

Reasons for Judgment

Culver, J.

TUESDAY, DECEMBER 9, 2008

R. v. Trbojevic

R E A S O N S F O R J U D G M E N T

CULVER, J. (Orally):

This is an appeal from a conviction for speeding; the offence being speeding at 60 kilometres per hour in a 50 kilometre per hour zone, contrary to the provisions of the Highway Traffic Act.

The appeal is based on an omission in the completion of the Certificate of Offence; and the appeal is from the conviction in absentia of the accused and a deemed not to dispute procedure by a justice of the peace.

The omission in this case is at the top of the certificate, where the time of the offence is absent. The year is 2007, clearly marked; the month 09 for September, and the day the 20th are marked, but not the time of the offence.

There is a long line of authority that is referred to by Justice Libman in the case of R. v. Khoshael, (2001) OJ No. 2110, that stands for the proposition that where a defect appears in a certificate of offence under Section 9.1, such that it cannot be said to be complete and regular on its face, the result must be a quashing order.

This is distinct from extra or surplusage information on the Certificate of Offence.

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In other words, there cannot be too much information necessarily on a Certificate of Offence, but there certainly can be too little.

In this case, the time block is completely blank.

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In my view, the Certificate of Offence is therefore not complete and regular on its face.

In my view, the justice of the peace erred in not quashing the Certificate.

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The appeal is therefore allowed; and the Certificate is quashed.

MR. FOURNIER: Thank you.

MR. DUNFORD: Thank you, Your Honour.

...WHEREUPON THIS MATTER CONCLUDED

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Certification

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Form 2  
Certificate of Transcript  
Evidence Act, Subsection 5(2)

I, Laurie Lougheed, certify that this document is a true and accurate transcript of the recording of R. v. Trbojevic in the Ontario Court of Justice held at 45 Main Street East, Hamilton, Ontario, taken from Recording No. 208-259/2008; which has been certified in Form 1.

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(Date)

(Signature of Authorized Person)

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