

JERSEY / JUDGMENT

# The Attorney General v Tomasz Rafal Pilat

COURT

Royal Court

Source: jerseylaw.je · Research copy typeset by Esheria. Not court-issued or certified.

## Source record

**Inferior Number Sentencing - motoring - breach of order**

**[2024]JRC200**

**Royal Court**

**(Samedi)**

**27 September 2024**

Before :

R. J. MacRae, Esq., Deputy Bailiff, and

Jurats

The Attorney General

-v-

Tomasz Rafal Pilat

Sentencing by the Inferior

Number of the Royal Court, following a guilty plea to the following charges:

1 count of:

Driving a motor vehicle with an alcohol concentration above the prescribed limit, contrary to Article 28(1)(a) of the Road Traffic (Jersey) Law 1956 (Count 1).

1 count of:

Driving a motor vehicle whilst disqualified, contrary to Article 15(4)(b) of the Road Traffic (Jersey) Law 1956 (Count 2).

Age: 45

Plea: Guilty

Details of Offence:

On 21 June 2024 the Defendant drove a motor vehicle whilst disqualified from holding a licence. He had been disqualified from driving in the Magistrate's Court two days prior to his arrest. When the Defendant drove on 21 June 2024, he was over the prescribed limit in that he provided the police with a breath sample that contained 64 mg of alcohol in 100 ml of breath. The legal limit is 35mg. Whilst driving the Defendant clipped another car and he failed to stop after the collision. Consequently, the other driver followed him. The other driver pulled his car alongside the Defendant's vehicle and told him to pull over, which he

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                     | <p>did. The other driver parked in front of the Defendant’s vehicle to prevent him from driving off. The Defendant tried to drive away and hit the other vehicle, causing further damage. The Defendant then got out of his car and offered to settle the matter privately as he did not want to involve the police. The total damage caused included damage to the right-side wing mirror of the other car; scratched paintwork as well as a scratch mark to the rear wheel arch.</p> <p>As a result of the Defendant’s offending on 21 June 2024, he was in breach of a Community Service Order imposed by the Magistrate’s Court two days prior for failing to provide a specimen for analysis.</p> <p>The facts of that offence are that on 15 May 2024, the Defendant drove poorly along La Grande Route de St Jean causing members of the public to call the police. The Defendant was stopped by officers. He was suspected to be highly intoxicated, with a strong smell of alcohol, his eyes glazed and slurred speech. Four empty cans of Stella Artois were in the passenger footwell.</p> <p>The Defendant failed a roadside breath test. Whilst at Police Headquarters, the Defendant failed to provide an evidential specimen of breath without reasonable excuse.</p> |
| Details of Mitigation:              | Pleaded guilty at the earliest stage.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Previous Convictions:               | The Defendant was convicted of failure to provide a specimen for analysis two days prior to these offences.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Conclusions:                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Count 1:                            | 6 months’ imprisonment, concurrent to Count 2. 3 years’ disqualification from driving with the requirement to retake the driving test.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Count 2:                            | 8 months’ imprisonment. 1 year’s disqualification from driving with the requirement to retake the driving test.<br>Breach of Community Service Order: 5 months’ imprisonment, consecutive. 3 years’ disqualification from driving with the requirement to retake the driving test.<br>Total: 13 months’ imprisonment. 3 years’ disqualification from driving with the requirement to retake the driving test and forfeiture and destruction of the vehicle<br>Forfeiture and destruction of vehicle sought.<br>Recommendation for deportation sought.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Sentence and Observations of Court: |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Count 1:                            | 6 months’ imprisonment. 3 years’ disqualification and re-test ordered.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

Count 2: 8 months' imprisonment. 1 years' disqualification and re-test ordered, consecutive to Count 1.  
Breach of Community  
Service Order: Order revoked and replaced with 5 months' imprisonment. 3 years' disqualification and re-test ordered, consecutive to counts 1 and 2.  
Total: 19 months' imprisonment. 3 years' disqualification from driving and re-test ordered.  
Forfeiture and destruction of vehicle ordered.  
Recommendation for deportation made.  
Crown Advocate C. L. G. Carvalho for the HM Attorney General.  
Advocate E. L. Burns for the Defendant.

## JUDGMENT

THE DEPUTY BAILIFF: 1. Tomasz Pilat, you are 45 years old. You are to be sentenced here for three offences. You have one relevant conviction, namely your conviction on 19 June 2024 for failing to provide a specimen of breath for analysis. For that offence, you were disqualified from driving for two years and ordered to perform community service. The hours of community service were equivalent to five months' imprisonment. 2. Notwithstanding your conviction by the Magistrate's Court on 19 June, just two days later you were driving a Volkswagen Sharan motorcar at approximately 10:30 pm east bound towards St Helier. Not only were you driving whilst disqualified but you were driving whilst drunk. Your vehicle clipped the offside wing mirror and damaged the offside body work of a vehicle driving in the opposite direction near First Tower. The other driver had the presence of mind to turn his car around and follow you to Kensington Place where he told you to pull over. The other driver then parked his vehicle in front of yours. You attempted to drive away, hitting the rear bumper of the innocent driver's car causing further damage. 3. It became clear when you alighted from your vehicle that you were reluctant to involve the police. The other driver could tell that you were intoxicated. The police were called. They noticed that your speech was slurred and that you smelled of alcohol. You provided a sample of breath at the roadside and at the police station, and the reading was 64 micrograms against the limit of 35 - almost twice the limit. 4. In police interview you accepted that you knew you were disqualified from driving and that you would be committing an offence if you drove. You had been driving that morning as well and you had drunk beer and taken painkillers before driving towards your home at the end of the day. 5. As to the offence for which you were sentenced to community service just two days before, that involved a report that you had been driving poorly along La Grande Route de St Jean, your vehicle hitting the curb multiple times as well as driving on the wrong side of the road. When the police stopped you on that occasion they formed the opinion regarded you as highly intoxicated with a strong smell of alcohol. They saw four empty cans of strong lager in the passenger footwell of your vehicle. When you were asked

to leave your car, the vehicle carried on moving as you had failed to apply the handbrake. You failed a roadside breath test. You were arrested, cautioned and taken to police headquarters where you failed to provide an evidential specimen of breath when instructed to do so, notwithstanding the fact that you had received multiple warnings. 6. The Magistrate's Court has sent you to this Court for sentence as it regarded its powers as insufficient to deal with you. We have had regard to the Pre-Sentence Report, prepared in July 2024. At that point your insight into your offending was very limited. The Report says that you felt the consequences of what happened to you outweighed the seriousness of your offending. You complained that the police did not give you medication for pain you were in. You complained you were not told enough about the whereabouts of your car when you were in police custody. You seem to think it is someone else's fault that you had lost your job and your accommodation. 7. We note that you now regret what you did, and you are making constructive use of your time in custody. We also note that the innocent driver will, presumably, have to pay for the damage to his car as you were presumably uninsured at the time of these offences. You are a native of Poland and came to Jersey some 19 years ago. Your family live in Poland, you are single, have no children, no employment and no accommodation at the time of your remand in custody. The Crown seeks a recommendation that you be deported at the end of your sentence. The Pre-Sentence Report reveals that you are an alcoholic and were drinking up to a litre of whisky a day at the time of your offending. You were taking medication for high blood pressure associated with heavy drinking. You have been subjected to a medical detoxification since your remand into custody. 8. The maximum sentences for the two matters at Count 1 and Count 2 on the Indictment to which you pleaded guilty are 12 months' imprisonment. It is well established that in the case of offences with a low maximum sentence, it may be appropriate from time to time to impose the maximum sentence, even when the defendant has pleaded guilty. In respect of the offences particularly the offence at Count 2, it is quite difficult to think of a more flagrant example of offending. You knowingly drove your car when you had been drinking, two days after being disqualified from driving in respect of an offence where you are also plainly affected by alcohol. You were driving at night, you damaged another vehicle and deliberately drove at that vehicle in order to avoid being apprehended. 9. We found it difficult to understand why the Crown moved for concurrent sentences in relation to the offences at Counts 1 and 2, and we have no doubt that the Court should impose consecutive sentences for those matters together with a consecutive sentence in relation to the offence dealt with by community service. That order needs to be revoked, and you need to be re-sentenced for that matter.

10. We note your guilty plea and give you full credit for it, inevitable though it was in the circumstances. We have had regard to your letter of remorse and all that has been said on your behalf. Although not binding on this Court, we have considered the Magistrate's Court's Sentencing Guidelines or at least the version that is due to be adopted by that Court on 1 October

2024. We have no doubt that each of these offences are so serious that only a custodial sentence can be justified. The public need to be protected from conduct such as yours, and the sentences that the Court imposes need to be sufficient to bring home to you and others the seriousness of these driving offences.
11. The sentences of the Court in relation to the three matters before us are as follows: (i) Count 1: 6 months' imprisonment with a 3 year disqualification from driving with a requirement to retake the driving test. (ii) Count 2: 8 months' imprisonment consecutive, with a 1 year concurrent disqualification from driving with a requirement to take the driving test. (iii) In relation to the offence the subject of the Community Service Order we revoke the Order and sentence you to 5 months' imprisonment, consecutive, with a 3 years' disqualification from driving with a requirement to retake the driving test.
  12. Making a total of 19 months' imprisonment with 3 years' disqualification from driving.
  13. The Crown has also sought the forfeiture of your motor vehicle the Volkswagen Sharan to which we have referred.
  14. We have considered the case of *Hawkins v Attorney General* [2024] JRC 121 which recently considered at some length the relevant legislation. We are satisfied - as we need to be pursuant to the provision of the Criminal Justice (Forfeiture Orders) (Jersey) Law 2001 - that this is property lawfully seized from you which was used for the purpose of committing both the offences at Counts 1 and 2 and was intended to be used for that purpose, and having regard to the value of the property between £500 and £2,000 it is proportionate to make the order in question. Noting, as we do, that you do not object to that order, we order the forfeiture of that motor vehicle which we understand is likely to be scrapped.
  15. The Crown also seeks an order recommending your deportation at the end of your sentence. As to the two limbs of the test set out in *Camacho* we have considered your work record and all the other matters urged on the Court by your counsel on your behalf. You have committed three serious offences within a short period of time, putting yourself and other road users at risk. You have shown contempt for the criminal justice system in your disregard for the order imposed on 19 June. We are satisfied that your continued presence in the Island is detrimental to the community.
  16. As to the second limb of the test, whether or not the effect of a recommendation and subsequent Order for Deportation are disproportionate as regards your rights and the rights of those connected to you. We have considered with care all that has been said on your behalf, not least the time that you have spent living in the Island without committing criminal offences, and (again) your good work record and the submissions we have received in relation to the health of your family members in Poland. But having undertaken the careful balancing exercise that the Court must undertake, we have no doubt in the circumstances that the Court should make a recommendation for your deportation and accordingly the likelihood is that you will be deported to Poland at the end of your sentence. Authorities Road Traffic (Jersey) Law 1956. Magistrate's Court's Sentencing Guidelines.

Hawkins v AG [2024] JRC 121. Criminal Justice (Forfeiture Orders) (Jersey) Law 2001.  
Camacho

v. AG [2007] JLR 462. AG v Nafkha 2000/86. AG v Coelho [2024] JRC 006.

---

## Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

**ORIGINAL SOURCE**      <https://www.jerseylaw.je/judgments/unreported/Pages/%5B2024%5DJRC200.aspx>

**CASE PAGE**              <https://chat.esheria.ai/case-law/jersey/the-attorney-general-v-tomasz-rafal-pilat-2024>

Prepared on 22 October 2026 · Esheria