

IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRYM.63/84

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BETWEEN ROBIN ALBERT POPEAppellantAND MINISTRY OF TRANSPORTRespondent

Hearing 7 March 1984
 Counsel D J Taffs for Appellant
 B M Stanaway for Crown
 Judgment 7 March 1984

(ORAL) JUDGMENT OF DAVISON C.J.

The appellant was sentenced on 3 February 1984 in the District Court on two charges of driving whilst disqualified. The learned District Court Judge imposed a sentence of four months imprisonment and disqualified the appellant from holding or obtaining a motor driver's licence for 18 months from 7 April 1985. The appellant now appeals against that sentence and the ground of appeal given is that the sentence of the learned District Court Judge was manifestly excessive.

On looking at the appellant's past history, I note that in the six months before the two offences for which he was dealt with by the District Court Judge, he had been convicted three times for driving whilst disqualified. In respect of the two present offences, I note that he says that he drove the car because he wanted to go and pay some rent. Already the appellant has had a sentence of periodic detention which he breached. The circumstances of the breach were explained to me by Mr Taffs, but far from assisting the appellant, the explanation appears to me to be just another example of the way in which the appellant has flouted the orders of the Court over the past years,

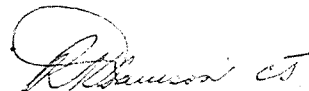
both in respect of the penalty he is to suffer and in respect of the disqualifications which have been imposed upon him.

It does appear from his record that he is just not prepared to accept that he must obey the orders of the Court and not drive when he is disqualified and must appear when he is sentenced to such matters as periodic detention.

When the case came before the District Court Judge, the information before me was all available to him except the explanation regarding his non-appearance at periodic detention but that is not a matter which, in my view, would or should have weighed with the Judge in imposing any different sentence.

It is said by Mr Taffs on the appellant's behalf that periodic detention should have been an option to the District Court Judge. I do not agree. It was also said by Mr Taffs that the learned Judge considered that a fine would affect the appellant's family but that the family would be more affected by losing a husband than by paying a fine. Well, the appellant may desire to stay with his family but any fine that would be imposed would be a very substantial one and I do not consider it appropriate in the circumstances that this man should just be fined in view of his past record. He needs the term of imprisonment to bring home to him that the orders of the Court must be obeyed.

I accept what Mr Stanaway said that the sentence of four months, in the circumstances of this case, is by no means manifestly excessive and the appeal must be dismissed.



Solicitor for the appellant:

D J Taffs (Christchurch)

Solicitor for the respondent:

Crown Solicitor (Christchurch)