

ROYAL COURT

12th September, 1988

Before: The Deputy Bailiff and
Jurats Myles and Bonn

Police Court Appeal: Stephen Anthony Francis Christopher

Appeal against numerous motoring offences including driving whilst disqualified and related charges. The appellant had a long criminal record, although doubt was raised by the appellant's advocate as to whether certain offences shown on the record had actually been committed by the appellant's younger brother. The Crown Advocate raised a preliminary point that the appeal had been lodged out of time.

Advocate J.A. Clyde-Smith for the Crown
Advocate G.R. Boxall for the appellant.

JUDGMENT

DEPUTY BAILIFF: Because we wish to review the custodial sentences in this case, we are granting an extension of time within which to appeal. We do so because otherwise we should have to adjourn for enquiries to be made as to what actually happened at the prison and in Advocate Boxall's office. We wish to stress that this is not to be taken as a precedent which in any way derogates from the cases put before us by Mr. Clyde-Smith, which we accept in their entirety.

Turning to the merits, this appeal in our view is entirely without merit. Taking only the appellant's Jersey record into account, it is a serious one with five convictions in nine months.

It is the totality of the situation that is the paramount consideration. The appellant was fortunate indeed that the Magistrate was persuaded to deal with the matter after he had considered sending the matter before this Court. We are not saying that the Magistrate was wrong to do so, but having so decided, he was fully justified in using his maximum powers.

The Magistrate treated each charge sheet as one and gave concurrent sentences on each, making them consecutive to each other. However, on the first charge sheet, Counts 1 - 5 and 9 related to the 7th June, whereas the other three related to other occasions altogether. Count 6 involved a serious offence of making a false statement under the Hire Cars Law and should in our view have been made consecutive. Counts 7 and 8 again, although concurrent together, should have been made consecutive to give a total of three months' imprisonment on that charge sheet. Again, on the second charge sheet, Counts 1 - 3 related to the 14th July, whereas Counts 4 - 6 related to the 15th July and could have been treated consecutively.

Therefore, we have here in total six months' imprisonment for four separate offences of driving whilst disqualified and four separate offences of using a motor vehicle uninsured, together with other offences including dishonesty by making false statements. We have rearranged the sentences to show that making a false statement is a serious matter and to indicate that driving whilst uninsured is as serious as driving whilst disqualified. The appeal is allowed only to the extent that in relation to the custodial sentences we substitute the following:-

- On Count 1, we confirm one month's imprisonment;
- On Count 2, we substitute one month's imprisonment, concurrent;
- On Count 6, we substitute one month's imprisonment, consecutive;
- On Count 7, we substitute one month's imprisonment, consecutive; and
- On Count 8, we substitute one month's imprisonment, concurrent.

This gives a total of three months' imprisonment on the first charge sheet.

We now move on to the second charge sheet:-

On Count 1, we impose three months' imprisonment, consecutive;
On Count 2, three months' imprisonment, concurrent;
On Count 4, three months' imprisonment, concurrent - and I stress that we do that only because of the totality principle, because if the appellant had been sent up to this Court it would have been three months' imprisonment, consecutive, to make nine months; and
On Count 5, three months' imprisonment, concurrent.

Mr Boxall will have his legal aid costs.

Authorities referred to:-

- La Solitude Farm Ltd. -v- Attorney General 1985-86 J.L.R. Part 1 - p.1.
Attorney General -v- D.P. Fossey 1982 J.J. 223.
Current Law Year Book 1987 - para 924 - "Driving whilst disqualified - maximum penalty".
Davidson-Houston -v- Lanning 1955 2 All E.R. 737.
Lines -v- Hersom 1951 2 All E.R. 650.
Attorney General -v- A.P.W. Stopher - P.C. 13th October, 1987 - as yet unreported.
Attorney General -v- N.R. Stopher - P.C. 28th June, 1985 - unreported.
Attorney General -v- S.P. Scott - P.C. 1st February, 1985 - unreported.
Attorney General -v- M.N. Lenaghan - P.C. 26th October, 1984.
Attorney General -v- M.F. Heuzé - P.C. 7th October, 1983.
Attorney General -v- M. Aubin - P.C. 28th January, 1983.
Attorney General -v- M.F. Heuzé - P.C. 17th December, 1982.
Attorney General -v- J.A. Andrieux - P.C. 9th December, 1982.
Attorney General -v- N.R. Stopher - P.C. 13th August, 1982.
Attorney General -v- G.A.T. Hacon - P.C. 26th March, 1982.
Attorney General -v- P. de Sousa - P.C. 12th February, 1982.
Attorney General -v- G.R. Lucas - P.C. 29th January, 1982.
Attorney General -v- R. Wild - P.C. 12th March, 1981.
Attorney General -v- C.A. Greier - P.C. 24th October, 1980.
Attorney General -v- E.J. Bleas - P.C. 16th May, 1980.
Attorney General -v- A.G.A. Frair - P.C. 29th February, 1980.
Attorney General -v- P.A. Burgess - P.C. 21st December, 1979.
Attorney General -v- R.A. de Ste. George - P.C. 26th October, 1979.
Attorney General -v- R. Wild - P.C. 31st August, 1979.
Attorney General -v- C.M. Turner - P.C. 16th March, 1979.
Attorney General -v- P. Henriette - P.C. 2nd February, 1979.
Attorney General -v- S.P. Hampson - P.C. 20th October, 1978.
Attorney General -v- R.W. Jordan - P.C. 14th July, 1978.
Attorney General -v- C.R. Allen - P.C. 11th July, 1978.
Attorney General -v- D.G. Huson - P.C. 19th November, 1976.
Attorney General -v- B.N. Parsons - P.C. 9th January, 1976.