

**IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**CRI-2012-404-000395  
[2013] NZHC 293**

BETWEEN                      MORGAN LAVE NANAI  
   Appellant  
  
AND                              NEW ZEALAND POLICE  
   Respondent

Hearing:        5 February 2013

Appearances: N Silich for Appellant  
                    J M Pridgeon for Respondent

Judgment:      22 February 2013

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**JUDGMENT NO.2 OF COOPER J  
[Formal Orders]**

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This judgment was delivered by Justice Cooper on  
22 February 2013 at 11.30 a.m., pursuant to  
r 11.5 of the High Court Rules

Registrar/Deputy Registrar  
Date:

Solicitors:  
Nicholas Silich, PO Box 33379, Takapuna, North Shore City 0740  
Meredith Connell, Crown Solicitors, PO Box 2213, Upper Shortland Street, Auckland 1140

[1] In my judgment of 11 February 2013, I noted that the appeal would be allowed, and a formal order made resolving it, on receipt of a memorandum from counsel for the parties dealing with the appropriate form of the orders to be made in allowing the appeal. I have now received a joint memorandum of counsel, dated 21 February 2013.

[2] As noted in the original judgment, one of the orders made on the conviction of Mr Nanai in the District Court was that he be disqualified indefinitely, under s 65 of the Land Transport Act 1998. In my first judgment I held that it would have been more appropriate for Mr Nanai to be the subject of an order for an alcohol interlock disqualification under s 65A of the Act. Section 65A(2)(a) requires that in the event of such a sentence there be a mandatory disqualification for three months. In their memorandum, counsel advise that the appellant has served a period of 15 days disqualification pursuant to the District Court's order under s 65 of the Act, the order being suspended pending the outcome of the appeal. Consequently, Mr Nanai will now need to be disqualified from holding any driver licence under s 65A(2)(a) for a further period of two months and 15 days as a result of the appeal.

[3] I therefore make the following orders:

- (a) the order made in the District Court for permanent disqualification pursuant to s 65 of the Land Transport Act is quashed; and
- (b) in lieu of that order, the appellant is disqualified under s 65A(2)(a) of the Act from holding any driver licence for a period of two months and 15 days from the date of this order.

[4] I make the further orders set out in s 65A(2)(b)(i), (ii), (iii), (iv) and (v) of the Land Transport Act.