

BETWEEN: GRANT LAWRENCE SAUNDERS

Appellant

A N D: MINISTRY OF TRANSPORT

Respondent

Hearing: 23 July 1987

Counsel: S.J. Tee for Appellant
Margaret Robbins for Respondent

Judgment: 23 July 1987

ORAL JUDGMENT OF JEFFRIES J. *Handwritten initials* ?

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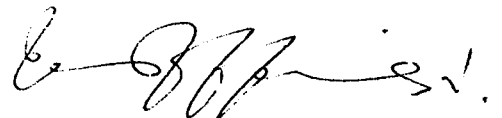
Appellant in this case was charged with driving a motor vehicle on a road while the proportion of alcohol in his breath exceeded 500 micrograms of alcohol per litre of breath in that it was 650 micrograms of alcohol per litre of breath. He had been driving in Albany when he was involved in a single car accident on a bend in a road; he being unable to control the vehicle and it rolled over. He had a passenger but fortunately no-one was injured, and no other car involved. Clearly a startlingly obvious link between consumption of alcohol and the accident.

He is a young man aged 19 years. He came before the District Court Judge on 18 March 1987 where he was unrepresented and entered a plea of guilty. Apparently he informed the

Judge that he intended to leave New Zealand for about a year and the Judge, possibly to ensure some penalty was imposed upon his driving in New Zealand, exceeded the disqualification period to 18 months. I said "possibly" because a note from the District Court Judge said that as the matter was dealt with on a plea of guilty there are no sentencing notes available, and the Judge does not offer any recollection of the sentence.

He now appeals against the period of disqualification as being excessive. Apparently he also faced a charge of careless driving upon which he was convicted and discharged, and on the driving offence connected with alcohol he was fined only \$100 which itself is quite small. It seems the District Court Judge might have reduced the fine at the time that he increased the period of disqualification.

For an appeal to succeed, as counsel for the Transport Department has submitted to the court, it must be shown to be clearly excessive in regard to the sentence. I am satisfied in this case it is. This is a young man aged 19 years of age whose intended career in the Police force was disrupted by the offence and he has had to look elsewhere for employment. Fortunately he has attained it, but not to his liking and wishes to go into a trade where his licence will be necessary. He is, so counsel informs me, a complete first offender and that he has no other previous convictions of any kind. In these circumstances I do not think a disqualification period above the minimum was warranted. The appeal succeeds and the 18 months' disqualification is quashed and in its place is a six months' period of disqualification.



Solicitors for Respondent: Crown Solicitor, Auckland