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Offence No. 78620694.

ONTARIO COURT OF JUSTICE
PROVINCIAL OFFENCES COURT

B E T W E E N

CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

- AND -

ROBERT J. VANIER

P R O C E E D I N G S

BEFORE HIS WORSHIP JUSTICE OF THE PEACE A. MURPHY

On February 14, 2006, at CHATHAM-KENT, Ontario.

OFFENCE: s. 128 H.T.A. - Speeding

APPEARANCES:

P. Bailey

R. J. Vanier

Counsel for the Crown

In person

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TUESDAY, FEBRUARY 14, 2006

MR. BAILEY: Good morning, Your Worship.

THE COURT: Mr. Bailey.

MR. BAILEY: I came up to wish you a happy
Valentine's Day, sir. Is there a matter on the
docket by the name of Robert Vanier today?

MS. BAUMAN: The defendant is here....

MR. BAILEY: All right. Would you come forward,
sir. Can I deal with that matter now, please? I'm
intervening on that case. I'm taking carriage of
it. Could I see the information, please, sir?

THE COURT: And you are....

ROBERT J. VANIER: Vanier.

THE COURT: You are Mr. Vanier.

MR. BAILEY:thank you. Your Worship, I intend
to withdraw that charge and I'd like to put my
reasons on the record if I may?

THE COURT: Certainly.

MR. BAILEY: Sometime ago, prior to the devolution
of the two-way prosecutions, Part I prosecutions to
the Municipality, I met with, at that time, Staff
Sergeant Babbitt who was the detachment commander
of the Chatham OPP detachment. He may have been an
inspector at the time. I don't recall exactly.
But in any event, we discussed proper coordination
of enforcement/prosecution policies with respect to
high-speed offenders - if I can call them that - on
the 401. And the protocol we worked out whereby
above a certain speed, the offender would be
charged at exactly what he was clocked at and the
prosecution would prosecute at that speed unless
there was an extraordinary reason to reduce the

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charge. And that was in response to a number of fatalities - speed-related fatalities on the 401.

5 Since that time, without my knowledge or consent, a practice seems to - an *ad hoc* practice seems to have evolved whereby the police - you know, if they clock somebody at one sixty, they charge them at one forty, and say to the offender, "Well, you're charged at one forty but if you go to trial, unless you plead guilty, you might end up being convicted at one sixty because the prosecutor will amend the information up." And that practice, in essence, has put the case management process in the hands of the police rather than in the hands of the prosecutor, Ms. Bauman, where I believe it properly rests.

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20 Now, this defendant - something like that happened to him. He appealed it. This practice was then brought to my attention and as a consequence, I have spoken with the city solicitor, and also the detachment commander, and also my colleagues in the surrounding counties about this practice. And I will be meeting shortly to sort of breathe new life into the protocol that Inspector Babbitt and I put in place sometime ago. But - and also I've spoken to Mr. Steve - what's his name?

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30 MS. BAUMAN: Matheson.

MR. BAILEY: Matheson about what I believe is the better practice and that is to have the police charge at what they clock at, put the discretion - the plea bargaining discretion - the case

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management discretion in the hands of the
prosecutor. So, now this man...

THE COURT: Is that what really occurred because it
appears that there was an amendment to the face of
the certificate at some point in time?

MR. BAILEY: No. Well, what happened, I believe,
is that there was a trial and evidence was called
that he was clocked at a speed in excess of what's
written on the ticket. And so an application was
made to amend the ticket to accord with the
evidence. So basically, he came to court expecting
to face a trial on...

THE COURT: I see.

MR. BAILEY: ...speed limit plus X...

THE COURT: I understand.

MR. BAILEY: ...but ended up facing a trial on
speed limit plus X plus Y.

THE COURT: I think it is all very clear to me.

MR. BAILEY: And I just don't think that's the
wisest practice. And so accordingly, I just set up
a meeting with the managers involved and we'll deal
with it.

But this man has financed the appeal out of his own
pocket, brought the matter to my attention. I
think he's been punished enough and accordingly,
I'm asking for the matter to be withdrawn.

THE COURT: The matter is endorsed withdrawn.

MR. BAILEY: Thank you, sir.

THE COURT: Thank you. Thank you, Mr. Vanier.

ROBERT J. VANIER: Thank you very much.

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FORM 2**Certificate of Transcript*****Evidence Act, Subsection 5(2)***

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ROBERT J. VANIER

in the Provincial Offences Court held at

21633 Communication Road, R.R. #5, Blenheim, ON N0P 1A0

taken from Recording No. 11-06, which has been certified in Form 1.

February 14, 2006

Date

Heather L. Brodie

Signature of Authorized Person: Heather L. Brodie, C.C.R.