

N O V A S C O T I A  
COUNTY OF HALIFAX

C.H. 12336

I N T H E C O U N T Y C O U R T  
OF DISTRICT NUMBER ONE

BETWEEN:

BERNARD J. VAUGHAN,

Appellant.

- and -

HER MAJESTY THE QUEEN,

Respondent.

R. A. Donahoe, Q.C., for the appellant.  
Vincent F. Lambie, Esq., for the respondent.

1976, March 19, O Hearn, J.C.C.:— This is an appeal by the defendant from a conviction under *Motor Vehicle Act*, s.74(2), the gist of the offence being that he did unlawfully disobey the instructions of an official traffic signal at the intersection of Robie Street and Cunard Street.

The evidence discloses that this intersection is a rather irregular one, that two of the entries are boulevarded—that is, what you might call the eastern entry on Cunard Street is a boulevard and the southern entry on Robie Street is a boulevard. This particular boulevard has three north-bound lanes, one of which leads into a cut-off to take traffic right and east onto Cunard and the others go north, permitting entry into the northern entry into the intersection on Robie but requiring that the driver proceed left at an angle.

I can infer from the evidence what I know perfectly well, of course, that you can also turn left and go west on Cunard. This intersection is controlled by traffic lights. Now, the traffic lights that have been described are one on the northeast corner of the intersection, which has lights controlling north-bound traffic on Robie. There is one, apparently,

to the east of that, roughly in the location where a driver would normally stop when stopped by a traffic control light when proceeding west on Cunard. It is clear from both sides that this light is not normally visible to a vehicle so parked or to the driver. But it would, I suppose, be somewhere in the direct path of a person going north on Robie.

I am uncertain from the evidence what the circumstances are with the light on the northwest corner. It is clear that there is a light there controlling west-bound traffic on Cunard. It is not clear to my mind that there is a light there controlling north-bound traffic on Robie. It is at least in doubt that there is such a light, although there is an inference from Constable Kendall's opening evidence that there was a light on that corner, controlling north-bound traffic on Robie.

From my familiarity with the intersection, which I think would be that of an ordinary jurymen of this vicinity, I would find it difficult to understand why there should be a light there controlling north-bound traffic on Robie because it is so far over to the left. But, it is possible. In the peculiarities of municipal governments sometimes these things happen.

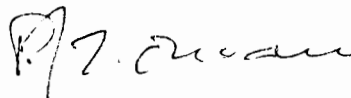
There is also a light on the island formed by the cut-off to the right in the east side of Robie and the south side of Cunard—on that island there is a light and there is direct testimony by Mr. Vaughan that that light would appear to control traffic going north on Robie. It is argued that there is no function for it for traffic turning east on Cunard. There is nothing to suggest that right turns are prohibited there on a red light. I would think that traffic going east on Cunard, if the light were for its benefit, would see an arrow pointing right. We have no evidence on that. And the evidence of Mr. Vaughan would at least suggest that it is an ordinary green, red, orange light showing green at the time he approached.

Mr. Donahoe at the conclusion of the Prosecution's case moved to dismiss on the basis that the evidence did not disclose what this light was showing from the police officer's point of view and that therefore it allowed a possibility that the defendant was obeying such a light and was proceeding lawfully into the intersection. I rejected this motion on the basis that there is an assumption that traffic lights are acting in concert, that they are keyed together, so that they do not contradict each other. I think motorists have to act on this assumption and normally that this is the case and in the absence of evidence to the contrary I can assume that they are acting in concert.

Here, now, we have evidence that Mr. Vaughan entered on what he thought was a green light governing his actions as a driver. We have also his evidence that the officer was not in a position to see the traffic signals controlling north-bound traffic. The officer, however, has given evidence to the contrary and it is a question whether I have to consider credibility here. I do not think I have. I think it is quite possible for both of these witnesses to be telling the truth as they saw it, without any necessary contradiction. It is feasible, or it is a possibility at any rate, that Mr. Vaughan was not parked in a position to see the lights when he re-enacted the officer's position but that the officer was in a position to do so. A slight variation in angle could make quite a difference here. So, I do not think there is any real question of credibility; it is a question of 'Can I consider the possibility that the lights were not acting together, or can I consider the possibility that the officer misconstrued the lights he saw?' That is, that he was distracted by the red light facing him and especially as he would have to look in a different direction to have seen Mr. Vaughan entering the intersection. He had to make quite a change in the direction of his vision in order to observe that.

I am satisfied that from Mr. Vaughan's point of view he entered the intersection on a green light, the one on the island. The question of whether there was a clash between that light and the others I think has to be settled on general principles; that is, we have to take these traffic lights as means of communication. They are signals or signs made under the direction of the local traffic authority, or whatever traffic authority placed them, indicating to motorists what they should do. I think motorists are entitled to a clear indication of that and if there is any contradiction between the signals given, then the motorists cannot be held to blame. There is no clear evidence that there is a contradiction but this is a possible explanation of what has happened or it may be that the officer misinterpreted the signals that he saw. But, in either case I think that the defendant is certainly entitled to the benefit of the doubt and to the benefit of any confusion created by the traffic authority or his agents.

The appeal is allowed. I will make the ordinary order as to costs unless there is some view to the contrary.



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Judge of the County Court of  
District Number One