

ROYAL COURT

40.

16th March, 1992

Before: The Deputy Bailiff, and
Jurats Vint and Le Ruez

HM Attorney General

- v -

Gilbert Peter Derrien

Police Court Appeal. Appeal against conviction:
contravention of Article 16(A) (1) (a) of the Road
Traffic (Jersey) Law, 1956, (as amended).

Advocate Mrs. S.A. Pearmain on behalf
of the Attorney General.

Advocate P.C. Sinel for the appellant.

JUDGMENT

THE DEPUTY BAILIFF: The Court is concerned that one important factor was not canvassed in the Police Court. The defence story is that the appellant's wife had already lied to the police before she awoke him following the police officer's arrival. In other words, for the defence to be capable of credibility there

had to be a discussion between the police officers and the appellant's wife, on the doorstep, about the offence. The evidence of the police officers is that they attended at the address because, and only because, it was the address of the registered owner of the vehicle.

According to the transcript, at page 2 of Police Constable Grieve's evidence, he asked to see a Mr. Derrien who was the named person. A lady came to the door. The officer did not know her because when he gave evidence he said "which" (it should have been "who") "I now know to be his wife". He asked to see a Mr. Derrien. The lady said that he was in bed. She went to call him. Within a few minutes the appellant came to the door. It was then for the first time that the officers told the appellant about the anonymous information which had been received. The evidence of the police officers on that point, indeed almost the whole of the evidence of the police officers, went unchallenged by the defence. The kindest view we can take is that Mr. Sinel did not know what Mrs. Derrien was going to say. If he did know and failed to cross-examine the police officers upon it, then he failed lamentably in his duty and we do not believe that to be the case. We suspect that the evidence of the appellant's wife was untrue but, to be fair to the appellant in every respect, it should be further explored.

Article 17(1) of the Police Court (Miscellaneous Provisions) (Jersey) Law, 1949, empowers the Court to direct that witnesses shall be heard before it at the hearing of any appeal in relation to any matter or thing relevant to the appeal.

Therefore, the Court adjourns the further hearing of this appeal and requires the attendance, on a date to be fixed by both counsel, with the Bailiff's Secretary, on a day convenient

to all three members of the Court as at present constituted, for the further hearing and cross-examination of Police Constable Grieve and Woman Police Constable Baudains. The Court will also require the attendance of Mr. Brian Jukes and Mr. Geoffrey Kenny on the same occasion, to be further examined by the prosecution and defence and/or the Court.

AUTHORITIES.

Police Court (Miscellaneous Provisions) (Jersey) Law, 1949:

Article 17.