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ROYAL COURT

22nd July, 1991 104

Before: The Deputy Bailiff, and
Jurats Le Ruez and Vibert

The Attorney General

- v -

Geoffrey Taylor

Police Court Appeal: appeal against
sentence of disqualification

Miss S.C. Nicolle, Crown Advocate.
Advocate S.J. Crane for the appellant.

JUDGMENT

DEPUTY BAILIFF: On the 23rd May, 1991, the appellant was convicted, on his guilty plea, of infractions of Articles 15 and 27 of the Road Traffic (Jersey) Law, 1956, i.e. careless driving and failing to stop and report an accident. Fines were imposed. On the second offence he was disqualified for holding or obtaining a licence to drive for a period of twelve months. He appeals only against that disqualification.

A road traffic accident involving the appellant's vehicle, which he was driving, occurred at about 11.20 p.m. on the 19th March, 1991, at the junction of the Rue de la Ville Emphrie and La Rue des Prés Sorsoleil, or Meadow Bank, in the Parish of St. Lawrence. The appellant had left the Mont Felard Hotel at about 10.50 p.m. He went to drive a friend home by an unfamiliar route. At the junction he clipped the kerb and the car ended up in a brook. The front nearside wing of the vehicle was damaged, but the appellant claims that the damage had been done in another accident at an earlier date.

Police Officers attended at the scene. The vehicle had been abandoned and the driver could not be found. The vehicle and registration number were similar to those in a "lookout" issued earlier that night for a suspected case of driving whilst unfit through drink. But the appellant's J number is 53928. The police had received an anonymous telephone call at 23.10 hours to the effect that a man had just left the Mont Felard Hotel "staggering all over the place" and had driven off towards St. Peter's Valley in a navy blue Colt registration No. J 69825. (One digit only is in the correct place and three others in wrong sequence). At 00.05 hours on the 20th March, police officers attended at the appellant's home at Perquage Court; he was looking out of the window as they arrived. The appellant said that he knew where his car was and that he was just about to call the police immediately on their arrival. He claimed that he had been at home for half to threequarters of an hour and during that time he had consumed three glasses of German wine and one can of Grolsch lager. The appellant was co-operative and apologetic.

The appellant told the police that he did not think the incident amounted to an accident and that he believed that an

accident was to be reported only if damage was caused to property or to the vehicle involved.

The appellant had telephoned Mr. Peter Arthur, a car dealer, at about 11.20 p.m. and asked if he should report the matter. He told Mr. Arthur that he had not damaged his vehicle or any property and that his car was not causing an obstruction. Mr. Arthur advised that if the car was off the road he did not think that the appellant need call the police. The appellant was later about to call the police only to "play safe".

The appellant was not charged with driving whilst unfit through drink because of the amount of alcohol which he allegedly consumed at home subsequent to the accident. The Court has been careful therefore to consider this matter solely on the basis of a motorist who has failed to stop and report an accident. On the other hand there are matters of fact and degree in all cases and the members of the Court have judicial knowledge of the fact that some motorists do fail to stop and report accidents occurring soon after public-house closing times in order to avoid the charge of driving while unfit which would otherwise inevitably follow. That is a matter to be taken into account in considering the period of disqualification as a deterrent.

The appellant has a previous conviction for driving whilst unfit through drink but that was in 1974 and can properly be regarded as spent after a gap of over 16 years.

The learned Judge said that in the circumstances of the case he thought the disqualification of one year to be appropriate. Was he reflecting a belief that the appellant had left the scene to evade his criminal responsibilities, or was he merely reflecting the need for deterrence and the seriousness of

the offence? Unfortunately, we do not know. We are very much in the same position as the Court was in the Police Court Appeal of John Absolom Miller (4th June, 1990) - there is a risk that the Magistrate may have allowed himself to be influenced by the evidence given by the Centenier that a "lookout" issued earlier that night was for a suspected drunken driver.

One of our difficulties is that we do not know which papers are before the Judge - we have read the Police Inspector's recommendation to the Centenier - who says "There is no doubt in my mind that this person left the scene to avoid his criminal responsibilities - hence the need to consume a large quantity of alcohol within a short space of time".

We share the Inspector's suspicion but how can we be sure that it did not influence the Judge who referred only to the circumstances of the case - without explanation. A Judge should always explain his reasons.

The schedule of previous decisions is of limited assistance. Counsel could at least have researched the press reports of the other cases where disqualification of 6, 9 or 12 months was imposed. It is impossible for us to know that we are comparing like with like.

Taking all those factors into account we are all left with a sense of unease. Therefore, we allow the appeal, we quash the disqualification of 12 months and we substitute a disqualification of 6 months.

Legal aid costs.

AUTHORITIES

A.G. -v- Miller (4th June, 1990) Jersey Unreported.