

3rd August, 1987

Before the Deputy Bailiff, assisted by Jurats Le Boutillier and Bonn.

POLICE COURT APPEAL: PETER SAMUEL SCOTT

DEPUTY BAILIFF: The Court finds that the Magistrate Mr. Dorey erred on the matter of disqualification. Disqualification is not available as an alternative to imprisonment. The alternative to imprisonment is community service, a fine, probation or a binding over. The question of disqualification is one to be considered separately, and as Thomas says, on a process analogous to that followed in relation to sentences of imprisonment. The decision of the Magistrate is clearly evident from the words "since I'm not sending you to prison as normally you would have deserved, the disqualification will be considerably longer than usual". Equally, disqualification is not to be imposed on grounds of ill health. The power vests in the Constable under Article 5 (3) of the Road Traffic (Jersey) Law 1956, to revoke a licence if he is satisfied after proper inquiry that the appellant is suffering from a disease likely to cause the driving by him of a motor vehicle to be a source of danger to the public. The Court must not indirectly usurp the jurisdiction of the Constable. This was the appellant's first road traffic offence and only his second ever. The disqualification was disproportionate to the offence. Accordingly the appeal is allowed, the disqualification is quashed and a disqualification for holding or obtaining a licence to drive for a period of twenty months is substituted. The appellant will have the costs of his appeal.

Authorities referred to in the judgment:

Thomas: p. 351 - Disqualification as a punitive measure.
Road Traffic (Jersey) Law, 1956 Article 5 (3).

Other authorities referred to:

Thomas: p.350 - Policy in use of disqualification generally

Thomas: p.352 - Driving with an excessive blood alcohol level

Thomas: p. 353 and 354 - Mitigation

Article 16 (2) of the Road Traffic (Jersey) Law, 1956

Police -v- Pierre Francois Louis Ollivier - Police Court: 1st April, 1987.

Police -v- Thomas Edward O'Brien - Police Court: 7th April, 1987

Police -v- Alan Barr Rodger - Police Court: 23rd April, 1987

Police -v- Grant McFee Hamilton - Police Court: 8th May, 1987

Police -v- Philip Guy de Carteret - Police Court: 15th May, 1987

Police -v- Martin Patrick Kane - Police Court: 18th May, 1987

Police -v- Kevin Francis O'Farrell - Police Court: 1st June, 1987

Police -v- Peter Leonard Le Page - Police Court: 22nd July, 1987