

PETER KENI -v- REGINAM

High Court of Solomon Islands

(Muria ACJ)

Criminal Case No. 26 of 1992

Hearing: 7 September 1992

Judgment: 7 September 1992

A. Radclyffe for Appellant

J. Faga for Respondent

MURIA ACJ: This is an appeal against disqualification from driving.

The appellant had been charged with one count of Careless Driving and one count of Driving without valid licence. He pleaded guilty to both counts. On the careless driving charge, the appellant was fined \$200.00 and disqualified from driving for two months. On the second count, he was fined \$30.00 and had his licence endorsed.

On a charge of careless driving, the court has discretion whether to impose a disqualification or not against a driver. This is a discretion which must be exercised judiciously. However, in order to assist the Court to exercise its discretion properly, it is essential that all the relevant facts in the case are placed before the Court. I said in *Philip Tura -v- Reginam* in Criminal Case No. 8 of 1992 (Judgment given on 8 May 1992):

"On the question of disqualification in respect of the careless driving charge, the court must exercise its discretion judiciously. The offence of careless driving carries with it a discretionary power of disqualification. That discretion must also be exercised responsibly by the court taking into account all the circumstances of the case."

In this case, the learned Magistrate was told that the appellant was specifically employed as the Official Driver of the British High Commission after he had already imposed the disqualification on the appellant. The learned Magistrate then stated that had he been told of this fact before sentencing he would probably not imposed the additional punishment of disqualifying the appellant from driving. The learned Magistrate then accepted the appellant's application to suspend the disqualification pending his appeal to this Court.

The learned Magistrate's remark was a perfectly fair comment. I am sure had he known of the fact that the appellant is a driver by occupation he would not have imposed the disqualification particularly where it is likely to work financial hardship on the appellant. See the comments I made in *Norman aru -v-Reginam Criminal Case No. 5 of 1992* (Judgment given on 29 April 1992).

Having now had the benefit of knowing the additional important fact in favour of the appellant, I now exercise the Court's discretion, allowing the appeal and quashing the order of disqualification of 2 months imposed on the appellant.

Appeal allowed.

(G.J.B. Muria)
ACTING CHIEF JUSTICE