

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

AP 266/89

2240

BETWEEN

HARRIS

Appellant

AND

MINISTRY OF TRANSPORT

Respondent

Hearing &
Judgment

30 November 1989

Counsel

Appellant in person
Ms C. Evans for Respondent

ORAL JUDGMENT OF ANDERSON J.

This is an appeal against a sentence by way of a fine and an order that the appellant re-sit his driver's test following his plea of guilty to a charge of careless use of a motor vehicle, the sentence and order having been made in the District Court at Otahuhu on 12 September 1989.

The brief facts were that the appellant was observed in medium traffic conditions and in good road and weather conditions driving north on Great South Road on the incorrect side of double yellow lines, then turning right at an intersection against a red light. This latter manoeuvre caused minor inconvenience to other traffic. He was then pursued at 80 km/hr until stopped.

His asset position is reasonable but his income position is difficult and he is concerned at the financial stringency that will be occasioned to him and his family by the fine imposed. He is also concerned at the order that he re-sit a driver's test because of the disruption to his work and, one assumes, the delays that will be occasioned by organising the timing of the test and incidental matters. He submits, in effect, that he does not need to be re-tested in relation to his driving, merely reminded of his responsibilities as a driver, which latter concern can be met by a short period of disqualification.

Without intending in the least to convey that the Court will generally be inclined to conduct an auction in relation to penalties, there are aspects of the fine and sentence that can be fine-tuned in this particular case to meet the proper concerns of the law on the facts of the particular case. The appeal is allowed to this extent: that without interfering with the quantum of the fine, the appellant be ordered to repay the same at the rate of \$20 per week. The first such payment is to be made on Friday, 8 December 1989, and thereafter on the last working day of each week until the fine shall have been repaid in full. A similar order is made in respect of the costs of \$65 which were ordered.

The order that the appellant re-sit his driver's test

is quashed and in substitution therefore he is disqualified from holding or obtaining a driver's licence for a period of 6 weeks. The period of disqualification shall commence at 8 am on 1 December 1989.

N. Anderson J
.....