

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

SCA # 10 of 1992

GABE LONN POWELL V. REGINA

Appellant in person
Mr. Archie for the Crown

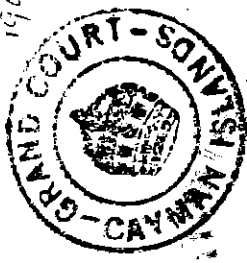
JUDGMENT

Schofield J.

Gabe Lonn Powell ("the appellant") is a police officer with the Royal Cayman Islands Police Force. On the 26th July, 1992, he was with the Traffic Department and just after 11 p.m. that night was driving a police car in West Bay Road carrying Sergeant Velma Powery as his passenger. They received a report of a serious accident in West Bay and sped to the scene with sirens blaring. In Town Hall Road, West Bay, the appellant's car got into a skid and slid into an electricity pole. The two officers in the car were taken to hospital, but fortunately such injuries as they sustained were minor. The police car was wrecked. The appellant was charged with, and convicted of, an offence of careless driving, which conviction he now appeals.

Much of the trial was taken up in a challenge of a sketch plan produced by Police Sergeant Smalldon. The value of the sketch plan as evidence of what transpired at the time of the accident was sufficiently put into question by the other evidence in the trial as to make me disregard it. The sketch was made about twelve hours after the incident when the police car had been removed from the scene. It was the second such sketch prepared by a police officer, the first of which was prepared by Sergeant Vincent Walters and was not produced at the trial. Sergeant Powery, who testified for the Crown, did not agree with the ingredients of the sketch produced in Court.

Be that as it may, the appellant admitted his vehicle got into a skid, and according to Sergeant Powery the skid would be 300 to 400 feet in length. The appellant did not quarrel with this estimate. Both Sergeant Powery and the appellant put his speed into the corner where the skid commenced at 35 miles per

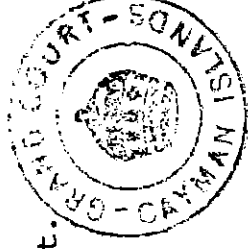


hour. The fact of the skid suggests he was travelling at speed. But the reason for the skid is given by the appellant himself. He wanted to switch his bright lights on to have better vision into the bend. In doing so he may, he said, have taken his eyes off the road for a second to locate the switch. He was thereafter going off the road and had to correct this and so got into the skid.

The learned Magistrate rightly applied the law to this evidence. Although the strict speed limits may not have applied to the appellant driving an emergency vehicle (see section 63 (1) of the Traffic Law) he was still under a duty to exercise the proper degree of care in the circumstances. In entering this bend at night at the speed he did the appellant departed from the degree of care expected of him by taking his eyes off the road, as he must have done, to locate the light switch. The offence of careless driving was adequately proved.

The appellant is an experienced police driver with an impeccable driving record. He was responding to an emergency and his offence involved a moments aberration. He has been punished by the very fact of conviction and indeed, within the Police Force has been moved out of the Traffic Department. In all the circumstances it was unnecessary for the learned Magistrate to mark the offence with a substantial fine. The endorsement of the appellant's driving licence was mandatory on conviction. I had considered whether a discharge of the appellant was appropriate but a conviction of him is proper so an order under section 35 of the Penal Code is inappropriate. In the event the appeal succeeds to the extent only that I substitute for the fine of \$200 a minimal fine of \$50. One week to pay.

The appeal is dismissed except to that extent.



Judge

Dated this 23rd day of July, 1993