

D E C I S I O N

The accused drove his motor cycle at 9.30 p.m. on the road alongside the aerodrome in a manner found by the learned magistrate to be dangerous and negligent. He did so while under the influence of intoxicating liquor to the extent necessary to constitute the offence of which he was convicted. The learned magistrate sentenced him in respect of that offence to pay a fine of \$150. He did so because the accused had just started work as a driver for the Bank of Nauru and also because of the circumstances of the offence. Those were that there was no other traffic on the road at the time, that the accused was a first offender and that he had just had a quarrel with his wife.

As this Court has pointed out in a number of cases recently, offences of driving motor vehicles under the influence of intoxicating liquor are so prevalent, and are causing such havoc to the community in terms of loss of life and serious injury, that deterrent sentences, that is to say sentences of imprisonment, must be imposed unless there are exceptional extenuating features. There were no such exceptional features in the present case. A motor cycle is a dangerous weapon in the hands of a drunken rider and there is no part of the main island road (or indeed the Buada road, the Government Settlement roads or the Nauru Phosphate Corporation Settlement and Location roads) where the risk is so negligible as to constitute an extenuating circumstance justifying a sentence other than one of imprisonment. In the present case the road where the offence was committed has houses along one side of it and is used by pedestrians adult and children until a late hour of the night.

The sentence of a fine was wrong in principle. It is set aside and the accused is sentenced instead to serve one month's imprisonment.

I. R. Thompson

CHIEF JUSTICE

12th November, 1980