

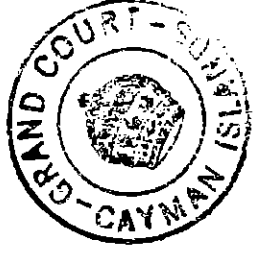


IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

SCA #33/92

COLIN REDDEN V. REGINA

Mr. Hampson for the appellant
Mr. Archie for the Crown



JUDGMENT

Schofield J.

The appellant, Colin Redden, was convicted after trial of the two offences of permitting a person to drive without being qualified so to do, contrary to section 30 (2) of the Traffic Law, and permitting a person to drive without insurance, contrary to section 3(1) of the Motor Vehicle Insurance (Third Party Risks) Law, 1990. He now appeals against those convictions.

The appellant is a police officer and on the 13th July, 1991, had a sixteen year old girl friend called Domonique Linwood. Miss Linwood lived at Northward and on the day in question travelled into town with the appellant in his motor car. Domonique's fifteen-year-old sister Teresa travelled with them. The appellant was going on duty to guard the offices at the ICIC Building in North Church Street, George Town. He was on duty at 3 p.m. At about 5 p.m. the appellant's car, with Domonique Linwood as driver and her sister as passenger, was involved in an accident in Savannah. Of course Domonique, at sixteen, could not hold a driving licence and she was not covered by insurance. It was the prosecution case that the appellant permitted Domonique to drive the vehicle and when he left the car at the ICIC Building gave Domonique instructions as to the route she should take back to Northward to avoid patrol cars. The gap in time between leaving the appellant in town and the time of the accident was explained by the sisters waiting at a filling station for an overheated engine to cool down. The appellant denied giving Domonique permission to use the vehicle. His

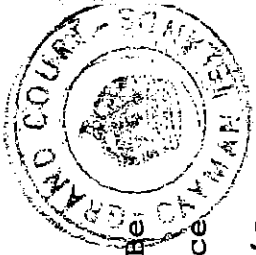


testimony was that he had instructed a friend of his called Curtis to collect the young ladies in the car from outside the ICIC Building and to that end had given Curtis a set of car keys the night before. Curtis did not turn up in good time and Domonique told him she became tired of waiting for him and used a third set of keys to drive herself and her sister.

This was a lengthy case pursued vigorously by both prosecution and defence. Its determination rested solely on credibility and I have been invited by counsel to review the evidence carefully and, as I must do, make my independent assessment of it. This I have done and have reached the same conclusion as the learned Magistrate, who had the advantage of seeing and hearing all the witnesses.

Domonique Linwood contradicted herself in her evidence. Initially she related the story I have set out above as the prosecution case. On cross-examination, however, a statement which she had given to the appellant's attorney for the purpose of these proceedings was put to her. The statement gives a version of events which conforms to the appellant's version. When asked directly in cross-examination whether the statement was true Domonique said it was. However, later again in her evidence she reverted to her original story that the appellant gave her permission to drive the car. On the face of the record Domonique substantially contradicted herself, but it became apparent that the appellant had greatly influenced Domonique and that she was very upset about the position she was in. The appellant had on his own admission taken her to the attorney to give the statement. Domonique testified that the appellant told her what to say to her attorney and, furthermore, that the appellant had spoken to her on the morning of the hearing.

Given Domonique's relationship with the appellant and her position of either getting her former boyfriend into trouble or possibly being charged with a more serious offence it is not

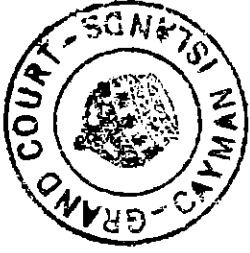


surprising that this young lady was in a state of confusion. He testified that as it may, if the Court had been left with her evidence alone there must have been a serious doubt as to the appellant's guilt. But the Court also heard the evidence of Domonique's sister Teresa who clearly and impressively related events which corresponded with Domonique's initial explanation. Teresa was not discredited under intensive cross-examination.

The appellant's testimony was unimpressive. He proved himself capable of twisting his explanation to suit the point he was making. A simple example of this was his evidence that he had been involved with Domonique for two years prior to the incident. This he later changed to two months. Then we have the appellant's story about the mysterious Curtis who was supposed to collect Domonique from outside the ICIC Building and drive her home in the appellant's car. The appellant told P.C. Hyre, in an interview conducted on 16th July, 1991, that he would not name his friend because the friend did not want to get involved in the matter and that the friend lived in Windsor Park. To Court he gave the man's first name and said he stays in Windsor Park when he is in Cayman, but that he lives in Barbados. None of this had the ring of truth about it.

Much was made by the defence of an allegation by the appellant that Domonique was forced by the officers investigating the case to give a statement to them. Although it does not go to the root of the case it does go to the issue of Domonique's credibility, because she said the officers threatened that if she did not give a statement her mother would be charged or go to prison. Sergeant Elliott explained that Domonique's mother was making threats to the appellant because of the nature of their relationship and her daughter's age. The Sergeant said that it was in this context that he warned Mrs. Linwood that if she carried out her threats she could be in trouble with the police. Possibly in her emotional state Domonique misunderstood the context in which Sergeant Elliott was speaking.

The learned Magistrate considered the evidence in its totality. He pointed to the flaws in Domonique's testimony. He found Teresa's evidence to be truthful. Teresa's evidence corresponded with the story Domonique gave the police when she did not have the appellant standing over her. It corresponded to Domonique's first and last explanation to the Court. On my independent review of the evidence I consider that the learned Magistrate came to the correct conclusion. The charges were proved beyond a reasonable doubt and the appeal is dismissed.


Judge

Dated this 6th day of August, 1993