

ROYAL COURT

27th October, 1988

Before: The Deputy Bailiff and  
Jurats Coutanche and Baker

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Police Court Appeal : Richard & Siobhan Manning

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Appeal against conviction and sentence  
in respect of parking infractions.

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Advocate S.C.K. Pallot for the Crown  
Mr. Manning representing himself.

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**JUDGMENT**

DEPUTY BAILIFF: On the 22nd January, 1988, the Appellant was convicted of two infractions of Article 9(5) of the Road Traffic (Public Parking Places) (Jersey) Order 1985 (the Order) and was fined in respect of each of the two infractions, the sum of £20 and ordered to pay £5 costs.

On the same date the Appellant's wife, Mrs. S. Manning, was convicted of three infractions of the Order and was fined in respect of each of the three infractions, the sum of £20 and ordered to pay £5 costs.

By notice of appeal dated the 29th January, 1988, the Appellant purported to appeal against all five convictions and sentences.

The Appellant had no 'locus standi' to appeal for his wife.

Correspondence was exchanged between the Judicial Greffe and the Appellant in which the position was made abundantly clear to him, and he was provided with all necessary forms for his wife to appeal and for him to correct his notice of appeal and he did neither; but he also failed to complete an Abandonment of Appeal.

Accordingly, we rule that there is no appeal by Mrs. Manning in existence; and this appeal proceeds on the basis of an appeal by the Appellant alone against the two convictions recorded against him and the two sentences imposed upon him.

This case is fraught with difficulty. Originally, the charge was brought under Article 8(5) of the Order. On the final adjourned hearing on the 22nd January, 1988, the charges were amended, by consent, to Article 9(5). This is clearly apparent from the Charge Sheet and from the Magistrate's note, which reads: "Amended from 8(5) to 9(5) by consent".

Article 9(5) of the Order contains no offence. It provides for the action which must be taken by a car park official when an excess charge has been incurred and the provisions to be included in a notice to be attached to a vehicle.

Article 8(5) of the Order requires a person parking a vehicle at a parking place to display a ticket obtained under the Article or a season ticket. Article 9(7) provides that no person shall park a vehicle at a parking place for longer than the period, or the combination of periods, for which payment was made under Article 8 without paying the excess charge.

The Appellant was charged originally with failing to pay the excess charge, an excess charge ticket having been placed on his vehicle. That is an Article 9(7) offence and not Article 8(5) as originally charged nor Article 9(5) after amendment.

However the transcript shows that the vehicle in this case had no ticket on at all - so that the offence in fact was an Article 8(5) offence for failure to display a ticket, or an Article 9(7) offence for failing to pay the excess charge under Article 9(2). What it was not was an offence under Article 9(5).

In addition, the Appellant was charged with parking in La Collette Car Park. Looking at the First Schedule as amended in 1987, we find no La Collette Car Park, but, and I quote, "The Commercial Vehicle Park at La Collette" and "The Car Park provided at La Collette, St. Helier, for participants in the Park and Ride Scheme". This was a further fatal defect in the charges brought.

Moreover, the mis-description caused considerable confusion in Court and the Magistrate went to visit. However, that part of the transcript relating to the hearing subsequent to his visit is missing. Justice cannot be done to the Appellant without it, except by allowing the appeal.

If parking offences are to be prosecuted in Court then it is just as important that the charges be correctly drawn and presented as it is in the case of more serious charges. An accused is entitled to know precisely what is charged against him and what he has to answer. The charges and the presentation in this case fell far below the acceptable standard.

The appeal is allowed, the two convictions against Mr. Manning are quashed and he shall have his costs.

In the case of Mrs. Manning, it seems that the charges were never properly brought because she was neither present nor represented by an advocate. Her husband could not represent her. We have not seen the charge sheet or any separate transcript, but we presume that the charges were equally defective. If so, she is at liberty to apply for leave to appeal out of time which in the circumstances we would grant.