

1 JUNE 6, 2018

2

3 THE CLERK: This court is now re-opened.

4 MS. YAN: Thank you.

5 THE CLERK: Please be seated.

6 MS. YAN: It's Yan, Y-A-N, returning to the
7 monitor. I can advise that the next matter is number 3 on
8 the docket, that's Lisa Eisbrenner. The Crown is
9 anticipating any (sic) hearing; however, before we begin I
10 will make submissions.

11 Chris Sweryda from Wise Up Winnipeg is here on
12 that matter wanting to act as a representative. I will
13 make the Crown submissions on that matter but perhaps we'll
14 just call Ms. Eisenbrenner (sic) forward first.

15 THE COURT: All right, so Ms. Eisbrenner, come
16 forward.

17 THE CLERK: Could you please state your name for
18 the record?

19 MS. EISBRENNER: Lisa Eisbrenner.

20 THE CLERK: You're charged as being the
21 registered owner of a vehicle displaying license plate HLN
22 678 on or about February 14th, 2017 in the City of
23 Winnipeg, Province of Manitoba did commit the following
24 offence, to wit, fail to stop a vehicle at an intersection
25 when signaled to stop by a red traffic control light
26 contrary to the Highway Traffic Act. Do you wish to admit
27 or deny the offence?

28 MS. EISBRENNER: Deny.

29 THE COURT: All right, so Ms. Eisbrenner --

30 THE CLERK: Anybody in the gallery just have a
31 seat for a moment.

32 THE COURT: -- you're denying that your vehicle
33 went through a red light; is that correct?

34 MS. EISBRENNER: I don't believe that to be

1 accurate, yes.

2 THE COURT: All right. So I'm going to ask you
3 to have a seat over at counsel table.

4 MS. EISBRENNER: Okay I, I did authorized a
5 representative last year, can they not represent me?

6 THE COURT: And who's the representative?

7 MS. EISBRENNER: Chris Sweryda and also my father
8 Glen Eisbrenner.

9 THE COURT: Well first off why your father?

10 MS. EISBRENNER: Because I didn't know this
11 ticket existed to begin with so he handled it, he handled
12 stuff for me while I was at work because I work long hours
13 during the day. I get up at 4:00 a.m. and I assumed court
14 would be during the day and he's also very busy and a
15 friend of the family offered to help us out and I
16 authorized him to look after this for me.

17 THE COURT: Okay. So who are you, who are you
18 asking you -- first off, who are you asking to assist you
19 with this?

20 MS. EISBRENNER: Chris Sweryda can.

21 THE COURT: All right, so what's the point of
22 your father now, authorizing him to do what?

23 MS. EISBRENNER: Oh I was just noting how it
24 went.

25 THE COURT: Okay, so are you calling your father
26 to testify as a witness?

27 MS. EISBRENNER: No.

28 THE COURT: Okay, so your father's here just in
29 the gallery to support you?

30 MS. EISBRENNER: Yes.

31 THE COURT: All right. So -- and then you've
32 got, sorry, who's the other person?

33 MS. EISBRENNER: Chris Sweryda.

34 THE COURT: Sweryda?

1 MS. EISBRENNER: Yes.

2 THE COURT: Mr. Sweryda, come forward.

3 All right, and so I understand the Crown wants to
4 make some submissions with respect to his representations;
5 is that correct?

6 MS. YAN: That's correct.

7 THE COURT: All right, so I'll just ask you at
8 this point both to go to counsel table just for a moment
9 please.

10 MS. EISBRENNER: Okay.

11 MS. YAN: Thank you.

12 So the Crown respectfully submits that there's no
13 legal authority for Mr. Sweryda to represent Ms.
14 Eisenbrenner (sic) today unless he is a practicing legal
15 counsel or an agent who complies with the regulations of
16 the Legal Profession Act.

17 So in regards to the Provincial Offence Act under
18 Section 53(1) that states:

19
20 "A defendant may appear and act
21 personally or by representative in
22 any proceeding."

23
24 However, Section 2(1) of the Provincial affect, Provincial
25 Offences Act states:

26
27 "This Act applies to every case in
28 which a person commits or is
29 suspected of having committed an
30 offence..."

31
32 And then the key part is:

33
34 "...unless another Act provides

1 otherwise."

2

3 And the Crown is submitting that another Act does provide
4 otherwise. And I did provide Ms. Eisbrenner with a brief
5 that the Crown has made and I can give it to Your Worship
6 if you would like to follow along in terms of the sections.

7 THE COURT: Yes please.

8 MR. SWERYDA: Your Worship we've had this brief -
9 -

10 THE COURT: Just, just --

11 MR. SWERYDA: Okay.

12 THE COURT: -- just hold on.

13 Thank you.

14 MS. YAN: So the Crown's submissions turning to
15 the second page under the Legal Profession Act section it
16 says under specific circumstances:

17

18 A person who is not a practicing
19 member of the legal profession may
20 represent another on offences
21 charged pursuant to the Highway
22 Traffic Act.

23

24 And then the stipulation is:

25

26 May act when the penalty for the
27 offence does not include custody
28 or bodily injury is not alleged
29 and the person meets the bonding
30 requirements of the regulations.

31

32 And the Crown submits that Mr. Sweryda is here, he does not
33 meet those bonding requirements of the legislation; he's
34 not an agent as defined by the Legal Profession (sic) Act.

1 These requirements are in place for a reason.
2 They're to safeguard the public so not just anyone can
3 represent someone. Whether someone is saying they're an
4 expert, whether they're from an organization; they're not
5 an agent and those, the Legal Profession Act is there not
6 only to monitor lawyers but to monitor society, monitor
7 people who don't necessarily have knowledge in traffic
8 matters. So for someone to come claim they're an expert,
9 claim they can represent someone that's why the Legal
10 Profession Act is in effect. And so the Crown is
11 submitting that there's no legal authority for Mr. Sweryda
12 to be here to represent Ms. Eisenbrenner (sic).

13 And in regards I can speak to the Crown and the
14 court has allowed family members to represent them on image
15 capturing enforcement system matters and these are
16 generally when the representative or the driver as opposed
17 to the vehicle owner who may be charged in the situation.
18 And while family may help in certain circumstances these
19 family members aren't claiming to be they're experts in
20 traffic offences. They're not holding them self out as a
21 representative, an agent acting somewhat as defence
22 counsel. They're more there as support or they are the
23 driver in the circumstance.

24 So based on the legislation the Crown is
25 submitting that there's no authority for Mr. Sweryda to be
26 here today.

27 THE COURT: Anything you want to --

28 MS. YAN: And I can --

29 THE COURT: Sorry.

30 MS. YAN: Oh, my apologies.

31 THE COURT: No, go ahead.

32 MS. YAN: I can anticipate that Mr. Sweryda is
33 about to stand and rise in regards to the Crown's brief and
34 filing that to court. I can advise that I wasn't aware

1 necessarily that he would be there today. It was somewhat
2 in anticipation that this may arise today so in regards to
3 the brief I can speak to that that it was written, it was
4 provided to the defendant but essentially it's just to
5 assist the court in terms of referring to the legislation
6 because I'm not sure if Your Worship has those acts so it's
7 just used in regards to aiding into those sections so not
8 intending to necessarily give it to Ms. Eisbrenner in
9 advance because, respectfully, the Crown wasn't even aware
10 that Mr. Sweryda may be here today.

11 THE COURT: All right, thank you, I appreciate
12 that and I certainly would have required, in any event, you
13 to provide those to me so I appreciate you having provided
14 this to the court today.

15 MS. YAN: Thank you.

16 MR. SWERYDA: Good evening Your --

17 THE COURT: Mr. Sweryda?

18 MR. SWERYDA: Good evening Your Worship --

19 THE CLERK: Sir before you could start can I have
20 the spelling of your name please?

21 MR. SWERYDA: Yes, Christian C-H-R-I-S-T-I-A-N,
22 last, last name S-W-E-R-Y-D-A.

23 THE CLERK: Thank you.

24 MR. SWERYDA: Now, Your Worship, with regards to
25 serving this notice the --

26 THE COURT: Okay, I'm not even talking to you
27 about the brief. What I want to know is why you think you
28 have any authority here to represent --

29 MR. SWERYDA: Yeah, okay.

30 THE COURT: -- to assist Ms. Eisbrenner.

31 MR. SWERYDA: The Section 20 of the Legal
32 Professions Act it's not in the Crown's brief but it is the
33 most important one. It's -- the Legal Professions Act
34 sections, it's Section 20 I believe (3) it defines that a

1 person cannot represent another for a fee and it's defined
2 as practicing law is based on a fee, it's not -- and it
3 says unless if another law provides that's for collecting
4 for a fee. The section of the Legal Professions Act in the
5 Crown's brief, Section 40, that was described in a case
6 called R. v. Stagg, 2011 MBQB 294. In that case they
7 analyzed all the legislation and they determined Section 40
8 of the Legal Professions Act, the purpose of it was for
9 people that were collecting money for a fee. It was a
10 business. It was based on police officers, Len Eastoe is a
11 good example, who were running this for a fee and they
12 decided in a 1989 case when the Law Society filed for an
13 injunction for these police officers not be able to
14 represent traffic tickets and it was decided in the, in the
15 1989 case that the police officers could not because they
16 were collecting for a fee. That is why the legislation was
17 amended in 1989 to allow people to become bonded to collect
18 for a fee. That does not apply to friends, family members
19 and I'd also like to advise I'm not --

20 THE COURT: Okay, so I'll just ask --

21 MR. SWERYDA: -- here as Wise UP Winnipeg.

22 THE COURT: Okay, all right.

23 MR. SWERYDA: Uh-hum.

24 THE COURT: So Ms. Eisbrenner, do you know Mr.
25 Sweryda?

26 MS. EISBRENNER: Yes I do.

27 THE COURT: How long have you known him?

28 MS. EISBRENNER: About seven or eight years.

29 THE COURT: Okay.

30 MS. EISBRENNER: He worked with my father and he
31 babysat my kids.

32 THE COURT: All right. And so here's what I can
33 tell -- is there anything else you want to add Mr. Sweryda
34 with respect to why you believe you are able to represent,

1 represent her?

2 MR. SWERYDA: Just two quick points.

3 Section 53 of the Provincial Offences Act says

1 that she may appear by representative. That is entirely
2 different than agent and there's a, would be a reason why
3 there's that distinction.

4 And I'd also like to point out that the
5 provincial court website says that you can have a
6 representative appear on your behalf and it defines the
7 representative as friend, family member or a paid agent who
8 collects for a fee and so it would not, it specifies paid
9 agent as separate than friend, family member and it says or
10 somebody else you wish to represent you.

11 And I'd also like to advise that we've only had
12 this brief for two hours. The Crown says it was given to
13 the defendant it was given at the start of court.

14 THE COURT: Again, it's, it's irrelevant to me
15 because that's, it's not an issue before this court with
16 respect to the particular brief.

17 So, what I can tell you, Ms. Eisbrenner --

18 MS. EISBRENNER: Um-hum.

19 THE COURT: -- is that this court and, and
20 Section 53(2) says:

21
22 "A justice may bar a person from
23 appearing or representing (sic) if
24 the justice finds that the person
25 is not able to properly represent
26 or advise the person for whom they
27 appear."

28

29 And I could tell you that I do not think it's in your best
30 interest to have Mr. Sweryda represent you today.

31 So I am not allowing you, Mr. Sweryda, to
32 represent you. I believe that you have ulterior motives,
33 which are not beneficial to Ms. Eisbrenner and therefore
34 I'm not allowing you to assist her today.

1 I allow family members because I believe family
2 members are doing it within the best interest, or perhaps
3 the person that was driving. I do not believe that's the
4 case here today.

5 So, Mr. Sweryda, I'm telling you have, you have
6 no standing here today.

7 So, Ms. Eisebrenner you're wanting to plead or
8 deny this offence and have a hearing; is that correct?

9 MS. EISEBRENNER: Yes please.

10 THE COURT: All right, thank you.

11 MS. EISEBRENNER: Can, can my dad assist me? I'm
12 not a good public speaker at all.

13 THE COURT: All right, I thought we made this
14 clear already at the outset that your father is here for
15 emotional support essentially.

16 MR. EISEBRENNER: I'm not here just for
17 emotional --

18 MS. EISEBRENNER: Yes but he could --

19 THE COURT: Well she actually said that --

20 MR. EISEBRENNER: -- support.

21 THE COURT: No, no, hold on. I cleared, I asked
22 her that the beginning and she in fact told me that that's
23 what you were here for. So I will allow you to sit in the
24 gallery and be here for emotional support.

25 MR. EISEBRENNER: Well I didn't, but I didn't
26 hear --

27 THE COURT: I --

28 MR. EISEBRENNER: -- I didn't hear that earlier
29 Your Honour.

30 THE COURT: This, it was not up to you.

31 MR. EISEBRENNER: -- or Your Worship --

32 A SHERIFF'S OFFICER: Have a seat.

33 THE COURT: It's not your decision to make it's
34 mine and I --

1 A SHERIFF'S OFFICER: Sir, have a seat there or
2 have a seat outside.

3 THE COURT: Thank you sheriff.

4 So you clearly indicated to me your dad was here
5 for emotional support. He can certainly sit in the gallery
6 and do so. So --

7 MS. EISBRENNER: Oh, well because I thought this
8 was --

9 THE COURT: Well we made that, so that's what you
10 told me and so that's what I'm allowing is him to sit in
11 the gallery to support you emotionally.

12 So you're ready to proceed today; is that
13 correct?

14 MS. EISBRENNER: I have no documentation because
15 I gave it all to them.

16 THE COURT: So it was certainly provided to you.
17 I'm not sure if the Crown has an extra copy today that she
18 can refer to.

19 MS. YAN: I do have an extra copy --

20 THE COURT: Thank you.

21 MS. YAN: -- that I can give.

22 THE COURT: No, no, no, no Ms. -- Sheriff if you
23 can have him removed if he can't --

24 MR. EISBRENNER: I was giving her -- she asked me
25 for the --

26 THE COURT: That's not in fact what I said.

27 A SHERIFF'S OFFICER: (Inaudible). Just have a
28 seat there sir.

29 MR. EISBRENNER: Okay.

30 THE COURT: Thank you.

31 And, sir, if you disrupt this court one more time
32 I will have you removed from the court.

33 MS. YAN: Thank you. The Crown will be
34 proceeding by documentary evidence and tendering the

1 following exhibits to the court. The first is the three
2 coloured photographs which are attached to Schedule D which
3 is the statement of the peace officer respecting the image
4 capturing enforcement evidence. The second is the testing
5 certificate of the image capturing enforcement system. The
6 third is the testing certificate regarding the test
7 undering (sic) the film removal and the fourth is the
8 certificate of registration from the motor vehicles of
9 Manitoba Public Insurance.

10
11 **EXHIBIT 1: THREE COLOURED**
12 **PHOTOGRAPHS ATTACHED TO SCHEDULE D**

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14 **EXHIBIT 2: TESTIING CERTIFICATE**
15 **OF IMAGE CAPTURING ENFORCEMENT**
16 **SYSTEM**

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18 **EXHIBIT 3: TESTING CERTIFICATE**
19 **FOR FILM REMOVAL**

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21 **EXHIBIT 4: CERTIFICATE OF**
22 **REGISTRATION**

23
24 THE COURT: Thank you.

25 So Ms. Eisbrenner, I note you were in the
26 courtroom when I was explaining the hearing process and as
27 you likely heard from the matter before this this is a
28 photo enforcement ticket taken at an intersection so there
29 will not be an officer here for you to cross-examine. The
30 Crown is proceeding by way of documentary evidence that I
31 see the Crown has given you a copy of there. So you've --
32 did you close your case, I'm sorry?

33 MS. YAN: That closes the Crown's case, thank
34 you.

1 THE COURT: Thank you.

2 So the Crown has closed their case. This is now
3 your opportunity to call any evidence that you have. So
4 there's no witnesses, I assume, here for you to call;
5 you're taking the stand in your own defence today are you?

6 MS. EISBRENNER: Can I call my son who I believe
7 would have been the driver of the vehicle at the time?

8 THE COURT: All right so you want to call your
9 son to testify; is that correct?

10 MS. EISBRENNER: Yes --

11 THE COURT: All right.

12 MS. EISBRENNER: -- as to the road conditions and
13 whatnot.

14 THE COURT: All right. Are you taking the stand
15 in your own defence today as well?

16 MS. EISBRENNER: I will.

17 THE COURT: All right, so what I'm going to do is
18 have your son -- just excuse you from the room, you'll be
19 testifying after your mother is finished testifying, all
20 right.

21 MR. WILLS: All right.

22 THE COURT: All right --

23 MS. EISBRENNER: Oh do I --

24 THE COURT: -- so if you're going to testify
25 first I'll ask you to come into the witness box please.

26 MS. EISBRENNER: Okay.

27 THE COURT: Just in the middle here and just
28 remain standing for Madam Clerk to swear you in, all right.

29 MS. EISBRENNER: Okay.

30 THE CLERK: Can you please state your name for
31 the record.

32 MS. EISBRENNER: Lisa Eisbrenner.

33 THE CLERK: And do you wish to swear an oath on
34 the Bible today or affirm to tell the truth?

1 MS. EISBRENNER: For which?

2 THE CLERK: Swear on the Bible or affirm to tell
3 the truth?

4 MS. EISBRENNER: Confirm to tell the truth.

5 THE CLERK: Affirm.

6 MS. EISBRENNER: Sorry.

7

8 LISA EISBRENNER, affirmed,
9 testified as follows:

10

11 THE CLERK: Thank you, you may be seated.

12 THE COURT: All right, so Ms. Eisbrenner this is
13 your opportunity to provide me with your version of events.
14 Now, I'm just going to let you know that you can't provide
15 me with any hearsay. For instance, if there's things that
16 you son has told you about what happened you can't provide
17 that to me today that's hearsay and that's why he's here he
18 can certainly do that on his own behalf after you're
19 finished, all right.

20 MS. EISBRENNER: Okay.

21 THE COURT: But you're essentially providing me
22 what, what you know to be, to have happened or what you
23 know about this particular incident that you have not heard
24 from him.

25

26 DIRECT EVIDENCE BY MS. EISBRENNER:

27 THE WITNESS: All right. I only received the
28 ticket late last year so it's; it's hard to recall exactly
29 the circumstances. But I do believe that the road
30 conditions that day were not, not in favour of anyone on
31 the road with respect to ice and whatnot. And it's, it's
32 hard to testify when I can't relay what I was told so.

33 THE COURT: Well and that's certainly, when, when
34 he testifies that's his role.

1 THE WITNESS: Okay.

2 THE COURT: Your, your son and you indicate you
3 believe he was driving and that in fact he's going to be
4 testifying; correct?

5 THE WITNESS: Yes.

6 THE COURT: So if --

7 THE WITNESS: We believe he was the one driving
8 because he was the, more so the primary driver of that
9 vehicle.

10 THE COURT: All right, so he'll certainly be able
11 to have -- you'll be able to ask him questions as you saw
12 earlier today, the Crown asking the witness questions,
13 you'll be able to ask him questions about what
14 happened.

15 THE WITNESS: Okay.

16 THE COURT: So is there anything further you want
17 to tell the court at this point?

18 MS. EISBRENNER: I'm -- can I just ask a quick
19 question?

20 THE COURT: I'll see if I can answer it.

21 MS. EISBRENNER: I'm not sure what all the
22 politics are around having an authorized representative. I
23 was just wondering why when I had authorized him they
24 didn't tell me at that point, like that was a month-and-a-
25 half or two months ago.

26 THE COURT: That, that's not their role, that's
27 not their decision to make.

28 MS. EISBRENNER: Oh okay.

29 THE COURT: That's a judicial decision, that's up
30 to the justice to determine.

31 MS. EISBRENNER: Okay. No, I was just curious,
32 okay.

33 THE COURT: All right. No, that's fine.

34 So you have nothing further to add at this point?

1 MS. EISBRENNER: I --

2 THE COURT: From your own behalf?

3

4 FURTHER EVIDENCE BY MS. EISBRENNER:

5 THE WITNESS: On my own behalf I just say I would
6 say my son is a very conscientious driver. If I count this
7 on my own behalf. This is a statement because it's not
8 hearsay. He abides by the rules of the road. He does not
9 speed; he does not run red lights. This would be his first
10 traffic failure in three years. Yes he is young but he is,
11 he has been my backup driver to transport my daughter and
12 whatnot so I know he's very conscientious, careful and
13 we've gone over all the rules of the road so.

14 THE COURT: Thank you. So the Crown does have
15 the opportunity to cross-examine you at this point, all
16 right.

17 MS. EISBRENNER: Oh, okay.

18

19 CROSS-EXAMINATION BY MS. YAN:

20 Q You testified today that you got the ticket late
21 last year; is that right?

22 A Yes.

23 Q Okay, so you would agree it's not a circumstance
24 where you're pulled over by the officer on that date?

25 A Not at all.

26 Q Okay so it was quite some, maybe a couple weeks
27 later you received the ticket in the mail?

28 A No, months.

29 Q Months later?

30 A I went to register something and I couldn't and I
31 had no idea why.

32 Q Okay. And so you stated that you can't recall
33 exactly the incident?

34 A No --

1 Q So --
2 A -- not at all.
3 Q Okay. So when you're saying you're not sure who
4 was driving it could have been a number of individuals?
5 A I have two sons that drive.
6 Q Okay, so it could have been possibly you, one son
7 or the other son?
8 A My other son, I believe, he would have been at
9 work at that time.
10 Q Okay, so looking back on it do you --
11 A And I was definitely at, like more -- but I can't
12 say with a hundred percent certainty because I got it six
13 months after the fact. Does that make sense?
14 Q Yes. So you had to look back maybe on some
15 calendars to maybe guess who was driving then?
16 A Well we didn't mark who had what vehicle at what
17 time.
18 Q Okay so then it's just a random guess?
19 A Yes.
20 Q Okay. And you said your son is a very careful
21 driver?
22 A Yes he is.
23 Q okay. And are you in the car with him always
24 when he's driving?
25 A Not always anymore, no.
26 Q So your son you used to drive with him then?
27 A Um-hum.
28 Q Okay, so you, you're not sure how he drives all
29 the time then?
30 A Quite a bit because he does, if we go out to the
31 lake he'll drive and whatnot. He does drive quite a bit
32 while I'm still present in the vehicle.
33 MS. YAN: Okay. Thank you, I have no further
34 questions.

1 THE WITNESS: Okay.

2 THE COURT: Thank you. So I will ask you to have
3 a seat back at counsel table. And just for the record, Ms.
4 Eisbrenner, I do note that with respect to the paperwork
5 you had authorized a Glen Eisbrenner (phonetic) to --

6 MS. EISBRENNER: That's my dad.

7 THE COURT: Oh, that's, all right, thank you.

8 MS. EISBRENNER: Because --

9 THE COURT: All right so, so I'll ask you to have
10 a seat over at, back at counsel table, all right.

11 MS. EISBRENNER: Oh okay.

12 THE COURT: And officer if you wouldn't mind,
13 thank you. We're going to ask your son to come in now at
14 this point.

15 MS. EISBRENNER: Okay.

16 THE COURT: And so this will be your opportunity
17 to ask him questions. He'll be sworn in and he's now your
18 witness so you'll do direct examination which is
19 essentially asking about what happened, all right.

20 MS. EISBRENNER: Okay.

21 THE COURT: All right.

22 So just into the microphone sir.

23 THE CLERK: Can you please state and spell your
24 full name for the record.

25 THE WITNESS: My name is Bailey Jason Matthew
26 Wills.

27 THE CLERK: Can you spell just your first and
28 last name.

29 THE WITNESS: All right B-A-I-L-E-Y W-I-L-L-S.

30 THE CLERK: Thank you and do you wish to swear an
31 oath on the Bible today or affirm to tell the truth?

32 THE WITNESS: Pardon?

33 THE CLERK: Swear on the Bible or affirm?

34 THE WITNESS: I'll swear on the Bible.

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BAILEY JASON MATTHEW WILLS, sworn,
testified as follows:

THE CLERK: You may be seated.

THE WITNESS: (Inaudible).

THE COURT: All right, so Mr. Wills you can have
a seat. And so, Ms. Eisbrenner, this is now your witness,
it's your turn to ask questions of your witness, all right.

MS. EISBRENNER: Oh.

DIRECT EXAMINATION BY MS. EISBRENNER:

Q Okay, thank you Bailey. I was just stating,
according to this -- and I'm sorry, I'm ill prepared
because I didn't know I was doing this myself. But
according to the statement of the peace officer, with
respect to going through a red light, it states the vehicle
is going 52 kilometres an hour.

A Yeah.

Q And what I had proposed was that you were more
than likely but not a hundred percent sure the driver of
the vehicle; would that be more than likely possible?

A Yeah.

Q Okay. Do you ever recall an incident where you
had a red light camera or you went through a red light to
your knowledge?

A No.

Q Okay. Thank you but I'm sorry. With respect to
this, to this photo what would your, your best -- what
would you think would be the reason why you went, why it
appears that you went through a red light?

A In the --

Q Back in February?

A In the --

1 Q Of 2017?

2 A Yeah, in the camera like photos, I guess, there's
3 like slosh on the road, I guess, and that is very hard to
4 keep traction with the roads like that so I assume I had
5 seen the light attempted to stop, realized if I had
6 completely stopped I'd be in the middle of the intersection
7 or something so I would have continued forward to keep out
8 of traffic.

9 THE COURT: So I just want to ask you, Mr.
10 Eisbrenner (sic), at this point you're saying that you went
11 through a red light?

12 THE WITNESS: I'm saying if, if that were me in
13 the vehicle I believe that's what (inaudible) happened. I
14 don't know if that was me.

15

16 CONTINUED BY MS. EISBRENNER:

17 Q That would have been your reaction?

18 A Yes.

19 THE COURT: Okay, so essentially what I'm asking
20 you now Ms. Eisbrenner is, is at this point are you
21 essentially looking to change your plea? Are you now
22 saying, okay I, based on the evidence that we have gathered
23 as our family we believe that we went through the red light
24 because it was icy or thought I could make it and I'm now
25 admitting this but my car went through a red light?

26 MS. EISBRENNER: I would think based on the
27 photos because the black and white photo that I had seen it
28 looked like the tail-end is what they have of the vehicle.
29 It looked, it didn't look like it was in the middle of an
30 intersection at all.

31 THE COURT: Okay so but just before you --

32 MS. EISBRENNER: Sorry.

33 THE COURT: -- is that what you're saying now is
34 what I'm asking you. Based on what you're asking him and

1 what he's telling, what he's saying sort of tells me what
2 you're saying is, okay I believe we went through a red
3 light but we have an explanation for it. Is that what's
4 happening?

5 MS. EISBRENNER: I believe that it's possible
6 that we caught it at the end because of the road
7 conditions, if that makes sense.

8 THE COURT: Caught what at the end? I'm not sure
9 I understand what --

10 MS. EISBRENNER: Like as we were finishing the
11 yellow it turned red.

12 THE COURT: Well you've got the --

13 MS. EISBRENNER: Yeah.

14 THE COURT: -- you've got the photographs.

15 MS. EISBRENNER: Yes. I, I don't, I don't think
16 there is any intent there. I'm --

17 THE COURT: Okay, so I just want to confirm
18 though, you were saying something about a yellow, but you
19 see the first photograph it's already red when the car is
20 coming up to the intersection; is that correct?

21 MS. EISBRENNER: Yes and I --

22 THE COURT: Okay, so --

23 MS. EISBRENNER: -- did not see that on this one
24 at all.

25 THE COURT: And I understand that. Now having
26 seen those and based on what you're telling me are you
27 essentially now saying that we believe we went through a
28 red light but we have an explanation for it; is that what
29 I'm getting from you?

30 MS. EISBRENNER: Well that would be apparent
31 according to this.

32 THE COURT: Okay, so here's what I'm going to do.
33 Essentially now you've changed your plea and I accept that
34 that you're now basically admitting and you're providing me

1 with an explanation.

2 You believe you were driving; is that correct?

3 MR. WILLIS: The, the chance of me driving is very
4 high.

5 THE COURT: Was pretty good, all right.

6 So here's what I can tell you is that while I
7 understand the, that -- my concern, of course, when I see -
8 - do you have anything you want to say with respect to
9 sentencing before I --

10 MS. YAN: I can just state that the Crown is
11 seeking the legislated fine and in terms of Ms.
12 Eisbrenner's record there is two previous convictions.

13 THE COURT: All right, thank you.

14 So, Ms. Eisbrenner, as I indicated I'm accepting
15 your plea and, and essentially an explanation, so here's
16 what I can tell you is that my concern is always is is that
17 your mom is telling me that you're a fairly good driver.
18 Before you were in the courtroom she was saying you're
19 generally a fairly good driver. I can tell you I have a
20 kid not far from your age and he's also, I would say, a
21 very good driver. He still went through a red light, it
22 happens and I understand that it happens but I expect new
23 drivers to pay even more attention. I don't want you to
24 get complacent with the road. I want you to constantly be
25 paying attention because I can tell you you would never
26 forgive yourself if you were complacent when going through
27 a red light and there having be a kid who just ran across
28 the road right then and there thinking they got a walk
29 sign. You'd never forgive yourself for hitting that kid
30 because you were complacent about not paying attention;
31 isn't that correct?

32 MR. WILLIS: Yes.

33 THE COURT: Okay, and I expect mom, you know, if
34 that was your kid on the road and, you know, you would not

1 want another driver to be complacent about road conditions;
2 correct?

3 MS. EISBRENNER: No and we go through that all
4 the time because we live on a bay and we're, the school is
5 right at the corner and we've gone through if the road
6 conditions are not good you go onto the boulevard. Or if
7 you can't stop you go into a an unoccupied parked car
8 before you even -- you like, you know what I mean, just all
9 the different scenarios and --

10 THE COURT: And keep doing it. Keep doing it
11 constantly.

12 MS. EISBRENNER: -- and you can only roll like
13 15, not, you can't even go 15 because it just turns into
14 ice. So it's like you crawl and it doesn't matter who
15 honks and we've gone through that non-stop.

16 THE COURT: That's right, doesn't matter what
17 anybody else is doing you need to worry about what you're
18 doing just like your mom is telling you, all right.

19 So I can also tell you, Ms. Eisbrenner, based on
20 what my decisions were earlier you've done a much, much
21 better job of representing yourself than the
22 representatives who attempted to do it today.

23 MS. EISBRENNER: Okay.

24 THE COURT: Much better job.

25 MS. EISBRENNER: Okay.

26 THE COURT: And that's what I mean when I tell
27 people you have a vested interest in this, in your own
28 personal interest. Others do not.

29 So, based on what I've heard today I accept that
30 this is not -- actually I accept that you were driving,
31 young man, and I accept that this is not really your normal
32 way. I'm going to give you a bit of break with respect to
33 that today.

34 MR. WILLS: Yeah.

1 THE COURT: So the fine is currently \$203 I'm
2 going to reduce the fine to \$100 and I mean this in the
3 nicest possible way, but I don't want to see you again.
4 MR. WILLS: Thank you.
5 THE COURT: You understand?
6 MR. WILLS: Yes I do.
7 MS. EISBRENNER: Thank you very much.
8 THE COURT: All right, \$100 the end of July, July
9 30th.
10 MS. EISBRENNER: Thank you.
11 THE COURT: All right, so just pick up the
12 paperwork from Madam Clerk and then you're free to go.
13 THE CLERK: The matter of the default notice on
14 this?
15 THE COURT: Oh, yes, I note that the default
16 notice you didn't get the original ticket; is that correct?
17 MS. EISBRENNER: I, I did not receive it until I
18 couldn't register a vehicle.
19 THE COURT: That's fine I'll waive the \$50
20 default penalty.
21 MS. EISBRENNER: Thank you.
22 Thank you Your Honour, or Your Worship.
23 THE COURT: You're welcome.
24 (PROCEEDINGS CONCLUDED)

CERTIFICATE OF TRANSCRIPT

I hereby certify the foregoing pages of printed matter, numbered 1 to 23, are a true and accurate transcript of the proceedings, transcribed by me to the best of my skill and ability.

JUNE 6, 2018
REASONS FOR SENTENCE

[25]

ALAIN ROCH
COURT TRANSCRIBER

THE PROVINCIAL COURT OF MANITOBA

BETWEEN:

HER MAJESTY THE QUEEN

- and -

LISA EISBRENNER,

Accused.

—

TRANSCRIPT OF PROCEEDINGS, before Administrative
Judicial Justice of the Peace Cuthbert-Buchanan, held at
the Law Courts Complex, 408 York Avenue, in the City of
Winnipeg, Province of Manitoba, on the 6th day of June,
2018.

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APPEARANCES:

MR. J. YAN, for the Crown

MS. L. EISBRENNER, in person

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