'Stunt-Driving' Grandma Gets Reprieve From Judge

Speeding Conviction Violated 62-Year-Old's Human Rights

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Jane Raham admits she panicked when she pushed on the accelerator to overtake the tractor-trailer.

The 62-year-old grandmother of four was in a steady column of traffic along a desolate stretch of Highway 7 near Kaladar, doing 90 km/h where the posted speed limit was 80 km/h. An OPP officer in an unmarked car was gliding along behind her when she pulled out to pass and hit the gas.

The officer registered her speed: 131 km/h, more than 50 km/h over the speed limit – just enough to merit the grandmother, who volunteer teaches adult literacy courses, an automatic conviction for stunt driving under provincial law.

Now an Ontario Court judge has overturned her guilty verdict and ruled a section of Ontario's stunt driving law is unconstitutional.

Since stunt driving is considered an "absolute liability" offence, there is no possible defence.

A charge automatically leads to a conviction and, upon conviction, there must be a fine of between $2,000 and $10,000 – a punishment that may also be combined with a maximum jail term of six months.

"I didn't even know what (stunt driving) meant in terms of what the repercussions would be," Raham said in an interview.

Raham was on her way home on April 29, 2008 to Oakville from Kanata, where her daughter had just given birth to twins. She said she had chosen Hwy. 7 because it has fewer trucks than Hwy. 401 and she is petrified of being caught in a truck's blind spot.

Raham moved into the eastbound lane to overtake a truck in front of her and sped up, then noticed it was speeding up as well. That's when she roared ahead.

"I did, out of a sort of fear reaction, pick up speed to get past him and back into the westbound driving lane," she later testified in court.

Her guilty verdict was overturned last Friday. "If one were asked to describe a stunt driver, the appellant would not immediately spring to mind," Justice G. J. Griffin wrote in his ruling.

Brian Starkman, the lawyer who successfully argued the appeal, said "the reason why the judge found this to be unconstitutional is because, on the one hand, the person is exposed to a possible jail sentence. And, on the other hand, he has no means to defend himself at trial."

There are various ways to be charged under Ontario's stunt-driving laws designed to target street racers. One of those is to drive 50 km/h over the speed limit; another is engaging in a contest with another vehicle.

Griffin's ruling does not encroach upon the OPP's ability to nab and charge reckless street racers. It just means convicting someone on excessive speed alone – as in Raham's case – is now unconstitutional.

However, OPP officers are still going to hand out stunt-driving tickets and the Ministry of the Attorney General is planning an appeal.

"Our position is that the street-racing provisions are constitutional and that they are an important public safety initiative," ministry spokesman Brendan Crawley said.

"We will be seeking leave to appeal the decision of the Ontario Court of Justice. In the interim, people should understand that the street-racing provisions are still in effect and police can still lay charges."

James Morton, a lawyer who is past president of the Ontario Bar Association, said the ruling is "important across the province" and noted it is binding on all Justices of the Peace, though not on Ontario Court judges.

But he said the Crown should have fought harder.

"The statute could have been upheld under Section 1 of the Charter that talks about a reasonable limit in a free and democratic society," Morton said. "But for reasons I'm unaware of, the Crown conceded that it could not be so upheld. And I thought that was surprising."

Sgt. Dave Woodford of the Ontario Provincial Police said the judge's ruling was highly specific and that the stunt-racing law has been instrumental in reducing fatalities since it came into effect in September 2007.

"We're continuing to do business as normal," Woodford said.

Last year, the number of fatalities on OPP-patrolled roads dropped to 322 from 451 in 2007.

As for Raham, she recalls being shocked when the officer said she was charged with stunt driving.

She said she feels stunt driving means someone is driving recklessly on the highway and causing danger to other people. "I believe the police should take those people off the road, impound their car and give them a stiff penalty," she said.

Still, even with the case seemingly behind her, there is one lasting effect: Her grandchildren continue to tease her by calling her "stunt driver."

Questions

1. Describe how Jane Raham broke the law.
2. What is an absolute liability offence?
3. What penalty would one face for breaking this law?
4. Why did Raham break the law?
5. Why did the judge determine the law to be unconstitutional?
6. List the 2 ways one can be charged with violating Ontario’s stunt-driving laws.
7. Do you think justice was served here? Explain.