

Ontario Court of Justice

Her Majesty The Queen

Against

Krystal Maraj

Reasons for Judgment

Before the Honourable Mr. Justice D. Hogg
At Toronto, Ontario, on November 7, 2012

Appearances:

M. Roshan
M. Rombis

Counsel for the Crown
Counsel for the Accused

Reasons for Judgment

THE COURT: Ms. Maraj, you have been charged with these two offences. You have pled not guilty, which is your right. I thank counsel for the way they have conducted themselves during this trial. They have seen that this has not dragged on forever, and there has been so many things gone wrong with it from the beginning of this case to the end.

The duty upon the Crown is to prove you guilty beyond a reasonable doubt. That is obvious to everyone in this courtroom.

As to whether there is impairment or not, as far as I am concerned, there is a slight impairment. The officers were very fair in their testimony about you. You weren't falling down drunk. You weren't staggering. You weren't doing anything. Your answers were clear. You had the eyes. That could be taken both ways, as the officer admitted that. You have said her eyes could be glossy and red because of the weather, I can well understand that. There is a slight impairment.

The main portion of this case comes down to whether or not you were in care and control of the car. On the evening in question, you got behind the wheel of the car, which you probably shouldn't have, but, in any event, there was an accident, with the snow involved, and you tell us how the front of the car went down and the back wheels were up.

You then phoned your boss to try and get a tow-truck driver to come, and you sat there and waited with the car. You said the car wouldn't turn over. The lights were on when the police officer came. He said the car was on. You said it wasn't on. He said it was in reverse. There is discussion on the wheels, as to whether or not you could put this car in motion or not. At no time did anyone ask you if you had the intention to drive the car. You are sitting there.

As far as I am concerned, you have rebutted the presumption. It would appear that you took steps to try to correct the problem that you were in, and that you did not have the intention to drive the car. And although the officer says that there was a danger to himself, I can't really find that there was any realistic danger to persons or property when your car couldn't even be moved.

So as far as I am concerned, you have rebutted that presumption, and therefore the Crown has not proved the case against you beyond a reasonable doubt. I therefore will dismiss these charges, and I hope you have learned your lesson, Madam. You don't get behind the wheel of a car and drink and drive. Thank you both.

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

THE COURT: I also may add, this nonsense of the video not working in the police station is disgraceful, and there was really no evidence as to whether or not she phoned Duty Counsel, or evidence that she was given any privacy, which I would have brought up if the other argument had failed. Thank you.

MR. ROMBIS: Thank you, Your Honour.