

ROYAL COURT

10th April, 1989

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

Police Court Appeal : Andrew Maurice Campbell

Appeal against total sentence of three months' imprisonment imposed following convictions under Article 2 of the Motor Traffic (Third Party Insurance) (Jersey) Law, 1948, and Article 9(4) of the Road Traffic (Jersey) Law, 1956.

Advocate J.A. Clyde-Smith for the Crown
Advocate S.A. Meiklejohn for the appellant.

JUDGMENT

COMMISSIONER HAMON: The facts of this case are somewhat unusual. On the 27th January, 1989, the appellant passed his local driving test and on the 30th January, 1989, he completed his application form for a driving licence. During December of the previous year he had, as a learner driver, committed a series of motoring offences. The facts of those motoring offences have not become clear, even though Advocate Meiklejohn expressed to us the facts as he now understands them.

The appellant appeared in the Police Court on the 8th February, and was convicted and banned from driving for one month from the 8th February until the 7th March. On the 6th February, two days before his appearance in the Police Court, he obtained a duplicate driving licence from the Town Hall and it was this duplicate licence that he surrendered in the Police Court on the 8th February. His original licence then arrived through the post.

On the 13th February he drove his motor car from Val Plaisant to the car ferry and went on holiday to England for some three weeks. He returned on the 6th March. He was stopped by a Special Branch Officer and produced his original driving licence. In consequence of his driving whilst disqualified his insurance policy, not only in Jersey but of course throughout the whole of the time he had been on holiday in England, was void.

Judge Trott in the Police Court obviously viewed the matter seriously and I will read from the transcript, where he said:

"I view the seriousness of this offence greatly and so does the legislature and therefore I have no alternative on the first two offences; you will go to prison for one month".

In our view the learned Magistrate was perfectly correct to view this matter as serious. Driving whilst uninsured could have the most awesome consequences if at some time injury or death had been caused to a member of the public.

In his excellent address, Mr. Meiklejohn asked us to apply the one-transaction rule to the present case. We cannot do that simply because of the lapse of three weeks between the first and second driving of the motor vehicle.

Therefore, having considered all the authorities which have been very helpfully put to us by counsel, we are left with the principle which was expressed in the case of *A.G. -v- Valeriano Marciano Martin Perez (Appellant) (1978) JJ 95*, where Court of Appeal said:

"One principle which does seem to be clearly established is that when consecutive sentences are passed the Court must consider whether in aggregate may amount to a period excessively long for the whole of the conduct covered by the indictment".

We have considered all that has been said to us about the whole of the conduct covered by this indictment and having done so we do not find it possible to say that it was wrong in principle for the Court to treat three months as the appropriate period for the total sentence. The appellant may very well have been confused. The appellant may very well not have understood the full consequences of driving while uninsured, but I do not conceive that this Court can take that ignorance of the law into account.

In the circumstances we find that the sentence imposed by the learned Magistrate was correct. The appeal is therefore dismissed.

Authorities referred to:-

D.A. Thomas (2nd edition), at:-

p.167 re. "Motoring offences"

p.169 re. "Driving while disqualified"

p.52 et seq re. "THE ONE-TRANSACTION RULE"

Thomas' Sentencing Practice, at:-

p.1030/5 re. "SENTENCE OF IMPRISONMENT - CONSECUTIVE TERMS (A5)"

p.1036/2 - A5.2(j)

p.1030/5 et seq - A5.2A

p.1031 - A5.2(b)

p.1038 - A5.3(b), A5.3(c)

A.G. -v- Ralph Shannahan (1974) JJ 43, at p.44.

A.G. -v- Valeriano Marciano Martin Perez (Appellant) (1978) JJ 95.

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