

**JAMAICA**

**IN THE COURT OF APPEAL**

**BEFORE: THE HON MRS JUSTICE MCDONALD-BISHOP JA  
THE HON MR JUSTICE D FRASER JA  
THE HON MRS JUSTICE G FRASER JA (AG)**

**PARISH COURT CRIMINAL APPEAL NO COA2021PCCR00019**

**RYAN REYNOLDS v R**

**Jeremy Palmer for the appellant**

**Ms Tamara Merchant and Mrs Christina Porter for the Crown**

**7 June 2022**

**MCDONALD-BISHOP JA**

[1] On 9 October 2020, Mr Ryan Reynolds ('the appellant') was convicted in the Saint Elizabeth Parish Court following a trial on information before His Honour Mr Horace Mitchell ('the learned judge'). He was charged with careless driving contrary to section 32(1) of the Road Traffic Act and was sentenced to a fine of \$5,000.00 or 10 days' imprisonment.

[2] The appellant has filed this appeal against his conviction and sentence on the ground that "[t]he verdict is inconsistent and cannot be supported by the evidence". He also gave notice that he intended to seek leave to file additional grounds of appeal upon receipt of the notes of evidence.

[3] At the commencement of the hearing, the court raised with counsel as a preliminary point whether this court is seised of jurisdiction to hear the appeal in the light of the jurisdiction exercised by the learned judge. Mr Palmer, who appeared for the appellant, accepted that the offence of careless driving would fall to be considered by the

learned judge in the exercise of his summary jurisdiction in the Lay Magistrates' Court (formally known as the Court of Petty Sessions) and so the appeal ought properly to be heard in the Circuit Court for the parish of Saint Elizabeth. Counsel for the Crown, Mrs Porter, also accepted that upon a close perusal of the Road Traffic Act, the appellant's appeal was before the wrong forum. Therefore, she proposed that the appeal be dismissed without a hearing for lack of jurisdiction.

[4] For the reasons following, the court accepts the concession of counsel that this court is not the proper forum for the hearing of the appellant's appeal as it is not seised of the jurisdiction to do so.

[5] When the appellant filed the notice of appeal on 22 October 2020 in the Saint Elizabeth Parish Court, section 293 of the Judicature (Parish Courts) Act provided that:

"293. An appeal from any judgment of a Judge of the Parish Court in any case tried by him **on indictment or on information in virtue of a special statutory summary jurisdiction**, shall lie to the Court of Appeal:

**Provided, that nothing herein shall be deemed to apply to any case adjudicated on by any Judge of the Parish Court, whether associated with other Justices or not, which is within the cognizance of Justices in Petty Session, but an appeal may be had in any such case subject to the law regulating appeals from Justices in Petty Sessions.**" (Emphasis added)

[6] Section 293 has since been amended by the Judicature (Parish Courts) (Amendment) Act, 2021 to read:

"293. –(1) An accused person in any case tried before a Judge of the Parish Court **on indictment, or on information by virtue of a special statutory summary jurisdiction**, may appeal to the Court of Appeal in respect of the judgment of the Judge of the Parish Court thereon.

**(2) Nothing in subsection (1) shall be construed as applying to any case adjudicated by any Judge of a Parish Court, whether associated with other Judges of**

**the Parish Courts or not, which is within the cognizance of a Lay Magistrate's Court, but an appeal may be made in any such case in accordance with the law regulating appeals from Lay Magistrate's Courts."**  
(Emphasis added)

[7] A similar provision is found in section 22 of the Judicature (Appellate Jurisdiction) Act which states that:

"22. Subject to the provisions of this Act, to the provisions of the Judicature (Parish Courts) Act regulating appeals from Judges of the Parish Court in criminal proceedings and to rules made under that Act, an appeal shall lie to the Court from any judgment of a Judge of the Parish Court in any case tried by him **on indictment, or on information in virtue of special statutory summary jurisdiction.**" (Emphasis added)

[8] It is, therefore, clear that an appeal shall lie to this court from the judgment of a Judge of the Parish Court in criminal proceedings only in cases where he tries the matter on indictment or on information by virtue of special statutory summary jurisdiction.

[9] In **Director of Public Prosecutions v Nancy Sanchez-Burke** (1977) 23 WIR 319, Lord Diplock, in delivering the judgment of the Board, stated that:

"The expression 'special statutory summary jurisdiction' is not defined in the Interpretation Act or elsewhere, but in their Lordships' view its meaning is quite clear. **It means jurisdiction bestowed by any statute upon a [Judge of the Parish Court] sitting as a [Parish Court]...**"  
(Emphasis added)

[10] In the instant case, the appellant was tried on an information, not an indictment. When one examines the statutory provision that creates the offence of careless driving, it is observed that the learned judge was not exercising special statutory summary jurisdiction in dealing with that offence. Section 32 of the Road Traffic Act states that:

"32. – (1) If any person drives a motor vehicle on a road without due care and attention or without reasonable consideration for other persons using the road he shall be

guilty of an offence and shall be liable on conviction thereof to a penalty not exceeding five thousand dollars.

(2) A first or second conviction for an offence under this section shall not render the offender liable to be disqualified for holding or obtaining a driver's licence."

[11] It is clear from this provision that the Road Traffic Act bestowed no special jurisdiction upon a Judge of the Parish Court concerning the offence of careless driving. By way of illustration, this is contrasted with section 52 of the Road Traffic Act, which states that:

"52. – (1) No person shall ride on the running board, wings or fenders of a motor vehicle or on the outside of the vehicle except in a properly constructed seat.

(2) Any person who acts in contravention of the provisions of this section shall be guilty of an offence **and shall be liable on summary conviction before a Judge of the Parish Court** to a fine not exceeding two thousand dollars." (Emphasis added)

[12] As is evident, this provision of the Road Traffic Act, unlike section 32, has bestowed express special summary jurisdiction on the Judge of the Parish Court to try the offences created by it.

[13] One may also contrast the jurisdiction exercised by a Judge of the Traffic Court with the jurisdiction of the Judge of the Parish Court relative to the same offence of careless driving. The Traffic Court is established in the Corporate Area by section 3 of the Traffic Court Act. Section 4 of the Act states in relation to the jurisdiction of that court:

"4. – (1) It shall be lawful for the Court to hear and determine any of the offences and contraventions mentioned in the Schedule, if committed in the parish of Kingston or in the parish of Saint Andrew or in any other parish by any person residing in the parish of Kingston or in the parish of Saint Andrew.

(2) **The Judge of the Court shall, when sitting therein for the trial of any offence mentioned in the Schedule, be deemed to be exercising the special statutory summary jurisdiction of a Judge of the Parish Court**, unless the offence is triable on indictment and the offender is indicted therefor.

(3) ...

(4) ...” (Emphasis added)

[14] The offences and contraventions mentioned in the Schedule of the Traffic Court Act, which are relevant to those proceedings, are contained in para. 1 of the Schedule. That paragraph refers to “[o]ffences under, and contraventions of, the Road Traffic Act and any regulations made thereunder”.

[15] It is by virtue of the Judge of the Traffic Court exercising special statutory summary jurisdiction that an appeal from the Traffic Court lies to this court. In this regard, section 13 of the Traffic Court Act states that:

**“13. An appeal from any judgment of the Judge of the [Traffic] Court in any case tried by him in virtue of the jurisdiction conferred on the [Traffic] Court by this Act shall lie to the Court of Appeal**, and the provisions of sections 294 to 305 (inclusive) of the Judicature (Parish Courts) Act shall apply to such appeal as the said provisions apply to criminal appeals under that Act.” (Emphasis added)

[16] Therefore, the jurisdiction of a Judge of the Parish Court to hear and determine the offence of careless driving differs from that of a Judge of the Traffic Court dealing with the same offence. In **R v Anthony Lewis** (unreported), Court of Appeal, Jamaica, Resident Magistrates’ Miscellaneous Appeal No 2/2005, judgment delivered 16 February 2006, Harrison P, similarly, noted at page 6:

“The prosecution for the offence of careless driving under the Road Traffic Act committed in the parish of Manchester is commenced by the laying of an information before a Justice of the Peace and the issuing of a summons to the offender to appear in answer to the charge...

**This offence is triable summarily on information, invariably by the [Judge of the Parish Court] exercising his jurisdiction in Petty Sessions.** (In the Corporate Area such offences are triable in the Traffic Court by the [Judge of the Traffic Court] in the exercise of his special statutory summary jurisdiction..." (Emphasis added)

[17] Accordingly, when the learned judge conducted the appellant's trial for careless driving summarily on information, he exercised summary jurisdiction in Petty Sessions and not special statutory summary jurisdiction in the Parish Court. Consequently, the appellant's right to appeal is governed by section 3 of the Justices of the Peace (Appeals) Act. This section states:

**"3. Any person aggrieved or affected by any judgment of any Justice exercising summary jurisdiction,** or by the decision or report of any other officer or body taking any proceeding, or acting under any enactment either now or hereafter to be in force in this Island whereby the right of appeal is or shall be allowed, **shall be at liberty to appeal therefrom to the Circuit Court of the parish in which such judgment shall be pronounced, or to a Judge of the Supreme Court,** as hereinafter respectively provided." (Emphasis added)

[18] Additionally, sections 22 and 23 of the Justices of the Peace (Appeals) Act state that:

"22. The Circuit Court for every parish in this Island shall be the Appeal Court for matters arising in every such parish.

23. Every appeal shall be heard at the then next succeeding Circuit Court of the parish wherein the judgment appealed from was delivered, if such Court shall meet within one month after the perfection of such judgment; but if a longer interval shall occur between the perfection of the judgment and the holding of the Circuit Court, then it shall be lawful for either the appellant or respondent to require, and for the Clerk of the Parish Court to transmit, a transcript of the information, summons, evidence, conviction, order, or judgment appealed from, and to submit the same for adjudication before any Judge of the Supreme Court in Chambers..."

[19] In the light of the foregoing, it must be concluded that the right of appeal to this court conferred by section 293 of the Judicature (Parish Courts) Act does not apply to the trial by a Judge of the Parish Court exercising summary jurisdiction with respect to the offence of careless driving contrary to section 32(1) of the Road Traffic Act. Jurisdiction lies with the Circuit Court for the parish or a judge of the Supreme Court in accordance with sections 3, 22 and 23 of the Justices of the Peace (Appeals) Act.

[20] It should be noted that the error in the transmission of the appeal to this court is not due to any fault on the part of counsel for the appellant who had lodged the appeal with the Parish Court, as he was required by law to do. Regrettably, the error was that of the clerk of the court who is the relevant officer entrusted with the statutory duty to prepare appeals for transmission to the appropriate appellate court. In the circumstances, it is considered prudent, in an effort to avoid such a misstep in the future, for this court to, once again, provide guidance regarding the treatment of appeals from the Parish Courts in road traffic cases.

[21] Counsel for the Crown have submitted that the appeal should be dismissed for want of jurisdiction. However, having obtained guidance from an earlier decision of this court in **Re D. C., an Infant** (1966) 10 WIR 280, it seems that the more appropriate order to be made is simply that this court has no jurisdiction to entertain the appeal. This would preserve the notice and grounds of appeal for the proper forum. We would order accordingly.

## **Order**

1. The court has no jurisdiction to entertain the appeal.
2. The Registrar to return the appeal to the clerk of the court for the parish of Saint Elizabeth for the matter to be transmitted to the Circuit Court for that parish or a judge of the Supreme Court, where jurisdiction lies, upon compliance with the relevant provisions of the Justices of the Peace (Appeals) Act.