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POLICE COURT APPEALS

24th November, 1986

Attorney General v. Raymond Gallery

Judgment

DEPUTY BAILIFF: The Court does not lightly upset a finding of fact by the Magistrate. The appellant has failed to satisfy us that the decision of the Assistant Magistrate was unsafe or unsatisfactory. He had the benefit of the States Analyst's evidence, the blood alcohol concentration at the time of the offence was between 135 and 145, a factor to which the Court is bound by law to have regard. In addition, the Assistant Magistrate had the evidence of Police Constable Houguez and Police Sergeant Le Troquer. Against that, he had the doctor very fairly saying that he considered the appellant might be unfit, but he could not be certain. The Assistant Magistrate was entitled to say that with the additional evidence that the doctor did not have, he, the Assistant Magistrate was certain. One has only to look at his notes to see what he thought. He asked himself the question "with reasonable doubt?" and he answered it "no", which he underlined and the figure 135. He also wrote the words "samples - factor" and the word "satisfied" again underlined. We do not agree that his decision was against the weight of the evidence and the appeal is dismissed.