

ROYAL COURT

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17th September,

Before: P.R. Le Cras, Esq., Commissioner, and
Jurats Blampied and Herbert

Police Court Appeal: Simon Pierre Carvenec

Appeal against period of disqualification imposed
following a conviction inter alia under Article 16B(4)
of the Road Traffic (Jersey) Law, 1956, as amended.

Advocate M. St. J. Birt for the Crown.
Mr. Carvenec on his own behalf.

JUDGMENT

COMMISSIONER LE CRAS: The appeal here is against a sentence of twelve months disqualification imposed for a conviction under Article 16B(4) on the grounds first that the sentence was manifestly excessive and second that the sentence was wrong in principle.

Each appeal turns on its own facts. In the case of Article 16B(4) the legislature has provided that for a refusal to take a test under Article 16B(4) the accused, when convicted, is subject to both a fine and a disqualification.

In the present case it was entirely reasonable for the police to require a test and this Mr. Carvenec has rightly conceded. It is the

duty of the citizen to take the test when properly required to do so and it is clear that Mr. Carvenec failed in this duty.

In our view the learned Magistrate was entirely within his powers to impose a period of disqualification as is provided by the law and we find that there is nothing wrong in principle in his doing so.

However, here we have also to consider the length of the disqualification. We have no doubt but that a great deal of the appellant's conduct was reprehensible. However much of that is dealt with by the third charge for which a fine of £25 was deemed sufficient by the learned Magistrate. The refusal itself is in our opinion and in the circumstances at the lower end of the scale and we consider that taken in conjunction with a fine of £200 a disqualification of one month is the proper period. We therefore substitute this period for the order of the learned Magistrate. You are disqualified for one month.

Authority referred to:

Wilkinson's Road Traffic Offences (14th edition) at p.1/287.