

15th January, 1986.

POLICE COURT APPEALS.

A.G. -v- George Duncan McRae Arnold

BAILIFF: "In cases of this nature where a person is suspected of having committed an infraction against Article 16 of the Road Traffic Law, that is to say, that his driving is impaired as a result of drink or drugs, there are a number of guide lines which of course, the learned Magistrates always follow. The first is to ask the question, was the driving of the accused impaired. The evidence that it was impaired was the behaviour which was noted by Mr. Le Corre. It is suggested in this appeal that that evidence was unreliable. We cannot accept that submission, we think the evidence in the main particulars was reliable and the Magistrate was entitled to rely on it and therefore to find that the manner of the driving was impaired.

The next question he had to ask himself when he, as Miss Nicolle rightly said, examined the matter with his normal scrupulous care was whether that impairment was due to drink or drugs - clearly it was not due to drugs, there is no evidence on that point - and he had to ask whether it was due to drink. The difficulty in the case which faced him was that there was an admission that there had been some drink, some 3 to 4 glasses, possibly half a bottle/12 fluid ounces, but that shortly after returning to the house the appellant had drunk a fairly substantial amount of brandy. The Assistant Magistrate had to ask himself whether the affect of drinking that brandy induced the condition in which the police found him. There was no doubt in the minds of the police, they found him shortly after the accident and the Magistrate was entitled if he so wished to find that the condition in which they had found him was due to what he had drunk before and not to the brandy. He could be supported in that view by the police evidence but later on when they took Mr. Arnold to the police station, he then began to deteriorate. In our opinion, the Magistrate did not misdirect himself but in saying that we think it would be desireable and if there are similar cases where people do drink after they have returned home, that medical opinion should be sought, not as to the condition of a man if he has not been examined of course, that could not be possible, but as to the effect of drinking, to the effect and to the time it will take to make itself apparent on top of other drink. I think that would be better in this particular case

and one hopes it will be done in the future but having looked at the matters urged upon us by you Mr. Le Quesne, we cannot find the Magistrate misdirected himself and the appeal is dismissed. Is this a legal aid case? No.