

IN THE CAYMAN ISLANDS COURT OF APPEAL

CACR 3/2012
(C#01071/2010)

BEFORE

The Rt Hon Sir John Chadwick, President
The Hon Dr. Abdulai Conteh, Justice of Appeal
The Rt Hon Sir Justice A. Campbell, Justice of Appeal

ON APPEAL FROM THE GRAND COURT
SCA 0009/2011

THE QUEEN

Respondent

-v-

DORA ANN ELIZABETH EBANKS

Applicant

The Applicant, **Dora Ann Elizabeth Ebanks**, appeared in Person
Ms Candia James, instructed by the Director of Public Prosecutions, appeared for the
Crown

Hearing: 29th March 2012
Reasons released 25 April 2012

NOTE OF JUDGMENT
Revised and Approved



Sir John Chadwick, President:

1. On the 14th March 2011 Dora Ann E. Ebanks was convicted in the Summary Court of the offence of leaving the scene of accident contrary to section 65 (7) of the Traffic Law (2003) Revision and careless driving contrary to section 69 of the Traffic Law (2003) Revision.
2. Those offences said to take place on the 14th December 2009. It was said that, when driving along Hell Road, West Bay, Ms. Ebanks collided with the rear of the car in front of her, which was stationary. The effect of that was to shunt

that car into the car in front: a classic “shunt” road traffic incident. Ms. Ebanks was said to have driven off despite protestation of other two drivers. Her case was that the accident happened before she arrived on the scene: and that the drivers of the other two cars were not telling the truth.

3. The matter was heard by Chief Magistrate, who made finding of facts based on the evidence and after viewing a video recording made by one of the drivers on his portable telephone. The Chief Magistrate accepted evidence of the other two drivers as truthful. She rejected the evidence of Ms Ebanks.
4. Ms. Ebanks was found guilty on the two charges. She was ordered to pay compensation to one of the other parties in the sum of CI\$1,207 dollars and to the other in the sum of CI\$245. She was fined \$400 for the offence of leaving the scene of an accident.
5. Ms. Ebanks appealed to the Grand Court. Justice Henderson dismissed her appeal on 14 December 2011. He observed that the appeal could be allowed only if the findings of fact made by the learned Chief Magistrate were manifestly unreasonable. He found that she had made no error of law or principle in the course of her judgment. In his view the facts were not unreasonable; indeed, he held that the findings were reasonable on the evidence before the Chief Magistrate.
6. Ms. Ebanks seeks to appeal to this Court. An appeal to this Court would be a second appeal. Section 29 (1) of the Court of Appeal Law (2011 Revision) applies to a second appeal. A second appeal can be brought on a ground which involves a point of law alone, or against sentence; but not upon a question of fact. Ms Ebanks insists that she can prove her innocence; but, do so would require her to challenge the findings of fact made by the Chief Magistrate; and she cannot bring that challenge before this Court on a second appeal.
7. In so far as Ms Ebanks seeks to appeal against sentence, her application must be refused. It would be impossible for this Court to hold that a fine of CI \$400 in respect of the offence of leaving the scene of a traffic accident was

manifestly excessive; and no material has been put before the Court to suggest the amount of compensation ordered by the Chief Magistrate was excessive.

8. Accordingly the application for leave to appeal is dismissed.

