



# Recent Decision Bulletin

## Proper Presentation is ESSENTIAL

In the District Court recently in Healey v. Commissioner of Police [2016] QDC 192 it was shown how proper matters should be put to a Magistrate in determining a sentence.

In this matter, the Defendant was charged with driving without due care and attention following a motor vehicle crash.

The facts were that he felt tired as he had not eaten and had not slept properly previously. He momentarily fell asleep at the wheel causing a crash. There was major damage to his vehicle and two (2) other vehicles were involved that were also damaged.

Significantly, the Defendant was working and had no criminal or traffic history whatsoever.

He was fined and disqualified from driving for a period of six (6) months by the Magistrate.

He did not appeal the fact that he was convicted by the Magistrate but rather appealed the severity of the disqualification.

The Court recognised that the purpose of punishment for offenders includes considerations such as:-

- a. The need to protect the public from persons who create danger; and
- b. The need to create a disincentive to persons in the community.

The Defendant was a young man of only 19, who worked delivering pre-prepared meals three (3) days a week for his father's company. He had expressed remorse.

At first instance by the Magistrate his early plea of guilty was taken into account as was his remorse.

Of considerable importance in this case was the consequence of effectively barring him from working by suspending his licence.

The Magistrate at first instance did not allude to having given such consideration in his sentence. The District Court Judge who heard the Appeal considered that he had erred in failing to give sufficient reasons for his decision. In considering other similar cases, the Judge found that a six (6) month disqualification being twice which was given to a similar Defendant in another case was inappropriate.

As a result, the Appeal was allowed and the sentence varied to reduce the disqualification to only three (3) months.

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