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R. v. Paniccia

Between
Her Majesty the Queen, and
Giovanni Paniccia

[2000] O.J. No. 5331

Ontario Court of Justice
Brampton, Ontario
Morten J.

September 15, 2000.
(39 paras.)

Charge: Disobey Stop Sign

Counsel:

R. Brencis, for the Crown.
G. Burd, agent for the accused.

MORTEN J.:—

¶ 1 MR. BRENCIS: If I may, Your Honour, I'll turn to the next matter, Giovanni Paniccia. This is number 28.

¶ 2 **THE COURT**: Thank you.

¶ 3 MR. BURD: I'm also appearing as agent, Your Honour, for Mr. Paniccia ....

¶ 4 **THE COURT**: Yes.

¶ 5 MR. BURD: ... who himself is not before the Court. There should he a transcript ....

¶ 6 **THE COURT**: Yes.

¶ 7 MR. BURD: ... and Your Honour can make -- this -- here's the preface of the appeal, the section says that at a stop sign you stop either at the white line, no white line, crosswalk, no crosswalk, immediately before entering the intersection.

¶ 8 The transcript will bear out there was a white line. The transcript will bear out there was's a stop made. But the transcript will also bear out that the officer's evidence indicates that the front end of the vehicle was past the white line and he says a car length, but on cross-examination, he's not sure if a car length is five feet, ten feet. He does ....

¶ 9 **THE COURT**: I have it at page seven.

¶ 10 MR. BURD: Yes. And that's the crux of the appeal, Your Honour, when it says stop at the white line, does that mean that the front extremity of the vehicle cannot pass the white line or does that mean as long as a

portion of the vehicle stops, or as His Honour Belobradic had indicated in the decision put before the Learned Court, that as long as a stop was made, then the spirit of the legislation has been met? That's the crux of the appeal.

¶ 11 **THE COURT**: Pages seven and eight are confusing. It's hard to tell where that car was. Yes, what does the Crown say?

¶ 12 MR. BRENCIS: Yes. Your Honour, in this particular matter, if I may, by way of rebuttal, the Act is very clear as to where the motorist should stop.

¶ 13 **THE COURT**: Could I have that section number, please?

¶ 14 MR. BRENCIS: It would be 136(1)(a).

¶ 15 **THE COURT**: 136(1)(a). Read it to me, will you, please.

¶ 16 MR. BRENCIS: Yes. This section reads:

> "Every driver or street car operator approaching a stop sign at an intersection:
>
> (a) shall stop his or her vehicle or street car at a marked stop line or if none, then immediately before entering the nearest crosswalk, or if none, then immediately before entering the intersection."

¶ 17 And then there's an additional duty, "and shall yield the right-of-way," et cetera.

¶ 18 In this particular matter, Your Honour, I -- when one looks at the legislation, I would contend respectfully, that it really as of -- as a guide to all motorists everywhere, it is a very good guide. It takes into consideration the configuration of the roadway.

¶ 19 It also takes into account more than just the vehicle traffic that's moving through the intersection. It also takes into account pedestrians traffic. The vehicles never enter the cross street or the cross area where a pedestrian, for example, would also be allowed to walk.

¶ 20 In this particular case -- I'm aware of the decision by His Honour Justice Belobradic. However, I think that, sir, in that decision, if I can characterize it in this way, sir, and most respectfully, it's the slippery slope. When the courts take that view, respectfully, sir, then it becomes a case of, well, where is a motorist to stop and at what stage and where, two feet, three feet, four feet, ten feet from the line?

¶ 21 **THE COURT**: Well, I agree with you there.

¶ 22 MR. BRENCIS: I think ....

¶ 23 **THE COURT**: But the thing here is that I -- the officer is fairly unclear, except at page eight he recovers and says the nose of the vehicle was past the white line.

¶ 24 MR. BRENCIS: M'hmm. The -- also, when asked, the defendant himself was not that clear either. He indicates he couldn't tell where the front of his vehicle was either. But in terms of the original evidence of the evidence in-chief of the officer and this is on the third page, Your Honour, and it's about the 25th line, it begins:

> "I observed a silver Honda Accord, two-door grey, travelling westbound, approach the intersection at a high rate of speed. The vehicle stopped approximately ten feet past the white stop line and approximately 15 feet past the stop sign. After the driver was noted to look northbound or to his right and observed my vehicle. It should be noted that I did observe the front of the vehicle to dive heavily as the driver attempted to stop it."

¶ 25 I would content that if any portion of the front of that vehicle crosses that white line, then the section has been breached, because there's also more involved here, sir, than just where it ended up.

¶ 26 **THE COURT**: I agree. Anything further, Mr. Burd?

¶ 27 MR. BURD: Well, only that that's fine. That's what he said in-chief, but on cross-examination he also said the vehicle was at a high rate of speed and when cross-examined on that, the high rate of speed happened to be 40 ...

¶ 28 **THE COURT**: Forty kilometres an hour.

¶ 29 MR. BURD: ... which is the speed limit.

¶ 30 **THE COURT**: Right.

¶ 31 MR. BURD: And when he was started to ask (sic) well, how far is a car length and what is a car length, he wasn't sure, he couldn't be sure and it all comes back to ...

¶ 32 **THE COURT**: Well, he was firm about where its nose was. That's both in ...

¶ 33 MR. BURD: Past the line, yes.

¶ 34 **THE COURT**: ... direct and ....

¶ 35 MR. BURD: But if anybody ....

¶ 36 **THE COURT**: ... on the basis of that, I'm going to dismiss this appeal.

¶ 37 MR. BURD: All right. Thank you, Your Honour.

¶ 38 **THE COURT**: Thank you.

¶ 39 MR. BRENCIS: Thank you, Your Honour.

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