** Unedited **

Indexed as:

R. v. Verbeek

Between
Her Majesty the Queen, and
Peter Verbeek

[1996] O.J. No. 3660

Ontario Court of Justice (Provincial Division)
Brampton, Ontario
Weagant Prov. J.

Oral judgment: January 12, 1996.
(2 pp.)

Motor vehicles — Offences — Speeding — Defence — Due diligence.

This was an appeal respecting a charge of speeding.

HELD: Appeal allowed in part. The defence of due diligence applied, but the accused was guilty. He knew he was driving over the speed limit.

Statutes, Regulations and Rules Cited:

Highway Traffic Act.

Counsel:

A. Hamilton, for the Crown.
P. Verbeek, on his own behalf.

¶ 1 **WEAGANT PROV. J.** (orally):— Well, I made a finding of law that if you think it should be tested, there is a court above me that can do that.

¶ 2 I will make a finding of law that the offence of speeding under the Ontario's Highway Traffic Act is one of strict liability and therefore, following the case of R. v. Williams, the Nova Scotia Court of Appeal, 39 M.V.R. 153, therefore the considerations as set out by the Supreme Court of Canada in R. v. Sault Ste. Marie, (1978) 40 C.C.C. (2d), 353, is that the due diligence offence is available.

¶ 3 And looking back at the facts then, did this man take reasonable care in the circumstances and did he act on a reasonable belief in the set of facts that if true, would have rendered the act or omission innocent? Not quite, because he says that he knows that he was going 115. That being the case, I can say with certainty that that's what he is guilty of and I will make that finding of guilt.

¶ 4 So the appeal is allowed in part. The conviction will stand, 115 in 100.

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