

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

DEREK JAMES DUNLOP

\*\*\*\*\*

C O U R T P R O C E E D I N G S

\*\*\*\*\*

BEFORE THE HONOURABLE JUSTICE P. WRIGHT  
on June 11, 2008,  
at NEWMARKET, Ontario

\*\*\*\*\*

CHARGES: s. 253(b) C.C. - Over 80 Milligrams  
s. 255(2) C.C. - Impaired Cause Bodily Harm x 2

\*\*\*\*\*

25 APPEARANCES:

G. Sang

Counsel for the Crown

30 M. Herman

Counsel for Derek Dunlop

S. Sager

Agent for Derek Dunlop

1.  
R. v. Dunlop

WEDNESDAY, JUNE 11, 2008

MS. SANG: Good morning, Your Honour, it's Sang, initial "G" for the Crown, S-A-N-G.

THE COURT: Good morning, Ms. Sang.

MS. SANG: I understand, Your Honour, of course, that we have a full judicial pre-trial list to address...

THE COURT: Yes.

MS. SANG: ...and there are two matters that - and I'm in Your Honour's hands as to which one you wish to deal with first. The first matter is the Derek Dunlop matter which appears on the docket on lines 50 to 52. I can indicate that Mr. Sager is here as is Mr. Dunlop and we're prepared to deal with this matter at Your Honour's convenience.

THE COURT: Thank you.

...OTHER MATTERS ADDRESSED

THE COURT: Is Mr. Dunlop present?

MR. SAGER: He is, Your Honour.

MS. SANG: Yes.

THE COURT: Could he be paged please? Thank you. Mr. Dunlop is now present. Thank you. Yes. Mr. Dunlop, would you come forward please? Mr. Sager as well. I see you're present, sir. Thank you for your attendance, Mr. Herman. Can I have the information please? Thank you. Mr. Sager, in your absence yesterday, after we had completed proceedings, but before the adjournment of the court, some matters came to my attention which

resulted in me vacating the prohibition order which had been imposed yesterday and traversing this matter to today's court at nine thirty and at issue was your status.

MR. SAGER: Yes, sir.

THE COURT: You have represented to this court in documentation and in oral representations that you are a lawyer. Your designation confirms that. It came to our attention yesterday through inquiries that were made and confirmed, in some measure, that that information may be in error. Ms. Marcy Segal appeared as a friend of the court yesterday to make representations. The charge upon which Mr. Dunlop has presented himself to this court is a charge of impaired operation of a motor vehicle causing bodily harm contrary to section 255(2) of the Criminal Code which is strictly indictable.

MR. SAGER: Yes.

THE COURT: What is your status?

MR. SAGER: I'm a paralegal, Your Honour.

THE COURT: Thank you. I'm going to direct that amicus curiae be appointed to assist Mr. Dunlop. I understand, Mr. Herman, that you are here to make representations, if necessary, on behalf of Marcy Segal who is prepared to act as amicus curiae. Is that correct?

MR. HERMAN: That is correct.

THE COURT: She will be appointed amicus curiae. I will direct, Ms. Sang, that Mr. Tait, the Crown Attorney, be advised of these proceedings...

MS. SANG: Yes.

THE COURT: ...and take whatever appropriate steps he feels are necessary. At a minimum, in relation to Mr. Dunlop's proceedings I will direct that the Crown Attorney forthwith provide full disclosure of all documentation in relation to these proceedings to Ms. Segal as amicus curiae. That arrangements be made through the office of the Chief Justice of the Province of Ontario to assist in compensation for Ms. Segal and that she take whatever steps are necessary and provide whatever legal advice is required to Mr. Dunlop and provide a report to the court.

A copy of all of the transcripts of every attendance involving Mr. Dunlop and Mr. Sager will be ordered by this court.

A copy of the information with all of the attachments, including the designation of counsel, which Mr. Sager has signed, together with his representations here today for the first time that he is not a lawyer, but rather is a paralegal, will be prepared as well. These documents and transcripts will then be provided to the Chief Judge of the Province of Ontario and to the Secretary of the Law Society of Upper Canada and to whomever else

5  
10  
15  
20  
25  
30

this court feels appropriate in the circumstances.

The plea, as it stands, will remain for the moment.

Mr. Dunlop is presently on a recognizance of bail which requires compliance with a number of conditions including one that he shall not operate a motor vehicle. In view of the vacating of the prohibition order, which I made yesterday, and the review of the recognizance of bail with Mr. Dunlop, he understands that he is not to operate a motor vehicle and that recognizance of bail remains in effect on a \$5,000.00 surety recognizance of bail in which both Mr. Derek James Dunlop, the defendant, and Margaret Greer, described as step-mother, have affixed their signatures. It would not, however, be appropriate, in my view, that the sentencing of these proceedings, in any fashion, take place and that includes the prohibition from driving until such time as this court can be certain that Mr. Dunlop has received proper legal representation by a licensee authorized to do so by the Law Society of Upper Canada in accordance with the provisions of the Criminal Code. It is now clear that Mr. Dunlop has not received that advice from Mr. Sager who has indicated that he is a paralegal.

Mr. Sager, I must tell you that I am very disturbed to find out what I have. I am

requiring you to report this matter to your licensing bureau, the paralegals, today to give a full account of your proceedings in relation to this particular matter, to provide a copy of that to the court and to the amicus curiae and to the Crown Attorney.

MR. SAGER: Yes, sir.

THE COURT: And to the Law Society of Upper Canada.

MR. SAGER: Yes.

THE COURT: I am directing you to attend on each and every occasion that this matter is next before the court until such time as that order is suspended. When would it be convenient, Mr. Herman, for Ms. Segal to re-attend in the court?

MR. HERMAN: I think that the problem, as well, is that Mr. Dunlop has come down from North Bay and I'm not sure - his finances are a little tight as well, when he could next come and Ms. Segal is going to need some time to look over the disclosure so....

THE COURT: Thank you. I'm thinking of a short return date at least to put into place the mechanics of transferring disclosure to Ms. Segal and to confirm her arrangements for compensation as amicus curiae so that she is in a position without further compensation having to be paid by Mr. Dunlop to Ms. Segal so that she might take the steps necessary

6.  
R. v. Dunlop

which I have directed and which I understand Ms. Segal has undertaken to perform.

MR. HERMAN: She is.

THE COURT: I would be indebted to counsel if you might give me the benefit of a convenient return date given that which I have just said.

MR. HERMAN: Well, we are here every day next week, actually before Your Honour, so....

THE COURT: Yes.

MR. HERMAN: I'm just not sure how convenient - whether Mr. Dunlop can return. He says he would prefer to come back in two weeks to give him some time.

THE COURT: I am here on the 25<sup>th</sup> of June, that's two weeks today, in courtroom 203.

MR. HERMAN: Okay.

THE COURT: Would morning or afternoon be best for you or Ms. Segal, Mr. Herman?

MR. HERMAN: Well....

THE COURT: Maybe I should ask you, Mr. Dunlop, what's more convenient for you? Morning or afternoon?

MR. DUNLOP: Either/or it makes no difference.

MR. HERMAN: Morning is fine.

THE COURT: Thank you.

MR. HERMAN: That's in 204?

THE COURT: In courtroom 203. All right. Mr. Dunlop, this matter will be adjourned to be spoken to on 25 June, 2008 at 9:30 a.m. in courtroom 203. Since this is an indictable matter you are required to be here. Mr.

Sager, as I've indicated you are to be here on that date, time and place as well. I will expect full reports prepared and filed before you attend on the 25<sup>th</sup> of June as I have directed you to do and, Ms. Sang, would you make sure, please, that Mr. Tait is aware of these circumstances and provides full disclosure of the materials to Ms. Segal as soon as possible and I will make the inquiries that I'm required to undertake on behalf of the Chief Justice's office to ensure that Ms. Segal is compensated in accordance with the prevailing reasonable rates for a senior counsel...

MS. SANG: Yes.

THE COURT: ...as amicus curiae.

MS. SANG: Thank you, Your Honour.

THE COURT: Is there anything else that either counsel, Ms. Sang or Mr. Herman, on behalf of Ms. Segal would like to bring to my attention at this time?

MS. SANG: No, thank you.

THE COURT: Ms. Sang? Mr. Herman?

MR. HERMAN: That's fine. Thank you.

THE COURT: When you indicate, Mr. Sager, that you are a paralegal, are you a licensed paralegal or are you something other than that?

MR. SAGER: No, I'm an applicant with the Law Society right now. I have written the exams and I am just going through the process right



now, Your Honour. But I have practiced as a paralegal for the last 16 years. Prior to that I was a Toronto police officer.

THE COURT: Your status in the Law Society of Upper Canada website as of today's date, the 11<sup>th</sup> of June, 2008, does not indicate that you are a paralegal, but rather your status definition is a paralegal candidate. Is that correct?

MR. SAGER: That's correct.

THE COURT: Have you written the examination?

MR. SAGER: Yes, I have.

THE COURT: When did that take place?

MR. SAGER: January 17<sup>th</sup>.

THE COURT: Of what year?

MR. SAGER: Of this year.

THE COURT: And what happened?

MR. SAGER: I passed.

THE COURT: Why is it that you are still a paralegal candidate?

MR. SAGER: For - I dropped in - for - I filed for personal bankruptcy two years ago and that was on my application and because of that you automatically - there is an investigation as soon as it appears you were bankrupt. So until - once that's done then the procedure will continue on.

THE COURT: Thank you very much. All right. Thank you.

MR. SAGER: Thank you, sir.

MS. SANG: Thank you, Your Honour.

9.  
R. v. Dunlop

THE COURT: Mr. Dunlop, do you understand?

MR. DUNLOP: Yes.

THE COURT: Do you understand the proceedings?

MR. DUNLOP: Yes.

THE COURT: Just a moment, Mr. Sager, please.  
Don't leave just yet. Mr. Dunlop, do you have  
anything further - do you have any questions  
you would like to ask before we leave at this  
point?

MR. DUNLOP: Just some of the privacy of some  
of my documentation, I guess. The privacy of  
some personal documentation that I've shared  
with my current attorney, I don't know what  
I....

THE COURT: All right. That is something that  
you should discuss with, perhaps, Ms. Segal.  
Mr. Sager, I am directing you to ensure that  
whatever documentation, papers, personal  
documents be preserved by you and made  
available...

MR. SAGER: I have....

THE COURT: ...and made available to either  
Mr. Dunlop or as he directs to, perhaps, Ms.  
Segal. I need you to provide a full  
accounting of your fees, disbursements and if  
you did manage any moneys in trust, those as  
well to both Mr. Dunlop and to Ms. Segal. Do  
you understand that?

MR. SAGER: For the last, I guess, eight  
months I haven't charged Mr. Dunlop anything,  
Your Honour.

10.  
R. v. Dunlop

THE COURT: Whatever you charged him from the time you first saw him until this point in time, any retainer arrangements...

MR. SAGER: Yes.

THE COURT: ...any documents of this nature you are to preserve and turn over to Mr. Dunlop forthwith.

MR. SAGER: Yes.

THE COURT: Do you understand that?

MR. SAGER: Yes.

THE COURT: All right. Anything else?

MS. SANG: No, thank you.

THE COURT: Okay. Thank you.

MR. HERMAN: Thank you.

\*\*\*\*\*

FORM 2

CERTIFICATE OF TRANSCRIPT (SUBSECTION 5 (2))

5

Evidence Act

I, Fiona Downer, C.C.R., certify that this document is a true and accurate transcript of the recording of R. v. Derek James Dunlop, in the Ontario Court of Justice, held at Newmarket, Ontario, on June 11, 2008, taken from (a copy of) Recording No(s). 4911-303-0212/2008, the original of which has been certified in Form 1.

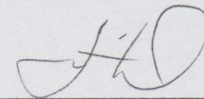
10

15

June 13, 2008

Date

20



Fiona Downer, C.C.R.

25

Photocopies of this transcript are not certified and have not been paid for unless they bear the original signature of Fiona Downer, and accordingly are in direct violation of Ontario Regulations 587/91, Courts of Justice Act, January 1, 1990.

30