



SHERIFF APPEAL COURT

**[2018] SAC (Crim) 9
SAC/2018/000314/AP**

Sheriff Principal M M Stephen QC
Sheriff C D Turnbull
Sheriff M G O'Grady QC

OPINION OF THE COURT

delivered by SHERIFF PRINCIPAL M M STEPHEN QC

in an

APPEAL BY STATED CASE

by

PROCURATOR FISCAL, PERTH

Appellant

against

DAVID SCOTT MARTIN

Respondent

Appellant: Goddard; Crown Agent

Respondent: Freeman, sol adv; Richard Freeman & Co, Glasgow

3 July 2018

[1] This is a prosecutor's appeal against the decision of the Justice of the Peace sitting in Perth to uphold a no case to answer submission and acquit the respondent of the following speeding charge:

"(001) On 25 May 2017 on the Inverness to Perth road, A9, southbound between Pitagowan and Aldclune, Perth and Kinross being a length of single

carriageway road, you DAVID SCOTT MARTIN did drive a motor vehicle, namely motor car registered number LR15 GXA at a speed exceeding 60mph, namely 81mph;

CONTRARY to the 70mph, 60mph and 50mph (Temporary Speed Limit) Order 1977 paragraph 3(b); the 70mph, 60mph and 50mph (Temporary Speed Limit) (Continuation) Order 1978 and the Road Traffic Regulation Act 1984 sections 88 and 89."

[2] The point relates to the average speed cameras at the locus. These are in effect 'distance over time' speed measuring devices approved for the purpose of prosecution of such charges by the Home Office. Essentially, they are automatic versions of the manual police measurements described in *Scott v Jameson* 1914 SC(J) 187. They record the speed of a motor vehicle by capturing, by means of unattended cameras, images of the motor vehicle at each of two pre-determined positions on the road, digitally recording each image and the time it is captured then calculating the average speed of the motor vehicle over the distance between the two points. *Scott v Jameson*, to which we have been referred, is entirely in point. The Justice of the Peace sustained the submission that there was no corroboration of the measurement of the distance between the two points or cameras. In *Scott v Jameson* four important or fundamental facts are identified to establish a charge of speeding over a set distance. These are: (1) the point of time the car entered the stretch of road; (2) the time of exit; (3) the length of carriageway and (4) the identity of the car. The third fact is the issue in this appeal. In *Scott v Jameson* the Lord Justice General was of the opinion that "each of these facts, important as each is, can be proved by one witness, if the tribunal trying the case considers that the evidence in quality is reliable". This case is a 21st century version of *Scott v Jameson*. The fundamental or essential facts which require to be proved are no different. In terms of *Scott v Jameson* which was affirmed by a full bench in *Gillespie v Macmillan* 1957 JC 31 there is no need to corroborate these four fundamental facts.

[3] Accordingly, we will answer the question of law posed by the Justice of the Peace in the affirmative; allow the appeal and remit the case to the Justice of the Peace in Perth to proceed with the trial.

(signed) *Mhairi M Stephen*