

**IN THE SUPREME COURT OF SEYCHELLES**

**THE REPUBLIC**

**VS.**

**ROLLAND HOAREAU**

Criminal Side No. 17 of 2006

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Mr. Esparon for the Republic

Mr. Ally for the Accused

**SENTENCE**

**Gaswaga, J**

[1] The accused was charged with four different offences to which he has now pleaded guilty, save for count 1. The charge sheet reads as follows:

Count 1

***Statement of offence***

Manslaughter contrary to Section 195 of the Penal Code.

***Particulars of offence***

Rolland Roch Hoareau of Bel Ombre, Mahe, on the 29<sup>th</sup> July, 2005 in the district of Beau-Vallon, unlawfully killed Gerard Hoareau.

**In the alternative to Count 1**

Count 2

***Statement of offence***

Causing death by dangerous driving contrary to and punishable under Section 25 of the Road Transport Act.

***Particulars of offence***

Rolland Roch Hoareau on the 29<sup>th</sup> July, 2005, at Beau-Vallon, Mahe, caused the death of another person namely Gerard Hoareau by driving a motor vehicle at a speed or in a manner in which is dangerous to the public.

Count 3

***Statement of offence***

Driving a vehicle with alcohol concentration above the prescribed limit contrary to section 3(1) of the Road Transport (Sober Driving) Regulations (S.I 109 of 1995) and punishable under section 9(1)(a) of the said Regulation as read with section 24(2) of the Road Transport Act, Cap 206.

***Particulars of offence***

Rolland Roch Hoareau of Bel Ombre, Mahe, on the 29<sup>th</sup> July 2005, in the district of Beau-Vallon, Mahe, drove a motor vehicle on the public road and whilst driving the said motor vehicle had a proportion of alcohol in his breath with exceeded the prescribed limit.

Count 4

***Statement of offence***

Driving a motor vehicle on the public road without a valid Road Fund Licence contrary to section 34(1) of the Road Transport Regulations as read with section 80(f) of the said Regulation and punishable under section 24(2) of the Road Transport Act, Cap 206.

### ***Particulars of offence***

Rolland Roch Hoareau of Bel Ombre, Mahe on the 29<sup>th</sup> July 2005, in the district of Beau-Vallon, Mahe, drove a motor vehicle on the public road and whilst driving the said motor vehicle did not have a valid Road Fund Licence.

- [2] As could be discerned from the facts, the accused is a forty two (42) year old man employed as a personal assistant and on the night of 30<sup>th</sup> July, 2005 at the time of the accident which gave rise to the above charges he was driving a government vehicle which got involved in a head-on collision with another car in the Beau Vallon District. While presenting extenuating factors on behalf of the accused Attorney-At-Law Frank Ally stated that since the lights of the oncoming vehicle were not dimmed the accused lost control of his car and collided with it. The accused was returning from a staff party and had admittedly consumed some alcohol during the said party. As a result of the collision one of the passengers, Gerard Hoareau, sustained injuries and was admitted to Victoria Hospital where he died on the 2<sup>nd</sup> of August.
- [3] The accused has tendered a guilty plea for the three counts thereby saving the precious time of the court and the witnesses who would have come to painfully relate the whole incident afresh before the court. By so doing, it shows that he is remorseful and will be credited for that. As intimated by the prosecution the accused has no previous criminal record and as such will be treated as a first offender. He feels sorry about the incident and has also begged for forgiveness from the family of the deceased as well as the court. That he never intended to cause the collision and since then he has suffered tremendously in various ways. He prays for a non custodial sentence.

- [4] It has been submitted that the accused has a serious medical condition which regularly leads to his admission into hospital for observation and/or treatment. According to the medical report dated 29<sup>th</sup> March, 2010 as prepared by Dr Karen Shaoying Chen and submitted in court, Mr R. Hoareau is a known case of diabetes mellitus and used to be on insulin before 2006. He also had an operation in 2006 to remove a stone from the pancreatic tract. He was then put on glibenclimide and metformin. Mr Hoareau now suffers from uncontrolled diabetes secondary to chronic pancreatitis and chronic pancreatitis and is on daily treatment. He is slim and has lost 10 kilograms.
- [5] In the recent case of **Rep. Vs Collin Woodruff CR. No 78 of 2007** several decided cases related to this one and reflecting the sentencing pattern of this jurisdiction were referred to. The facts of the **Woodruff** case are somewhat similar to the one at hand. The accused, while under the influence of alcohol had driven a vehicle at a high speed and lost control leading to a fatal accident which caused the death of a person. On the first count of causing death he was sentenced to a prison term of six months and a fine of Sr 10,000. For the second offence of driving a vehicle while under the influence of alcohol with a high concentration level a fine of Sr 10,000 was imposed. His driver's license was also withdrawn for a period of five years.
- [6] There is no doubt that the offences in the instant case are serious and would call for very severe sentences especially where a driver embarks on driving while knowing that he has consumed alcohol beyond the acceptable levels or prescribed limit. It is even worse if one drives a car on a public road without a road fund license. A prudent driver must never drive any car before checking and ensuring that the car itself is in a good mechanical condition with all the necessary requirements such as road licenses and insurance policies in place.

That duty is squarely placed on the shoulders of the driver.

[7] Having considered the extenuating factors as outlined by the defence counsel, especially regarding the current medical condition of the accused, I feel that a custodial sentence would not serve the justice of the case. However, the most suitable sentence in this case would be as follows:

**(i) On count two the accused will pay a fine of SR 10,000 in default to serve a period of six (6) months in prison**

**(ii) On count three a fine of SR 5,000 is to be paid failing which the accused is to undergo a term of four (4) months imprisonment, and**

**(iii) On count four a fine of SR 5,000 shall be paid failing which the accused will serve a period of four (4) months in prison.**

**[8] ORDER**

Pursuant to section 27 of the Road Transport Act, Cap 206 the accused's **license is hereby suspended for a period of five (5) years** during which period he is not authorized to drive any vehicle. By this order, the **Seychelles Licensing Authority is hereby directed to withdraw or cancel the accused's license,** if he has one, and not to renew or issue him with a driving license during this period if he has none.

[9] I so order.

Right of appeal explained.

**D. GASWAGA**

**JUDGE**

Dated this.....day of October, 2010