SUPREME COURT OF QUEENSLAND

CITATION:	*R v Stevenson* [2016] QCA 162
PARTIES:	**R** **v** **STEVENSON, Philip Conley** (applicant)
FILE NO/S:	CA No 285 of 2015 DC No 96 of 2015
DIVISION:	Court of Appeal
PROCEEDING:	Sentence Application
ORIGINATING COURT:	District Court at Townsville – Date of Sentence: 29 October 2015
DELIVERED ON:	17 June 2016
DELIVERED AT:	Brisbane
HEARING DATE:	30 May 2016
JUDGES:	Morrison and Philippides JJA and Henry J Separate reasons for judgment of each member of the Court, each concurring as to the orders made
ORDERS:	**1. The appeal against conviction is dismissed.** **2. The application for leave to appeal against sentence is granted.** **3. The appeal against sentence is allowed.** **4. Set aside that part of the sentence imposed on 29 October 2015, which ordered that the appellant be disqualified from holding or obtaining a driver's licence for a period of four years.** **5. In lieu thereof, order that the appellant be disqualified from holding or obtaining a driver's licence for a period of two years from 29 October 2015.** **6. Order that the portion of the disqualification that had not expired when the appeal against conviction was lodged on 26 November 2015, shall take effect from 27 November 2015.** **7. Otherwise the sentence imposed on 29 October 2015 is confirmed.**
CATCHWORDS:	CRIMINAL LAW – APPEAL AND NEW TRIAL – APPEAL AGAINST SENTENCE – GROUNDS FOR INTERFERENCE – SENTENCE MANIFESTLY EXCESSIVE OR INADEQUATE

– where the applicant was convicted, after a trial, of dangerous operation of a motor vehicle causing grievous bodily harm – where the applicant was sentenced to imprisonment for 18 months, suspended after serving nine months, for an operational period of three years – where the applicant was also disqualified from holding or obtaining a divers' licence for four years – where the applicant seeks to appeal against the part of his sentence that imposes the licence disqualification on the ground that it is manifestly excessive – where the applicant was driving his prime mover and semi-trailer towards an intersection – where the applicant ran a red light and collided with a car which, in turn, collided with a second car – where the complainant, the occupant of the second car sustained serious injuries, which amounted to grievous bodily harm by the applicant – where the applicant repeatedly blamed the driver of the first vehicle he collided with – where the applicant's main source of income is as a driver – where the applicant has a family to support – whether the sentence relating to the disqualification of the drivers' licence was manifestly excessive

Penalties and Sentences Act 1992 (Qld), s 187
Transport Operations (Road Use Management) Act 1995 (Qld), s 131(2), s 131(2AA), s 131(2C), s 131(3A), s 131(3B), s 187

R v Allen [2012] QCA 259, cited
R v Damrow [2009] QCA 245, cited
R v MacDonald (2014) 244 A Crim R 148; [2014] QCA 9, considered
R v Nhu Ly [1996] 1 Qd R 543; [1995] QCA 139, cited
R v Osborne [2014] QCA 291, followed
R v Ruka [2009] QCA 113, cited

COUNSEL: R Haddrick for the applicant (pro bono)
N Crane for the respondent

SOLICITORS: Fisher Dore Lawyers for the applicant
Director of Public Prosecutions (Queensland) for the respondent

[1] **MORRISON JA:** Mr Stevenson was driving his prime mover and semi-trailer north on the Bruce Highway, towards an intersection with Shaw Road, near Townsville. He ran a red light at the intersection and collided with one car which, in turn, collided with a second car. Serious injuries, amounting to grievous bodily harm, were caused to the occupant of the second car.

[2] After a trial, Mr Stevenson was convicted of dangerous operation of a motor vehicle causing grievous bodily harm. He was sentenced to imprisonment for 18 months, suspended after serving nine months, for an operational period of three years. In addition, he was disqualified from holding or obtaining a driver's licence for a period of four years.

[3] Mr Stevenson appealed against his conviction and the sentence. However, before this Court he abandoned the appeal against his conviction, and sought leave to appeal only against that part of his sentence that imposed the disqualification on his holding or obtaining a driver's licence for four years.

[4] The sole ground for challenging that part of the sentence is that it was manifestly excessive.

Circumstances of the offence

[5] It is important to understand the nature of the offending conduct, even though the challenge has been limited to part only of the sentence.

[6] The power exercised by the learned sentencing judge was that under s 187 of the *Penalties and Sentences Act* 1992 (Qld), which provides:

> "(1) If -
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> (a) an offender is convicted of an offence in connection with or arising out of the operation, or the interference in any way with the operation, of a motor vehicle by the offender; and
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> (b) the court by or before which the offender is convicted is satisfied having regard to the nature of the offence, or to the circumstances in which it was committed, that the offender should, in the interests of justice, be disqualified from holding or obtaining a Queensland driver licence;
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> **the court may, in addition to any sentence that it may impose, order that the offender is, from the time of the conviction, disqualified** absolutely, or for such period as is ordered by the court, from holding or obtaining a Queensland driver licence."[1]

[7] The disqualification was part of the overall sentence imposed for the offence of which Mr Stevenson was convicted. It should not be reviewed as in a vacuum, divorced from the conduct that led to the conviction and the sentence otherwise imposed.

[8] Mr Stevenson was driving his truck at about 60 km per hour as he approached the intersection. The speed limit there was 80 km per hour. There was no obstruction to his vision, and, the weather being sunny and clear, there was nothing about the roadway itself that was out of the ordinary. The roadway itself was in good condition, clear of any potholes, oil or debris. The traffic lights facing him would have been visible for a significant period of time. There was nothing to distract his attention; indeed, he told police that he was not distracted, it was "just general traffic".[2]

[9] The traffic waiting in Shaw Road to turn left and enter the Bruce Highway would enter from Mr Stevenson's left. There was a line of cars in two lanes, stationary at a red light. A black car was first in line in the right hand lane, nearest the direction from which Mr Stevenson was approaching. Next to it in the left lane was a silver car, driven by Ms Pavetto.

[10] As he drove towards the intersection, the traffic lights facing Mr Stevenson turned to amber. That was when he was about 100 metres from the intersection. About

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1 Emphasis added.
2 AB 71.

45 metres out the lights turned red. Mr Stevenson said he saw the light turn amber,[3] but said nothing to the police about whether he saw the light turn red. Since he did not give evidence at the trial there was no more light shed on that fact.

[11] Mr Stevenson did not alter his speed as he approached the intersection, and remained at about 60 km per hour as he entered it.

[12] When the lights facing the traffic entering from Shaw Road changed to green, the cars moved off to turn into the Bruce Highway. The black car started to move after the semi-trailer had crossed its stop line at the intersection, thus entering the intersection after the lights had turned red.[4] The semi-trailer and the black car collided. The impact made the black car spin and it hit the silver car.

[13] Ms Pavetto was driving the silver car. She sustained serious injuries which can be summarised as follows:

(a) minor fractures to the pelvis;

(b) a minor fracture to the small toe on the right foot; and

(c) ongoing pain beyond the expectation of those injuries; this consisted of pain in the lower back down both legs, and in the thoracic spine beneath the shoulder blades and at the base of the neck; this was diagnosed as a condition called central nervous system sensitisation, which manifested as severe ongoing neuropathic pain, described by the treating doctor as "a particular sort of pain that manifests as a burning, searing, horrible pain, really, and associated with sensory signs of abnormality which don't occur in ordinary nerve root, or any other neural condition of complete sensitivity to light touch, or cold, or heat, pinprick…".[5]

[14] The semi-trailer stopped about 130 metres north of the intersection. There was no damage to the prime mover. Damage was evident on the trailer, on the left rear and in the area of the tri-axle at the left rear.

[15] When police spoke to Mr Stevenson at the scene, he blamed the driver of the black car saying something to the effect of, "I think he was. You don't drive into the back of a semi".[6] That was the case Mr Stevenson ran at trial.[7]

Approach of the learned sentencing judge

[16] The learned sentencing judge mentioned a number of factors which were taken into account in arriving at the sentence imposed:[8]

(a) it was not a case of momentary inattention;

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3 AB 71 line 21.

4 Once the lights facing Mr Stevenson turned red there was a further 2.9 second period when all lights at the intersection remained red, to allow time for passing traffic to clear the intersection: AB 82 lines 36-47. The light facing the black car had turned green before it moved. The prime mover crossed its stop line 0.7 seconds before the black car moved: AB 112 line 45 to AB 113 line 17. Counsel for Mr Stevenson accepted that the lights turned red for Mr Stevenson when he was about 45 metres out from the intersection: Appellant's outline paragraph 3.

5 AB 96 lines 3-6.

6 AB 71 lines 17-19, lines 38-40.

7 AB 148 lines 6-22.

8 AB 169-170.

(b) the inference was that Mr Stevenson did not see the red light at all, indicating that there was a significant period in which he was not paying proper attention;

(c) it could not be said that the way in which Mr Stevenson drove was unlikely to cause death or a grievous bodily injury; he showed a complete disregard for other road users in proceeding through the intersection in the way in which he did;

(d) the consequences of the dangerous driving have been tragic for Ms Pavetto;

(e) Mr Stevenson was a mature man with a "somewhat aged traffic history", and he had been employed as a professional driver;

(f) he was well-thought of in the community and had never previously been convicted of anything like this sort of offending;

(g) Mr Stevenson was a hard working subcontract driver and he had been under significant financial pressures; with the learned trial judge remarking: "[t]he references tendered on your behalf speak volumes about the regard in which you are held";

(h) a period of actual imprisonment was appropriate: "I conclude that I must do that to mark the seriousness of your conduct, particularly where you were driving a heavy vehicle, you had plenty of time to avoid what happened and you have altered Ms Pavetto's life probably forever";

(i) having regard to the fact that there was no suggestion of alcohol, drugs or excessive speed, it was appropriate to sentence the applicant at the lower end of the range of appropriate sentences, namely 18 months imprisonment; and

(j) in setting the period when the sentence would be suspended, "I bear in mind that you have been convicted after a trial and that you demonstrate no remorse about what happened, but persist in blaming the driver who drove on to the highway with a green light facing him".

[17] On the issue of the disqualification of the licence, the learned sentencing judge said this:[9]

> "It remains to consider the question of license disqualification. In my view, there is something to be said for the proposition that a person who behaves as you did on that day and then seeks to blame others demonstrates a lack of insight which is inconsistent with a level of understanding that ought be expected of drivers of heavy vehicles.
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> The choices open to me include disqualifying you from holding or obtaining a driver's license absolutely or for a set period. If I was to disqualify you absolutely, the community would have the additional assurance that you would have to come to court and make a case that you were fit to be issued with a license again. However, I note that you have been a professional driver for much of your adult life and that, particularly in recent times, you have not been a regular offending against the traffic rules.
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> I think this case will be appropriately met if I disqualify you from holding or obtaining a driver's license for a period of four years. I hope that that will give you time to reflect on what happened and that if you do return to professional driving, you will ensure that such a thing never happens again."

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9 AB 170.

Submissions on appeal

[18] Counsel for Mr Stevenson, commendably appearing pro bono, advanced three main points in his outline: (i) such comparable cases as could be found did not support a disqualification as long as four years;[10] (ii) given that Mr Stevenson's only form of employment, for much of his adult life, had been as a driver, the four year wait to re-engage in that type of employment was excessive; and (iii) in light of circumstances such as the financial strain on Mr Stevenson's family, the absence of any traffic infringements for 10 years prior to this event, his age (56), and his good character, the four years was disproportionate to the offence.

[19] Counsel for the Crown made several points in his outline: (i) Mr Stevenson was able to apply to the Court for another licence, after two years of the disqualification period;[11] (ii) the comparable cases raised by Mr Stevenson did not assist, as the disqualification period was not central to any of those appeals; (iii) the serious nature of the offending, including the degree of inattention, meant that the four years was not manifestly excessive.

Discussion

[20] It is not clear whether the learned sentencing judge was referred to comparable cases on disqualification sentences. In any event, his Honour was evidently not referred to this Court's decision in *R v Osborne*.[12] Nor was reference made to that authority in either outline before this Court. The Court having drawn attention to *Osborne*, each side addressed upon it. Its significance to the resolution of this case will become apparent.

[21] *Osborne* concerned a 65 year old truck driver, who had no previous convictions and a minor traffic history. He was driving with a wide load across a bridge where cyclists were travelling in single file. There was oncoming traffic as well. The driver thought that it was going to be a "tight squeeze" but he "believed there was enough room to get through". There was not. The load struck and killed one cyclist, caused serious injuries amounting to grievous bodily harm to two others, and lesser injuries to a third.

[22] The driver pleaded guilty to dangerous operation of a vehicle causing death and grievous bodily harm. He was sentenced to three and a half years' imprisonment, suspended after 14 months for an operational period of four years. He was also disqualified from holding or obtaining a licence for five years.

[23] The sentencing judge took the view that the driver's conduct represented "a very serious error of judgment", beyond mere momentary inattention.[13] On appeal, this Court referring to *R v MacDonald*,[14] reiterated that short hand descriptions such as "momentary inattention" are not the critical issue, but rather the level of seriousness of the actual driving. The court went on to refer to the sentence of imprisonment as a "significant head sentence" in so far as it provided for suspension after 14 months. That was reduced to nine months.[15]

[24] Turning to the issue of the disqualification, the Court said:[16]

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10 Referring to *R v Damrow* [2009] QCA 245; *R v Ruka* [2009] QCA 113 and *R v Allen* [2012] QCA 259.
11 Referring to ss 131(2), (2AA) and (2C) of the *Transport Operations (Road Use Management) Act* 1995 (Qld).
12 [2014] QCA 291. (***Osborne***)
13 *Osborne* at [28].
14 [2014] QCA 9 at [17].
15 *Osborne* at [49]-[50].
16 *Osborne* at [52].

> "The authorities do not support and nor did the parties suggest the existence of a reliable discernible pattern to the duration of disqualification periods imposed in cases like the present. Doubtless that is because of the variability of relevant considerations which can apply to this particular exercise of sentencing power."

[25] I respectfully agree with that statement. It applies equally to the authorities relied upon in this application.

[26] The Court in *Osborne* referred to the fact that under s 187 of the *Transport Operations (Road Use Management) Act* 1995 the driver could apply for a licence after two years. As to that it said:[17]

> "In submitting the disqualification period is not manifestly excessive the respondent also relied, inter alia, on s 131(2) of the *Transport (Road Use Management) Act* 1995 (Qld) which permits a person disqualified from holding or obtaining a driver's licence for a period of more than two years to, on the expiration of two years, apply to the court which imposed the disqualification for removal of the disqualification. That provision is obviously intended to cater for the possibility of changes in the offender's circumstances. It is irrelevant for present purposes. The severity of the sentence below falls to be considered by reference to the information which was considered by the learned sentencing judge. If this court concludes a component of the sentence below was manifestly excessive the error is no less an error by reason of the theoretical possibility that the excessive component of the sentence might be reduced on application to the District Court some years from now."

[27] With that I also respectfully agree. It disposes of that point in so far as the Crown relied upon the ability of Mr Stevenson to make a similar application.

[28] The Court identified the considerations which are relevant to the discretion to disqualify a driver, exercised under s 187 of the *Penalties and Sentences Act*:[18]

> "However, the discretion arising under s 187(1) as to the period of disqualification is broad and not expressed as being confined solely to "the nature of the offence, or to the circumstances in which it was committed." Other considerations which have been regarded as relevant to that discretion include:
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> - the need for protection of the public from persons who create danger on the road, particularly those with a pattern of doing so;
> - the consequences of the disqualification upon the offender's future employment prospects;
> - the risk that the disqualification period may create a disincentive to rehabilitation on release from custody;
> - the extent to which the disqualification period will operate as an additional penalty to other penalties imposed."

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17 *Osborne* at [54]; internal footnotes omitted.
18 *Osborne* at [57]; internal citations omitted.

[29] The last factor was addressed specifically, the Court referring to observations of Macrossan CJ in *R v Nhu Ly*,[19] that the disqualification "is not meant to be simply a gratuitous addition to other available punishments" and that there "should be an apparent purpose in disqualification as such, rather than would, say, be served by a heavier fine or a longer prison term".[20] The Court went on to say:[21]

> "Section 9(1)(a) of the *Penalties and Sentences Act* 1992 (Qld) provides in summary that the purposes of sentencing are punishment, rehabilitation, deterrence, denunciation and community protection. It follows that the observations of Macrossan CJ ought not be read as indicating that an order disqualifying an offender from holding or obtaining a driver's licence may not serve the legitimate purpose of punishing the offender. However where the duration of a disqualification order exceeds what is necessary for the other purposes of sentencing, care must be taken to ensure its duration does not give rise to a punishment which is unjust overall."

[30] It is notable that *Osborne* bears a number of factual similarities to the present case, including that: (i) the driver made a serious error of judgment in the manner of driving; (ii) the consequences were very serious;[22] (iii) the driver was a mature age, professional driver, with a good character and a minor traffic history; and (iv) the driver would be at an age, at the end of disqualification, where it would be harder to resume their profession.

[31] There are two differences, which have some relevance. First, there is evidence here, which the sentencing judge accepted, that Mr Stevenson and his family were under significant financial pressure.[23] That seems not to be the case in *Osborne*. Secondly, the driver in *Osborne* showed, at all times, great remorse for the suffering he had inflicted. That is not the case here.

[32] The first factor is relevant under the considerations listed in *Osborne*: see paragraph [28] above. Plainly, if a disqualification adversely impacted upon the financial ability of the offender to resume their normal employment of driving for reward, then it can potentially be seen to impact on future employment prospects, as well as amounting to an additional punishment. Of course, each case would have to be considered on its own facts, and the degree of impact would need to be assessed carefully. Here, there is evidence, accepted by the learned sentencing judge, that significant financial strain was present. An unduly prolonged period of disqualification would exacerbate that.

[33] As to the second differentiating factor, counsel for the Crown emphasised the lack of remorse as demonstrating a complete lack of insight on Mr Stevenson's part, that his serious error of judgment had caused life altering consequences for Ms Pavetto. It was submitted that indicated a person whose lack of insight consequently meant that he presented a danger to the community in his manner of driving, especially as he is a driver of heavy vehicles, and justified the disqualification period. He pointed to these passages in the sentencing remarks:

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19 [1996] 1 Qd R 543, 547.

20 *Osborne* at [58].

21 *Osborne* at [59].

22 Though obviously much worse in *Osborne* (where one person was killed and two sustaining grievous bodily harm) than in the present case, where only one person sustaining grievous bodily harm.

23 AB 161-162; AB 182.

> "Nonetheless, your reaction immediately after the accident did not demonstrate anything like remorse, but rather a complete lack of insight about what you had done. I accept that you may have been somewhat shocked when you saw the wreckage that your driving had caused, however nothing that has happened since then indicates that you have developed an appreciation of the seriousness of your offending or that it was your fault because you failed to observe the red light that faced you."[24]
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> "It is also of concern to me that you wished at the time, and you still wish, to blame the driver of the black Holden Cruze saying that he drove into the back of your vehicle".[25]
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> "I bear in mind that you have been convicted after a trial and that you demonstrate no remorse about what happened, but persist in blaming the driver who drove on to the highway with a green light facing him."[26]
>
> and
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> "In my view, there is something to be said for the proposition that a person who behaves as you did on that day and then seeks to blame others demonstrates a lack of insight which is inconsistent with a level of understanding that ought be expected of drivers of heavy vehicles."[27]

[34] In my view, that contention cannot be accepted.

[35] It is true that Mr Stevenson saw that the driver of the black car was at fault for driving into the rear of his trailer, and that was a line of defence that was maintained at trial. No doubt, that attitude was influenced by things such as: (i) if Mr Stevenson had not seen or been conscious of the red light, then he may well have felt (wrongly) that he entered the intersection on an amber light,[28] and therefore he was not as blameworthy as was being said; (ii) the site of the actual impact was at the rear of the trailer, not near the prime mover; and (iii) he was not driving at speed or erratically.

[36] The defence approach was also, in my view, likely to have been influenced by the fact that there was no physiological explanation for Ms Pavetto's ongoing pain. Plainly, a line pursued was that the ongoing pain was not causally related to the collision,[29] in an attempt to have the jury conclude that grievous bodily harm had not been established.[30]

[37] However, whilst that was a mistaken stance to adopt, it that does not mean that Mr Stevenson will not, in light of the scathing remarks in the sentencing process, and on this application, come to understand the significance of his conduct.

[38] The Court in *Osborn*e said:[31]

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24 AB 169 lines 34-40.
25 AB 169 lines 22-24.
26 AB 170 lines 24-26.
27 AB 170 lines 29-33.
28 Indeed that is what he told the police: AB 71 line 21.
29 AB 148 lines 20-22.
30 See the cross-examination of Dr Watson at AB 98-99.
31 *Osborne* at [60]; emphasis added.

> "In the present case, as serious as the applicant's offence was, he did not have a past pattern of dangerousness towards other road users. **Having regard to his maturity, his generally good driving history and his genuinely guilt-ridden reaction to the consequences of his offence, the likelihood of his driving presenting a risk to community safety in the future is low.** It was not and nor could it be sensibly suggested that a period of disqualification of five years is necessary in this case to protect the community. Nor is such a lengthy period necessary for the purposes of rehabilitation. To the contrary, such a lengthy period would likely be positively unhelpful to rehabilitation, particularly given its adverse consequences for the future employment prospects of the applicant, whose primary means of earning an income has in the past been driving."

[39] The significance of the remorse in that case was as a factor going to whether the offender's future driving would present a risk to the community. The rationale is that if the offender has in mind, because of remorse, the consequences of the egregious error made previously, then that offender will drive all the more safely. Thus it relevantly looks to the future conduct, as an assurance of safety.

[40] In my view, the lack of remorse here cannot necessarily be said to bespeak a risk of safety in the future. There are discernible reasons, albeit wrong, why the stance was taken that another driver was to blame. Further, the lack of remorse in this case should not weigh so heavily that it overrides other considerations, particularly those concerning a mature age professional driver, whose ability to resume his career is essential to his rehabilitation and the financial stability of his family.

[41] It must be borne in mind that the sentence otherwise was 18 months imprisonment, suspended after serving nine months for an operational period of three years. Whilst the challenge to that aspect of the sentence was abandoned, it cannot be said that it was an obviously lenient sentence for the level of seriousness of the actual conduct. That circumstance suggests the disqualification did not serve the legitimate purpose of punishing Mr Stevenson, but gave rise to a punishment which was unjust overall.

[42] In my view, the considerations that were taken into account in *Osborne* are applicable here, and for the same reasons the period of disqualification here was manifestly excessive. In that respect, I respectfully adopt what was said in *Osborne*:[32]

> "As to the sentencing purposes of punishment, deterrence and denunciation it may be accepted given the nature of the offence that a disqualification order would help serve those sentencing purposes. However the order must be considered in the context of the overall sentence imposed. Given the extent to which those purposes are already served by the sentence of imprisonment in this case, a disqualification period longer than about two years lacks proper purpose. A disqualification period of five years was manifestly excessive."

Suspended period of disqualification

[43] The consequence of lodging the appeal against conviction was that the period of disqualification was suspended: s 131(3A) of the *Transport Operations (Road Use*

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[32] *Osborne* at [61].

Management) Act 1995 (Qld). Once the appeal is determined, s 131(3B) provides that "subject to any decision of a court upon that appeal, that portion of the period of disqualification which had not expired when such suspension began to operate shall take effect from the date of determination of that appeal".

[44] The application of s 131(3B) would mean that Mr Stevenson's disqualification would be extended by the (nearly) seven months between 26 November 2015 and now, unless another order is made. In my view, it would be appropriate to make such an order, as the appeal against conviction has been abandoned, and in the interim Mr Stevenson has remained in jail without any chance to drive. Had the appeal against conviction not been lodged, then the time of disqualification would have continued running, notwithstanding that Mr Stevenson was in jail and unable to drive. I see no good reason why the time when he can resume his employment should be extended further than necessary.

Conclusion

[45] For the reasons expressed above I would grant leave to appeal, allow the appeal and substitute a period of disqualification, from holding or obtaining a driver's licence, of two years from 29 October 2015. I would also order that the portion of the disqualification that had not expired when the appeal against conviction was lodged on 26 November 2015, shall take effect from 27 November 2015.

[46] I propose the following orders:

1. The appeal against conviction is dismissed.
2. The application for leave to appeal against sentence is granted.
3. The appeal against sentence is allowed.
4. Set aside that part of the sentence imposed on 29 October 2015, which ordered that the appellant be disqualified from holding or obtaining a driver's licence for a period of four years.
5. In lieu thereof, order that the appellant be disqualified from holding or obtaining a driver's licence for a period of two years from 29 October 2015.
6. Order that the portion of the disqualification that had not expired when the appeal against conviction was lodged on 26 November 2015, shall take effect from 27 November 2015.
7. Otherwise the sentence imposed on 29 October 2015 is confirmed.

[47] **PHILIPPIDES JA:** For the reasons given by Morrison JA, I agree with the orders proposed by his Honour.

[48] **HENRY J:** I have read the reasons of Morrison JA. I agree with those reasons and the orders proposed.