Indexed as:

R. v. McLeod

Between
Her Majesty the Queen, and
Sheryl-Lee McLeod

[1997] O.J. No. 5956
Info. No. 97-0954

Ontario Court of Justice (Provincial Division)
Ottawa, Ontario
Miller J.P.

Oral judgment: December 2, 1997.
(5 pp.)

Charges: S. 130 Highway Traffic Act

Counsel:

R. Feder, agent for L. Beckerman, for the Crown.
P.W. Muirhead, for the defendant.

¶ 1 **MILLER J.P.** (orally):— Sheryl McLeod is charged that she, on the 10th of April 1997, at the Township of Cumberland, did drive a motor vehicle bearing Ontario licence number 441 XTC carelessly, contrary to s. 130 of the Highway Traffic Act. Is the defendant in court?

¶ 2 MR. MUIRHEAD: Yes, the defendant is here.

¶ 3 **THE COURT**: The facts that are admitted are that Sheryl McLeod was the driver of the car at the time of the accident and the lights were working properly at the intersection where the accident occurred, this intersection being the Tenth Line Road and St. Joseph Boulevard in the Township of Cumberland.

¶ 4 Hatem Zeineddine, the driver of the taxi that was involved in this accident, testifies that he was southbound going towards Tenth Line Road. He indicates he could see the intersection 40 to 50 metres away and there was no traffic coming from all sides of the intersection. The light was green when he entered the intersection. He was travelling between 40 and 50 kilometres per hour and he was wearing a seat belt.

¶ 5 Joseph Boudreau, a pedestrian, a witness at the intersection, testifies that the light was green for southbound traffic and the light was red for eastbound traffic. Sylvia Boudreau confirms this in her testimony.

¶ 6 This is also stated by Kealey Fields who testifies that, when she saw the taxicab, it was bouncing off the light standard and the light was green for southbound traffic.

¶ 7 Sheryl McLeod's evidence is she is travelling east on St. Joseph Boulevard at approximately 50 kilometres per hour. The speed limit on St. Joseph is 50 kilometres. She says that she saw the light at the intersection but never noticed the colour of the light when she first saw it. She indicates that she was distracted, looking for a place to turn around. The light was green when she entered the intersection. She said she never noticed the light being red.

¶ 8 Witness Peter Daley, a defence witness, is a professional engineer and specializes in accident reconstruction and is an expert in seat belt usage and speeds of vehicles at the time of impact in an accident. His evidence is not disputed. Mr. Daley testified that, at the time of the collision, Sheryl McLeod's vehicle was travelling at an estimated speed of 50 to 54 kilometres, and that Mr. Zeineddine's vehicle was travelling at an estimated speed of 87 kilometres at the time of the collision. He also gives evidence that he was not wearing his seat belt and there was no pre-impact braking.

¶ 9 Based on all of the evidence that I have heard, the Crown has not met the standards to merit a conviction under careless driving. There is no evidence of bad driving before the accident and no intentional risk taken by the defendant. Mere inadvertent negligence, whether of the slightest type or not, does not sustain a conviction for careless driving. I find the defendant did go through a red light, which is a separate charge, but this does not constitute careless driving. The charge is dismissed.

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