IN THE SUPREME COURT OF NEW ZEALAND

SC 34/2006
[2006] NZSC 50

ALISTAIR JAMES HASKETT

v

THE QUEEN

Court: Elias CJ, Blanchard and Anderson JJ

Counsel: Applicant in person
A M Powell for Crown

Judgment: 3 July 2006

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] Mr Haskett, a motorist, was convicted in the District Court of speeding. The prosecution relied on a photograph taken by a speed camera and produced by the camera operator. Mr Haskett did not lead any evidence.

[2] After unsuccessful appeals to the High Court and Court of Appeal, Mr Haskett has applied to this Court for a further appeal.

[3] In the District Court and High Court attention was focused on s 146 of the Land Transport Act. In proceedings for a speeding offence that section allows for the testing and accuracy of certain equipment to be proved, in the absence of evidence to

the contrary, by means of a signed certificate. Mr Haskett challenged the efficacy of such a certificate, produced by the camera operator. He also disputed whether the speed camera used in this case was "approved vehicle surveillance equipment" as referred to in s 146(4), which makes the certificate procedure applicable to "distance-measuring devices, speed measuring devices, approved vehicle surveillance equipment, and tuning forks used to check such devices". In this respect one of his arguments was that the speed camera was not approved equipment because it had been modified by the addition of a laser sight.

[4] In the Court of Appeal the focus shifted to s 145 of the Act, which provides as follows:

> **145 Evidence of approved vehicle surveillance equipment**
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> (1) In proceedings for a moving vehicle offence, an image produced by means of an exposure taken by approved vehicle surveillance equipment and showing or recording a motor vehicle on a road, the speed of the vehicle, the location of the vehicle, the colour or form of a traffic control device, the fact that a toll has not been paid in respect of the vehicle, and the date and time when the image was taken, or showing or recording any of those things, is, in the absence of proof to the contrary, sufficient evidence of that fact or event.
>
> (2) The production in proceedings for a moving vehicle offence of an image purporting to be an image referred to in subsection (1) is, in the absence of proof to the contrary, sufficient evidence that the image was produced by means of an exposure taken by approved vehicle surveillance equipment.

[5] The Court of Appeal held, in effect, that the arguments in relation to s 146 were irrelevant because matters disputed in relation to the certificate were proved by s 145. That Court distinguished between s 145's application specifically to approved vehicle surveillance equipment and the proof of the facts identified in subsection (1), and s 146's application to a wider range of equipment and a narrower scope of matters provable by certificate.

[6] At the District Court hearing the camera operator produced a photograph of what he termed "the offending vehicle". The photograph displayed a time, date, and vehicle speed and other data. The evidence, taken as a whole, was sufficient to show

that the photograph was taken by the camera equipment used by the operator, and that the equipment included radar apparatus recorded as PR100NZ, an associated computer, and associated camera equipment referred to as AutoPatrol TC1000.

[7] The Transport (Approved Vehicle Surveillance Equipment) Notice 1994 notifies the approval of the Minister of Police to "The AutoPatrol PR-100NZ radar system together with a compatible computer and an AutoPatrol Model TC-1000 Trafficam camera unit." It is clear that the discrete units of radar apparatus, computer and camera used by the operator were those approved in the Notice.

[8] Mr Haskett has not suggested otherwise, his primary contention being that the composite equipment used by the operator is not approved surveillance equipment. He asserts that the Police admit that all PR-100NZ radars have been modified by adding a laser sight, and that this is a modification by the Police, not the manufacturer. He identifies no evidence in support of that assertion. The issue is not what the "AutoPatrol PR-100NZ radar system" comprised at the time of manufacture, but whether the device used was in the form approved by the 1994 Notice.

[9] In the High Court, Ellen France J held that the equipment used is equipment named in the Notice and Mr Haskett presented no evidence that could put in issue whether the equipment was approved. The Court of Appeal judgment recorded that it was common ground that Mr Haskett did not call any evidence.

[10] The effect of these matters is that there was sufficient evidence that the photograph was an image purporting to be an image produced by means of an exposure taken by approved vehicle surveillance equipment and showing or recording a motor vehicle on a road, the speed of the vehicle, the date and time. There was no evidence, let alone proof, that the image was not produced by means of an exposure taken by approved vehicle surveillance equipment. Therefore, by virtue of s 145(2) the photograph must be accepted as having been produced by approved vehicle surveillance equipment, and by virtue of s 145(1), there being no proof to the contrary, there was sufficient evidence of the relevant particulars including speed.

[11] The conclusion reached by the Court of Appeal on the application in the circumstances of the case of s 145 is so obviously correct that no purpose would be served by entertaining further argument. That renders the other questions raised by Mr Haskett, relating to s 146 issues, moot and not warranting leave. The application is dismissed.

[12] The application for leave to appeal is dismissed.

Solicitors:
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