

MAGISTRATE'S COURT.

29th April, 1992. 75

Before: The Magistrate.

In the prosecution against
Joseph Paul Mohammed.

1 count of contravening Article 15 of the Road Traffic (Jersey) Law, 1956, as amended. (Count 1 on the charge sheet.)

1 count of contravening Article 27 of the said Law. (Count 2 on the charge sheet).

PLEA:

Not guilty.

REMARKS:

Defence of "automatism" on count 1 rejected.

Advocate S.J. Meiklejohn for the accused.

JUDGMENT.

THE MAGISTRATE: The Court is satisfied that the accident on 12th September, 1991, took place while the accused was in a state of automatism, following some type of epileptic fit.

Turning now to the incident on 1st September, 1991, the accused's failure to mention the incident in his Question and Answer Interview, and his statement that "it never entered his head", when, in fact, it must have been clearly in his mind, as is shown by his telephone call to Helen Sykes shortly after the interview, casts doubt on the truthfulness of his account of this incident. It may be that, although normally an honest and truthful man, he could not bring himself to face the realization that his epilepsy was no longer under control.

It is clear from the evidence, both professional and lay, that the accused knew that something unusual had happened to him on 1st September. There had been a loss of recollection, he had done something that, even if he did not know the full details, had caused his colleagues concern. He had been told to take it easy for a day or two and not to drive. With his medical history, it must have been all too plain what this must mean. As Doctor Kennedy put it at the conclusion of his evidence, the accused would have understood clearly that something had happened and that this something was a return of epilepsy.

It follows that, in continuing to drive without medical advice, the accused was acting recklessly or, at least, was failing to act as a reasonably prudent man having regard to the duties that he owed to other users of the highway. Wherefore the defence of automatism is not open to him and he is guilty of the offence charged under Article 15.

As regards the charge under Article 27, the Court is prepared to accept Counsel's submission that the accused did not know that he had had an accident. That charge, therefore, is dismissed.

AUTHORITIES.

Article 15 Offence.

Road Traffic (Jersey) Law 1956: Article 15.

Driving Licences (Jersey) Order 1987.

Wilkinson's Road Traffic Offence (14th Edition):
Volume 1: p.p. 312-318 inclusive, 44-46 inclusive.

Archbold (1992), (44th Ed'n) pp. 1994-2004 inclusive.

Glanville Williams: "Text Book of Criminal Law", (2nd Ed'n)
pp. 666-670 inclusive.

Hill -v- Baxter (1958) 1 Q.B. 277.

R. -v- Sibbles (1959) Crim. L.R. 660.

R. -v- Budd (1962) Crim. L.R. 49.

Watmore -v- Jenkins (1962) 2 All E.R. 868.

Waugh -v- James K Allan Ltd. (1964) 2 Lloyds Rep. 1

Jones -v- Dennison (1971) R.T.R. 174.

R. -v- Quick (1973) 3 All E.R. 347.

Gordon -v- Wallace (1973) DLR (3d) 342.

R. -v- Isitt (1978) R.T.R. 211.

Roberts -v- Ramsbottom (1980) 1 All E.R. 7.

Moses -v- Winder (1981) R.T.R. 37.

R. -v- Bailey (1983) 2 All E.R. 503.

R. -v- Sullivan (1983) 3 W.L.R. 123.

Broome -v- Perkins (1987) R.T.R. 321.

Article 27 Offence

Wilkinson (14th Ed'n), Volume 1: pp. 445-448 inclusive.

R. -v- Carr-Braint (1943) 2 All E.R. 156.

Harding -v- Price (1948) 1 All E.R. 283.

Hampson -v- Powell (1970) 1 All E.R. 929.