

ROYAL COURT
(Samedi Division)

21st March, 1994

62.

**Before: The Deputy Bailiff and,
Jurats Blampied and Orchard**

Jean Reid

-v-

Her Majesty's Attorney General

Appeal against conviction and sentence imposed in the Police Court on 8th February, 1994, following not guilty plea to:

1 charge of contravening Article 2 (as amended) of the Motor Traffic (Third Party Insurance) (Jersey) Law, 1948, on which charge the appellant was sentenced to a fine of £50 or 3 weeks' imprisonment in default, with 6 weeks' disqualification from driving.

Advocate P.C. Harris for the Appellant.
Advocate A.D. Robinson on behalf of the Attorney General

JUDGMENT

THE DEPUTY BAILIFF: This is an appeal by Miss Jean Reid against a disqualification imposed by the Magistrate of 6 months' in addition to a fine of £50 for an offence of using a motor vehicle without third party insurance.

Mr. Harris makes two points on behalf of the Appellant. The first is that the car in question was out of commission and was being towed by a friend of Miss Reid to a position near to Commercial Buildings from where it was subsequently pushed across the road to the place where it was eventually found. The difficulty with that explanation is that the learned Magistrate quite clearly reached the conclusion that Miss Reid had been driving the car at a time when it was uninsured. He said, and I quote:

"There is no doubt in my mind at all that on that occasion you were driving."

Now, it appears to the Court that we must accept that factual basis as being the basis upon which the Appellant was convicted and sentenced. The Court has some unease about accepting that factual basis because it is quite clear from the transcript that the case was one in which the process of justice would have been greatly enhanced had there been prosecuting counsel to present the case on behalf of the prosecution. As it was there was no prosecuting counsel, and nor in fact was there counsel appearing for Miss Reid, and we have some sympathy for the learned Magistrate in the exceedingly difficult task with which he had to deal in unravelling the confusing state of affairs which was laid before him in the Court. Be that as it may the Magistrate made a finding and it appears to us that we are bound by that.

The second point raised by Mr. Harris is that there are a series of cases beginning with the appeal of Kollins (17th February, 1992) Jersey Unreported, where this Court has laid down that it is desirable that the Magistrates should, before they impose a disqualification greater than the normal range, give the accused person the opportunity of making submissions on the disqualification which the Magistrate has in mind. The Court made it clear that this is not to be regarded as an inflexible rule but we think that it can rightly be said that, where a significant disqualification is to be imposed, a defendant should have the opportunity of making any submissions which he or she may wish to make on the proposed disqualification. We have asked ourselves whether the decision of the learned Magistrate might have been different if he had in fact put to Miss Reid that he was contemplating a period of disqualification. We think that, if the Magistrate had been told that Miss Reid, who is currently unemployed, was hoping to find employment as a representative of a hire car firm with the advent of the summer season, he might well have taken that into account when imposing the period of disqualification.

We, therefore, propose to allow the appeal to a limited extent and we substitute a disqualification of 8 weeks' for the disqualification imposed by the learned Magistrate.

Authorities

Murphy -v- Attorney General (22nd November, 1993) Jersey Unreported.

McDermott -v- Attorney General (13th September, 1993) Jersey
Unreported.

Kollins -v- Attorney General (17th February, 1992) Jersey Unreported.