IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

AP 208/91

BETWEEN KEVIN GEORGE CHAPMAN

Appellant

AND MINISTRY OF TRANSPORT

Respondent

Date of Hearing: 2 October 1991
Date of Decision: 2 October 1991

Counsel:

Valerie Sim for Appellant
M T Lennard for Respondent

DECISION OF McGECHAN J

This is an appeal against sentence, in particular six months disqualification, imposed upon the appellant in the District Court at Upper Hutt on 15 July 1991. The charges concerned were failing to stop after an accident and failing to ascertain whether any person had been injured.

The facts put very briefly are that the appellant while driving along a road on 9 March 1991 at 7.10 pm, at a time the sun was setting, was involved in a collision with another car which backed out of the driveway on the opposite side of the street. There is no doubt he knew the collision had occurred. He did not stop at that point. It would have been possible to stop. He drove on. He looked back in his rear vision mirror and saw two

persons inspecting damage on the other car. He assumed there was no injury. He continued a further short distance measured out only in total 100 or so metres to the house of a person who had been driving in front of him and who he wished to engage as a witness to return with him to the scene of the accident. He did so return. The Ministry of Transport staff arrived while he was there and he was fully co-operative. There was damage to the other car. Fortunately there was no injury. He was absent from the scene of the accident for some three to six minutes.

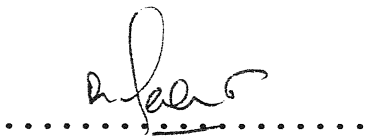
The learned District Court Judge naturally considered the question whether these particular factors, notably the relatively short distance further travelled, relatively short time away, purpose of departure, and fact of return amounted to special circumstances which would permit a decision not to order disqualification. She reached the view that they did not attain that level. I am constrained to agree.

It is correct, as counsel submitted, that questions of degree do come into these matters, and a very slight or trivial movement for example, or one directed towards ensuring road safety, can be viewed in a more favourable light. However this man travelled too far and was away too long. The provisions are in the legislation for very clear road safety purposes, and are to be enforced. It was, however, as the Crown realistically conceded a relatively less serious example of its kind. The Judge took that into account in imposing the minimum period, and indeed as she stated in the level of associated fine, which was a moderate $100.

There is an additional factor which I feel constrained to mention. The appellant who previously had a clean record obtained a Limited Licence in wide terms on 27 August 1991 to drive in the course of his employment as a

carpenter. He has since lost that employment but is actively seeking a position. It is of course relatively difficult for him without a licence. However, given his previous success in that regard he should not have any difficulty in obtaining some further exemption if needed. That does not put aside what is really a 'chicken and egg' problem in employment situations, namely the desirability of having employment before applying for Limited Licence as contrasted with having a Limited Licence to enable successful application for employment. In the circumstances of this case, if the appellant needs an urgent decision upon such application, in my view, it should be given the appropriate urgency as otherwise the penalty necessarily imposed upon him nevertheless may have unacceptably severe repercussions. I draw that to the attention of those involved in such applications.

The appeal must be dismissed.



R A McGechan J

Solicitors

Gibson Sheat, Wellington for Appellant
Crown Solicitor's Office, Wellington for Respondent