

IN THE HIGH COURT OF NEW ZEALAND  
HAMILTON REGISTRY

BETWEEN:

COOK  
of Hamilton,  
Builder

844

Appellant

A N D:

MINISTRY OF  
TRANSPORT

Respondent

Offence: Driving with excess blood-alcohol  
Dealt With: 6 June 1984 At: Hamilton By: Millar DCJ  
Sentence: 18 months disqualification; \$600 fine.

Appeal Hearing: 18 July 1984  
Oral Judgment: 18 July 1984

Counsel: R G Marshall for appellant  
R G Douch for respondent

Decision: APPEAL ALLOWED - Disqualification reduced  
to 12 months.

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(ORAL) JUDGMENT OF GALLEN, J.

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This appellant was convicted on a charge of driving with an excess blood-alcohol concentration. The Summary of Facts indicates that he had a blood-alcohol level of 231 milligrams of alcohol per 100 millilitres of blood. The Summary also indicates that his driving was not particularly good but there was no accident, and there does not appear to have been anything very serious about his driving.

There is no indication on the file of the reasons which led the learned District Court Judge to impose the penalty which he did, but I am informed that he took

into account the fact that the appellant had had two previous convictions for dangerous driving. Those convictions, I am informed, were not alcohol-related and the last of them took place in 1973. I am also informed that on a first offence of this nature the disqualification period tends to range between 6 months in a comparatively mild case, to 18 months in a serious case, where normally such disqualification would be justified by a previous conviction or a particularly bad piece of driving.

Having regard to the circumstances, the length of the disqualification does appear to be out of line with that which is normally imposed, and I think that the length of time which has elapsed since the earlier offences is sufficiently long for the appellant to be regarded as, for this offence, a first offender.

Having regard to those circumstances, I am prepared to allow the appeal to the extent of reducing the period of disqualification to 12 months

*R. J. G. 1*

Solicitors:

Tanner Fitzgerald & Getty, Hamilton, for appellant  
Crown Solicitor, Hamilton, for respondent