

PROVINCIAL COURT OF NOVA SCOTIA

Citation: *R. v. Greencorn*, 2019 NSPC 3

Date: 2019-02-8
Docket: 8248257
Registry: Pictou

Between:

Her Majesty the Queen

v.

Luke Thomas Greencorn

VERDICT

Judge:	The Honourable Judge Del W. Atwood
Heard:	2019: 8 February 2019 in Pictou, Nova Scotia
Charge:	Para. 93(2)(e) of the Motor Vehicle Act
Counsel:	Bronwyn Duffy for the Town of New Glasgow Luke Thomas Greencorn in person

By the Court:

[1] Luke Thomas Greencorn was ticketed under the Motor Vehicle Act (MVA) for failing to stop at a red light at the intersection of Provost Street and George Street in New Glasgow.

[2] That intersection is an accident waiting to happen, given the number of motorists who carelessly sail through the red light there every hour of every day, imperilling the safety of the public—particularly defenseless pedestrians. I caution myself that Mr. Greencorn is presumed innocent of the charge before the court, and he is not responsible for the actions of others. However, based on the evidence—including the testimony of Mr. Greencorn, himself—I find the prosecution to have proven guilt beyond a reasonable doubt.

[3] These are my reasons.

[4] The court heard from the traffic-enforcement officer who issued the ticket to Mr. Greencorn. Midmorning on 12 July 2018, he was parked in a lot right next to the intersection of Provost and George Streets in New Glasgow, where the old Acadia Lines depot was located years ago. That segment of Provost is a one-way roadway for traffic headed southbound through the downtown. As one

approaches the intersection along Provost, one will observe the roadway divided into three lanes: a far-left lane for traffic turning east onto George Street; a middle lane for traffic going straight through the intersection; and a far-right lane for traffic turning west on George. There are solid white lines separating the lanes, and the direction of traffic is signified by painted white arrows on the paved surface of each lane. There are corner crosswalks extending across all four of the roadways that meet at the intersection.

[5] Traffic proceeding through the intersection is controlled by traffic lights.

[6] For southbound traffic on Provost approaching the intersection, there is an elevated, vertically oriented lighting standard next to sidewalk at the northwest corner of the intersection, with the typical array of signal lights: red at the top, yellow in the middle, and green at the bottom. There are no green arrows or flashing greens. In addition, there is an identically configured light suspended over the intersection which is synchronised with the one next to the sidewalk.

[7] The lights cycle through the usual sequence of green, yellow and red. In addition to the lighting, there is a rectangular precaution sign posted about 5 meters north of the intersection, visible very clearly to traffic on Provost

approaching the intersection; the sign reads: “STOP for Pedestrians in Crosswalk”.

[8] The officer gave evidence, amplified by a video recording which he made of the occurrence. The recording was tendered as Exhibit 1. The video was of excellent quality. As in *R. v. Nikolovski*, [1996] 3 S.C.R. 1197 at paras. 21-23, it placed the court as the scene, much as taking a view under s. 652 of the *Criminal Code*.

[9] The video recording in this case was very brief; the pertinent segment ran from time markers of 00:07:24:52 to 00:07:25:49.

[10] In viewing the recording, the court was able to observe very clearly a green sedan southbound on Provost approaching the intersection in the far-right lane as both traffic lights appear properly illuminated and displaying red. The sedan negotiates a right turn onto George, slows slightly, but at no point comes anywhere near to a complete cessation of forward motion. The red lights remain illuminated the entire time the sedan approaches the intersection and proceeds through its turn. The recording shows the officer pulling out and stopping the sedan a short distance along George.

[11] Mr. Greencorn gave evidence; he admitted being the driver of the sedan.

Identification was proven by issuance of process in any event: see *R. v.*

Nicholson, 1984 ABCA 88, leave to appeal to SCC refused, [1984] SCCA No.

176. In-court identification is needed rarely in ticket cases.

[12] Mr. Greencorn stated that he approached the intersection at what he believed to be a prudent rate of speed. He did not see any pedestrians. He saw the red light, knew it to be a red, but treated it as a yellow, meaning he believed, based on the caution sign, he needed to stop only if pedestrians were crossing the roadway; this was why he negotiated the right turn onto George without stopping.

[13] Section 93 governs the regulation of traffic with signals or lights. Drilling down to para. 93(2)(e) gets to the part about reds; sub-para. 93(2)(e)(ii) is the piece in play in this case:

(e) red light - all traffic facing this signal shall stop at the place marked or the nearest side of the crosswalk but not past the signal and shall remain stopped while facing this signal, provided that vehicular traffic may

(i) if a green arrow light is also exhibited, proceed in the direction indicated by an arrow,

(ii) if a stop is first made and the movement can be made in safety and is not prohibited by sign, proceed to make a right turn,

(iii) if a stop is first made and the movement can be made in safety and is not prohibited by sign, proceed to make a left turn from a one-way highway into a one-way highway, or

(iv) if a transit priority signal is also exhibited and if the vehicle is a transit bus, the vehicle is permitted to proceed and make turns through the intersection

.....

[14] The statute is clear. A vehicle approaching an intersection with a red traffic light illuminated and no green arrow must come to a complete stop before making a right turn if safe to do so, unless there is signage prohibiting a right on a red. There are no “rolling stops”: if one is still rolling, one is not stopped. Stopping requires a complete cessation of forward motion: *R. v. MacAdam*, [1976] NSJ No. 540 at para 11 (Co Ct); *R. v. Brody*, 2013 NSPC 59.

[15] Mr. Greencorn’s defence—that it was okay to drive through the red as there were no pedestrians present—is a mistake of law, which does not excuse his actions, given s. 19 of the *Code*, which applies to this proceeding in virtue of s. 7 of the Summary Proceedings Act. In my view, a defence of officially induced error, based on the wording of the caution sign, is not available to Mr. Greencorn, given the unambiguous requirement to stop for a red light emblazoned in the statute: *Courchesne v. Sorel-Tracy (City of)*, 2014 QCCS 4610.

[16] The evidence—including Mr. Greencorn’s own testimony—proves the offence beyond a reasonable doubt, and I find Mr. Greencorn guilty as charged.

[17] In rendering this decision, I do not seek to single out Mr. Greencorn.

[18] He is merely one out of many.

[19] Anyone who walks around that intersection will know that most drivers turning right onto George fail to stop at the red. Some might slow down a bit; most plough right on through. Few bother to wait for pedestrians, rendering the site nearly a real-life Death Race 2000 for those on foot scurrying to get across. A traffic checkpoint positioned there would likely increase the Town’s ticket revenue by an order of magnitude if every heedless motorist got pulled over. It might also prevent someone getting run over.

[20] Mr. Greencorn was very respectful in his submissions to the court.

Unfortunately, the defence that he offered does not afford an excuse.

[21] The court imposes the scheduled fine prescribed in the ticket regulations, and Mr. Greencorn will have three months to pay it.