

JAMAICA

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S CRIMINAL APPEAL NO. 7/95

**COR: THE HON MR JUSTICE CAREY JA
THE HON MR JUSTICE WOLFE JA
THE HON MR JUSTICE PATTERSON JA (AG)**

REGINA VS MICHAEL HANLAN

Anthony Pearson for appellant

Norman Wright for Crown

21st March & 7th April 1995

CAREY JA

On 5th February 1994 at 1:00 p.m. the appellant drove his motor truck southerly on Old Hope Road towards its intersection with Mountain View Avenue in St. Andrew. The intersection is controlled by lawfully erected stop lights. The lights in his direction were at red. The appellant drove to the left of vehicles which had come to a halt on Old Hope Road in obedience to the signal, approached to within four feet of the signal and by entering the premises of the Texaco Service Station made his way onto Mountain View Avenue where he was stopped by a police officer who having observed the appellant's breach gave him a ticket.

On these uncontroverted facts, it was submitted before the judge of the Traffic Court that there was no case to answer because the appellant had not disobeyed the traffic light. The learned judge was not attracted by this hopeless argument. He ruled

there was a case to answer. Whereupon, the appellant rested. From the inevitable conviction which was recorded, the appellant has appealed to this court.

He has repeated the argument before us. It has been refined. Learned counsel said that the appellant had not disobeyed the traffic light; he had circumvented it.

To circumvent, is to disobey by a trick. The summary offence of "failing to comply with the indication given by the red light ..." is an absolute offence. The failure to comply is the offence. Accordingly, it matters not whether the offender drives through the lights or goes around the lights. A great many people perhaps are not aware that the roadway through a petrol station forms part of the "road" under the Road Traffic Act because the public have access to it. Section 2 (1) of the Act defines "road" as:

"'road' means any main or parochial road and includes bridges over which a road passes, and any roadway to which the public are granted access and any roadway declared to be a road pursuant to the provisions of subsection(2);"

It follows that where a roadway is controlled by lights, all traffic flowing in the direction of those lights is affected by the lights and the driver of any motor vehicle in that flow, as controlled, must therefore obey all traffic signals. He does not escape liability by driving on what he vainly regards as "private premises" in order to avoid, circumvent or evade the signal.

In the instant case, there was no doubt that the appellant thought he was quite smart to enter onto the roadway on the gas station premises, that is, to filter onto Mountain View Avenue. When told by the police officer that he had disobeyed the signal, he replied that he had not. The question he ought perhaps to have asked himself, was - on what green light or green arrow did he get onto Mountain View

Avenue from Old Hope Road? The only answer he could make, would demonstrate the fallacy of counsel's contention that the appellant had not disobeyed the signal. Perhaps it is not generally appreciated or realized that there is no rule in the Road Code which allows a driver to make a left on a red light. A driver is not allowed to filter left unless there is a green arrow (if provided) or on a green light. The Road Traffic (Amendment) (No 3) Regulations 1967 deal with lights in this way:

<u>"TYPE OF SIGN</u>	<u>DESCRIPTION</u>	<u>DIRECTIONS</u>
22. Traffic Control Light Signals	<p>(a) the red light alone:</p> <p>(b) the green light alone:</p> <p>(c) ...</p> <p>(d) a light illuminating on the lens of the lamp a green arrow.</p>	<p>(a) Subject to the directions specified in relation to (d) below, vehicles shall not proceed beyond the stop line or, if there is no stop line, beyond the signals;</p> <p>(b) Vehicles may pass the signals and (subject to any contrary indication by any other traffic sign) proceed straight on or to the left or to the right;</p> <p>(d) During such time as the green arrow on a lamp is illuminated vehicles may, notwithstanding any contrary indication given by the set of signals, pass the signals and proceed in the direction indicated by the arrow but, unless otherwise indicated by the set of signals in no other direction:"</p>

The submission made before the judge of the Traffic Court and in this Court, we fear, is without vestige of merit. For these reasons we dismissed the appeal and confirmed the conviction.