

ROYAL COURT

25.

5th February, 1990

Before: The Deputy Bailiff, and
Jurats Blampied and Orchard

Police Court Appeal: Michael Joseph Mière

Appeal against a sentence of three weeks' imprisonment and a fine of £200.00 imposed following convictions on one charge of driving a motor vehicle whilst disqualified and one charge of driving a motor vehicle whilst uninsured.

Advocate S.C. Nicolle for the Crown,
Advocate S.J. Habin for the appellant.

JUDGMENT

DEPUTY BAILIFF: On the 10th November, 1989, the appellant was convicted of driving whilst disqualified. He was sentenced to three weeks' imprisonment and disqualified for seventeen months. He appeals against the sentence of imprisonment on the grounds that it is both wrong in principle and manifestly excessive. He was also convicted of driving a motor vehicle on the same occasion without third party insurance. He was sentenced to a fine of £200 and was disqualified for seventeen months concurrently. He appeals against the fine on the sole ground that it is manifestly excessive. Having

appealed, he was granted bail in the sum of £200 pending the hearing of his appeal.

The facts are simple - through the vigilance of a Vingtenier the appellant was seen and recognized driving his Range Rover along St. Clement's Coast Road. The Vingtenier notified the States' Police and an officer called on the appellant at his home. At first the appellant denied the offence - he was arrested, cautioned and taken to Police Headquarters where he then admitted the offence. His explanation was that the workman who would have driven him home had been taken ill.

This Court says immediately that there can be no excuse for driving whilst disqualified. It is a gross contempt of the Court which disqualified him. And because there can be no insurance in those circumstances, the public is put at risk.

The procedure of the Relief Magistrate cannot be faulted. He obtained a background report. He heard Mr. Habin at length in mitigation. He followed the normal policy of the Police Court.

This appellant has a serious record of previous convictions. They indicate a person who pays scant regard to his obligations as a citizen. If everybody went around flouting the law as this appellant does, this Island would come to a standstill. We ignore the first four convictions when he was a juvenile. But there are three convictions for careless driving; two for breaking the speed limit; one for purchasing liquor for a person under 18; one for failing to appear as a witness; one for having no television licence; two for using an untaxed motor vehicle; two for log book offences; one for failing to display a tax disc; one for driving against the one-way traffic; one for driving whilst unfit; one for violently resisting a police officer; nine for parking offences - and we are not naive, those are the ones that came before the Court - so we have no doubt that there were many more dealt with at Parish Hall level; and perhaps more seriously, one previous conviction for driving without insurance.

We are entirely satisfied that the sentence passed by the Relief Magistrate for driving whilst disqualified was correct in principle,

having regard to the element of contempt, and the fact that all mitigation is negated by the record and we are equally satisfied that it was not manifestly excessive.

Those, no doubt, were the reasons why Community Service was rejected by the Relief Magistrate and whether or not that was so, they are the reasons why we reject that alternative.

Coming to the insurance offence we agree that the legislature has made that the more serious offence. To that extent the Relief Magistrate misdirected himself. Mr. Habin also argued that the insurance offence was the more serious, but he did so in favour of a fine on both offences. That course would be totally unacceptable.

As the learned Bailiff said in the Curtis case: "All citizens have a duty to their fellow citizens to observe the law, particularly in the case of insurance where had there been an accident, your client would have been uninsured and possibly the injured party, if there had been an injured party, would have had no redress".

Here we had a large Range Rover being driven uninsured by a man with three previous convictions for careless driving and therefore no doubt accident prone.

As the Bailiff also said in Henriette: "People who drive when they are disqualified or uninsured are a great risk to the public. These are serious offences. We cannot find that the Magistrate misdirected himself in any way. He had the report before him; he was not obliged to grant Community Service. That is entirely within his discretion".

Therefore we are going to adopt the proposal made by the Crown Advocate.

The appeal on Count 1 is dismissed. On Count 2 the sentence of a fine is quashed and a sentence of four weeks' imprisonment is substituted, to be concurrent with the three week sentence. The appellant will pay the taxed costs of the Crown.

Authorities referred to:

Police Court Appeal: A.D. Curtis (14th August, 1989) Jersey Unreported.

Police Court Appeal: P. Henriette (7th December, 1987) Jersey Unreported.

AG -v- P.W.J. Rogers (18th August, 1986) Jersey Unreported.