

Crown Brief Synopsis**R vs. Ian ETHERINGTON**

Accused: Ian ETHERINGTON (DOB: 13-Aug-1955)
3305 Berrie Rd, Lakefield R1 ON K0L 2H0

OIC: P/C Michael Jack, Badge # 12690

Charge # 1: Impaired Operation of motor vehicle. Sec. 253(1)(a) CC

Charge # 2: Exceed 80 Milligrams Blood Alcohol Content. Sec. 253(1)(b) CC

Charge # 3: Driving motor vehicle with open container of liquor. Sec. 32(1) LLA

Charge # 4: Drive motor vehicle – no currently validated permit. Sec. 7(1)(a) HTA

Charge # 5: Operate motor vehicle without insurance Sec. 2(1)(a) CAIA

Date / Time: Thursday, August 20, 2009, 11:25 am

Location: Selwyn Road, Smith-Ennismore-Lakefield Twp., Peterborough County.

On the 20th of August 2009 at 10:51 am complainant George HUTCHISON contacted the OPP to report a possibly impaired driver. The complainant observed the suspect vehicle being driven all over the road while following it from Selwyn road to the village of Bridgenorth where the suspect pulled into the Bridgenorth liquor store parking lot. The complainant advised that the suspect was driving a Red Toyota pickup truck with DTW being the last 3 digits of the licence plate.

At 11:22 am, PC JACK observed the suspect pickup truck travelling northbound on Selwyn Road at a high rate of speed. PC JACK noted the last 3 digits of the suspect vehicle licence plate being 0TW, however, no radar reading was obtained. After the suspect vehicle crossed paths with the police cruiser PC JACK performed a U-turn and proceeded after the suspect vehicle. As PC JACK followed the vehicle in attempts to catch up with it he observed the vehicle to slow down just before the 12 line of Smith. At that time PC JACK activated police cruiser emergency lights, however, the suspect vehicle failed to stop right away and PC JACK had to use police cruiser siren intermittently 3-4 times to attract the driver's attention. The vehicle turned left at the intersection onto the County Road 23 and was subsequently pulled over on the northbound gravel portion of County Road 23 (Buckhorn Road) approximately 70m north of Selwyn Road. The driver stepped out of the vehicle, then got back in, and started to drive forward into the parking lot of the Selwyn Esso gas station. PC JACK observed the driver to be very slow in his movements and confused.

At this point, an Anishinabek Police Service marked cruiser was pulling out onto the County Road 23, from the Esso gas station parking lot. PC JACK recognized the Anishinabek Police Service officer as Sgt. KIM COPPAWAY. Sgt. COPPAWAY reversed his cruiser and blocked the suspect driver from moving any further.

At 11:25 am, Sgt. COPPAWAY and PC JACK approached the driver's side of the pickup truck and PC JACK asked the driver to shut the engine off and remove the keys from the ignition. The driver fumbled with the keys in the ignition and failed to shut the engine off and remove the keys. Sgt. COPPAWAY reached into the truck window and shut the engine off. At this point PC JACK detected strong odour of alcohol emanating from the driver's facial area. PC JACK asked the

driver for his driver's licence, ownership, and insurance. The driver appeared incoherent and failed to surrender the requested documents. PC JACK requested the driver to step out of the truck, to which the driver complied. PC JACK noticed that the driver was unsteady on his feet and looked very confused. PC JACK asked the driver if he had anything to drink that day, to which the driver replied he did not. At this point, PC JACK observed an open 750ml bottle of Wild Turkey liquor on the passenger seat with the cork cap on the seat. A short conversation with the driver revealed that the driver was on stress medication, was working at the Caza berry farm and was travelling from Bridgenorth. Throughout the conversation, the driver was very slow and incoherent in answering the questions. Sgt COPPAWAY asked the driver if he had a drink from the bottle on the seat, to which the driver replied he did, thus admitting consumption.

At 11:29 am PC JACK formed the grounds to believe that the driver was impaired by alcohol and advised the driver (the accused) that he was under arrest for operating a motor vehicle while being impaired by alcohol. The accused was handcuffed behind his back and frisk searched before being placed in the rear of police cruiser 1-192. The accused identified himself with a valid photo Ontario Driver's License # E8240-35365-50813 as ETHERINGTON, Ian date of birth: 13-Aug-1955 of 3305 Berrie Rd, Lakefield R1 ON K0L 2H0.

The vehicle operated by ETHERINGTON was a 2004 Toyota Tundra red in color registered to him, Ontario license plate 1970TW. His license permit expired on 13-Aug-2009 and his insurance card expired on 06-Aug-2008.

At 11:30 am PC JACK read the accused Rights to Counsel from the service issue card in the notebook twice, to which ETHERINGTON said he understood and when asked if he wished to speak with a lawyer, ETHERINGTON replied, "Possibly".

At 11:32 am PC JACK read ETHERINGTON Charter Caution from the service issue card in the notebook twice, to which ETHERINGTON stated he understood and had nothing to say.

At 11:33 am PC JACK read ETHERINGTON Breath Sample Demand - Breathalyzer/Intoxilyzer Test from the service issue card in the notebook, to which ETHERINGTON replied, "Yes".

At 11:37 am PC Jack seized the 750ml bottle of Wild Turkey liquor from the pickup truck.

At 11:40 am PC JACK cleared the scene and transported ETHERINGTON to the Peterborough County OPP detachment. Sgt COPPAWAY remained at the scene and secured the pickup truck at Bell's Towing compound. While being transported, ETHERINGTON kept saying, "I am sorry".

At 12:00 pm PC JACK arrived at the Peterborough County Detachment, and ETHERINGTON was escorted into the booking area. At the detachment ETHERINGTON wished to speak with his family lawyer, Michael DWYER.

At 12:05 pm PC JACK placed a phone call on behalf of ETHERINGTON at his request to his lawyer Michael DWYER, and was advised by DWYER's secretary that DWYER was on lunch, returning at 02:00 pm and that DWYER was not a criminal lawyer.

At 12:07 pm ETHERINGTON was advised of the results and wished to speak with a Duty Counsel.

At 12:08 pm PC JACK placed a call to Duty Counsel on behalf of ETHERINGTON at his request.

At 12:35 pm Duty Counsel Susan PORTEOUS returned the call and ETHERINGTON was given an opportunity to speak with her in a private room at 12:37 pm. After the call was completed at

12:41 pm PC JACK asked ETHERINGTON if he was satisfied with a call, to which ETHERINGTON replied, "Yes, I was told not to say anything."

At 12:42 pm PC JACK turned over custody to a qualified Breath Technician PC BRISCOE after giving his grounds for the arrest of ETHERINGTON to him.

At 01:10 pm PC BRISCOE turned over custody to PC JACK and advised him of the results which were as follows:

Test #1 272mgs of alcohol in 100ml of blood which was recorded at 12:46 pm (according to the intoxilyzer internal clock)

Test #2 256mgs of alcohol in 100ml of blood which was recorded at 13:07 pm (according to the intoxilyzer internal clock)

At 01:15 pm ETHERINGTON was lodged into a holding cell # 2 to be released when sober.

A CPIC check of Ian ETHERINGTON revealed that he did not have a criminal record.

At 08:08 pm PC JACK released ETHERINGTON on a Promise To Appear for the charges of Impaired Operation of Motor Vehicle 253(1)(a) CC and Exceed 80 Milligrams Blood Alcohol Content 253(1)(b) CC, with a first appearance date of September 24 2009. Upon the release, ETHERINGTON was served with copies of the Promise to Appear, 3 Part III summons for 3 provincial statutes offences, Certificate of a Qualified Technician, ADLS Notice, and his driver's license was seized and returned to MTO. The accused left the detachment with his two sons, Brad and West ETHERINGTON. Intoxilyzer's calibration and diagnostic tests and copies of the Breath results were not disclosed to ETHERINGTON at the time of the release as they accidentally fell off from the paper folder and were found by PC JACK in the printer room area at 10:20 pm.

Relevant Times

- 11:22 am Time of Incident
- 11:25 am Vehicle Stop
- 11:29 am Grounds for Impaired and Arrest
- 11:30 am Rights to Counsel
- 11:32 am Charter Caution
- 11:33 am Breath Sample Demand - Breathalyzer/Intoxilyzer Test
- 11:40 am Depart from Scene
- 12:00 pm Arrival at Detachment
- 12:08 pm Called Duty Counsel
- 12:12 pm Grounds provided to Breath Tech
- 12:37 pm Duty Counsel called back
- 12:41 pm Call to Duty Counsel concluded
- 12:42 pm Turned custody over to Breath Tech
- 12:46 pm 1st Breath Sample: 0.272 % BAC
- 01:07 pm 2nd Breath Sample: 0.256 % BAC
- 01:10 pm Returned Custody
- 01:15 pm Lodged in Cells
- 08:08 pm Released on PTA