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FLYNN, C. J., dissenting. I respectfully dissent.

The court was under no obligation to state reasons for its finding of guilt in this trial to the court. Nevertheless, it did. And, although the defendant briefed this case on the basis of his claim of insufficiency of the evidence, one could argue that the claimed impropriety, although directed to the weight to be given to police testimony, resulted in evidentiary insufficiency. Accordingly, I would reach the issue of the improper weight given to the testimony of Officer Kenneth Miller by the trial court.

In this case, only one witness identified the defendant as the operator of the motor vehicle, and that witness was Officer Miller. Other witnesses testified that the defendant did not operate the motor vehicle or, in the case of other police officers, that they did not witness him operate the vehicle. Officer Miller's testimony and eyewitness identification of the defendant was given credence by the court over other testimony in this case because, as the court explained, Officer Miller was "a professional and his eyewitness testimony has to be given more credence than the average citizen, who can be mistaken."

In my opinion, this special weight could not be given properly to police testimony, and the error could not be deemed harmless because Officer Miller was the only witness providing evidence of a necessary element of the crime, namely, operation of the motor vehicle.

It has been time-honored in charges to the jury that the court instructs: "The testimony of a police officer is entitled to no special or exclusive sanctity merely because it comes from a police officer. . . . And in the case of police officers, you should not believe nor disbelieve them merely because they are police officers." D. Borden & L. Orland, 5 Connecticut Practice Series: Connecticut Criminal Jury Instructions (1986) § 3.11, p. 94.

"It is improper to suggest that the [fact finder] should accord greater weight to the testimony of police officers on account of their occupational status. Indeed, Connecticut courts routinely instruct juries that they should evaluate the credibility of a police officer in the same way that they evaluate the testimony of any other witness, and that the jury should 'neither believe nor disbelieve the testimony of a police official just because he is a police official.' J. Pellegrino, Connecticut Selected Jury Instructions: Criminal (3d Ed. 2001) § 2.29, p. 74."¹ *State v. Thompson*, 266 Conn. 440, 469, 832 A.2d 626 (2003). Certainly, this clear, direct and time-honored principle must apply to bench trials as well as jury trials.

Accordingly, I would conclude that the court's record

statement that it was giving more credence to Officer Miller's testimony because he was a police officer was improper. Because Officer Miller was the sole witness to testify that he saw the defendant operating the motor vehicle, the impropriety was not harmless. I would reverse the defendant's conviction and order a new trial.

I respectfully dissent.

¹ J. Pellegrino, Connecticut Selected Jury Instructions: Criminal, *supra*, § 2.29, p. 74, sets forth the following standard jury instruction in cases where police testimony has been presented to the jury: "Police officials have testified in this case. You must determine the credibility of police officials in the same way and by the same standards as you would evaluate the testimony of any ordinary witness. The testimony of a police official is entitled to no special or exclusive weight merely because it comes from a police official. You should recall his demeanor on the stand, his manner of testifying, and weigh and balance it just as carefully as you would the testimony of any other witness. You should neither believe nor disbelieve the testimony of a police official just because he is a police official."
