

ROYAL COURT

8th May, 1990

65.

Before: Commissioner Hamon, and
Jurats Vint and Le Ruez .

Police Court Appeal: Paul Andrew Stewart

Advocate: S.C. Nicolle for the Crown
Mr. Stewart for himself

Appeal against total fines of £470 and disqualification from holding or obtaining a licence for a period of one year imposed following convictions on charges of driving without insurance, using a certificate of insurance with intent to deceive, failing to deliver a motor vehicle registration book to the Treasurer of the States and making a false statement for the purpose of obtaining a certificate of insurance.

JUDGMENT

The Commissioner: As the learned Deputy Bailiff said in the case given to us by the learned Crown Advocate, Michael Joseph Mière "if everybody went around flouting the law, this Island would come to a standstill". The facts of this case are simple. This appellant was convicted on five counts, two of which related to driving without insurance and for those offences he was disqualified for a

period of twelve months. These two disqualification sentences running concurrently.

He has a bad record, running since 1978, and we think it important to note that on the 17th of October, 1989, he was charged before the Magistrates Court with driving without insurance. For that he was given an absolute discharge, but, we would say he was clearly put on notice on matters of insurance.

Now, on the 3rd November, 1989, he received two recorded delivery letters from his insurance company. One is headed 'Important Notes' and the other is headed "You Should Read This Carefully". Paragraph two of one of the letters of the 3rd November reads in this way: "We hereby give you notice that in accordance with the terms of your policy/policies, we shall cancel this insurance cover on the date shown above. This cancellation will not take effect if payment of arrears is received in full before that date", and then in capital letters: "No further advice of policy cancellation will be given". On the second letter, again in capital letters - and although it refers to matters of English Law in part, the warning given is perfectly clear - it says: "If you have any difficulty in paying any sum under the agreement or taking any other action required by this notice, you can apply to the Court which may make an order allowing you or any surety more time. If you are not sure what to do you should get help as soon as possible. For example, you should contact a solicitor, your local Trading Standards Department or your nearest Citizens Advice Bureau".

Now, the appellant was driving for a considerable time after that whilst uninsured. And, what we obviously have to consider, after listening very carefully to what he had to say because he represented himself, is whether we thought the offence was deliberate or inadvertent, whether, in our view, he was misled or whether there were any other mitigating circumstances.

We take the view that what he did was deliberate and we sympathise greatly with him because he is attempting to reform from what has

been a bad record and we are assured that he is getting himself in order. He has a young child and has now developed a steady relationship with a young lady. Unfortunately the Magistrate has exercised a discretion and we cannot see any way, in the circumstances, that we can vary the sentences that were imposed. This is a sad case, it is an unfortunate case. The consequences of driving while uninsured are extremely serious. For instance one only has to think of what might have happened if while uninsured the appellant had struck, and seriously injured, a pedestrian walking about the Island; the consequences of that are too serious to even contemplate. We have tried to exercise some form of amendment to the sentence imposed by the learned Magistrate but we find that we cannot do that and therefore the sentence is confirmed and the Appeal is dismissed.

Athorities

Police Court Appeal: Linda Jane Trédant - (12th March, 1990)
Jersey Unreported.

Police Court Appeal: Michael Joseph Mière - (5th February, 1990)
Jersey Unreported.