

ONTARIO COURT OF JUSTICE

PROVINCIAL DIVISION

HER MAJESTY THE QUEEN

V

SUSAN GIANGWALANO

P R O C E E D I N G S

BEFORE THE HONOURABLE MADAM JUSTICE, E.A. READY
ON FRIDAY, JUNE 18, 2004 AT BRAMPTON, ONTARIO

OFFENCE: Careless Driving

APPEARANCES:

R. Craig, Ms.

Provincial Prosecutor

C. Walpole, Mr.

Agent for the defendant

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(i)

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T A B L E O F C O N T E N T S

WITNESSES:

Exam.
In-Ch.

Cr-
Exam.

Re-
Exam.

No witnesses

PUT ON PAGE

Submissions by Mr. Walpole

4

Submissions by Ms. Craig

6

Reply Submissions by Mr. Walpole

11

Reasons for Acquittal - Ready, J.

19

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FRIDAY, JUNE 18, 2004

5 MS. CRAIG: Your Honour, there's one other appeal matter with Mr. Walpole on the appeal docket that contains two - one short and one longer transcript. My friend from the province is not here right here but I was going to ask him if he had some other matters he wished to deal with expeditiously and I don't think he does but I'm prepared to proceed with that matter if Your Honour is ready to deal with that matter. As I've indicated there are some transcripts.

10 THE COURT: All right, are there any other short matters that we can deal with before we go on to this?

15 MS. CRAIG: Perhaps I can just canvass the list. . .

THE COURT: Would you. . .

MS. CRAIG: . . .if I may.

20 THE COURT: . . .before we start dealing with the transcript matter.

MS. CRAIG: Thank you.

MR. WALPOLE: I'll stand down.

25 THE COURT: And then we will take the morning break as well.

MR. WALPOLE: Thank you, Your Honour.

30 MS. CRAIG: And did Your Honour wish to deal with the matters as dismissed if they're not present at this time?

THE COURT: Yes, certainly. We will deal with some of those and then we will take the recess.

OTHER MATTERS DEALT WITH AT THIS TIME

U P O N R E S U M I N G :

5 THE COURT: And I'll just note the time which is one fifteen. Do we have much left to do?

MS. CRAIG: There is one matter that is number six on the appeal docket. Mr. Walpole is here as well. There's a transcript.

10 MR. DEJARDINS: If I may inquire, Your Honour, is that the last matter on the docket?

THE CLERK OF THE COURT: Other than the Green matter, yes.

MR. DEJARDINS: I don't believe the Green matter will be varied in any case.

15 THE COURT: He's just going to leave it as is and the matter has gone over to next Friday?

MR. DEJARDINS: That is correct.

THE COURT: Okay, so we won't worry about that.

MR. DEJARDINS: We won't worry about this.

THE COURT: All right.

20 MR. DEJARDINS: I thank you very much, Your Honour. If I may be excused?

THE COURT: You may.

MR. DEJARDINS: Have a good weekend.

THE COURT: Thank you. And now this is going to be argued, is this correct?

25 MR. WALPOLE: That is correct, Your Honour.

THE COURT: And how long do you anticipate it would take?

MS. CRAIG: I don't expect it should take too long, Your Honour.

30 MR. WALPOLE: Neither do I, Your Honour.

THE COURT: What would the staff like to do? Would

you like to have your luncheon and come back in an hour or work right through?

THE CLERK OF THE COURT: Work right through.

THE COURT: And how about you?

MADAM REPORTER: Work right through.

THE COURT: And how about counsel and prosecutor?

MS. CRAIG: I'll leave it in Your Honour's hands. We're prepared to proceed.

THE COURT: All right. Why don't we try. And that's the last matter is it?

MS. CRAIG: It is.

THE COURT: Good.

MS. CRAIG: There's just two others that there are no parties present.

THE COURT: Well why don't you give the names to the clerk. . .

THE CLERK OF THE COURT: I have them.

THE COURT: . . .and then I'll mark them dismissed as abandoned. . .

MS. CRAIG: Thank you.

THE COURT: . . .and then we will officially get on to this matter.

OTHER MATTERS DEALT WITH AT THIS TIME

U P O N R E S U M I N G :

THE COURT: All right then, we are dealing with Susan Giangwalano.

MS. CRAIG: Giangwalano.

THE COURT: Giangwalano. Yes.

MR. WALPOLE: Yes, good afternoon again, Your

5 Honour. For the record, surname Walpole, first
initial C., agent on behalf of Ms. Susan Giangwalano
who is not before you. This is a defence motion -
sorry, a defence appeal, Your Honour regarding the
case of careless driving. This matter went to trial
and there was a conviction for a careless driving.
10 The issue is basically one, Your Honour and that
surrounds the issue of identification. There's two
transcripts, one of the trial date, Your Honour and
the second one of the decision by the justice.
The grounds - sorry.

15 MS. CRAIG: Does Your Honour wish to read the
reasons first?

THE COURT: No, actually I find it helpful if I can
get. . .

MS. CRAIG: Thank you.

THE COURT: . . .your concerns and then take a few
minutes to review the transcripts.

20 MR. WALPOLE: Very well.

THE COURT: It may be that the whole area of the
transcripts are not necessary for me to read but I
would prefer to hear your argument and then I will
take time to review the transcripts if I could.

MR. WALPOLE: Very well, Your Honour.

25 THE COURT: All right, thank you.

SUBMISSIONS BY MR. WALPOLE:

30 Our grounds for the appeal are, there's three of
them, Your Honour.

One, that the learned justice of the peace
misapprehended the evidence when indicating in his

5 reasons for judgment that the defendant was identified by giving her name, drivers licence and car plate number to the police officer when the charging officer, him or herself was not present in court on that date to confirm such evidence.

10 The second point, Your Honour is that the learned justice of the peace misapprehended the evidence as well when indicating in his reasons for judgment that the identification was established from the evidence given by the Crown witness that information had been exchanged with the other driver when in fact the Crown witness could not specify the information exchanged while in a cross-examination.

15 In fact he did not even know the name of the defendant before the court or the charge she was facing.

THE COURT: All right and was there any what we call in-dock identification on that date by that. . . .

20 MR. WALPOLE: The defendant - the defendant was represented by an agent, alone as is she's allowed to have an agent represent her and she was not present in court on that time.

THE COURT: I see, all right.

25 MR. WALPOLE: So there was no dock identification. The third point, Your Honour, is that the learned justice of the peace erred in law by finding that the identification of the driver of the other motor vehicle was further supported by way of a letter of authorization between the defendant and the agent, which authorized the agent to act on her behalf.

30 The justice I feel gave great weight to a letter of authorization allowing that agent to act on the

Submissions - C.Walpole

Submissions - R.Craig

defendant's behalf for the matter of careless driving. . .

THE COURT: All right.

MR. WALPOLE: . . .and he gave a lot of weight pertaining to a letter of authorization. The notice of intention to appear that day was filed on behalf of the defendant as well.

Those are our grounds for the appeal. I am prepared to make submissions further, but I believe you may want to hear from my friend.

THE COURT: Are there other grounds?

MR. WALPOLE: Those are the three grounds. . .

THE COURT: Oh.

MR. WALPOLE: . . .we have and I have submissions with respect. . .

THE COURT: You might wish to. . . .

MR. WALPOLE: . . .to those, Your Honour.

THE COURT: Yes. All right.

MS. CRAIG: Yes, Your Honour. I gather there's no issue with respect to a reasonable doubt of the conviction and the grounds are strictly the identity issue.

MR. WALPOLE: That is it.

SUBMISSIONS BY MS. CRAIG:

Just as an overview that might assist Your Honour. There's a collision that occurs at a specific intersection. The victim who gives evidence at the trial, exchanges information with the defendant, drivers licence, insurance and even checks the V.I.N. number, checks the identity that on the

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licence matches the picture, indicates in court that it was a woman in her - I believe he indicated late forties, which seems to compare with the certificate, age of the female. Describes the female, indicated that he and the defendant were at the scene waiting for police and because he had a headache he left the scene to his home which was nearby and gave her, the defendant, his phone number and she had all his information with respect to the collision and he leaves the scene before the officer arrives. The officer arrives who is not a witness in the prosecution's case, was not available that day. He arrives and takes the information of the defendant as is on the certificate and swears to service and under Section 3.7 the service, unless it's disputed is considered appropriate under Section 3.7. The officer then as a result of the information received from the defendant then attends at the victim's home and is supplied with further information with respect to the collision. At the trial the defendant was able to indicate that he received this information after going through the facts of the collision which are not at issue here or the charge itself. He then provides certain information to the officer. But with respect to the documents that are handed to the victim at the scene, as I've indicated, he satisfies himself that this is the party that he's dealing with, however he is unable to provide this information to the court as he doesn't have his note with him in court. Following his evidence I did ask the court to consider an adjournment so that there could be - so

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that the defendant would be summonsed in light of the fact - section - I'll just refer to section 51 which is also referred to in the transcript of the *Provincial Offences Act* which indicates that compelling attendance of the defendant. Although a defendant appears by counsel or agent the court may order the defendant to attend personally and where it appears to be necessary to do so, may issue a summons in the prescribed form. I did request that of the justice of the peace after indicating to the justice of the peace the reason why the police officer was not present. There had been a recent shift change and the officer was not on shift and that was the reason and I had just become aware of that at that time when dealing with the trial and the justice of the peace heard my comments and my friend's at that time and he indicated that he would be prepared to deal with the matter without seeking or without issuing a bench summons and that he put the matter over to the next day and he did provide reasons on the next day indicating that he was satisfied with identification.

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I've indicated or rather I - the prosecution's position is that there - that we would concede to a new trial but we do not agree to an acquittal and I would submit that the whole issue here is identification and there was no in-dock identification, however there was a certificate that was filled out by the officer and sworn by the officer as to service.

There is evidence that the - there is circumstantial evidence with respect to the victim providing his

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information to the defendant who then sends the officer to the victim's home approximately one half hour later, so within a very short period of time on the same date and the victim describing the defendant and receiving information right down to the V.I.N. number and comparing the V.I.N. number to the vehicle which he describes as a Chev Cavalier. It is a Chev Cavalier. He describes the time of the offence, the time is corroborative and the location which is Atwater and I can't remember right at this moment, but the location on the certificate is the same location as indicated. And while there is not a specific identification by the officer or rather a reading from the certificate and a confirmation of the officer's attendance by the officer, there is various other points of evidence and the prosecution did ask for an adjournment for a bench summons in light of the fact that there was a. . . .

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THE COURT: For whom?

MS. CRAIG: Pardon?

THE COURT: For whom?

MS. CRAIG: For the defendant to attend.

THE COURT: Oh, for the actual alleged. . .

MS. CRAIG: For the defendant to appear in court.

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THE COURT: . . .driver that was involved.

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MS. CRAIG: That's correct, Your Honour, in light of the fact that it was a careless driving certificate and of the facts that the victim was stopped at a red light, as he indicated in his evidence, the only witness for that day. That he was stopped 20 seconds before being struck behind and that the victim indicated to him that she didn't see him and

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that was the evidence of the - he was stopped at a red light, the first. He also provided evidence that the other vehicle's in the area and those are basically the facts and as I've indicated, I would be consenting to a new trial. The reasons for judgment are rather thin, I would agree. But in light of all of the circumstances I think that would be a. . . .

THE COURT: Well if you feel that the reasons for judgment are rather thin. . .

MS. CRAIG: Yes.

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THE COURT: . . .and you would agree to a new trial, why would you be opposed to an acquittal if the reasons are thin?

MS. CRAIG: Well if the basis for the appeal are the reasons themselves then I would submit then it should go back for trial.

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THE COURT: But you're saying they're just sparse, they're just. . . .

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MS. CRAIG: Yes, they are, they are sparse but in light of the evidence that is in the transcript that I've just basically given you, a small summary of the facts. I don't think - I think there is evidence of identification and there is no other evidence and in light of the - the Court of course has the opportunity to look at all of the documents before it, being the certificate, being the notice of intention to appear which would have been filled out by the defendant seeking a trial date and the service by the officer and the date and the time and the location that are all corroborative of the victim. I was not prepared to concede that there

was no identification.

THE COURT: All right, thank you.

MR. WALPOLE: If I may.

THE COURT: Yes, any reply?

MR. WALPOLE: Yes, Your Honour. Your Honour, the case itself falls short because of the fact the officer is not in attendance on that date, Your Honour. Only the officer can give the proper identification of an individual pertaining to the documentary evidence, pertaining to the licence, the ownership and the insurance and their numbers accordingly, the year, make, model of motor vehicle and the V.I.N. number accordingly as well, as well as the certificate evidence. It is the officer who attends the scene. The alleged victim had left the scene prior to the officer attending the scene, so the victim as well - the alleged victim does not even know the officer's name under cross-examination in this matter.

In the case at bar the prosecution failed to establish the identity of the accused as the driver of the motor vehicle involved in the collision. It must be said that the prosecution having reviewed the case and witnesses present on the trial date indicated ready to proceed and that's occurring on page one, line eight of the - I'll classify it as the biggest transcript. The defendant was not present and was represented by agent as they are allowed to be under section 50(1) of *The Provincial Offences Act*, Your Honour. The appearance by a defendant - a defendant may appear and act personally or by counsel or agent and that is what

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On page - line - sorry, page 13, line eight, the prosecution then continues. "All right, do you have the name? Do you recall the name of the officer that contacted you?"

Mr. Hussein says: "No I don't, no."

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The prosecution called no further witnesses. The prosecution made an application for the court to issue a bench summons for the purposes of establishing the identity of the defendant as the person named on the certificate and also as the driver of the other motor vehicle.

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It's my belief, Your Honour, that to compel the attendance of a defendant, this is a part one certificate. There is no provision to my knowledge under *The Highway Traffic Act* to compel the attendance of the defendant under a part one certificate to be at court. Under a part three, my friend's correct, but it's my belief, Your Honour, that there is no authority.

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On page 24, Your Honour. . .

THE COURT: Yes.

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MR. WALPOLE: . . .lines 14 through 17. The prosecution says: "However Your Worship, I will be seeking an adjournment to continue the prosecution's case, for the defendant to appear for the purposes of identification. I'll leave it with Your Worship."

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It's that statement, Your Honour, where I feel the case falls short on identification because they're asking for the defendant to appear so they can satisfy their own case. They're acknowledging it falls short in the area of identification. The

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learned justice of the peace refused to issue a bench summons and adjourned the matter for judgment. It's respectfully submitted that the prosecution failed to establish that the identity of the defendant as the driver charged with the offence, that the failure of the prosecution witness to identify the driver of the vehicle as the defendant charged, the failure of the prosecution witness to identify the charging officer that he provided his information to and the failure of prosecution to make a link between the evidence provided by the prosecution witness and the information appearing on the certificate of offence in regards to identification. Should have raised a reasonable doubt and the charge dismissed. For those reasons we respectfully request the court to allow the appeal, set aside the conviction and enter an acquittal in this matter.

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There is an exchange regarding the alleged victim under cross-examination. Court's indulgence. On page 21, Your Honour, line approximately 18.

A question put to the alleged victim. "You don't know her name, do you sir?"

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His answer was, "At the said time. Now I don't know her - I don't know her name. I went according to the identification that she gave me."

The question was: "Okay, do you know her address sir?"

"No, I don't know her address either."

"Do you know her. . . ."

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"I had the information when I got, that's about it."

"Okay, do you know her driver's licence number sir?"

"Not off hand, no, I can't tell you that."

The next question is: "Okay, you said you mentioned V.I.N. on the car, meaning the vehicle identification number."

"Yeah" is the response.

"Do you know that V.I.N. number sir?"

"No, it's been six months and how do you expect me to remember that?"

The question was: "Okay, now you left the scene prior to police arrival, is that fair?"

"Yes."

"Okay. I'm going to ask you sir, are you - besides coming here to court today, did the officer make you aware that the defendant was charged with an offence?"

His answer was: "No, she - she - he didn't."

The question was: "Okay, so you had no idea prior to today's court date what charge the defendant's facing today, is that fair to say?"

"Yes I knew, I got my letter about three, four weeks ago."

And it goes on to say: "Without a summons, correct sir?"

"Yes, the summons. That's when I knew that she was charged."

"Okay, but during the investigation of the police officer, you were not aware of any charges being laid."

"He didn't say anything, no."

And that is the crux of the case for the defence. I do have some case laws which I've put forth for Your Honour.

5 THE COURT: Well I think probably at this point, unless you feel it is necessary, its basically looking at the evidence that we have. But if you wish to argue the cases or indicate what they stand for, you're welcome to do so as well.

MR. WALPOLE: Just, actually I had given you three, Your Honour. There's actually two I'll just refer to. . .

10 THE COURT: Yes.

MR. WALPOLE: . . .and the one is a brief one. . .

THE COURT: Yes.

MR. WALPOLE: . . .on Regina versus Williams. . .

15 THE COURT: Yes.

MR. WALPOLE: . . .and that's dated February 12th, 1982. In the bottom paragraph, Your Honour, it says: "That although there were some other circumstances tending to connect the appellant with the break and entering of Larry's (ph) premises, the case against the appellant essentially turned upon his identification by Carol in this matter."

20 And the next page. "And the court has acknowledge that identification always has certain inherent frailties", and it goes on regarding a docket identification as well but in the bottom paragraph of page two there is a quotation. "Up to that point Mr. Carol had not identified the appellant, he had merely said that he knew who the accused was. The answer was followed by the question, right, he was one of them. Yes, and a few more boys. I see you and I gave him \$45.00. Answer: That's right."

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30 Again that is something that is in regards to this case. On the third line, Your Honour - sorry third

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page of the second paragraph after the quotation.
"Those circumstances of suspicion are insufficient
to support a verdict of guilty in the absence of
identification which as we already indicated was
valueless having regard to the way in which the
answers identifying the appellant were elicited from
the identifying witness."

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This falls in relation to this case because the
identification falls from the alleged victim in this
case and that's the only way that this
identification can be proven because the officer is
not in Court, Your Honour. It falls short when the
only witness who is testifying on behalf of the
prosecution can't recall the name, the address, the
15 V.I.N. number, the driver's licence number as well.
A similar case is the second one dated September
20th, 1996, R. versus Mia Penuz (ph). This falls
more in line with the case before Your Honour.

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It is a criminal matter but the point that needs to
be addressed is on the initial paragraph about three
quarters of the way down. In a case, the
complainant identified the accused again at trial.
The Crown did not call the investigating officer as
a witness forcing the defence counsel to do so with
the resulting restricted scope of cross-examination.
25 Apart from the complainant's identification evidence
there was no other evidence linking the accused to
the assault crime and that is part of the case
that's up today. This was a case where it was the
only witness that could prove the identification and
the prosecution's case on this matter fell short as
30 well and the issues that are on page three is

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highlighted as issues. The central issue at trial was identification and it goes on to say in this regard the appellant relied upon two arguments at trial both of which he has again advanced on this appeal to oppose his conviction. The first pertains to the admissibility of the identification evidence and the second to its sufficiency and I believe that's the test Your Honour must take in this matter as well. Was it sufficient identification. And on page five, Your Honour, on the third paragraph. In this case no issue was raised at trial or on appeal as to the honesty and sincerity of the young complainant. As recognized by the trial judge the case against the appellant depends wholly on the correctness of his identification by the complainant and again that falls toward the cases before Your Honour and can Your Honour be satisfied that the defendant, the appellant was operating a motor vehicle at that time and I do not see anywhere where there's enough evidence to support that.

THE COURT: All right.

MR. WALPOLE: Thank you, Your Honour.

THE COURT: Anything. . . .

MS. CRAIG: I think I've - thank you.

THE COURT: As I said, I need a few minutes to look at this and I'll try to be down about five after two. . .

MS. CRAIG: Thank you, Your Honour.

THE COURT: . . .with my reasons if I could.

R E C E S S

U P O N R E S U M I N G :

R E A S O N S F O R A C Q U I T T A L

READY, J., (Orally):

Yes, all right. In respect to the appeal matter involving Susan Giangwalana, I have heard the matter argued by both the agent as well as the prosecutor today and the grounds are in respect to a misapprehension of the evidence in respect to identity by the learned justice of the peace and I have had an opportunity of reviewing the transcripts and in respect to the issue of identity I can just indicate that I made the following notations as I went through the transcript about where identity was potentially dealt with.

The witness, I believe his name was a Mr. Hussein, indicated he had been stopped for a light but he couldn't remember how long and then he was asked to look at a clock and then he suggested it might be a number of seconds. I believe he conceded it might be 20 seconds or so and that the accused or defendant was behind him and that he was hit from behind and she was in her car. He indicated that they exchanged information, insurance, addresses, drivers licence, telephone numbers, documents to that effect and he conceded in his testimony that I provided my licence to her, ownership, insurance. He could not however from the evidence recall the name of the person but he indicated in the testimony in respect to the exchange of documents the

5 following about her. He was asked if he could recall her name and he couldn't given the passage of time and it may well be that there was some documents at home that might assist him but at the trial he couldn't but he did indicate that he compared names and photos and whatever were on drivers licence and compared them with the person that was there and they were the same. He indicated evidence to the like of that he was satisfied with the drivers licence number. That he looked at documents and confirmed the V.I.N. number etcetera and then he indicated that he left the scene, he wasn't feeling well, I think he had a headache coming on and he left his number with her and he said the police came to his home the same day. He was asked to describe this woman who was involved in the accident with him and he said, female, white, late forties, five foot, fair haired. He couldn't recall as well the name of the police officer who contacted him. And then in cross-examination by Mr. Walpole there was some evidence presented to the Court. Yes, in cross-examination he indicated he's not aware of her name and also he was asked very specifically well then, what was her drivers licence number, what was her V.I.N. number, material to that effect, some specifics about the documents that were exchanged and he was not able to give that specific information. In addition as I say, he was not aware that charges were laid until he received a summons to appear and as it turned out from this prosecution, the police officer who investigated

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this matter and issued documentation was not present in court that day and the Crown prosecutor made a request on that occasion for a summons for the defendant to attend personally. It would appear that no adjournment was granted for that and no summons was issued and also the prosecutor asked the justice before the end of the day's proceedings that the justice could rely on the certificate of offence, information contained in it in respect to licence number and name, the notice of trial and the authorization to appear. I'm sorry, no, the prosecutor indicated that the justice could rely on the certificate of offence and the information in it. There's also a document called an N.I.A. filed before you and it was filed in the defendant's name and the notice of trial that would have been sent out. All of that was suggested to the justice of the peace and the justice decided that he neither would summons, he would neither adjourn for any other purpose and the justice came back at a later date and decided that there was sufficient evidence beyond a reasonable doubt with respect to identification and that's set out in the last transcript. And the justice from page one indicated the court is satisfied that on the certificate that was issued with regards to the charge that the defendant was identified by giving her name to the peace officer, the drivers licence and the car plate number and that I note that he refers to the peace officer. Further the witness had testified that there was an exchange of information in the form of drivers licence, car insurance, ownership and that

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sort of thing. Further the Court notes that there is an authorization or contract before the Court - I'm sorry, contract of Highway Law and Legal Services that authorizes your firm sir to represent the defendant, so the court is satisfied with the identification.

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Now I am just going to be brief here. If you would stand sir on behalf of your client. The Court listened carefully to the witnesses who came from the prosecution. The Court also listened carefully to the submissions by yourself and also with regard to the prosecution and in taking into consideration the evidence that was presented to the Court and the submissions from yourself and the prosecution, the
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Court heard no evidence to the contrary of that other witness. Your client was not here, not that she was supposed to be here. You were here to represent her and based on the fact that the Court heard no evidence to the contrary sir, the Court
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will be finding a conviction of guilt for your client and a conviction will be registered. Having looked at all of the evidence before the Court and especially that the peace officer was not here to indicate what steps he took, what
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information he received from the party involved and what information he placed on the documents before the Court, I am persuaded that there is a misapprehension of the evidence and without the peace officer being present to bridge the gap between the evidence of Mr. Hussein and the
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documentary evidence before the Court, it is certainly not proof beyond a reasonable doubt in

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respect to evidence to merely, without that continuity, without that bridge to merely say that you can rely on the certificates and the notice of trial and the authorization to act without something more than the evidence of Mr. Hussein and accordingly I am satisfied that there was a misapprehension of the identification evidence and based upon all the evidence that was before the Court, the misapprehension resulted in a conviction when in fact I am satisfied that there could not have been identification on these particular facts beyond a reasonable doubt without the assistance of the police officer and accordingly an acquittal will be entered.

MS. CRAIG: Thank you. That completes all of the matters.

MR. WALPOLE: I thank Your Honour. I thank my friend as well and Madam Clerks, have a good weekend, all.

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THE COURT: There we are. This better stay as well. There's three cases that were referred to and the transcripts so that is all there for them. Thank you.

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THIS IS TO CERTIFY THAT
the foregoing is a true and accurate
transcription of my recording made from
sound recording apparatus to the best
of my skill and ability.

10



D. Muir
Court Monitor

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NOTE: This transcript is certified
by the court monitor when executed
only in coloured ink.

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FORM 2

CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))

Evidence Act

I, we.....Diane Misk.....certify that this document
(Please print name of authorized person(s))

is a true and accurate transcript of the recording of Susan Giagunlano
(Case name)

In the Ontario Court of Justice held at 7755 Hurontario Street, Brampton, Ontario
(Court address)

taken from Recording No. R31-007/2004

.....which has been certified in Form 1..

July 11/04
(Date)

[Signature]
(Signature of authorized person(s))