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IN THE COURT OF APPEAL

R.M. COURT CRIMINAL APPEAL No. 187/65

BEFORE: The Hon. Mr. Justice Duffus, President  
The Hon. Mr. Justice Waddington  
The Hon. Mr. Justice Shelley (Acting)

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R. vs EUGENE PARKINSON

Mr. C. Orr for the Crown

Messrs D. Coore, Q.C. and N. Edwards for the appellant.

26th January, 1966.

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SHELLEY, J.A. (Acting),

The appellant, Eugene Parkinson was convicted by the learned Judge of the Traffic Court on the 30th of July, 1965, on an Information which charged him with 'being the driver of a motor vehicle along Old Hope Road in the parish of Saint Andrew he disobeyed a signal given by a Constable in the execution of his duty to wit: to turn left into North Avenue, contrary to Section 50 of Chapter 346 of the Road Traffic Law'.

The facts are very simple. On the 26th of March, 1965, the appellant was driving his car down Old Hope Road, approaching the intersection of North Avenue and Lady Musgrave Road with Old Hope Road. The Crown's case was that there was some work or some obstruction on the road below this intersection which caused at sometimes traffic to be held up, and the police man, the complainant in this case who was on point duty at this intersection said that he saw this defendant, gave him a signal to turn into North Avenue but the defendant did not turn then. The defendant said, 'I am going down Old Hope Road, you can't tell me where to drive.' He drove up close to the police constable and allegedly held up traffic. He was also charged with obstructing traffic and was acquitted on that Information.

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He subsequently moved on, and parked his vehicle on the side of the road below where the constable stood on the constable's instruction. The constable had said to him "I gave you a signal to turn down North Avenue and you did not do so you prevented me from calling the traffic behind you, and also Lady Musgrave Road traffic from turning into North Avenue" to which the constable says defendant replied "I am a lawyer, you are talking foolishness, I am going to make the judge run you out of Court like how I made him do one the other day," whereupon, the constable warned him for prosecution.

The case for the defence was, that the appellant was coming down Old Hope Road, intended to continue along Old Hope Road, and with no intention to go into North Avenue. He came along moving in traffic, and he saw the policeman signal traffic to proceed down Old Hope Road. The car immediately in front of him proceeded down Old Hope Road, and he went along behind it, and immediately that car had passed, or almost passed the junction, he saw the policeman gesticulating and shouting, but he could not hear what he was saying. Then he stopped a few feet below North Avenue and asked the policeman what was wrong and it was then that this policeman started to write his name and so on. He does not say specifically, what the policeman said to him after he asked this question. In fact, he said that the policeman never said that he, the appellant, had prevented traffic from going down North Avenue. The appellant denied that he made the remark which the policeman accused him of making.

Learned Counsel for the appellant urged two grounds of appeal. Firstly, a question of law; he submitted that this Information charges the driver of a vehicle under Section 50 of Chapter 346, and that the only part of that Section which could be applicable to these circumstances is that portion of it which says 'that the driver of a motor vehicle shall obey

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directions to keep on any indicated line of traffic, the important words being 'indicated line of traffic', and learned Counsel argues that that does not give a policeman power to divert traffic; that it gives him power to indicate to traffic what line to take on any particular road; that the drivers of vehicles are entitled to travel along such road as they wish to travel along, and that the particular section does not give the constable power to divert traffic desirable as that situation might be.

Mr. Orr for the Crown in reply submits a constable on duty has power under Section 25 of the Constabulary Law Chapter 72 to control traffic, and he argues that what the policeman was doing in this particular case was controlling traffic, and that it is irrelevant whether he was charged under Section 25 or under the Road Traffic Law. In this case he is charged under the Road Traffic Law where the punishment is a higher one than that provided by Section 25 of the Constabulary Law.

We have considered this matter carefully, and we have come to the conclusion that the constable does have power to divert traffic under the provisions of Section 50 of Chapter 346. In this case, the evidence, obviously, is that there was a block at this particular time further down the road, and, in order to keep traffic flowing, the constable diverted along North Avenue. That in our view, is something which Section 50 gives him power to do.

The other point urged by Mr. Coore is a question of fact. He says there are bits of evidence, and he particularly refers to other Informations on which this appellant was charged, which raise the strongest possible doubt as to whether any clear signal was given and whether the appellant was aware of it at the material time. These

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bits of evidence were sufficient, he said, to raise doubts in the mind of the learned trial Judge because they went to the credibility of the witness. Well, these things were ventilated before the learned trial Judge, and he found against the defendant. There is, in our view, ample evidence on these records from which the learned Judge could have found against the appellant, and we find therefore, that there is no merit in that ground. In the circumstances, the appeal will be dismissed, conviction and sentence affirmed.