

SIONE PANUVE FIFITA

-v-

POLICE

BEFORE THE HON. JUSTICE CATO

**J U D G M E N T**

The appellant who did not appear had appealed against his conviction for failing to report an accident in which a person was injured. The circumstances are briefly that the appellant was driving his car and about to pass or overtake when a man ran out and collided with his vehicle. That man had been drinking. The accused did not report the accident. Subsequently he was charged with negligent driving under s 25 of the Traffic Act and also failing to report an accident under s 35(3) Traffic Act. That Act empowers the Court to impose a fine of up to \$200.00 for failing to report.

For some reason the magistrate having acquitted the appellant of careless driving and having convicted him of failing to report chose to sentence him under s 41 of the Traffic Act. That section was plainly inapplicable because it provides that it is only to apply if no penalty is proscribed for a particular offence. Plainly s 35(3) was subject to prescribed penalty. Because a magistrate would have been able to impose the sentence he did under s 35 the point raised by the appellant namely that he was sentenced under the wrong section is of no consequence. The sentence of \$160 fine in lieu 6 weeks imprisonment was within his powers under s 35 to impose.

**APPELLANT JURISDICTION**

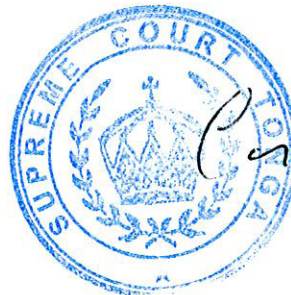
**NUKU'ALOFA REGISTRY**

---

Further, the additional point that because he was acquitted of the negligent driving charge he had no obligation to report under s 35 is completely without merit. The obligation to report under s 35 arises and is mandatory where a person is injured in an accident. There are time limits set down for good reason to ensure that persons injured receive assistance and to enable investigation to commence promptly.

The Appeal is dismissed.

**DATED: 20 JULY 2012**



*P. S. J.*

**JUDGE**