

ROYAL COURT
(Samedi Division)

55

21st March, 1997

Before: The Deputy Bailiff and
Jurats Bonn and Herbert

The Attorney General

-v-

Kenneth William Robb

- 1 Count of driving a motor vehicle with an alcoholic concentration above the prescribed limit, contrary to Article 16A(1) of the Road Traffic (Jersey) Law, 1956, as amended. (count 1);
- 1 Count of driving while disqualified, contrary to Article 9(4)(b) of the Road Traffic (Jersey) Law, 1956, as amended. (count 2); and
- 1 Count of driving a motor vehicle uninsured against third party risks contrary to Article 2(1) of the Motor Traffic (Third Party Insurance)(Jersey) Law, 1948, as amended (count 3).

Plea: Guilty

Age: 32

Details of Offence:

The defendant was stopped by police at 2.20 a.m. on 30th January, 1997, having been seen driving erratically through the tunnel. The defendant was found to have 116 micrograms of alcohol in 100 millilitres of breath.

Details of Mitigation:

Remained sober since release from prison, extremely remorseful, attends AA on a nightly basis and has sold his car.

Previous Convictions:

Driving motor vehicle without due care and attention, assault, and two counts of driving motor vehicle having consumed alcohol above the prescribed limit within last year.

Conclusions:

- Count 1: 3 months' imprisonment; 5 years' disqualification from driving.
Count 2: 3 months' imprisonment; 5 years' disqualification from driving, concurrent.
Count 3: 3 months' imprisonment; 5 years' disqualification from driving, concurrent.

Sentence and Observations of the Court:

The Crown Advocate was entirely justified in his conclusions. However, in view of defendant's references and his alcoholic illness, the Court felt that a prison sentence would not help the defendant or society.

2 years unsupervised probation with:

Count 1: 60 hours community service; 5 years' disqualification from driving.
Count 2: 60 hours community service; 5 years' disqualification from driving, concurrent.
Count 3: 70 hours community service; 5 years' disqualification from driving, concurrent.
Community service to be performed within 12 months.

J.A. Clyde-Smith, Esq., Crown Advocate
Advocate D. Wilson for the accused.

JUDGMENT

5 **THE DEPUTY BAILIFF:** The learned Crown Advocate was right to refer us to the case law on this matter. There can be few things more serious than driving a car whilst disqualified, heavily intoxicated and without insurance. What chance would an elderly pedestrian or a child on a bicycle have had if they had been struck and seriously injured? No insurance company would have met the claim and Robb is without assets of any substantial nature.

10 We have to say this, Mr. Clyde-Smith, a prison sentence of 3 months is entirely justified. However, we cannot see the benefit of sending a man who is clearly ill and who has in fact been attempting to fight his illness, to prison. The references have helped us and we can see that there have been clear signs over
15 many years of a real attempt to find a cure. Whether there is a cure or not is another matter but the attempts are there. Robb is 32 years of age and we cannot see - and we have considered the matter very deeply - that a prison sentence is going to help society at all. What will help society is if he rids himself of
20 this dreadful affliction.

25 Stand up, please. We are going to order a Probation Order for two years. Within the first twelve months you will perform on count 1 60 hours community service, and there will also be a five year driving licence suspension. On the count 2, 60 hours community service, concurrent; and on count 3, 70 hours community

service concurrent. Again on counts 2 and 3 there will be a 5 years disqualification, concurrent.

5 We would encourage you - we cannot order but we would encourage you - to continue to attend Alcoholics Anonamous and I have to say this: if you are tempted to drive again, although you have not got a car, you will go to prison for a very long time.

Authorities

Road Traffic (Jersey) Law, 1956, as amended: Article 16A.

Road Traffic (Jersey) Law, 1956, as amended: Article 9.

Motor Traffic (Third Party Insurance) (Jersey) Law 1948:
Article 2 : Amendment 6 of 1988.
Article 2 : Amendment 10 of 1996.

Fromage -v- A.G. (3rd August, 1987) Jersey Unreported.

Wilkinson's Road Traffic Offences (15th Ed'n): vol. 1: pp 1/304-312.

A.G. -v- Holley (13th March, 1992) Jersey Unreported.