

Mistakes Upon Certificate

Not All Traffic Ticket Errors Are Fatal Flaws



There is a common belief that if a Certificate of Offence, colloquially referred to as a 'traffic ticket', is flawed, meaning imperfectly completed by the charging police officer, then the Court must quash (throw out) the charge. This false presumption commonly circulates among the public and leads to many awkward situations where a charge survives and a conviction is registered despite an irregularity upon the Certificate of Offence document.

The *Provincial Offences Act*, [R.S.O. 1990, c. P.33](#) (the *POA*), being the statute that prescribes, among other things, the way certain charges, or offences, should be dealt with, contains the requirements that a 'traffic ticket' should be, "... *complete and regular on its face ...*", per [s. 9.1\(2\)](#) of the *POA*. Where a flaw exists, [s. 34](#) of the *POA*, generally, provides the authority for amendment of the flaw; however, this authority to amend is only available when the person charged with the offence, or an agent of that person such as a paralegal, is present and therefore is able to receive details of the amendment. Accordingly, whereas if the person charged is absent and without a representative appearing, the Court is faced with the incapacity to amend the document. Based on the perceived dilemma and improper presumption that if a charged person is absent and also without a representative appearing that the Court must quash the Certificate and thereby dismiss the proceeding, it is common that people charged with an offence will fail to appear in Court with the expectation that the matter will be quashed; however, this is a improper presumption.

Per the case of *Chow v. York (Regional Municipality)*, [2018 ONCJ 818](#) at paragraph 10, a Certificate is considered "... *complete and regular ...*", and therefore in compliance with s. 9.1(2) of the *POA* unless the flaw could mislead the defendant when making the decision to defend the charge or fail to appear on the charge and thereby risk being convicted *ex parte* (meaning in absence). Specifically, the Court said:

[10] A certificate is complete and regular despite omissions or errors that involve information that is not required to provide notice of the offence (surplusage) and could not mislead the defendant with respect to the choice as to whether to defend or default ...

In the *Chow* case, upon Appeal review, the Court deemed that where the police officer failed to check the AM/PM box so to indicate the complete time-of-day details, such was an insufficient flaw in that the person charged (Chow) would know whether the charge occurred during the day or at night and therefore the lack of this information upon the Certificate was insignificant and incapable of influencing the decision of whether to defend or default; and accordingly, the Certificate was unquashed and the previous ex parte conviction remained.