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IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN
SCA. 42/93

JUDITH MCLAUGHLIN V. REGINA

Mr. Furniss for the appellant
Mrs. Banks for the Crown

JUDGMENT

This is an appeal against sentence on two charges of driving without insurance in respect of which the appellant was convicted on her own pleas. Specifically the appeal is against the period of disqualification of 12 months on each charge imposed to run concurrently.

The offences were committed on the 14th March 1992 and on the 4th February 1993.

The charges are brought pursuant to Section 3 (1) of the Motor Vehicle Insurance Third Party Risks) Law, 1990 "the Law". The Law requires that "a person convicted of an offence under this section shall (unless the Court for special reasons thinks fit to order otherwise and without prejudice to the power of the Court to order a longer period of disqualification) be disqualified from holding or obtaining a licence for a period of twelve months from the date of the conviction."

By the pleas in mitigation, it was presented to the learned Magistrate that on the occasions of the two offences, the appellant had been misled by her husband to believe that the insurance policy in effect in respect of the vehicle, served to cover his as well as her use of the vehicle. He worked at the Insurance company which carried the

coverage and she assumed she was safe in relying on his assurances.

Notwithstanding that the appellant had become estranged from her husband, she continued to rely on his assurances in that regard without any independent verification, even after the first offence was committed on 14th March 1992. That reliance also resulted in the second offence, which was committed on 4th February 1993, according to her explanation.

Against that background this court has been urged to find that "special reasons" within the meaning of Section 3 (1) of the Law, were presented on her behalf, and that the learned Magistrate should have exercised his discretion to not impose a disqualification or to impose a shorter period of disqualification.

By earlier decisions of this Court, it has been decided that our Courts should not slavishly follow the authorities from the English Courts on the question of the interpretation of the Law as the English provisions are not strictly equivalent.

See Kirk Christian v. Regina SCA. 215/91 (unreported)

It has also been decided however, that as the genesis of our statutory provision is the English law, decisions of their Courts are capable of giving persuasive guidance on the interpretation, and particularly as to the manner in which the discretion vested by section 3 (1) of the Law is to be exercised.

Thus, despite Mr. Furniss' submissions to the contrary, I am at liberty to consider the judicial pronouncements of the English Courts on this question of the exercise of discretion and as to what circumstances might amount to special reasons.

See Donald Elisha Welcome v. Regina SCA.#48/92 (unreported)

With those principles in mind, I refer to the decision of the English

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Court, (cited by Crown Counsel in this appeal) in

Rennison v. Knowler (1947) 1 K.B.D. 302.

where it was held that a mistaken belief with regard to any fact, however honest, could not be regarded as a "special reason" (within the meaning of the English statute) unless it was based on reasonable grounds.

I consider that to be a statement of first principles and to be equally applicable to this issue as it falls to be decided under the local legislation.

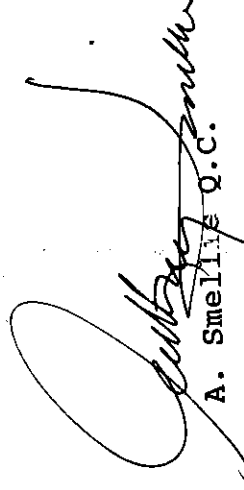
The learned magistrate had found that the appellant had not presented her belief on reasonable grounds. She had not taken the necessary precaution of checking the documents herself in discharge of her primary responsibilities even after her reliance on her husband's representations had proven to be misplaced when the first offence had been committed.

Her continued reliance on similar subsequent representations, without more, resulting in the second offence, could not have been reasonable.

In the result, the periods of disqualification were ordered to run concurrently.

I can see no basis for interference and the appeal against sentence is dismissed. The convictions and sentences are affirmed.

22nd November 1993


A. Smellie Q.C.

Judge