

ROYAL COURT
(Samedi Division)

61.

21st March, 1994

**Before: The Deputy Bailiff and,
Jurats Blampied and Orchard**

Amanda Clare Grove

-v-

Her Majesty's Attorney General

Application, under Article 15(4) of the Police Court Miscellaneous Provisions (Jersey) Law, 1949, for an extension of time within which to appeal.

On the direction of the Court, appeal against conviction following a guilty plea on 10th February, 1994, in the Police Court to charge 1 of contravening Article 44A of the Road Traffic (Jersey) Law, 1956, as amended, by aiding another in contravention of Article 27 of the said Law, (charge 1 of the charge sheet).

Appeal against sentence of £200 fine or 2 weeks' imprisonment in default imposed in respect of the said charges on 10th February, 1994.

Appeal against sentence of £300 with 6 weeks' disqualification from driving or 3 weeks' imprisonment in default imposed following guilty plea to 1 charge of contravening Article 2 (1) of the Motor Traffic (Third Party Insurance) Law, 1948 (charge 4).

Advocate N.M.C.S. Costa for the Appellant.
Advocate A.D. Robinson on behalf of the Attorney General.

JUDGMENT

THE DEPUTY BAILIFF: The Appellant, Amanda Clare Grove, was charged in the Police Court with four offences of aiding another in failing to stop and inform the police of a road traffic accident, of allowing another to drive without a driving licence, of failing to provide information as to the identity of a person in charge of a vehicle at the time of the offence, and of permitting another to use a vehicle without third party insurance.

At the beginning of this appeal we invited counsel to apply for leave to appeal out of time against conviction on the first charge of aiding another to fail to stop and inform the police of a road traffic accident, and the Court subsequently granted that leave.

Article 44(A) of the Road Traffic (Jersey) Law 1956, which is the article in question, provides that a person who aids, abets, counsels or procures, any other person to commit an offence against the provisions of this law commits an offence and shall be liable to the same punishment as might be imposed on conviction of the first mentioned offence. The first mentioned offence in this case was an offence under Article 27 of the law which is headed: "Duty of Driver of Vehicle in Case of Accident". The Article goes on to provide that:

"Where an accident occurs the driver of the vehicle shall stop and shall immediately inform a police officer of the occurrence of the accident and shall not move the vehicle without the consent of a police officer."

Mr. Robinson, for the Attorney General, very properly conceded that there was no evidence before the learned Magistrate that the Appellant had aided, abetted, counselled or procured, her co-accused to commit the offence under Article 27. We therefore quash the conviction on the first charge.

That leaves the appeal against sentence on charges 2, 3 and 4. It does, as Mr. Robinson said, give rise to a difficulty because it is clear that the learned Magistrate in imposing sentence in the Police Court took the view that there was a link between the first charge of assisting in the offence of failing to stop and inform the police of the accident and the failing to give information as to the identity of the driver.

We think that the Appellant might well have been charged with a rather more serious offence of attempting to pervert the course of justice. We are, however, concerned here with the charge which was actually brought of failing to provide information as to the identity of a person in charge of the vehicle at the time of the offence and we think it is sufficient to say that in our judgment the Appellant is fortunate to have been charged with that offence.

No point arises on the second charge but on the fourth charge of permitting another to use a motor vehicle without third party insurance, Mr. Costa argues that there was disparity between the sentence imposed on the Appellant and that imposed upon her co-accused. Mr. Costa argues, first, that the Appellant did no more than assist her co-accused and that she is therefore less culpable than he in that it was he who drove the car, and he who failed to stop and to report the matter. He was driving the car and was therefore committing the principal offence. Mr. Costa went on to argue that there was disparity between the Appellant and the driver of the car, the co-accused, in that the Appellant was aged only 20 or so at the time of the offence whereas her co-accused was aged 26. Furthermore the Appellant is a first offender whereas her co-accused had a bad record with some 15 previous convictions.

On the question of the offence itself the Court finds that there is nothing to choose between the culpability of a person who causes or permits another to drive a motor vehicle without third party insurance and the person who actually drives the car without the appropriate insurance. So far as the owner of the car is concerned there is obviously a duty upon her to ensure that if the car is lent to another person the appropriate third party insurance cover is in force. On the other hand, on the question of antecedents there is undoubtedly a distinction to be drawn, and in our judgment proper allowance should have been made by the learned Magistrate. We therefore vary the sentence on charge 4 by substituting a sentence of £200, or two weeks imprisonment in default. The disqualification of 6 weeks of course remains.

Authorities

Thomas: Principles of Sentencing (2nd Ed'n): p.p. 64-73: Disparity of Sentence.

Attorney General -v- Crossan (8th May, 1992) Jersey Unreported.

Lynch -v- Attorney General (2nd July, 1991) Jersey Unreported; (1991) J.L.R. N.15. C.of A.

Costa -v- Attorney General (15th October, 1990) Jersey Unreported.

Fossey -v- Attorney General (1982) J.J. 223 C.of A.

Archbold (1993 Ed'n): 5-169-176: p.p. 1/736-8: Disparity of Sentence.

Thomas: Current Sentencing Practice: Part A9: Disparity of Sentence.