

ROYAL COURT

17th December, 1990

199,

Before: The Bailiff, and
Jurats Myles and Herbert

Attorney General

- v -

A. J. Carre

Police Court Appeal.

Appeal against sentence of three months' disqualification imposed by the Relief Police Court Magistrate for an infraction of Article 15 of the Road Traffic (Jersey) Law, 1956 (careless driving).

Advocate S.C.K. Pallot for the Crown.
Advocate S. Howard for the appellant.

JUDGMENT

BAILIFF: This is a case which comes up on appeal from a decision of the Relief Magistrate to impose a fine of £75 for an infraction of Article 15 with three months' suspension and disqualification. The appeal is against the disqualification only.

We have looked at the previous sentences imposed by the Magistrates and although an amount of three months has only appeared once in October, it certainly has appeared and it is difficult to establish a particular norm for the length of time during which a person should be disqualified from driving. It appears to vary from one to three months. Certainly the decision whether to disqualify or not is one for the discretion of the Magistrate, having regard to all the circumstances of the case.

In the instant case we had the peculiar circumstances that the appellant - due to a disagreement with her boyfriend - became distressed and in that condition got into her car and drove round the country lanes of the East part of the Island. That in itself indicates an attitude of mind which could be described as negligent and really might have led to something worse. Fortunately there was no other traffic on the road when she hit a bank in one of the lanes and the car continued across the road and came to a halt against a wall. But driving in that way could be indicative of a careless state of mind.

After the accident she panicked - the Crown accepts this - and walked some two miles to a house where she spent the night because she was so upset, having left her purse in the car. She did not contact the police until later in the afternoon of the following day, some fifteen hours after the event.

All these are matters which the Magistrate was entitled to take into account. He also took into account not only that the appellant had a previous conviction in 1982, but that in 1986 she had received a Centenier's warning as the result of an accident in another country parish. Of course that was not a finding of guilt by a Centenier, it can merely be evidence that there had been an accident and that there had been a caution applied. It is not a finding of guilt as a Court decision would be, but it has some weight that can properly be attached to it but not the same weight as that of a recorded conviction.

Under all the circumstances the Court had to ask itself first of all whether it was wrong in principle to impose a disqualification in

respect of an Article 15 offence and the Court is quite clear that it is not wrong in principle to impose a disqualification.

The second question the Court had to ask itself was whether under the circumstances of this case, three months was manifestly excessive and the Court came to the conclusion that it was not. Accordingly the appeal is dismissed with legal aid costs.

Authorities cited:

Wilkinson's Road Traffic Offences (13th Edition) paragraph S.89:

"Sentencing by Magistrates for reckless and careless driving".

Suggestions for Traffic Offence Penalties published by the Magistrates' Association, May 1985.