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(J) RST

IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

No. M.493/84

1316

BETWEEN

BEECH

Appellant

A N D

MINISTRY OF TRANSPORT

Respondent

Hearing: 2 October 1984

Counsel: No Appearance for Appellant
A. McIntosh for Respondent

Judgment: 2 October 1984

ORAL JUDGMENT OF HOLLAND, J.

The appellant pleaded guilty in the District Court to a charge of driving a motor vehicle with an excess proportion of alcohol in his breath. He was sentenced to a period of four months periodic detention and disqualified from holding a driver's licence for a period of two years. He applied for legal aid. This application was refused.

He has made written submissions in which he says that as this is only his second driving offence in 35 years of driving he considered the periodic detention sentence to be too harsh. It may well have been his second offence within 35 years but it is only just one year since he was previously convicted of driving with an excess proportion of alcohol in his breath. On that

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occasion he was fined and disqualified from driving for a period of nine months. It is apparent that he learned nothing from that experience. In the circumstances the decision to release him on periodic detention rather than to send him to gaol as a second offender can be said to be in favour of the appellant and certainly cannot be said to be either excessive, too harsh or inappropriate.

The appeal is dismissed.

A. D. Holliday