

Case Name:
Brampton (City) v. Singh

**Between
City of Brampton, and
Balbir Singh**

[2012] O.J. No. 2339

2012 ONCJ 276

Certificate No. 3160-4441715A

Ontario Court of Justice
Brampton, Ontario

B.W. Duncan J.

April 26, 2012.

(11 paras.)

Counsel:

No counsel mentioned.

REASONS FOR JUDGMENT

- 1 B.W. DUNCAN J.:**-- This is an appeal pursuant to the POA from conviction on a certificate of offence for a red light violation contrary to s 144(18) of the HTA.
- 2** The defendant was represented by an agent on appeal. The sole ground of appeal was that the defendant was deprived of legal representation at trial by the trial justice refusing an adjournment in order for the defendant to retain a lawyer or paralegal
- 3** The offence date was February 9 2011. The Court record discloses that on February 22 2011 a Notice of Trial was given personally to the defendant stating in bold type:

Take notice that on the 20th day of May 2011 at 10:30 am Your trial will be held in room:

**#B4 5 Ray Lawson Blvd
Brampton On L6Y 5L7;
(905) 450-4770**

4 The trial notice went on, in normal font, to advise:

"Your trial will be held on the date and time indicated above at the Ontario Court of Justice shown. You and your witnesses should be ready for your trial at that time."

5 The defendant appeared at the time and place set out in the Notice, on May 20 2011. He spoke to the prosecutor and said nothing about seeking an adjournment to get representation. (P 6) When the case was first spoken to he was asked by the court if he was "conducting this trial on your own" - and answered affirmatively. He made no mention of an adjournment or desire to have representation. The case was held down while he reviewed the disclosure. Only on resuming did the defendant seek an adjournment to "get a lawyer". He had not previously taken any steps in that regard. He said that his son set the date and gave him the papers but did not tell him until the night before that it was a trial date.

6 The trial justice noted that the defendant had had since February to get representation. He had received the Notice of Trial documents. The officer had attended and the prosecutor and the court were ready for trial. She rejected the claim that the defendant did not know that it was a trial date (P 8 L 1-5). With these considerations in mind, she denied the adjournment.

7 The trial then proceeded. A police officer testified that he saw the defendant quickly approach an intersection and make a left, turn through a light that had been red for two seconds, interfering with traffic that had started to proceed on the intersecting street. When stopped, the defendant was unable to produce a license. The defendant testified that the light was amber. He acknowledged having left his wallet and license at home.

8 The Appellant's argument on appeal seemed to assume that the defendant had a right to an adjournment of his trial to get counsel, that the trial judge erred in refusing the adjournment and that it was almost a given that this court on appeal should allow the appeal and order a new trial. I disagree with this submission on all points.

9 A defendant has no absolute right to an adjournment of his trial in order to get representation. A trial judge faced with such an application must consider its *bona fides*, whether the defendant has been diligent in attempting to secure representation, and the broader interests of the administration of justice. The trial judge did so in this case and far from finding error in the trial judge's decision, I agree with it. The *bona fides* of the application was questionable. The defendant not only failed to show diligence, he had done nothing at all to get representation for his trial. His stated reason for inaction was unbelievable and rightly rejected. The prosecution would be prejudiced to some degree if the adjournment was granted. Finally, granting the adjournment in these circumstances would be tantamount to a declaration that a defendant will always be entitled to adjourn his trial by asserting a last minute wish to be represented. Such a situation would be highly detrimental to the orderly administration of justice.

10 Finally, the case was a simple one and the defendant adequately defended himself. He had a fair trial.

11 The appeal is dismissed.

B.W. DUNCAN J.

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