Case Name:

R. v. Hailey

Between
Her Majesty the Queen, and
Victoria Hailey

[2002] O.J. No. 5321

Ontario Court of Justice
Newmarket, Ontario
Hartt J.P.

Oral judgment: September 4, 2002.
(7 paras.)

Motor vehicles — Offences — Defences — Sufficiency of certificate of offence — Practice — Procedure.

Motion by the defendant, Hailey, for a determination that a certificate of offence was deficient. Hailey was the defendant in a Provincial Offences Act matter. She argued that the certificate of offence was deficient because the issuing officer's signature was computer generated.

HELD: Motion dismissed. Faxed signatures were now acceptable on the jurat of Criminal Code informations. Therefore, computer-generated signatures on certificates of offence and offence notices were also valid. A signature constituted writing or otherwise affixing one's name on a document so as to authenticate it.

Statutes, Regulations and Rules Cited:

Criminal Code, R.S.C. 1985, s. 508(1).
Provincial Offences Act, R.S.O., s. 3(2).

Counsel:

M. McDonnell, Municipal Prosecutor.
G. Burd, agent, for the defendant.

¶ 1 **HARTT J.P.** (orally):— As I understand the argument, it is the position of the defence in this motion that the computer generated officer's signature on the certificate of offence is comparable in substance and importance to the jurat on the part three information. Where the appeal courts in the past have ruled that the signatures on a jurat must be signed manually in ink, it is the position of the crown that a computer generated signature of the officer on the Certificate of Offence is sufficient to satisfy the requirements under s. 3(2) of the Provincial Offences Act, certifying that an offence has been committed and also that the offence notice was served.

¶ 2 Recently in Newmarket the new weekend bail wash court system was implemented. The Newmarket court is now dealing with an in-custody list from Durham region presented by telecommunication or video. The informations are faxed from a police station in Durham region directly into the bail court in Newmarket along with a faxed copy of an affidavit from the officer which swears or affirms the contents of the information to be true. Acting on the authority of recent legislative changes to the Criminal Code, s. 508.1, the Justice of the Peace now has the authority and the jurisdiction to receive the faxed signatures on the jurat and act upon them. Upon

completion of the matters the Justice of the Peace signs the faxed copies and they are sent back to Durham by fax so that the prisoners can be released on the authority of the faxed signatures. The legislation in regards to criminal informations had to be changed to allow for faxed signatures and jurats in order to accommodate telecommunication hearings by video and telephone transmissions in criminal and bail proceedings. Although it is true that similar legislative changes have not as yet occurred in the P.O.A. it is clear that this is the way of the future.

¶ 3 Constable Pronk testified that he produced his signature and then scanned the computer. The original signature was scanned into his computer in 1999. The printer is located in the police cruiser. It prints out the Offence Notice. He then must press the signature button. At this point he checks it over and it is served on the defendant. Constable Pronk further testified he is certifying that he believes an offence has been committed and also that he served the Offence Notice as required.

¶ 4 I've taken this quote right out of the Provincial Offences Act:

> "The overall philosophy of the Provincial Offences Act is to ensure that technical objections do not impede an impartial verdict on its merits. Technical objections ought not to impede an impartial trial on its merits contrary to the spirit of the act which requires courts to look at substance and not procedural irregularities."

¶ 5 In my view, if a faxed signature is now acceptable on the jurat of a Criminal Code information for the officer swearing the information and the Justice of the Peace receiving that information, then the computer generated signature of Constable Pronk on a Certificate of Offence and Offence Notice would also be valid.

¶ 6 Finally, I went over Strouds judicial dictionary where it is stated - 3rd edition, volume IV, page 2783:

> "Speaking generally, a signature is the writing or otherwise affixing of a person's name or a mark to represent his name by himself or by his authority with the intention of authenticating a document as being that of or as binding on the person whose name or mark is so written or affixed."

¶ 7 I believe that the Certificate of Offence was validly signed and therefore this motion is dismissed.

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