

Regina v. Hickey

(1977), 13 O.R. (2d) 228

ONTARIO
COURT OF APPEAL
JESSUP, MARTIN and WILSON, JJ.A.
15TH OCTOBER 1976

1976 CanLII 653 (ON CA)

Criminal law -- Motor vehicles -- Speeding -- Reasonable mistake of fact not defence -- Offence of absolute liability.

Criminal law --Defences -- Mistake of fact -- Strict liability offences-- Speeding contrary to provincial statute -- Absolute liability offence -- Defence of reasonable mistake of fact not available.

APPEAL by the Crown from the judgment of the Ontario Divisional Court 29 C.C.C. (2d) 23, 68 D.L.R. (3d) 88, 12 O.R. (2d) 578, allowing the accused's appeal from a conviction for speeding.

C. Scullion, for the Crown, appellant.

Alan D. Gold, for accused, respondent.

The judgment of the Court was delivered orally by

JESSUP, J.A.:-- Assuming, without deciding, that statutory offences can be classified into one of three groups as mentioned by Estey, C.J.H.C., in his judgment given in the Divisional Court, we are of the opinion that the offence here in question, of speeding, under the Highway Traffic Act, R.S.O. 1970, c. 202, is a statutory offence within the third group

mentioned by Estey, C.J.H.C.; that is one of absolute liability in the sense that reasonable mistake of fact is not a defence.

Accordingly, on any view of the law, we think that the conviction was properly entered by the learned Judge of first instance. In the result the appeal is allowed, the judgment of the Divisional Court is set aside and the conviction registered is restored.

I should have added, and intended to say, that as usual we have been greatly assisted by the able and succinct argument of both counsel and are particularly indebted to Mr. Gold.

Appeal allowed; conviction restored.

MVRT