsed that day. April 18th adjourned to May the 16th. May the 16th adjourned to July 18th to be spoken to. It appears that I heard submission then on the May 16th.

MR. BURD: Yes, you did.

THE COURT: Okay, sure, sure.

MR. BURD: That, in a nutshell, that is the issue from the appellant's side anyways that under the 9.1(b) not to dispute

provisions of the Provincial Offences Act, the justice shall examine the certificate and if it's complete and regular on its face shall convict and if not shall quash the certificate of offence. And our submission to you is that the certificate is not complete on its face in that the section number for the specific offence was not provided in the pre-printed form where it says, "section/article".

THE COURT: So the section number was left out and your position is that the certificate is not complete and regular on its face

MR. BURD: And I would submit, I had someone attend and made the argument. It certainly was open then for the justice of the peace to consider an amendment if that be appropriate. But under the deem not to dispute provisions, it's a double edge sword and it's either complete and a conviction is entered or it's not and the certificate is quashed. The justice has no jurisdiction to consider amending the certificate without someone being present for the defendant.

MS. GRANT: I think Mr. Burd is correct in that regard, Your Honour.

THE COURT: Sorry?

MS. GRANT: I think Mr. Burd is correct in that regard.

THE COURT: Yeah.

MS. GRANT: Because the defendant hadn't appeared.

THE COURT: No, no. Just give me a minute here. I'll take a look at these papers. I've examined the certificate. No section number is included. I agree with the submission and on that basis, in my view, the justice had no jurisdiction. So the conviction is set aside.

MR. BURD: Thank you, Your Honour. I believe Mr. Dopp has paid his fines. So perhaps, I think administratively it follows that there's a refund.

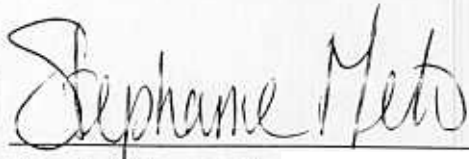
THE COURT: Well, I'll endorse fine to be returned forthwith.

MR. BURD: Thank you very much, Your Honour.

MS. GRANT: Thank you

THE COURT: Thank you

THIS IS TO CERTIFY THAT
the foregoing is a true and
accurate transcription of
recordings made herein, to the
best of my skill and ability.



Stephanie Melo
Court Monitor