

ROYAL COURT
(Samedi Division)

18th January, 1993

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Before: The Bailiff, and
Jurats Bonn and Herbert

Alan Edward Harvey

- v -

The Attorney General

Police Court Appeal.

Appeal against conviction on one charge of contravening Article 16(a)(1) of the Road Traffic (Jersey) Law, 1956.

Advocate P.M. Livingstone for the appellant.
Advocate A.D. Robinson on behalf of the Attorney General.

JUDGMENT

THE BAILIFF: This is an appeal by Alan Edward Harvey against his conviction by the Magistrate on 6th October, 1992, on an infraction of Article 16(a)(1) of the Road Traffic (Jersey) Law, 1956 (as amended). The appellant does not appeal against his sentence but merely against his conviction.

The main grounds of the appeal are that there were inconsistencies in the prosecution evidence which, if taken together, made it unsafe and unreliable for the Magistrate to rely on that evidence.

However, that is not the Law; the Law is that any Court, or a Jury as the case may be, in considering a criminal case, is entitled to and indeed must look at the whole of the evidence, not only that tendered for the prosecution, or that tendered on behalf of the defence. It is upon considering the whole of that evidence

that the verdict - or decision as the case may be - is to be based.

Accordingly, although Mr. Livingstone drew our attention to a number of inconsistencies concerning the parking of the car, the colour of the car and its identification, and the evidence of the police as to how they had discovered which car it was - and there was some inconsistency there - we are quite satisfied that those inconsistencies may be described as 'minor inconsistencies'.

If one examines the evidence of the defence, particularly that of the accused himself, there are quite considerable inconsistencies in his evidence: when he first saw the police, he said that he had not driven since a quarter past five; later he amended that to a quarter past eight. The keys were found on his mantelpiece, although the police said that, when they first entered the house, they were not there, that they had not seen them. Also the engine was warm.

It is suggested by Mr. Livingstone that the inconsistencies of the prosecution evidence made it unreliable for the Magistrate to be satisfied beyond reasonable doubt that the police were telling the truth when they said they found that the engine of the car was warm. No explanation was given by the accused as to how that came about; his only evidence was that he said he had been on foot that evening; had not left his flat by car, after having parked it at 8.15 p.m.

The evidence of Mr. and Mrs. Blackmore, whilst containing some inconsistencies, was basically clear, namely that they had seen the accused drive a car that evening later than the time when he said he had parked it. We cannot find that there was no evidence upon which the Magistrate could properly convict, nor that he misdirected himself in so doing. Therefore the appeal is dismissed. Legal aid costs.

No authorities.