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IN THE HIGH COURT OF NEW ZEALAND

M. 1394/84

AUCKLAND REGISTRY

1552

BETWEEN

TOBECK

APPELLANT

A N D

MINISTRY OF TRANSPORT

RESPONDENT

Judgment: 12 December 1984  
Hearing: 12 December 1984  
Counsel: No appearance for Appellant  
Linda Shine for Respondent

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ORAL JUDGMENT OF CASEY J.

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Mr Tobeck appeals against the sentence imposed on him on a charge of driving with excess blood alcohol. He was fined \$150 with costs and medical expenses and disqualified from driving for six months. He filed his appeal in person. Notice of the date of hearing was sent to him, but he has not appeared.

His objection seems to be that the Court was told he had been speeding at the time he was apprehended, when the appropriate tests were taken. They disclosed a blood alcohol concentration of 93 milligrams per 100 millilitres of blood. The sentence itself reflected the comparatively minor level of excess blood alcohol. He says that he received an instant fine for speeding and feels that he may have been punished for this again, as well as for the blood alcohol offence, when he appeared in the District Court and this fact was made known to the Judge.

I do not see it this way. The fact that he was speeding is a background matter of which the Court was

entitled to be informed, as part of the process of establishing the blood alcohol offence and as indicating how gravely he may have been affected. As I have already indicated, the sentence is certainly very much in line with those usually imposed for this level. I can see nothing in the grounds stated to warrant interference by this Court and the appeal is dismissed.

*Mr. Casey*

Solicitors:

Crown Solicitors Office, Auckland, for Respondent