

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

AP.128/92

BETWEEN

CLARE SWINNEY

Appellant

AND

MINISTRY OF TRANSPORT

Respondent

Hearing: 30 June 1992

Counsel: Appellant in Person
Mrs S. McAuslan for respondent

Judgment: 30 June 1992

(ORAL) JUDGMENT OF BARKER J

The appellant appeals against conviction in the District Court at Auckland on 13 April 1992 on a charge of proceeding through a red light. There was a defended hearing before two Justices of the Peace but there is no record of the evidence given at that hearing or of the detailed reasons of the Justices for convicting the appellant.

Some five weeks later the Justices filed a memorandum of a few lines; this recorded in summary form the conflicting versions of the traffic officer and of the appellant with a statement that the Bench accepted the evidence of the prosecution and rejected that of the defendant.

However, I cannot accept that memorandum as sufficient record of the evidence as required by the Act. The appellant is entitled to have this Court consider her appeal based on the notes of the actual evidence given to have a proper statement of reasons for her conviction.

Therefore, I think the only order is that the appeal be allowed and a rehearing ordered in the District Court. I direct that, at the rehearing, a proper record of the proceedings be kept and that the rehearing proceed before Justices of the Peace, other than those who convicted the appellant.

R. J. Barker J

Solicitors: Crown Solicitor, Auckland, for respondent

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