IN THE HIGH COURT OF NEW ZEALAND
ROTORUA REGISTRY

TAURANGA AP.5/91

BETWEEN WILLIAM GROVENOR CHAPMAN

Appellant

1007

AND MINISTRY OF TRANSPORT

Respondent

Hearing: 8 April 1991

Counsel: Appellant in person
Mr W Cathcart for Respondent

Judgment: 8 April 1991

ORAL JUDGMENT OF FISHER J

This is an appeal against a sentence imposed in the District Court at Tauranga on 14 February 1991. The appellant had pleaded guilty to one charge of driving with excess breath alcohol. He was sentenced to periodic detention for a term of 4 months and disqualified from driving for 9 months. The offence itself consisted of driving while having 500 micrograms of alcohol per litre of breath.

Clearly, in the general run of these offences that in itself would not have constituted a bad case of its kind and would not normally have attracted a sentence of this severity. However, in the District Court the learned Judge

rightly drew attention to the outstanding feature of this case, which was the appellant's very bad driving record extending over the past 20 years. It was for that reason that the Judge imposed the sentence that he did.

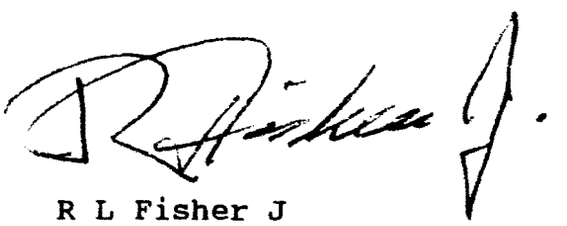
In this Court the appellant has raised several matters. One is the suggestion that he is effectively being sentenced again on charges over the past 20 years. However, it is a trite principle of sentencing law that a person comes before a Court to be sentenced and penalised for the particular offence committed but that in assessing the appropriate sentence, one must have regard to the defendant's past record. A more lenient sentence is appropriate for someone who has made a single error. Past convictions go to character and likely response to different forms of sentence. They also bear upon the need to protect the public from a chronic offender. I can see nothing wrong in the way that the Judge placed emphasis on this appellant's past record.

Secondly, the appellant has submitted that there are various errors in his traffic conviction history list. I recommend to the appellant that he take this up with the Ombudsman to ensure that his list is corrected. However, the appellant does not and cannot suggest that a change in some of the details in the history list could really have any bearing of substance upon the fundamental point that he

has an extraordinarily serious traffic history. On the list as it presently stands, there are 21 previous convictions and this would constitute the fourth excess breath or blood alcohol conviction.

The final matter concerned the appellant's personal circumstances. He has the responsibility for a child. On the other hand, as one would expect, he is not without some support in the community and it so happens that since the notice of appeal was filed, his family circumstances have changed and he is able to have some assistance in looking after his child.

I think that the most important concern the appellant might be left with is that he may be being penalised for errors in his traffic conviction history list. I am prepared to assume that the precise details are not as stated and that there may in fact be slightly less in the number and severity of convictions. However, even proceeding on that hypothetical basis, the sentence was a perfectly appropriate one. The appeal is therefore dismissed. The appellant must attend the Tauranga work centre at 6 pm on Friday 12 April 1991. All other terms of periodic detention to remain.



R L Fisher J