POLICE COURT APPEAL

6th and 10th August, 1987

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

Her Majesty's Attorney General

-v-

Anthony Robert Ruban

(2nd Appeal)

Deputy Bailiff: Article 26 (1) of the Road Traffic (Jersey) Law 1956 requires any person driving a vehicle on a road to stop the vehicle on being so required by a Police or Traffic Officer.

Section 159 of the Road Traffic Act 1972 of the United Kingdom, requires a person driving a motor vehicle on a road and a person riding a cycle, not being a motor vehicle, on a road to stop the same on being so required by a constable in uniform.

The power to 'stop' a vehicle is identical, and therefore, it is appropriate when construing the word 'stop' to have regard to English authorities, particularly as the only Jersey case cited to us, Chevalier v The Constable of St. Helier (1969) JJ 1097 deals with the difference between 'stopping' and 'waiting' in the Road Traffic (Saint Helier) (Jersey) Order, 1968, where clearly the two words had to have different meanings and is not, therefore, authority for defining 'stop' in Article 26 (1) of the 1956 Law.

The case of Lodwick v Sanders (1985) 1 All E.R. 577, although concerned with the question whether a police officer has the right to detain a vehicle that has been stopped, is directly in point. The first of four questions put by case stated at page 579 was: "Is the driver of a motor vehicle, who stops it pursuant to a requirement made by a constable acting under s 159 of the 1972 Act, obliged under the section to cause the same to remain at rest for a resonable period to enable the constable to complete any lawful enquiries under that Act ?. At page 581 Watkins L.J. said: "In my view it is a necessary inference of the existence of the power in s 159 and its conjunction with ss 161 and 162 that a driver is under a duty to keep the vehicle at a standstill while,

at the very least, a constable has a reasonable opportunity of exercising his powers under those sections .... Furthermore, I would regard it as unthinkable that a vehicle which seems to have no brake-lights and for that reason may constitute a danger to other users of the road should not be examined so that that and other possible defects may be verified". At page 582 Watkins L.J. answered the first question with the single word "Yes". At page 583, Webster J said "And I agree with Watkins L.J. that, having stopped, he is under a similar duty to remain at a standstill while the constable exercises whatever power he seeks to exercise".

The learned authors of "Wilkinson's Road Traffic Offences" 12th Edition Vol. 1 page 319 say "It is suggested that 'stop' means both 'bring to a halt' and 'remain at rest'."

We agree entirely; a Police Officer in Jersey has other powers under the 1956 Law. e.g. Article 7 (1) - production of licence to drive and of certificate of insurance.

Applying the Law to the facts we find ourselves in complete accord with Judge Dorey and I quote what he said at page 40 of the transcript:-

JUDGE DOREY:

> "I am satisfied beyond all reasonable doubt that you understood having seen the blue light flashing and being forced in to the side, you understood that you were being required not just to stop but to stay where you were. You stayed where you were for a brief time then you made a tentative reconnaissance to see what had happened to your friend, realised that he'd been apprehended. You went back up the hill, to a completely different car park, Le Riches car park, which is quite a different place to the area of the entrance to Park Estate and you waited for a few moments or minutes and then departed. There is no question that the police took an unreasonable time or that you were expected to wait an unreasonable time. The police came back as soon as was reasonably possible after dealing briefly with your colleague and it is quite clear that the police had made an order, a direction, it was quite plain that you were expected to stop and stay where you were, and your statement to the police afterwards, that you panicked, that you didn't get involved makes it quite clear that you understood what they required, so you are guilty as charged".

The Court need only add this: On his own admission, the appellant knew that he was in receipt of a direction to stop and he stopped. Again on his own admission he remained at rest only for 15 seconds - in no circumstances can that be a reasonable period of time. Having stopped the appellant the Police were fully justified in following Thompson because not only were road traffic offences involved but there was a real possibility of danger to other road users. When the appellant left after 15 seconds the offence was complete and what followed is strictly irrelevant. Nevertheless had he gone to the Police Officers and enquired what they wanted, that would have shown a genuine intent to comply with the spirit of the law and the Court is confident that no charge would have ensued. Instead he turned and disappeared to a position out of sight of the original stopping place, having parked his machine at the back of the supermarket. One can only suspect that he was watching to see any police activity rather than intending they should see him.

The Court has no hesitation in dismissing the appeal.

IN THE ROYAL COURT OF THE ISLAND OF JERSEY

On Appeal from the Police Court

Police v. Anthony Robert Ruban

("Stopping Appeal")

LIST OF AUTHORITIES TO BE CITED BY THE APPELLANT

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1. Wilkinson's "Road Traffice Offences" (12th Edition) Vol.1 pp 316-320: "Neglecting or refusing to comply with directions given by Police or Traffic Wardens".

2. Road Traffic Act 1972 Sections 159-168.

3. Lodwick v. Sanders (1985) 1 All ER 577.

4. "Words and Phrases Legally Defined" (2nd Edition) Vol 5 S-Z: "Stop".

5. Chevalier v. The Constable of St Helier (1969) JJ 1097.

6. Attorney General v. Howard (1974) JJ 105.