

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

RESPONDENT

AND

GARFIELD BONNELL

APPELLANT

APPEAL PROCEEDINGS

BEFORE THE HONOURABLE MADAM JUSTICE S. R. HAMAI
ON NOVEMBER 9, 2004, AT TORONTO

APPEARANCES:

PROVINCIAL PROSECUTOR

AGENT FOR THE APPELLANT

T. HOSEIN, M.

J. COX, ESQ

OLD CITY HALL

COURTROOM 4,

MS. HOSEIN: I am proceeding on the appeals list, matter number three, Garfield Bonnell. MR. COX: Thank you, Madam Prosecutor. Good morning, Your Honour. For the record, it's Cox, spelled C-O-X, initial J., appearing as agent on behalf of the applicant who is not before you. I am properly authorized to represent that person and I am ready to proceed today.

This is a matter, Your Honour, where the defendant was charged with an offence dating back to the 7th day of May, 2004. The defendant did request a trial on the matter. He was charged with an offence of pass off roadway. The defendant failed to show up for his trial in which the Certificate went before a justice of the peace under the 9.1 deem not dispute section.

Upon examination the justice of the peace was to determine whether the Certificate was completed properly on its face. I would submit that by examining the Certificate you can notice there is no section number indicating what charge the defendant is being charged with. It says pass off roadway, HTA, and no section number indicated.

I would submit the justice of the peace, entering a conviction under 9.1 of the

5

10

15

20

25

30

Provincial Offences Act wasn't proper, that the matter was not complete and proper on its face and ought to have been quashed.

THE COURT: In fact, I only have a photocopy of the Certificate. I don't know if the original is in possession of either of you.

MS. HOSEIN: I have only a photocopy.

THE COURT: Having regard to the position taken by Mr. Cox, Ms. Hosein?

MS. HOSEIN: I am conceding given there is no section. I also have a photocopy.

MR. COX: I do have the original which I can show Madam Prosecutor. If Your Honour wishes to see it as well I can pass that up.

THE COURT: That's fine. In all of the circumstances, the point I think is well taken. The Certificate ought to have been quashed and I am allowing the appeal and quashing the conviction.

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

THE COURT: Thank you.

5

10

15

20

25

30

5

10

15

20

25

30

Laura A. Smith
Official Court Reporter

This is to certify that
the foregoing is a true
and accurate transcript
of my recordings to the
best of my skill and
ability.

