

ROYAL COURT

14th August, 1989

Before: The Bailiff and  
Jurats Myles and Le Ruez

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Police Court Appeal: Andrew David Curtis

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Appeal against a total sentence of three months' imprisonment and a fine of £10 (or 4 days' imprisonment in default) following convictions by the Police Court on various charges involving the larceny and use of a tax disc and driving without insurance.

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Advocate S.C. Nicolle for the Crown  
Advocate S.J. Habin for the appellant.

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**JUDGMENT**

**THE BAILIFF:** The appellant comes before us having been convicted by the Magistrate on four counts to which he pleaded guilty. Firstly stealing a motor vehicle licence from his sister (in fact the charge sheet referred to his mother but that was changed by agreement during the course of the hearing). Secondly, by using the licence on a vehicle other than the one for which it had been issued. Thirdly, with using a motor vehicle for which a licence was not in force and fourthly, using a motor vehicle without insurance.

These are not technical matters, particularly the insurance infraction, Mr. Habin. So far as the insurance is concerned, this Court has said on many occasions that all citizens have a duty to their fellow citizens to observe the law, particularly in the case of insurance where had there been an accident your client would have been uninsured and possibly the injured party, if there had been an injured party, would have had no redress. Therefore the Court rejects your suggestion that driving an uninsured vehicle is a mere technicality. It is nothing of the sort, it is quite a serious offence.

So far as the circumstances are concerned, Mr. Habin, you have suggested that your client should go back to the Police Court because the learned Magistrate did not give him an opportunity of having counsel, nor did he elicit sufficient information to make himself 'au courant' with your client's personal affairs. It is not a rule that in cases of this nature, with a man of 31 with a record that the Magistrate is required to invite him to have legal advice and representation. It is not a rule of law and we are not proposing to shackle the discretion of the Magistrate. That is not to say that in appropriate cases, should the Magistrate not allow persons to have representation this Court would not interfere, but on this particular occasion we see no reason to do so. Secondly, we are quite satisfied that all the facts are at least sufficient to enable the Magistrate to come to a decision on sentence <sup>and</sup> had in fact been elicited by him. Therefore the first point is rejected.

So far as the second point is concerned, that is to say the prison sentence, the Magistrate was quite entitled to sentence your client to a term of imprisonment. He had an appalling record of driving offences. He had shown a total disregard for the traffic laws and he was a man of some education and must certainly have realised what he was doing. Therefore the Magistrate did not misdirect himself at all in imposing a prison sentence. However, in view of the circumstances of the case, we think we can make a reduction in the actual amount imposed. We think that your client having served 26 days in prison, we hope has learned his lesson. We are going to substitute a sentence of imprisonment which will be on his record <sup>but</sup> which will enable him to continue with his freedom. However, I want to make it clear that if he offends again in respect of offences of this nature, particularly an insurance offence he will certainly go to prison and probably for something

more than three months for a next offence in that connection. Therefore we are going to substitute a sentence of five weeks concurrent on all the charges, which in effect means that that will be on the record and having served his period of time for good behaviour he can be released. Mr. Habin, you shall have your legal aid costs.

n.b: no authorities.