3 pages.

ROYAL COURT
(Samedi Division)

229.

11th November, 1994

Before: The Deputy Bailiff, and
Jurats Gruchy and Herbert.

Police Court Appeal
(the Relief Magistrate, T.A. Dorey, Esq.)

John Christopher Green

- v -

The Attorney General

Appeal against a total sentence of 7 days' imprisonment and 1 year's disqualification from driving passed on 15th September, 1994, following guilty pleas to:

1 count of — permitting another person to drive uninsured, contrary to Article 2 of the Motor Traffic (Third Party Insurance) (Jersey) Laws 1948-1972, on which count a sentence of 7 days' imprisonment with 1 year's disqualification from driving was imposed (count 1).

1 count of — contravening Article 44A of the Road Traffic (Jersey) Law, 1956, as amended, by aiding and abetting another person to commit an offence under Article 27 of the said Law, on which count a sentence of 7 days' imprisonment, with 1 year's disqualification from driving, concurrent, was imposed (count 2).

The Appellant also pleaded guilty to 1 count of driving uninsured, contrary to Article 2 of the Motor Traffic (Third Party Insurance) (Jersey) Laws 1948-1972, and a 1 year binding over order was imposed. No appeal was brought against this sentence (count 3).

Appellant allowed to amend ground of appeal on count 2 to include appeal against conviction.

Appeal against conviction on count 2 allowed; appeal against sentence on count 1 dismissed.

Advocate A.D. Robinson on behalf of the
Attorney General.
Advocate D.F. Le Quesne for the Appellant.

JUDGMENT

THE DEPUTY BAILIFF: John Christopher Green has appealed against the sentence imposed by the Police Court on 15th September, 1994, for an offence of causing or permitting another person to drive a motor vehicle whilst there was not in force the appropriate third party insurance.

The appellant was granted leave by this Court, by consent, to change his grounds of appeal in order to appeal against his conviction for a further offence of aiding and abetting another person to commit an offence under Article 27 of the Road Traffic (Jersey) Law, 1956. It is common ground between counsel for the appellant and counsel for the Crown that there is no evidence to support that conviction. The Court agrees and accordingly, in respect of that charge, allows the appeal and quashes the conviction under charge 2.

It is, perhaps, necessary to say a few words as to how this offence of causing or permitting another to drive without third party insurance came about. It appears that the appellant met with a young woman, Miss Sharon Louise Adams, in a discothèque, during the early hours of the night in question. They left the discothèque together and went to a car park where the appellant's car was parked.

According to the statement of Miss Adams the appellant then said that he was too drunk to drive and she then volunteered to drive the car herself.

Mr. Le Quesne for the appellant puts the ground of appeal as being one essentially of disparity. When the Relief Magistrate imposed the sentence he said that the appellant was the prime mover. Mr. Le Quesne submits that there is no evidence to support that conclusion.

Mr. Robinson for the Crown invited us to look at the whole of the extract in question. The Relief Magistrate said this:

> *"Mr. Green, you got very drunk and you allowed Miss Adams to drive your car without making any real enquiry as to whether or not she was insured and also without giving any consideration as to whether or not she was capable of driving; and so you are really the prime mover of these unfortunate incidents".*

Mr. Le Quesne submitted that the Court should consider whether there was a proper relationship between the sentences passed on each of the offenders who were party to this transaction. What had happened after Miss Adams had been permitted to drive the car was that she drove from the car park through the town and eventually, upon taking a corner, collided with a parked car, causing substantial damage. She and the appellant had then run off but had subsequently been apprehended.

The Court is satisfied that there was a proper relationship between the sentences imposed on Miss Adams and on the appellant. Each of them was sentenced to seven days' imprisonment. It is true that Miss Adams drove the motor vehicle, but the appellant bears the responsibility for permitting that state of affairs to arise.

We have noted that although both the appellant and Miss Adams had consumed too much alcohol to justify the driving of a motor vehicle, it appears that Miss Adams was considerably more intoxicated than the appellant. The appellant, when tested at Police Headquarters, was found to have between 57 and 60 micrograms of alcohol in his breath, whereas the driver of the car, Miss Adams, was found to have 115 micrograms in her breath. It ought therefore to have been obvious, in our judgment, to the appellant that Miss Adams was unfit to drive the car, yet the appellant entrusted her with the vehicle, at great risk to the public, with the result that an accident did in fact take place.

We cannot find that the sentence imposed by the Relief Magistrate was either wrong in principle or manifestly excessive and the appeal is therefore dismissed. Mr. Le Quesne you shall have your legal aid costs.

No authorities.