

Case Name:
R. v. Mateus

**IN THE MATTER OF the Provincial Offences Act R.S.O.
1990**

**Between
Her Majesty the Queen, and
Marco Mateus**

[2008] O.J. No. 5590

No. 4862 999 99 82924501

Ontario Court of Justice
Toronto, Ontario

D. Robinson J.P.

Heard: September 8, 2008.
Oral judgment: September 8, 2008.

(1 para.)

Charge: S. 128 Highway Traffic Act - Speeding.

Counsel:

Mr. S. Davidson Provincial Prosecutor.

Mr. M. Riddell Agent for Marco Mateus.

REASONS FOR JUDGMENT

1 D. ROBINSON J.P. (orally):-- I think, Mr. Davidson, this Court only needs to go no further than the ambiguity of the testing of the equipment to determine what the results of this case should be. Notwithstanding the fact the officer gave evidence he tested the equipment and found it to be in

proper working order, we have already heard all the circumstances surrounding the express purpose of him being on Weston Road just to monitor the speed of moving motor vehicles, but there is a compelling argument before me today that unless tests are consistent and compliant with that of the tests set out by the manufacturer, the procedures set out by the manufacturer, unless that is in place than it is flawed and it is as the case law has indicated, if those test procedures are flawed then one cannot rely on the reading of the machine. I mean, it is not my opinion, I do not know that my opinion is worth a whole lot here, but my suspicion is that while the equipment may have been tested properly, because of the inconsistencies and the seemingly non-full compliance with the tests outlined by the manufacturer, this Court has no choice really but to find that the case has not been made against the defendant without a reasonable doubt. If there is a reasonable doubt then the matter will be marked dismissed, and that is the charge of Speeding.

qp/s/qlbxm/qlcnt