

ROYAL COURT
(Samedi Division)

22nd August, 1994. 171.

Before: The Bailiff, and
Jurats Coutanche and Potter

POLICE COURT APPEAL
(The Magistrate).

Juvenal Alves Ribeiro

- v -

The Attorney General

Appeal against a sentence of 1 month's disqualification from driving, passed on 30th June, 1994, following a guilty plea:

1 charge of driving without due care & attention, in contravention of Article 15 (1) of the Road Traffic (Jersey) Law, 1956, as amended.

The Appellant was also sentenced to a fine of £50 or 7 days imprisonment in default of payment against which no appeal was brought.

Appeal dismissed.

Advocate S.E. Fitz for the Appellant.
Advocate A.D. Robinson on behalf of the Attorney General.

JUDGMENT

5 THE BAILIFF: The appellant in this case was sentenced by the Police Court Magistrate on 30th June, for an infraction of Article 15 (1) of the Road Traffic (Jersey) Law, 1956, that is to say of driving a motor vehicle without due care and attention or without reasonable consideration for other persons using the road.

10 The sentences imposed were, firstly, a sentence of £50 or 7 days in default and there is no appeal from that fine. Secondly, a disqualification of one month against which the appellant appeals.

The accident happened, according to the sketch which was before the Magistrate and which has been produced to us, on La Grande Route de St. Laurent near a right-hand bend leading to Rue

De La Mare Ballam to the North and to the ()refour Selous to the South. The appellant was driving his car up the road and had to negotiate the ninety degree bend to the left. Either whilst he was going round or shortly before, he had been eating a slice of cake and had dropped a piece in the bottom of the car. He bent down to pick it up, took his eyes off the road and the car went across the centre of the road and hit an oncoming vehicle which had stopped, the driver fearing that she was going to be hit, as indeed she was. The impact was at about 30 miles per hour and it was fortunately not against the driver's door but against the bonnet of the car and the wing. I say fortunately because, at that speed, had the vehicle struck the other car where the driver had been sitting something more serious might have occurred.

The report of the accident suggests, in the opinion of Mr. De La Cour, that it was on the more serious scale. With that the Court agrees. The appellant is really fortunate in not having been charged with dangerous driving but no doubt the police took into account the fact that he had only been driving for a very short time - I think it was four days - before this accident happened and he was not prosecuted on the more serious charge.

Having been prosecuted under Article 15, the Magistrate then considered whether he should impose a fine, which he did, and which is not appealed as I have said, and whether in addition to that he should avail of himself of the powers conferred on him under Article 17 of the Road Traffic (Jersey) Law, 1956, which would empower him to make an order either (a) disqualifying the appellant from holding or obtaining a licence until he has passed a test at the end of the period of disqualification, or (b) disqualifying him from holding a licence until he has, since the date of conviction, passed the test.

The Magistrate chose the former. His decision has been criticised by the appellant, for whom Miss Fitz has appeared, and who has argued very cogently, as always, on behalf of her client.

It has been put this way: having imposed a small fine, relatively speaking, for the infraction itself - considering that the maximum is £1000 - the disqualification was unnecessary or perhaps (b) should have been used rather than (a). Be that as it may Miss Fitz has argued that even if the Court finds that the disqualification was not wrong in principle it should reduce the amount of disqualification, as her client had already served five days of disqualification.

The Court is quite clear that the Magistrate's reasoning was correct. He felt that the appellant required further instruction in the art, or science of driving, whichever it is, and that he should therefore impose a sanction so that the appellant would have to take a test to ensure that he was better qualified to drive on the public roads of this island. It was suggested again that the Magistrate fettered his discretion by using the words "minimum"; but we accept what Mr. Robinson has said: that is a figure of speech often used in the Police Court where the

Magistrate wishes to impose a disqualification but not a very long one.

5 Under the circumstances we cannot find that the Magistrate misdirected himself or that the disqualification was wrong in principle or manifestly excessive and the appeal is dismissed.

No Authorities