

IN THE WEST INDIES ASSOCIATED STATES SUPREME COURT
HIGH COURT
APPELLATE JURISDICTION

Criminal Appeal No. 2 of 1966

STATE OF ANTIGUA

ALRIC MORGAN I-Appellant

and

EDMUND J. BLAIZE-Respondent

Before: Louisy, J.
Berridge, J. (Acting)

1967, July 28

C.E. Hewlett for Appellant
Legal Assistant for Respondent

In this case the appellant was charged with dangerous driving contrary to section 52 of the Vehicle and Road Traffic Ordinance, 1946. The Magistrate convicted him of the offence charged and imposed a fine of \$60.00 and further disqualified him from holding a licence for 6 months.

The appellant's grounds of appeal are -

- (a) the judgment was based on a wrong principle that the Vernor's Road and the Pares Village Road are two roads, and
- (b) the decision is unreasonable and cannot be supported having regard to the evidence.

The facts are briefly that on 27th August, 1965 about 5 p.m., the police van No. A.G. 666 was travelling on the Vernor's road in the direction of Freemans Village on the All Saints Road. The appellant's motor wagon was travelling on the Pares Village road coming towards St. John's, Travelling from St. John's both roads branch off the Vernor's road, the All Saints Road goes to the right and the Pares Village road

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goes to the left. At a certain point on the Vernon's Road closer to the appellant's left side of the road the two vehicles collided. The Police van struck the right fender of the appellant's motor wagon.

Counsel for the appellant argued that the Pares Village Road is a continuation of the Vernon's Road - a main road - while the All Saints Road is a secondary road, it was therefore the duty of the driver of the police van to have stopped and allow the appellant's vehicle to continue on the Vernon's Road, instead of that it proceeded on its way and collided with the appellant's vehicle.

An important point to be determined is whether the Pares Village road and/or the All Saints Road is a main road.

There is nothing in the evidence to assist us to answer this question. Reference to the Public Works and Roads Ordinance, will indicate that the All Saints Road to Vernon's Road is a class 2 road - a secondary road. Nothing is said about the Pares Village Road in relation to the Vernon's Road.

The Magistrate found as "a matter of mixed law and fact" that the Vernon's Road leading from St. John's to Freeman Village is one through continuous road and the Pares Village road meets that road at a point junction or curve. We see no basis for this finding on the record or on reference to the Public Works and Roads Ordinance.

On the facts before us, and we refer specifically to the evidence of Ashton Lewis who stated:

" As we were about 25 yards away from the sign the driver of A.G. 666 began driving more in the centre of the road (Vernon's Road) and at a speed of about 25 m.p.h. I saw motor car A.G. 1996 coming along the Pares Village Road towards the sign or "Z" bend at a fast speed. The driver of A.G. 666 then drove over on the right hand side of the road leading to Freemans Village. I saw the driver of A.G. 1996 trying to turn his steering wheel towards the right,....."

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The Evidence and the measurements taken by the Police indicate that the appellant was on his correct side of the road and on the Vernon's Road at the time of the accident and the police van on the wrong side of the road. In our view the question of Pares Village Road and All Saints Road being main or secondary roads are not important.

Both vehicles were travelling at one point in the Vernon's Road, a main Road, when the collision occurred, and from the evidence we are of the view that the police van should have stopped or slowed down to allow the appellant to continue along the Vernon's Road, before attempting to enter the All Saints Road.

At the time of the collision it further appears that the police van was occupying 17 feet of the road which is 24 feet wide.

The appeal is allowed, the conviction is quashed and the sentence set aside. Order for disqualification is removed. Costs \$25.20.