

Citation: *R. v. Charlie*, 2008 YKTC 91

Date: 20081125
Docket: 08-04684
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Worship Justice of the Peace Cameron

REGINA

v.

ESMERELDA OPAL CHARLIE

Appearances:
Brynn Enros
Esmerelda Charlie

Counsel for Crown
Appearing on her own behalf

REASONS FOR JUDGMENT

[1] CAMERON J.P.T.C. (Oral): Ms. Charlie has pled not guilty to one count under s. 163.

[2] Evidence provided to the Court was the sworn testimony of Constable Tannahill. He has been with the RCMP for five years, in Whitehorse for four years. He indicates he was called to a motor vehicle accident on July 17th while working general duties.

[3] The accident occurred in the intersection of Two Mile Hill and Alaska Highway. He arrived there. One vehicle was a truck that had relatively minor damage. The other vehicle was a station wagon, which clearly had been, I think his expression was, "T-boned," by the truck. The station wagon suffered extensive damage.

[4] Ms. Charlie was the driver of the station wagon and, at the time that he arrived, was in the vehicle in an upset state. The driver of the truck was attempting to console her.

[5] There was heavy traffic. It was near the late afternoon when the traffic picks up. It was a clear and sunny day.

[6] He identified Ms. Charlie by her driver's licence and again today in court.

[7] Mr. Scott then took the stand and gave his testimony. He indicates that he was heading down the Two Mile Hill on Hamilton. The light was green was his testimony. He indicates he did not see Ms. Charlie; however, made some reference to the fact that he thought there was a school bus that may have been heading in the same direction as him but turning left, and that may have blanked her vehicle out. As he entered the intersection Ms. Charlie's vehicle was turning in front of him.

[8] He indicated that Constable Tannahill arrived and started asking them questions about what had happened. There was a lot of traffic happening at the time. He recalled in cross-examination apologizing to Ms. Charlie different times, including a phone call.

[9] Ms. Charlie took the stand and made a sworn statement indicating that, in fact, she had come up the Two Mile Hill and was attempting to turn left on the Alaska Highway. There was one vehicle ahead of her. When she arrived there and had moved out into the intersection the light was green. She indicated that the light turned yellow, the vehicle ahead of her did complete the turn, she hesitated and then proceeded and found herself suddenly hit by Mr. Scott.

[10] She is concerned that she feels she never really got to speak with Constable Tannahill and tell her side of the story. She was concerned that the charges just came sort of out of nowhere. She has also raised a concern that Mr. Scott apologizing for hitting her a number of times may ultimately indicate that he may not have been in the right.

[11] She makes some vague recollection of a bus stopping, and ultimately it may have blanked some of her view as well. She was alone in the car.

[12] The section that you are charged under reads as follows, Ms. Charlie. It says:

A driver intending to turn left across the path of any vehicle approaching from the opposite direction shall not make or attempt to make the left turn unless the turn can be completed in safety.

[13] The problem is that inasmuch as we may never know exactly what colour the lights were, they do not really apply. It was perhaps a bit blunt of Mr. Scott to say even if the light had been red you could not turn across in front of him. He was simply trying to make a point. The section indicates that once you are turning left, then it is ultimately your responsibility to ensure that it can be done safely.

[14] It would appear to me that the school bus may have been a factor, both for Mr. Scott not seeing your vehicle until it was essentially in front of him, but also perhaps for you not seeing his vehicle as it is approaching and heading straight through. The bottom line is that you did turn left in front of him as he was heading straight through. That does make out the offence and, as such, I have to find you guilty of the offence.

CAMERON J.P.T.C.