

Driving with excess alcohol.

[2020]GRC044

**ROYAL COURT
FULL COURT**

28 July 2020

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and:
Stephen Murray Jones OBE, Terry John Ferbrache,
Steven John Morris, David James Mortimer,
Joanne Marie Wyatt, Alan Stevenson Boyle, David John Robilliard,
Marilyn Jasmine King, Jurats.**

THE LAW OFFICERS OF THE CROWN

- v -

Uvis BERZINS

Advocate J D McVeigh appeared for the Crown

Advocate P F Cobb appeared for the Defendant

LIEUTENANT BAILIFF:

Background

On 11th June 2020, following a 2-day trial you were convicted of driving with excess alcohol.

The reading was 175; the limit in breath is 35 mgs, hence you were five times over the limit.

The case came about because of your bad driving. Off-duty Police Officers saw that you swerved and stopped around the area for no reason, drove on the wrong side of the road and mounted the pavement.

Your excuses were rejected after the Court heard all the evidence. You still persisted in them to the Probation Officer.

The maximum punishment here is 12 months' imprisonment and/or a fine.

You are now 50, a Latvian National, working here for around 18 years. You have no previous convictions and have been on conditional bail throughout.

Sentencing Considerations

This Court has previously laid-down guidelines for such offences, and we follow them today. The case is the well-known one of Hatwell (2004). There, amongst other things, the Court laid-down custodial sentences where the first offence resulted from a reading of 110 mgs (plus). We note that there, the penalties looked at were for offences in the Magistrate's Court.

The reading here, we stress, was very high. Your mode of driving, and this was around lunchtime, was very dangerous to other road users. It is lucky indeed that someone using the highway or pavement was not seriously injured or worse.

We note the practice of sentencing in the Magistrate's Court for similar offences. It is right that this case came to the Royal Court.

We start at 8 months' imprisonment. A Community Service Order would not fit the circumstances and would be inconsistent with other sentences for this offence. This is almost as bad as it can get without misfortune occurring to innocent road-users. A long period of disqualification is needed to protect the public.

Mitigation

We have carefully listened to your able Advocate and read the Probation report as well as the references. Had you owned-up to your offending you would have been entitled to a discount, but you denied the offence, so no discount is given. We do not, however, add anything on for your 'not guilty' plea.

The effective mitigation, which we will give appropriate credit for, is your good character and the fact you work hard. All in all, we give a realistic discount, erring if at all, on the side of leniency, of 25%. This does not apply to the disqualification, where the protection of other road-users is a priority.

Sentence

The sentence is 6 months' imprisonment from today and a disqualification in all categories for 5 years from today, and you will, under the law, have to retake a driving-test before going back on the road.

If you drive whilst disqualified the penalties are guaranteed to be very severe indeed, so don't do it.

**John Russell Finch, Esq., O.B.E.,
Lieutenant Bailiff**

28 July 2020