

ROYAL COURT

9th July, 1990

97.

Before: F.C. Hamon, Esq., Commissioner, and  
Jurats Myles and Orchard

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Police Court Appeal: Ian George White

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Appeal against sentence of six weeks'  
disqualification from driving imposed  
in respect of one infraction of Article  
13(a) of the Road Traffic (Jersey)  
Law, 1956.

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Miss S.C. Nicolle, Crown Advocate,  
Advocate M. St. J. O'Connell on behalf of  
the appellant.

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**JUDGMENT**

COMMISSIONER HAMON: At 12.50 in the afternoon of Saturday the 17th March of this year a policeman was standing at La Grande Route de St. Ouen holding a hand-held radar machine when the appellant's motorcar passed him at a speed which was recorded of 67 m.p.h. The policeman held his hand out to indicate to the driver of the vehicle that he wanted it to stop, but unfortunately the car carried on, although it braked, and was lost to sight.

After some little time the owner of the car was tracked down and he was brought to Court.

It is extremely unfortunate that the appellant did not stop because had he stopped then he might not have been in the position that he finds himself today.

Mr. O'Connell raises certain cogent points on his behalf at this appeal. He says that he was unrepresented and therefore did not bring to full force any mitigating factors that might have been brought to the attention of the Magistrate. One thing that was made clear to the Magistrate is the fact that he gave an explanation for his speed which was that he had left his wallet with money in it in town, presumably the day previously and was hurrying to collect it. The Magistrate clearly accepted that as a ground of mitigation.

One thing that he did not make clear, however, to the learned Magistrate at the time is the fact that he is an agricultural assistant and is about to qualify to that position and requires to drive as part of his future employment.

We are faced here, however, with a problem and Miss Nicolle has given us two cases, one is Kane (1950-66) JJ 501 where the Court said that it would be "a complete negation of the principle" (and that is the principle which is the public interest) "if it were to be held that a person who requires a driving licence for the purpose of his living is entitled to special consideration".

The second case that she gave to us is from Scott -v- AG (1987-88) JLR Note 4, which says that "disqualification from driving should not be imposed as an alternative to imprisonment, but should be considered as a separate additional matter". Clearly, she draws an analogy from that and says that in this case a fine should not be substituted for a term of disqualification.

We have enormous sympathy with the appellant and we do not think that we would have come to the same conclusion as the Magistrate came to had we been sitting on the case at first instance, but unfortunately

that is not the point and with great reluctance we cannot see that on the facts presented to us the sentence was so manifestly excessive that we should intervene and reduce it in form.

Therefore, as I say, with regret the appeal is dismissed.

Authorities

Kane (1950-66) JJ at p.501.

Scott -v- AG (1987-88) JLR Note 4.