

In this case, Dynamic Legal Solutions had a ticket quashed (dismissed completely) because the officer's signature was not done properly.

Case Name:
R. v. Shouldice

Between
Her Majesty the Queen, and
Jason Shouldice

[2007] O.J. No. 2910

Court File Nos. 07/194 and 78891564

Ontario Court of Justice
Brockville, Ontario

J. Doran J.P.

Oral judgment: May 1, 2007.

(30 paras.)

Charges: Sec. 128 Highway Traffic Act - Speeding -- Sec. 7(5)(a) Highway Traffic Act - Fail to surrender motor vehicle permit.

Counsel:

Lynn Riviere, Mrs.: Counsel for the Crown.

David Anber, Esq.: Agent for the defendant.

1 J. DORAN J.P. (orally):-- Yes?

2 MR. ANBER: Good morning, Your Worship. David Anber, that's A-N, like November; B, like Bob, E-R; first initial D, appearing as agent for Mr. Jason Shouldice, which appears at Number 79 and 80 of Your Worship's docket. I believe I'll deal with the speeding matter first. It's a first appearance and we would like to just set a date for trial for that matter.

3 THE COURT: On which one, sir?

4 MR. ANBER: The speeding. I believe it's Number 80 on the docket.

5 THE COURT: Yes, okay. Thank you. Trial date?

6 CST. HENRY: June 13th.

7 MR. ANBER: I believe I'll be ... I'll be attending a trial in Cornwall on June 13th.

8 THE COURT: Next date?

9 CST HENRY: July 11th.

10 MR. ANBER: July 11th is perfect. Nine a.m.?

11 THE COURT: Thank you. The matter will return, then, July 11th to this court, nine o'clock for trial. And the other matter?

SUBMISSIONS BY MR. ANBER:

12 With regard to the other matter, Your Worship, I'd like to bring a motion to have this matter quashed for an error on the face of it. I'm going to be relying that on the offence notice there is a mark, which does not appear to be a signature and I'll be relying on two reasons why. The first reason would be the fact that I'm holding a summons in my hand, which is that of Officer Lamacraft, which bears Officer Lamacraft's signature and the signature, which purports to be that of Officer Lamacraft on the offence notice bears no resemblance whatsoever to Officer Lamacraft's signature.

13 The second reason of authority I'll be handing up is a decision called R. v. Robson, which is a 2005 decision of the Superior Court, which upheld a Justice's decision to quash a certificate for this exact reason. And I'll hand this decision forward.

14 CST. HENRY: Go around.

15 THE COURT: Thank you. Just maybe come around and ... thank you.

16 MR. ANBER: I'll draw the court's attention to Paragraph 10 where it refers to the 'mark' being that of a squiggle and ...

17 THE COURT: Thank you.

18 MR. ANBER: ... the decision was that the Superior Court held the Justice's decision to quash it on that ground.

19 THE COURT: Thank you. Any comments from the Prosecutor?

SUBMISSIONS BY MRS. RIVIERE:

20 Absolutely, Your Worship. I think if you take a look at the head note in here. Half of it was found in the signature box on the certificate and the other half extended into the box above the signature box. In this particular case, it is all within the signature box and I would

suggest that even if the officer were indicating his signature, if he were illiterate in indicating by way of an "X", it would be enough to suffice the court that it was signed. The original is before Your Worship. The one thing Your Worship should also be taking into consideration is the fact that the certificate was given to the defendant. The defendant has atoned to the jurisdiction so it was served upon him and the fact that the officer didn't write his name in a manner that is legible to the defendant or his agent, I would say is neither here nor there. It is an indication I can tell you I don't sign my name the same way twice. It depends on whether I'm in a hurry, what mood I'm in and I think we're all the same.

21 And I think it would suffice to continue the ticket and have a trial based on the merits of the case.

REPLY BY MR. ANBER:

22 Let me briefly respond. I think Your Worship I should have presented you with the comparisons because as my friend has indicated it is sometimes sufficient for any kind of mark but I think the court will have before it evidence as I will present to you in just a second, that there's a clearly distinct difference between what is actually Officer Lamacraft's signature and what appears to just be a squiggle and I'll have these ...

23 MRS. RIVIERE: Can I take a look at them, please?

REASONS FOR DECISION

24 THE COURT: Thank you. The court is going to grant your motion to quash. When I look at the Notice of Trial (sic) and I see Officer Lamacraft's signature on the white copy and then, I look at the copy that was given to your client, there is no resemblance in any shape or form to the same signature. I also notice Officer Lamacraft's signature on the summons to the other matter, which is TA 498652. Clearly, the signature that appears on the white copy of the Part I is very close to his, is obviously Officer Lamacraft's signature but there is no resemblance to that signature on the notice that was given to the defendant.

25 So your motion to quash will be granted. The matter will be quashed. The other matter will return for trial. I will return those. Thank you.

26 MR. ANBER: Thank you, Your Worship.

27 THE COURT. Any other matters, sir?

28 MR. ANBER: No, Your Worship, those are my only matters.

29 THE COURT: Thank you.

30 MR. ANBER: Thank you, Your Worship. Thank you, my friend.

qp/s/qlgxc/qljnn