

Muhammad Faizal bin Rahim v Public Prosecutor
[2011] SGHC 221

Case Number : Magistrate's Appeal No 104 of 2011
Decision Date : 04 October 2011
Tribunal/Court : High Court
Coram : Tay Yong Kwang J
Counsel Name(s) : Alfred Dodwell (Dodwell & Co) for the Appellant; Eugene Lee and Mark Jayaratnam (Attorney-General's Chambers) for the Respondent; Woo Shu Yan (Drew & Napier LLC) as Amicus Curiae.
Parties : Muhammad Faizal bin Rahim — Public Prosecutor

Criminal Procedure and Sentencing

4 October 2011

Tay Yong Kwang J:

Introduction

1 This appeal revisits the established position on the ambit of the “special reasons” exception in s 3(3) of the Motor Vehicles (Third-Party Risks & Compensations) Act (Cap 189, 2000 Rev Ed) (“MVA”). The appellant pleaded guilty to a charge of riding a motor cycle without insurance coverage. A related charge was taken into consideration with his consent. The District Judge imposed a fine of \$500 (in default 3 days’ imprisonment) and a disqualification from holding or obtaining a driving licence for all classes for a period of 12 months from the date of conviction. [\[note: 1\]](#) The appellant appealed on the grounds that the sentence imposed was manifestly excessive and that there were “special reasons” for the court to reverse or to reduce the disqualification imposed.

2 I dismissed the appeal and now set out my reasons.

Facts

Statement of Facts

3 The Statement of Facts which the appellant agreed to without any qualification reads as follows:

- 1 The complainant is Corporal Muhd Rohani, attached to the Traffic Police Department.
- 2 The defendant is Muhammad Faizal bin Rahim, male 30 yrs, Singapore citizen.
- 3 On 10/11/2010 at about 3.10 am, along Loyang Avenue, complainant stopped motor cycle FP4534U. Upon checking, the rider’s particulars were furnished to be that of defendant. It was revealed that defendant was not the named rider of motor cycle FP4534U, thus he had ridden the said vehicle without insurance coverage, as the insurance policy covers only the named rider.

4 Defendant had thus committed the following offences:

- a. Riding motor vehicle FP4534U without insurance coverage under Section 3(1) of the Motor Vehicle (Third-Party Risks & Compensations) Act, Chapter 189.

The statutory provision

4 The relevant sub-sections of s 3 of the MVA are set out as follows:

Users of motor vehicles to be insured against third-party risks

3. —(1) Subject to the provisions of this Act, it shall not be lawful for any person to use or to cause or permit any other person to use —

(a) a motor vehicle in Singapore; or

(b) a motor vehicle which is registered in Singapore in any territory specified in the Schedule,

unless there is in force in relation to the use of the motor vehicle by that person or that other person, as the case may be, such a policy of insurance or such a security in respect of third-party risks as complies with the requirements of this Act.

(2) If a person acts in contravention of this section, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 3 months or to both.

(3) A person convicted of an offence under this section shall (unless the court for special reasons thinks fit to order otherwise and without prejudice to the power of the court to order a longer period of disqualification) be disqualified for holding or obtaining a driving licence under the Road Traffic Act (Cap. 276) for a period of 12 months from the date of the conviction.

Background

5 On 10 November 2010, at about 3am, the appellant was at work and was due for a meal break from his night shift. Just as he was about to ride off, his colleague suggested a 'bike swap' to test the appellant's motorcycle. The appellant was reluctant initially but the said colleague kept urging him to do so. Eventually, the appellant absent-mindedly agreed to the 'bike swap' and rode off on his colleague's motorcycle. [\[note: 2\]](#) He had forgotten that his motorcycle's insurance policy covered only himself as the named rider. Similarly, his colleague's motorcycle's insurance policy covered only his colleague as the named rider.

6 Unknown to the appellant and his colleague, the Traffic Police had placed a road block near their workplace. The appellant and his colleague were stopped at the said road block. While furnishing his particulars, it was revealed to the police officer that the appellant was not the named rider of the motorcycle he was riding and he had thus ridden the said vehicle without insurance coverage as the insurance policy for that motorcycle covered only the appellant's colleague.

The charge

7 The appellant was charged with using a motor cycle whilst there was not in force the requisite policy of insurance or security in respect of third party risks under Section 3(1), an offence

punishable under Section 3(2) of the MVA. Another charge of permitting his colleague to use a vehicle while there was not in force the requisite policy of insurance or security in respect of third party risks was taken into consideration for the purpose of sentencing.

8 The appellant pleaded guilty.

The plea-in-mitigation

9 In his written mitigation, Counsel for the appellant submitted that the circumstances which led to this matter were truly unfortunate and that the appellant deeply regretted the offence and would never repeat it. [\[note: 3\]](#)

10 According to Counsel, the appellant was merely absent minded and did not set out to violate or flout the traffic laws in Singapore. [\[note: 4\]](#) The appellant was described as a man who is prepared to work hard and has shouldered the responsibility of helping out with his family expenses. He is getting married in October 2011. [\[note: 5\]](#)

11 Notably, the appellant's father had passed away in a motor cycle accident months prior to the commission of the offence. [\[note: 6\]](#) Counsel claimed that the accident influenced the appellant to "take extra precaution" of the traffic laws of Singapore. After his father's death, the appellant also became the sole breadwinner of the family despite allegedly plunging into depression. [\[note: 7\]](#) Counsel also claimed that the appellant requires his driving licence to "drive his mother for frequent medical check up". [\[note: 8\]](#)

12 Counsel urged the Court to give the appellant a light fine and impose no further penalty as he was confident that the appellant would be more vigilant hereafter and would be unlikely to ever violate the law again. [\[note: 9\]](#)

The District Judge's decision

13 The District Judge was of the view that there were no exceptional or compelling facts before her that would justify a departure from the usual sentencing tariff. She also found no facts which would qualify as special reasons. [\[note: 10\]](#) The District Judge thus sentenced the appellant to a fine of \$500 in default 3 days' imprisonment and imposed a disqualification from holding or obtaining a driving licence for all classes for a period of 12 months from the date of conviction.

14 The District Judge observed that for a first offender under s 3(1) of the MVA, an order of disqualification for all classes of vehicles for a period of at least 12 months from the date of conviction would naturally follow in most instances because it is difficult for offenders to qualify under the "special reasons" exception in 3(3) of the MVA. [\[note: 11\]](#)

15 The District Judge then cited the established proposition that circumstances peculiar to the offender (as distinguished from the offence) do not qualify as "special reasons" and that nothing short of an emergency would give rise to a possible finding that "special reasons" exist.

16 Having considered that this was neither an instance where the appellant was facing a medical emergency nor one where the appellant had explored every other possibility before riding his colleague's motorcycle, the District Judge held that no "special reasons" were made out by the appellant. [\[note: 12\]](#) The death of the appellant's father and his allegedly affected mental state also

did not amount to “special reasons” as there was no causal link between the appellant’s mental state and the commission of the offence. [\[note: 13\]](#)

The appellant’s appeal on sentencing

The appellant’s submissions

17 The appellants raised the following arguments on appeal:

(a) The appellant has been made to suffer 3 separate sets of punishment – (1) fine of \$500, (2) the mandatory 12-month disqualification and (3) loss of his driving licence requiring him to take the whole driving course again which is additional punishment that has no bearing whatsoever to the crime; [\[note: 14\]](#)

(b) An infraction of s 3 of the MVA should only lead to a mandatory disqualification in circumstances where the facts of the case indicate the offender’s wilful disregard for the law; [\[note: 15\]](#)

(c) Even for strict liability offences, a distinction in sentencing should be drawn between deliberate and faultless contravention with a fine being more than sufficient punishment for the latter; [\[note: 16\]](#)

(d) What amounts to “special reasons” in s 3(3) of the MVA has been interpreted too narrowly in Singapore and the Singapore Courts should give “special reasons” a wider and more flexible interpretation that allows the courts to consider all the circumstances of the case (*i.e.*, circumstances peculiar to the offender); [\[note: 17\]](#)

(e) The courts should be given more sentencing options such as providing for no disqualification or for a term of disqualification of less than 12 months even if no “special reasons” are found on a case by case basis; [\[note: 18\]](#)

(f) The District Judge should have exercised her discretion to consider the whole of the circumstances surrounding the commission of the offence in deciding whether to disqualify the appellant or not. [\[note: 19\]](#)

18 Based on these arguments, the appellant submitted that the sentence imposed was manifestly excessive and that “special reasons” existed for this court to reverse or reduce the disqualification imposed. [\[note: 20\]](#)

The prosecution’s submissions

19 The prosecution raised the following arguments in response:

(a) A contravention of s 3(1) of the MVA is a serious offence and a strict prophylactic approach is necessary to ensure that there is adequate provision for compensation; [\[note: 21\]](#)

(b) It is trite law that s 3(1) is a strict liability offence for which there is a defence of reasonable care; [\[note: 22\]](#)

(c) The policy behind the mandatory 12 months' disqualification in s 3(3) is deterrence, thus the threshold for establishing "special reasons" to reduce the disqualification period is necessarily a stringent one. Otherwise, this would defeat the underlying objectives of s 3(1); [\[note: 23\]](#)

(d) The stringent threshold is reflected in the established test in case law that "special reasons" must relate to the offence and not the offender; [\[note: 24\]](#)

(e) Where mitigating factors relevant to the offender have been shown, the courts can and do adopt a calibrated approach by varying *the fine or term of imprisonment* in s 3(2), without disturbing the period of disqualification; [\[note: 25\]](#)

(f) The District Judge had already taken into account the mitigating factors as well as the full circumstances of the case by imposing only a fine of \$500 on the appellant with no custodial sentence. [\[note: 26\]](#)

20 The prosecution therefore concluded that the sentence imposed by the District Judge could not be said to be manifestly excessive and that her order should be upheld. [\[note: 27\]](#)

The amicus curiae's submissions

21 *Amicus curiae* was appointed to address the specific issue of whether circumstances peculiar to the offender could qualify as "special reasons" for the purposes of s 3(3) of the MVA. [\[note: 28\]](#)

22 Having comprehensively reviewed local and foreign case law, the *amicus curiae* submitted that the law on this issue locally is clear – only circumstances peculiar to the offence and not the offender would constitute "special reasons" for the purpose of s 3(3). [\[note: 29\]](#)

23 The *amicus curiae* then considered whether there is room for a less restrictive approach. Upon noting that there exist Scottish cases which have recognised a wider approach that considers circumstances *peculiar to the offender* as "special reasons", [\[note: 30\]](#) the *amicus curiae* suggested that our courts could adopt a wider interpretation of "special reasons" because of the following:

(a) A different interpretation of the law or a statute is permitted in "appropriate circumstances" if the existing interpretation is "not satisfactory or is plainly wrong"; [\[note: 31\]](#)

(b) There has been no Court of Appeal decision on the issue of whether circumstances relating to the offender would constitute "special reasons", so it would not offend the doctrine of *stare decisis* if this court were to take a different approach to the established cases; [\[note: 32\]](#)

(c) The Honourable Chief Justice Chan Sek Keong has mentioned in his keynote address at the Subordinate Courts Workplan on 18 February 2011 the importance for punishments to be calibrated "to fit the crime and the offender" and a wider interpretation of "special reasons" would be in line with that speech; [\[note: 33\]](#)

(d) Applying a wider interpretation of "special reasons" would allow the court to reflect the different policy objectives underlying different traffic offences by tailoring the punishment to fit the offence and the offender depending on the facts of each case. [\[note: 34\]](#)

24 Nonetheless, the *amicus curiae* admitted that a wider interpretation of “special reasons” would be inconsistent with our courts’ approach to the matter thus far and that there is no express indication in the Parliamentary Reports that Parliament intended different policy objectives for different traffic offences. [\[note: 35\]](#)

25 In response to the *amicus curiae*’s submissions, the prosecution submitted as follows:

- (a) It is not Parliament’s intention to make a distinction between different traffic offences in respect of the mandatory disqualification regime; [\[note: 36\]](#)
- (b) There is nothing to indicate that the consistent High Court decisions on the interpretation of “special reasons” for the purposes of disqualification are unsatisfactory or plainly wrong; [\[note: 37\]](#)
- (c) The courts already have a clear discretion in s 3(2) of the MVA to impose a fine instead of a term of imprisonment; [\[note: 38\]](#)
- (d) The Scottish approach is not relevant because it was decided in the context of the exigencies of the Second World War. [\[note: 39\]](#)

26 The *amicus curiae*, in her reply submissions, argued that it is at best equivocal what Parliament’s intention was with regard to the interpretation of “special reasons” [\[note: 40\]](#). However, the *amicus curiae* agreed with the prosecution that there appear to be insufficient grounds to support the proposition that the existing interpretation of “special reasons” is unsatisfactory or clearly wrong. [\[note: 41\]](#)

Issues

27 I considered two issues in this appeal:

- (a) Is the existing interpretation of “special reasons” in s 3(3) of the MVA which considers only circumstances peculiar to the offence and not the offender unsatisfactory or plainly wrong?
- (b) Even if circumstances peculiar to the offender are to be considered, were there “special reasons” peculiar to the appellant which would warrant the reversal or reduction of the mandatory disqualification imposed by the District Judge?

The court’s decision

The existing interpretation of “special reasons” is satisfactory and justifiable

The interpretation of “special reasons” in case law

28 The existing interpretation of “special reasons” is well-established in local jurisprudence. The “special reasons” exception in s 3(3) of the MVA has been consistently interpreted as being reasons “connected with the offence and not the offender” (*M V Balakrishnan v PP* [1998] 2 SLR(R) 846 (“*M V Balakrishnan*”) at [9]).

29 In *M V Balakrishnan*, the appellant was convicted of permitting his employee to use a motor

vehicle without a valid driving license and while there was no insurance coverage against third-party risks. A fine and a 12- month disqualification were duly imposed on him. The appellant subsequently sought a motion to refer to the Court of Criminal Appeal the question of whether circumstances particular to the offender could constitute "special reasons" within the meaning of s 3(3) (formerly s 3(2)) of the MVA to dispense with the disqualification order. The motion was dismissed by the High Court.

30 The High Court clarified that the English approach in interpreting "special reasons" in *Whittal v Kirby* [1947] KB 194 ("*Whittal*") has been consistently applied by the Singapore courts. The High Court also held that the existing interpretation of "special reasons", which considers only reasons "connected with the offence and not the offender, would be the clearest means of giving effect to Parliament's intention" (at [9]). *M V Balakrishnan* has since been cited and followed in numerous Singapore cases.

31 The existing interpretation of "special reasons" is therefore a narrow one which can only be satisfied in exceptional circumstances *peculiar to the offence* – e.g., if there was a medical emergency (*Whittal* at 201); and if the offender can "show that there was no alternative but for him to drive and that he had explored every reasonable alternative before driving" (*Sivakumar s/o Rajoo v Public Prosecutor* [2002] 1 SLR(R) 265 at [17]).

The application of the existing interpretation

32 In the cases subsequent to *M V Balakrishnan*, some offenders attempted to argue that they were caught in exceptional circumstances peculiar to their offence. While most of their arguments were rejected by the courts, it is important to comprehend the reasons behind why their arguments were rejected in order to fully understand how the "special reasons" exception has been applied.

33 In *Sriekaran s/o Thanka Samy v PP* [1998] 3 SLR(R) 1 ("*Sriekaran*"), the appellant was charged with driving a motor vehicle without an insurance policy for third-party risks being in force and was fined and sentenced to 12 months' disqualification from driving. The appellant argued that exceptional circumstances existed for the court to do away with the disqualification order because he believed that his cheque was accepted by the insurance company and that he was validly insured at the material time.

34 The High Court dismissed the appeal because the appellant's belief that he was insured was not based on reasonable grounds. Chief Justice Yong Pung How held (at [3]):

In fact, given that the appellant's first cheque had been dishonoured, and hence no valid insurance coverage applied to his car, it would have been reasonable to expect the appellant to ensure his second cheque was properly processed if indeed he genuinely sought to be covered by insurance. He made no effort to do so.

35 *Sriekaran* therefore does not stand for the proposition that an offender operating under the mistaken impression that he has been insured can never amount to "special reasons" under s 3(3) of the MVA. Rather, what was held in *Sriekaran* was that in pleading a mistaken belief, an offender must first show that he had reasonable grounds for such belief and that he had exercised reasonable diligence.

36 In *Siti Hajar bte Abdullah v Public Prosecutor* [2006] 2 SLR(R) 248 ("*Siti Hajar*"), the appellant was convicted for allowing her cousin to drive her car without valid third-party risks insurance and was fined and sentenced to 12 months' disqualification from driving. The appellant sought a reduction

of the period of disqualification, claiming that she was unwell on the day the offence took place and that asking her cousin to drive was the only feasible means of getting to a doctor.

37 The High Court dismissed her appeal. Once again, it was not because “being unwell” could not qualify as “special reasons” peculiar to the offence under s 3(3). Rather, it was because the appellant in *Siti Hajar* could not “produce a scintilla of evidence to support her need for *immediate* medical assistance; she did not adduce any medical certificates or doctors’ reports to prove the severity of the affliction she was suffering from on the date of the offence” (at [12]).

38 In short, it is insufficient for an offender to merely assert that he or she was caught in exceptional circumstances peculiar to the offence. When an offender seeks to come within the “special reasons” exception under s 3(3), “the facts to back up such circumstances must be proved to the satisfaction of the court” (*Toh Yong Soon v PP* [2011] 3 SLR 147 at [5]). The hurdles which the appellants in *Sriekaran* and *Siti Hajar* failed to cross in their appeals were not legal but factual ones. Seen in this light, it cannot be said that the application of the existing interpretation has resulted in undue harshness to offenders under s 3(1) of the MVA.

The policy and principle behind the existing interpretation

39 The policy behind s 3(1) of the MVA is to prevent the situation articulated in *PP v Hiew Chin Fong* [1988] 1 MLJ 467 at 468: “if an innocent road user is knocked down and injured or killed, he and/or his dependants may have no means of recovering from the uninsured driver any loss or damage he and/or they may have suffered or sustained”. S 3(1) therefore seeks to ensure that compensation would be available to persons involved in accidents on the road. For that reason, a contravention of s 3(1) is a serious offence (*Stewart Ashley James v PP* [1996] 3 SLR(R) 106 at [17]) and Parliament has deemed it fit to make the offence one of strict liability with only a limited defence in s 3(4).

40 The seriousness of the offence is also reflected in a possible custodial sentence (s 3(2)) and a mandatory 12 months’ disqualification order (s 3(3)) that avail the judge in sentencing the offender (*Re Kanapathipillai & Ors* [1960] MLJ 243 at 245). As the prosecution correctly observed, the policy behind the mandatory 12 months’ disqualification order is deterrence (*Sriekaran* at [4]), for “a disqualification meant that for 365 days the accused person is reminded every morning of his offence” (*M V Balakrishnan* at [9]).

41 Thus, even though Parliament has not unequivocally expressed how the words “special reasons” in s 3(3) are to be interpreted, I agree that, taking the seriousness of the offence and the policy behind s 3(1) into account, construing “special reasons as being those connected with the offence and not the offender would be the clearest means of giving effect to Parliament’s intention” (*M V Balakrishnan* at [9]). Widening the “special reasons” exception would “encourage frivolous defences that could derogate from the policy behind [s 3(1)] of the MVA” (*Chua Chye Tiong v PP* [2004] 1 SLR(R) 22 (“*Chua Chye Tiong*”) at [53]).

42 The existing interpretation of “special reasons” is not merely satisfactory on policy but it is justifiable in principle as well. Circumstances peculiar to the offence are given exceptional treatment as “special reasons” because they go towards reducing the moral culpability of the offender – e.g. if the uninsured offender was suddenly “called to attend [to] a dying relative” (*Whittal* at 201) or if it was “urgently necessary to take a sick person to hospital and the only conveyance available is a motor vehicle whose insurance has happened to run out” (*PP v Mohd Isa* [1963] MLJ 135 at 136).

43 On the other hand, circumstances peculiar to the offender do not go towards reducing the moral culpability of the offender. They are essentially extrinsic facts about the offender which are

unrelated to the offence but are produced to illicit sympathy from the court – e.g. being unable to work without a licence (*Chua Chye Tiong*) or requiring a licence to ferry one's elderly grandparents for religious and medical purposes (*Siti Hajar*). These circumstances are morally distinguishable from circumstances peculiar to the offence.

44 With respect, I disagree with the *amicus curiae's* argument that the "same test [that applies to the interpretation of 'special reasons'] for all analogous statutory provisions" is "an over-simplification of the law". In my view, the "same test" being applied is evidence of a principled and consistent approach towards the "special reasons" exception found in different traffic statutory provisions. While the factual circumstances that amount to "special reasons" might vary based on the traffic offence in question, the principle - that "special reasons" relate only to circumstances peculiar to the offence in which the moral culpability of the offender is reduced - remains consistent throughout.

Section 3(2) provides ample room for a calibrated approach in sentencing

45 I would also highlight that s 3(2) of the MVA provides the courts with a calibrated approach in sentencing. Where mitigating factors relevant to the offender have been shown, the court can exercise its discretion to impose a fine instead of a custodial sentence, as the prosecution rightly pointed out. Thus, the appellant was mistaken in arguing that the courts currently draw no sentencing distinction between a deliberate and an accidental contravention of s 3(1).

46 The District Judge exercised her discretion in s 3(2) in favour of the appellant by imposing only a fine of \$500 instead of a custodial sentence. The preservation of judicial discretion in s 3(2) goes toward ensuring that the sentencing process is not "a mechanistic one" (*ADF v PP* [2010] 1 SLR 874), while the mandatory disqualification sentence in s 3(3) reflects the seriousness of the offence and Parliament's intention to send out a clear deterrent signal. There is no need for the "special reasons" exception in s 3(3) to be widened to achieve a calibrated approach in sentencing.

The inapplicability of the Scottish approach

47 In her submissions, the *amicus curiae* also highlighted the different approach towards the construction of "special reasons" in the Scottish Courts. In *Murray v Macmillan* [1942] JC 10 ("*Murray*"), the Scottish Court held that circumstances peculiar to the offender could constitute "special reasons" in the Scottish equivalent of s 3(3) of the MVA.

48 In *Murray*, the accused, a medical practitioner, permitted his car to be driven by his brother who was too young to hold a driving licence. Because the accused's insurance policy did not apply when the car was being driven by an unlicensed driver, the appellant was charged with and pleaded guilty to the Scottish equivalent of s 3(1) of the MVA. The Scottish Court noted that the accused was an assistant to two doctors, that he was often engaged on night duties and was medical attendant to the employees at an aerodrome and at three collieries. He was also in charge of first-aid surgical services and precautions against air raids at a post four and a half miles from his residence. The Scottish Court held that the appreciable prejudice to the public interest likely to arise from the accused's disqualification, due to the then "present national emergency", was a "special reason" that entitled the court to reduce or refrain from imposing the disqualification period under the Scottish equivalent of s 3(3) of the MVA. Circumstances peculiar to the offender thus became accepted as "special reasons" in Scotland.

49 The interpretation of "special reasons" above by the Scottish Courts should not apply to this case. *Murray* is easily distinguishable because it was decided in the context of a national emergency, i.e. the Second World War. In such exceptional situations, it is understandable why the Scottish

Courts would hold that "overwhelming considerations of public benefit might be taken into account and amount to special reason" (*Whittal* at 203).

50 It is also interesting to note that after the Second World War, some Scottish cases have distinguished *Murray* on the ground that it was essentially a war time decision. In *Robertson v M'Ginn* [1956] SLT 246, the Scottish Court held (at 248):

It may be that in war time the public duties imposed on a doctor may be such as to constitute special reasons (see *Murray v Macmillan*, 1942 JC 10, 1942 S.L.T. 55), but the situation is quite different in peace-time, and a strong case of irreplaceability would require to be established before I could regard such duties as requiring the court in the public interest to make an exception to the general rule of disqualification"

51 The treatment of "special reasons" by the Scottish Court in *Murray* should not be adopted here. The existing interpretation which considers only circumstances peculiar to the offence and not the offender should be maintained. In the present case, there was also absolutely no emergency, whether personal or national, which would justify the appellant not being disqualified from driving (whether for 12 months or at all) in the public interest. The offences arose simply out of a sense of curiosity and fun.

There were no "special reasons" peculiar to the offence or the appellant which warranted a reduction of the sentence

52 Even if I were to agree with the appellant and adopt the wider interpretation of "special reasons" to consider circumstances peculiar to him, none of the circumstances which the appellant highlighted would warrant a reduction of the mandatory disqualification sentence. There was nothing exceptional about the appellant or the reason proffered as to why he committed the offence which would qualify as "special reasons" in s 3(3) of the MVA.

53 While Counsel for the appellant stressed in his mitigation plea and in his oral submissions that the appellant was merely absent-minded and not one who had wilfully disregarded the law, I was not convinced that this factor should militate against disqualification in the context of s 3(3) of the MVA. Although s 3(1) is a strict liability offence, discretionary sentencing is already provided for in s 3(2) to take into account the fact that the appellant had not "wilfully disregarded the law". I agree with the English court in *Whittal* that "mere forgetfulness or carelessness in not taking out a policy could not amount to a special reason" (at 202).

54 I also agree with the District Judge that the death of the appellant's father in a motor cycle accident, tragic as it were, could not constitute a "special reason". Firstly, the "depression" claimed by the appellant due to his father's death was unsupported by any medical evidence. Secondly, even if the appellant's depression was medically proven, it would fall way short of the medical conditions which have justified the exercise of judicial mercy (see *Lim Kay Han Irene v PP* [2010] 3 SLR 240 at [46]-[47]) – e.g. where the offender was suffering from a terminal illness (*Lim Teck Chye v PP* [2004] 2 SLR(R) 525) or where the offender was so ill that a sentence of imprisonment would carry a high risk of endangering his life (*PP v Tang Wee Sung* [2008] SGDC 262).

55 It is therefore my opinion that even if "special reasons" peculiar to an offender were to be considered, the mere fact that he would suffer hardship in the form of inconvenience and higher expenses could not constitute "special reasons" within the meaning of the exception. An over liberal interpretation of "special reasons" would render the exceptions as the norm and probably nullify the whole purpose of s 3(1) of the MVA.

Conclusion

56 Far from being “not satisfactory or plainly wrong”, I find the existing interpretation of “special reasons” in s 3(3) of the MVA satisfactory and justifiable. The “special reasons” exception to the mandatory disqualification order in s 3(3) should continue to relate only to circumstances peculiar to the offence and not the offender.

57 Moreover, even if circumstances peculiar to the offender could be considered, none of the matters highlighted by the appellant warranted a reduction of the 12 months’ disqualification sentence. Accordingly, I dismissed the appeal.

Note of thanks

58 I express my gratitude here to Ms Woo Shu Yan for volunteering to assist the court as *amicus curiae*. Her thorough research, two sets of written submissions and her fair-minded opinions were of immense help in my deliberations. I also thank the appellant’s counsel and the deputy public prosecutors for their able submissions. I understand that Mr Alfred Dodwell undertook the task of arguing this appeal *pro bono*, for which he should also be commended.

[\[note: 1\]](#) The District Judge’s Grounds of Decision (“GD”) at [2].

[\[note: 2\]](#) Appellant’s plea-in-mitigation at [3].

[\[note: 3\]](#) Appellant’s plea-in-mitigation at [2].

[\[note: 4\]](#) Appellant’s plea-in-mitigation at [5].

[\[note: 5\]](#) Appellant’s plea-in-mitigation at [6].

[\[note: 6\]](#) Appellant’s plea-in-mitigation at [5].

[\[note: 7\]](#) Appellant’s plea-in-mitigation at [11].

[\[note: 8\]](#) Appellant’s plea-in-mitigation at [15].

[\[note: 9\]](#) Appellant’s plea-in-mitigation at [17].

[\[note: 10\]](#) GD at [13].

[\[note: 11\]](#) GD at [19].

[\[note: 12\]](#) GD at [28].

[\[note: 13\]](#) GD at [29].

[\[note: 14\]](#) Appellant’s submissions at [6].

[\[note: 15\]](#) Appellant's submissions at [7].

[\[note: 16\]](#) Appellant's submissions at [21] – [23].

[\[note: 17\]](#) Appellant's submissions at [24].

[\[note: 18\]](#) Appellant's submissions at [27].

[\[note: 19\]](#) Appellant's submissions at [29].

[\[note: 20\]](#) Appellant's submissions at [31].

[\[note: 21\]](#) Respondent's submissions at [15].

[\[note: 22\]](#) Respondent's submissions at [16].

[\[note: 23\]](#) Respondent's submissions at [17] – [19].

[\[note: 24\]](#) Respondent's submissions at [18].

[\[note: 25\]](#) Respondent's submissions at [21].

[\[note: 26\]](#) Respondent's submissions at [26].

[\[note: 27\]](#) Respondent's submissions at [28].

[\[note: 28\]](#) *Amicus Curiae's* submissions at [1].

[\[note: 29\]](#) *Amicus Curiae's* submissions at [17].

[\[note: 30\]](#) *Amicus Curiae's* submissions at [19] – [24].

[\[note: 31\]](#) *Amicus Curiae's* submissions at [28].

[\[note: 32\]](#) *Amicus Curiae's* submissions at [29].

[\[note: 33\]](#) *Amicus Curiae's* submissions at [30].

[\[note: 34\]](#) *Amicus Curiae's* submissions at [32] – [33].

[\[note: 35\]](#) *Amicus Curiae's* submissions at [34].

[\[note: 36\]](#) Respondent's reply at [4] – [7].

[\[note: 37\]](#) Respondent's reply at [12].

[\[note: 38\]](#) Respondent's reply at [13].

[\[note: 39\]](#) Respondent's reply at [14].

[\[note: 40\]](#) *Amicus Curiae's* reply at [7].

[\[note: 41\]](#) *Amicus Curiae's* reply at [11].

Copyright © Government of Singapore.