

LEGAL DEPARTMENT  
CAYMAN ISLANDS GOVERNMENT  
SEP 21, 2000  
FILED  
COUNSEL



Grand 15/9/00

1 IN CHAMBERS  
2 IN THE GRAND COURT IN THE CAYMAN ISLANDS  
3 CAUSE 5 OF 2000

Anthony Chryll  
please note  
12/9/00  
Ailaw Andrey

LEGAL DEPARTMENT  
CAYMAN ISLANDS GOVERNMENT  
SEP 21 2000  
FILE  
COUNSEL

ANN MAE IRENE ROFFEY

V

REGINA

10 **Appearances:**  
11 Mr. Stuart Diamond of Truman Bodden & Co. for the appellant  
12 Mr. Anthony Akiwumi Crown Counsel for the respondent

16 **Before:** Chief Justice Anthony Smellie

18 **Date:** 15<sup>th</sup> September 2000.

23 **RULING**

25 This is an appeal against the Magistrate's decision by which she held that she had no  
26 power to invoke the provisions of Section 66 of the Criminal Procedure Code. That  
27 section provides that in the event a defendant pleads guilty to a charge the Magistrate  
28 shall convict and pass sentence unless sufficient cause to the contrary is shown.

29 The Magistrate was urged on behalf of the appellant not to enter a conviction and so not  
30 to impose a sentence in this case where the defendant pleaded guilty. The offence

1 involved is driving whilst intoxicated for which Section 71 of the Traffic Law prescribes  
2 upon conviction a mandatory period of disqualification from driving for one year. The  
3 learned Magistrate felt that she was bound by the terms of Section 74 of the CPC which  
4 as being in pari materia and provide that upon conviction for an offence the Summary  
5 Court may proceed to deal with the case including by not entering a conviction and by  
6 discharging without sentence except in cases of offences under section 71 of the Traffic  
7 Law.

8 If Mr. Diamond is right that the discretion vested by Section 66. of the CPC in the  
9 Summary Court is entirely unfettered by the mandatory terms of S. 71 of the Traffic Law  
10 and not to be read as being in pari materia with section 74 of the CPC, then the policy  
11 behind making an offence under Section 71 an offence attracting a mandatory penalty of  
12 disqualification would be avoided by the simple expedient of entering a guilty plea. If  
13 Mr. Diamond is right, then in every such case of a guilty plea the discretion would be  
14 available to be exercised, even though it would not exist at all in a case of a conviction  
15 after trial. See R v Hydes SCA: 62 of 2000 (unreported) That would lead to absurdity and  
16 is therefore not a permissible interpretation of the legislation. The presumption is against  
17 such an outcome: Williams v Evans (1876) 1 Ex. D. 277 and Bennion: Statutory  
18 Interpretation Butterworths 1988.

19 The Court time and costs to be saved by the encouragement of guilty pleas hardly seems  
20 justification for a construction of the Laws which would result in erosion of the  
21 legislative policy which underscores the mandatory sentence; ie: deterrence of those who  
22 would drive under the influence of alcohol.

1 I conclude that the learned Magistrate was correct in the interpretation of the provisions  
2 of the Laws. The appeal is accordingly dismissed.

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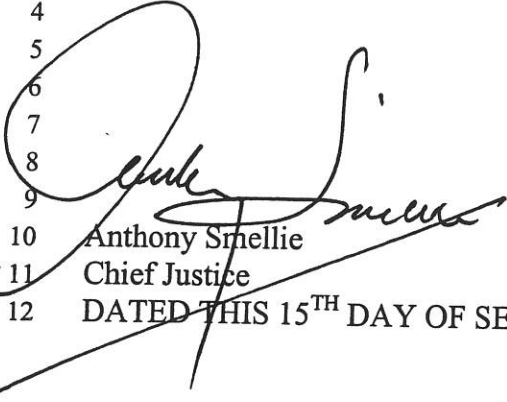
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10 Anthony Smellie  
11 Chief Justice

12 DATED THIS 15<sup>TH</sup> DAY OF SEPTEMBER 2000

