

ROYAL COURT

14th January, 1991

Before: The Deputy Bailiff, and
Jurats Coutanche and Vibert

The Attorney General

- v -

David Francis Whiteford

Charges: accused sentenced in respect of 6 counts under Article 9(4)(b) of the Road Traffic (Jersey) Law, 1956; 3 counts under Article 2 (1) of the Motor Traffic (Third Party Insurance) (Jersey) Law, 1948; 1 count under Article 15 of the Road Traffic (Jersey) Law, 1956; 1 count under Article 27 of the Road Traffic (Jersey) Law, 1956.

PLEA: Guilty.

DETAILS OF OFFENCE: Disqualified in 1987 for a total of eight and a half years. Thereafter drove on a regular basis, sometimes for the purposes of his work, sometimes for pleasure.

DETAILS OF MITIGATION: Plea of guilty. The defendant himself, when being interviewed about the careless driving, brought the disqualification to the notice of the police (it had not been entered on the police computer).

PREVIOUS CONVICTIONS: Many, including previous for driving whilst uninsured and driving whilst disqualified.

CONCLUSIONS: Driving whilst disqualified: 4 months on each. Driving uninsured: 5 months on each. Careless driving: £50 or 1 week. Failure to stop and report: £75 or 2 weeks. All sentences of imprisonment, and both defaults if need be, to run concurrently. No further disqualification.

SENTENCE AND OBSERVATIONS OF THE COURT: Conclusions granted. The Court had considered raising the sentence in respect of the driving whilst uninsured to 6 months. By a majority, conclusions granted in respect of the sentences of imprisonment and the fines. The default sentences were consecutive. Where a defendant is imprisoned on some counts and fined on others, defaults should be consecutive not concurrent, so that the defendant must either pay the fine or serve an extra term of imprisonment. The Court also gave its approval to the reasons for not moving for a further period of disqualification, i.e.

that very long periods of disqualification are counter productive; the defendant should see the light at the end of the tunnel.

Miss S.N. Nicolle, Crown Advocate
Advocate S. Howard for the accused.

JUDGMENT

DEPUTY BAILIFF: We have taken some time because our discussion has revolved around a possible increase in the conclusions moved for, and not for any possible reduction. Mr. Howard said all that could have been said but we cannot agree with the conclusion that he reaches.

In the Beedles case we are told by the headnote that the most distance he had ever travelled was 25 yards. This was in relation to moving vehicles in the course of his work as a tree-surgeon. And the sentences there were four months and five months respectively.

In the instant case there was a greater degree of driving by a man who had a bad record including dishonesty in obtaining a false certificate of insurance. Increased sentences could have been fully justified; at the the same time Whiteford must be given credit for his admissions, for his persistence with the police, and for his plea of guilty.

Eventually the learned Jurats were divided - one would have imposed a sentence of six months for the insurance offence; the other was in favour of the shorter sentence of five months moved for.

In accordance with custom my casting vote has to go on the side of lenience. However, we are unanimous in varying the conclusions in one respect. Where fines are imposed, to impose concurrent periods of imprisonment in default makes the fines meaningless. In some cases that is inevitable, but here it is not. Either Whiteford must pay the fines or serve the default periods in addition.

Therefore, Whiteford, on Counts 1 - 6 inclusive, which are the driving whilst disqualified charges; you are sentenced to four months' imprisonment on each count concurrent with each other.

On Counts 7 - 9, the insurance charges; you are sentenced to five months' imprisonment on each count concurrent with each other and concurrent with the previous sentence on Counts 1 - 6.

On Count 10, you will pay a fine of £50, or serve one week's imprisonment consecutive.

On Count 11, you will pay a fine of £75, or serve two weeks' imprisonment consecutive. Because we agree with Crown Advocate Nicolle, that on the question of disqualification a very long disqualification can become counter-productive and an accused must be able to see the end of the tunnel, we make no further disqualification in this case.

Authorities

A.G. -v- Beedles (19th October, 1990) Jersey Unreported.

A.G. -v- Mière (5th February, 1990) Jersey Unreported.