

IN THE HIGH COURT OF NEW ZEALAND
HAMILTON REGISTRY

AP.102/96

BETWEEN:

H

Appellant

A N D: **THE QUEEN**

Respondent

Counsel: No appearance on behalf of Appellant
 P.J. Morgan for Respondent

Hearing and
Judgment: 17 February 1997

ORAL JUDGMENT OF PENLINGTON J

Solicitors: Crown Solicitor, Hamilton

This is an appeal against sentence.

The appellant was charged that at Cambridge he did aid another person, Borland, to drive a motor vehicle on a road while disqualified from holding or obtaining a motor driver's licence.

The appellant pleaded guilty on 27 November 1996. He was convicted and fined \$500, together with Court costs \$95. He was disqualified from holding or obtaining a motor driver's licence for a period of six months.

The appellant is aged 20 years and is a manager at a Countdown shop.

The facts giving rise to the charge were that on 20 November he was a passenger in a motor vehicle travelling on King Street in Cambridge. From Robinson Street he allowed another person, Borland, to drive his car north on Robinson Street and thence into King Street. Once in King Street the steering locked, resulting in the vehicle mounting a curb and running through a fence. Following the accident the appellant was spoken to by the Police. He admitted the facts which I have just outlined, and of particular relevance he admitted that he knew that Borland was a disqualified driver.

In his Notice of Appeal he complained that he could not see any reason why he had been dealt with in the way that he had been dealt with because he was not the driver. In any event, he considered that the fine of \$500 was excessive.

The appellant's ground of appeal overlooks s.66 of the Crimes Act. The appellant was clearly a party to the offence of disqualified driving. The fine, in my view was not excessive for such an offence, especially when it is to be remembered that he had had two previous convictions for disqualified driving, for which he was fined respectively \$600 and \$400. This was in October 1995.

The appeal also overlooks s.30AA(2B), which provides:

"Notwithstanding anything in subsection (4) of this section or in section 7 of the Summary Proceedings Act 1957, where a person is convicted (whether summarily or on indictment) of an offence against section 35 of this Act (which relates to driving while disqualified or contrary to the terms of a limited licence), the Court shall, in addition to any other penalties it may impose but subject to section 30AC of this Act:

- (a) In the case of a first offence, order the person to be disqualified from holding or obtaining a driver's licence for a period of 6 months or more; or
- (b) In the case of a second or subsequent offence, order the person to be disqualified from holding or obtaining a driver's licence for a period of 12 months or more

unless the Court for special reasons relating to the offence thinks fit to order otherwise."

The learned Judge was required to disqualify the appellant unless there were special reasons relating to the offence. I have read the file,

including the appellant's undated letter to the Court. In my view special reasons relating to the offence have not been disclosed.

Accordingly, there is no reason to disturb the disqualification order. For these reasons the appeal will be dismissed.

A handwritten signature in black ink, appearing to read "P.G.S. Penlington J.", written in a cursive style.

P.G.S. Penlington J