

Citation: *R. v. Abdullahi*, 2009 YKTC 78

Date: 20081216
Docket: 08-04648
Registry: Whitehorse

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

REGINA

v.

MOHAMED ABDULLAHI

Appearances:
Judith Hartling
Mohamed Abdullahi

Counsel for Crown
Appearing on his own behalf

REASONS FOR JUDGMENT

[1] CAMERON J.P.T.C. (Oral): Mr. Abdullahi has pled not guilty to one count under s. 176 of the *Motor Vehicles Act*.

[2] The Crown presented their case through the testimony of Constable Douglas, an RCMP since 2006. He was on duty July 12th in the early morning hours. He was northbound on Fourth Avenue, approximately Fourth and Cook, at that intersection, and was approaching Fourth and Ogilvie. He observed the red light at Fourth and Ogilvie, and also observed an approaching vehicle, 50 to 60 feet north of the intersection, approaching the intersection at a rate of speed that clearly drew his attention. It may have been that he was anticipating the vehicle would be stopping and

observed that the vehicle was not. There is no real indication that the vehicle was in excess of the speed limit, but clearly the motion of the vehicle was drawing his attention.

[3] As the vehicle approached the intersection, it did not slow down; it simply proceeded directly through the intersection, at which point the constable turned his vehicle around and stopped Mr. Abdullahi by Whitehorse Motors.

[4] There was light traffic, very early morning; the road was dry, visibility was good. He indicated he was approximately at the Fourth and Cook intersection, perhaps up to 100 metres back of the intersection at Fourth and Ogilvie, when he observed the vehicle go through the intersection.

[5] Mr. Abdullahi made a statement indicating that he was close to the intersection on the amber light and could not have stopped in time, that he did in fact proceed through, that the red light turned red approximately halfway through. He was driving a taxi with passengers at the time.

[6] Upon further quizzing he indicated that his vehicle, at the time that the light turned amber, had the front wheels in the intersection, and then a little further on said no, he was probably back about 20 feet from the intersection.

[7] The testimony that you provided, Mr. Abdullahi, does cause me some concern. It does not, in my view, make sense that the amber light would turn amber where you were if you were in fact driving at a normal speed, and that it would not still be amber by the time you went through that intersection. So on the stand, you clearly recalled

that the light was red when you were half-way through.

[8] I think what very well may have happened is, I think, that, for whatever reason - I would not go so far as Ms. Hartling's suggestion that you thought, "It's late at night; I don't have to stop for a red light" - I think that what happened is that by the time you saw either the amber light it was about to turn red or you saw it as it turned red and you were entering the intersection. Had you seen the amber light when in fact it had turned amber, you would have stopped. You certainly would have had lots of time to stop. The amber lights are planned to allow sufficient time, with reasonable roads, to get your vehicle stopped prior to the changeover. So I suspect it was simply one of those situations; it happens to anybody and everybody. In this case, it was very late at night, or early morning, so there was even far less traffic to be involved.

[9] That is why I accept the police officer's testimony as being perhaps more accurate than yours, simply because there was no other distractions to him. He was drawn to your vehicle, and the fact that he was approaching the same light as you were and therefore he was conscious of that light and observing the actions of your vehicle, I suspect, would put him in a position to have, in fact, recollected correctly what happened.

[10] As such, I am finding you guilty of the offence. Were we seeking anything outside of the voluntary fine?

[11] MS. HARTLING: No, he doesn't have any traffic record, either. So just the \$125 plus an \$18 surcharge.

[12] THE COURT: It's \$125, \$18 surcharge, a total of \$143. How long would you need to pay that, sir?

[13] THE ACCUSED: In ten days?

[14] THE COURT: Pardon me?

[15] THE ACCUSED: One month?

[16] THE COURT: One month?

[17] THE ACCUSED: Yeah.

[18] THE COURT: One month time to pay.

[19] THE ACCUSED: Okay.

[20] THE COURT: You can appeal this decision if you wish. You must launch that appeal within the month, if you wish to do so.

[21] THE ACCUSED: Okay.

[22] THE COURT: Thank you, sir.

CAMERON J.P.T.C..