

**ONTARIO COURT OF JUSTICE**

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PROVINCIAL OFFENCES COURT

HER MAJESTY THE QUEEN

10

V.

JAMES MILNE

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\* \* \* \* \*

PROCEEDINGS AT PLEA OF GUILTY

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BEFORE HIS WORSHIP JUSTICE OF THE PEACE MARIASINE  
on Thursday, May 25, 2006,  
at CAMPBELLFORD, Ontario

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OFFENCE: HIGHWAY TRAFFIC ACT, s.130

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APPEARANCES

MR. FORDHAM

Provincial Prosecutor

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MR. MILNE

In person

\* \* \* \* \*

Thursday, May 25, 2006

**MR. FORDHAM:** Thank you. The matter at line 30,  
James Milne. Your name for the record, sir.

5 **MR. MILNE:** James Milne.

**MR. FORDHAM:** Thank you. I believe the matter is  
back here to be spoken to today. I've spoken to  
Mr. Milne, it's my understanding it's his intention  
to enter a plea of guilty in the charge before the  
10 Court. Is that correct, sir?

**MR. MILNE:** Yes, sir.

**THE COURT:** Thank you, sir. And as I've indicated  
several times before, once you plead guilty you  
give up your right to a trial...

15 **MR. MILNE:** Yes, sir.

**THE COURT:** Do you make this plea today  
voluntarily?

**MR. MILNE:** Yes, sir.

**THE COURT:** And you've been thoughtful and careful  
20 in your decision?

**MR. MILNE:** Yes, sir.

**THE COURT:** Thank you.

**MR. FORDHAM:** Prior to arraignment, Your Worship, I  
do wish to make you aware, this is a fatality motor  
25 vehicle collision. It's the Crown's intention  
today to put the facts before you; seek to have the  
conviction registered; you would subsequently  
become seized. We would then be seeking an  
adjournment to our October date to obtain victim  
30 impact statements. Now, in fairness to the  
defendant, he's here and unrepresented today, and  
certainly as in any motor vehicle collision where

there is a loss of life, I anticipate each person has some remorse. The defendant is, in fact, a relative of the person who is ah, deceased. And I anticipate that level may even grow somewhere greater. And as such, I would also be asking that there be a pre-sentence report issued. That allows the individual to certainly have a prospective ah, that may assist the Court in sentencing from where this has taken his life.

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10 **THE COURT:** Thank you very much. And you're aware of this, so there will be another date set for sentencing.

**MR. MILNE:** Yes, sir.

**THE COURT:** Okay. Thank you very much.

15 **COURT CLERK:** James Milne, stands charged that on or about the 30<sup>th</sup> day of November, 2005, at the Municipality of Trent Hills, County of Northumberland, did commit the offence of, did operate a motor vehicle in a careless manner on a highway, County Road 30, contrary to section 130 of the Highway Traffic Act. How do you plead to that charge, guilty or not guilty?

20 **MR. MILNE:** Guilty.

25 **MR. FORDHAM:** Thank you. Essentially, the facts are on Wednesday the 30<sup>th</sup> of November, 2005, the defendant before the Court, one James Douglas Milne of Peterborough, Ontario, had occasion to rent a 1998 Ford U-Haul E350 cargo van. He had rented this motor vehicle from the Number Seven Auto Plaza in Havelock. Mr. Milne used the motor vehicle  
30 throughout that date. At approximately 11:30 p.m.

on that date, Mr. Milne was operating the loaded truck northbound on County Road number 30, just north of County Road 35 in the Municipality of Trent Hills.

5 Accompanying Mr. Milne in the cab of the vehicle were Matthew Drummond and Gordon Annis. In the cargo area, the individual was permitting of one Brian Jackson and James Stokes of Peterborough to ride in that area which was at the time also loaded  
10 with furniture.

While rounding a curve northbound on County Road number 30, Mr. Milne failed to negotiate a long, sweeping curve to the north. The motor vehicle he was operating crossed the paved road into the  
15 oncoming lane, veered back into the northbound lane. The vehicle then departed from the roadway by driving onto the east shoulder and into the ditch. The vehicle struck a large County Road department sign and the rear dual wheels struck a  
20 culvert of a personal driveway in this area. The impact was severe enough to break the rear spring shackles and allow the rear axle to shift substantially rearward. The impact caused the vehicle to roll onto the passenger side of the  
25 motor vehicle and slide down into the ditch.

An unrestrained front seat passenger, Mr. Gordon Annis, was ejected through a shattered window and trapped beneath the vehicle. Police at a nearby road - ride spot check program were alerted to this  
30 incident and attended within minutes.

5 During the course of attending to the incident, Mr. Annis was extricated from the overturned vehicle and subsequently determined to have been a loss of life from a result of the injuries. Neither Mr. Milne as the driver or other passengers required hospitalization.

10 Constable McColl and Sergeant Zeggil of the Ontario Provincial Police had occasion to interview Mr. Milne, at which time he was obviously shaken, but deemed to be sober.

15 They received information with respect to the operation of the motor vehicle on that date. Among the information provided to them was that Mr. Annis had not been restrained by way of a seatbelt restraint system as it was found to be inoperative at the time that Mr. Milne obtained the motor vehicle and elected to operate it upon a highway.

20 Throughout the course of the investigation, Constable McLaughlin, a police officer and member of the Ontario Provincial Police, who is also a licensed Class A mechanic, had occasion to conduct a mechanical examination of the motor vehicle involved. He found no apparent defects with respect to the motor vehicle itself. He did find that the seatbelt device was not operational when initially inspected. When taken from the motor vehicle it did dislodge and became operational. The investigation also found that one Mr. Don Rightly who had previously rented this motor vehicle, had also found the seatbelt in question did not work when he operated it.

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5 The officers, in the course of their investigation, determined that the force of the crash disconnected the vehicle's driveshaft, but this was not a cause of the motor vehicle collision as initially put forward by Mr. Milne.

Further investigation confirmed, as noted, that the front passenger seatbelt intended for Mr. Annis was locked in the retract position and not operable.

10 Constable Doug Lewis and Sergeant Zeggil, both technical collision investigators, commenced an investigation with respect to this scene. They took note that the road was dry and found to be in a good state of repair. Road markings found at the scene indicated and confirmed in their mind the facts previously set out. The vehicle failed to negotiate the turn. Given their experience, they formed the opinion that this failure to negotiate was in relation to the speed of motor vehicle at the time it was being operated, the weight of the motor vehicle, and the subsequent actions as corrective measures undertaken by the operator of that motor vehicle. Accordingly, the charge before the Court was commenced.

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25 **THE COURT:** Thank you. Mr. Milne, are these facts substantially correct to the best of your recollection?

**MR. MILNE:** Yes, sir.

30 **THE COURT:** Thank you. So, on a plea of guilty the Court will make a finding of guilt to the offence of careless driving, contrary to s. 130 of the Highway Traffic Act. And as Mr. Prosecutor has

indicated there will be a pre-sentence report and the matter will be adjourned to hand down sentence. Was there a date that....

5 **MR. FORDHAM:** I'd suggest our October date. The 26<sup>th</sup> of October when we're back this year. I understand Mr. Milne's now residing in the Niagara area, I believe it was Hamilton you indicated?

**MR. MILNE:** Yes.

10 **MR. FORDHAM:** So, certainly there may be some ah, coordination required for him to come back and speak with a probation officer the purpose of pre-sentence.

15 **THE COURT:** Thank you. So, the matter will be adjourned to October 26, 2006 and that will be at 9:30 a.m. here at the Campbellford Courthouse.

**MR. MILNE:** Okay. Thank you, sir.

**THE COURT:** All right. Thank you.

20 **MR. FORDHAM:** Thank you. And I would encourage the Court to make an order for a transcript in the matter just so all facts are fresh on the next date.

**THE COURT:** Thank you very much.

**MR. FORDHAM:** Thank you.

**MR. MILNE:** Thank you, sir.

25 **THE COURT:** Thank you.

**MR. MILNE:** What date was that again, please?

**MR. FORDHAM:** 26 October.

**MR. MILNE:** The 26<sup>th</sup>?

**THE COURT:** Yes.

MR. FORDHAM: Thank you.

I, Bonnie Macaulay-Bowen, certify that  
this document is a true and accurate  
5 transcript of the recording of Her Majesty v. James Milne,  
held at 53 Front St., Campbellford, Ontario, taken from  
the Recording No. 58/06, which has  
been certified in Form 1.

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Bonnie Macaulay-Bowen  
Court Reporter

20 Transcript ordered.....May 29, 2006  
Transcript completed.....June 6, 2006  
Transcript approved for release.....June 6, 2006

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