



# In The Supreme Court of Bermuda

## APPELLATE JURISDICTION

2021 No. 16

**BETWEEN:**

**AMIR MIZRACHY**

**Appellant**

**-and-**

**THE KING**

**Respondent**

**Before:**

**Hon. Assistant Justice Diel**

**Appearances:**

**The Appellant in Person**

**Ms Shaunte S Simons-Fox of the Department of Public Prosecutions  
for the Respondent**

**Date of Hearing:**

**17 April 2023**

**Date of Judgment:**

**6 December 2023**

## **JUDGMENT**

1. In this appeal, a decision of the Learned Magistrate Tyrone Chin, the Appellant seeks to quash the conviction of driving without due care and attention contrary to Section 37 of the Road Traffic Act 1947.

2. The main evidence was provided by an independent witness, a Mr Rui Moniz, who was driving east on Middle Road in the vicinity of St Paul's Church. At that time (8.30 am) traffic was "stop and go" due to the traffic lights ahead and there was a line of traffic. He saw the Complainant's vehicle overtake the Appellant's and pull back into the left lane. Closer to the traffic lights on Middle Road, Mr Moniz saw the Appellant's car pull out and try to "force itself" in front of the Complainant's car. According to Mr Moniz, this resulted in the Appellant's car ending up "vertically" across the road. By this I take it to mean the car was perpendicular to the flow of traffic.
3. Despite both the Complainant and Mr Moniz questioning the Appellant, he made no response and drove off having damaged the Complainant's vehicle.
4. The Learned Magistrate's decision provides a detailed account of both examination in chief and cross examination. There is nothing in this recitation that leads me to believe that the Appellant drove in anything other than a careless manner and without due care for other road users.
5. The Appellant did file a lengthy Notice of Appeal and a Statement of Defence. Part of the "defence" is that the Complainant herself "broke the law" by overtaking on a yellow line. To deal with the contention first, the Complainant is not on trial here and secondly, even assuming the Appellant is correct, this does not give him carte blanche to drive in the manner he did.
6. I will not comment on various aspects of the Appellant's submissions as they are before a Judicial Complaints Committee and it is not appropriate for me to deal with them here.
7. The Appellant attempted to rely heavily on the Road Traffic Handbook believing erroneously that this was a binding legislation. Which it is not. It is merely a useful tool in proper driving techniques.
8. The Appellant in his actions served only to make a bad situation worse and despite accusing every prosecution witness of "lying" cannot overcome the hurdle of Mr Moniz' testimony which

corroborates that of the Complainant. The facts speak for themselves in that the Appellant was clearly driving in a careless, indeed dangerous manner.

9. Despite the Appellant's best efforts, the appeal is dismissed.

Dated this 6<sup>th</sup> day of December 2023



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MARK DIEL  
ASSISTANT JUSTICE