

Aljazair Al-Haj Bin Junaidi

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Motion No. 15 Of 2025)**

Muhammed Faisal Bin PDJLD Kol(B) DSP Haji Kefli, J.C.

Date of Ruling: 26th August 2025

Headnote: -Criminal Law – Road Traffic Offence – Driving without insurance – Section 3(1) & (2) Motor Vehicle Insurance (Third Party Risks) Act, Cap. 90 – Mandatory disqualification – Appeal for reduction – “Special reasons” – Meaning – Whether financial hardship and employment consequences constitute special reason – Negligence in failing to renew insurance – No evidence of actual job loss – Hardship personal to offender – Disqualification upheld – Appeal dismissed.

DPP Abdul Musawwir Bin Hj Awg Mahli for the Public Prosecutor.

Appellant In Person.

Cases cited:

Whittal v Kirby [1946] 2 ALL ER 552

Public Prosecutor v Lim Jin Lee, Public Prosecutor v Salina binti Mohd Salleh [Criminal

Appeal No. 25 & 26 of 2000] 2 JCBD 68

LLP 14691 Patra bin Kunchil v Public Prosecutor [Criminal Appeal No. 17 of 2015] 2 JCBD 62

Pengiran Sharifuddin bin Pengiran Rendah v Public Prosecutor [Criminal Appeal No. 152 of 2002] 1 JCBD 218

Statute:

Section 3(2) of the Motor Vehicle Insurance (Third Party Risks) Act, Chapter 90.

RULING

Muhammed Faisal, J.C:

Introduction

1. This is an appeal by the Appellant, Aljazair Al-Haj bin Junaidi, against the disqualification order imposed by Magistrate Syaffina binti Shahif on 9 July 2025.
2. The Appellant was charged under Section 3(2) of the Motor Vehicle Insurance (Third Party Risks) Act, Chapter 90, for driving a motor vehicle on a public road when the insurance policy had expired. He pleaded guilty to the charge, admitted to the Statement of Facts, and was accordingly convicted.

3. The Magistrate imposed a fine of BND\$750.00 (in default three weeks' imprisonment) and a mandatory disqualification from holding or obtaining a driving licence for all classes for twelve (12) months with effect from 9 July 2025.
4. On 14 July 2025, the Appellant filed a Notice of Appeal seeking a reduction of the disqualification period, contending that the same was excessive and would severely hamper his ability to earn a living.
5. His insurance policy had expired on the 16 February 2025. He was caught driving his vehicle on 4 May 2025.

Appellant Submissions

5. The Appellant seeks a reduction in the disqualification period, or alternatively, a conditional licence that would enable him to continue working as a heavy vehicle driver during the period of disqualification.
6. He submits that the disqualification order gravely affects his livelihood as he is the sole provider for his elderly mother, notwithstanding that he has seven siblings. He bears ongoing financial commitments, including a car loan and personal loan, and is concerned that his inability to work would have a direct and significant impact on his dependents.
7. The Appellant further submits that the offence was not deliberate, but due to his negligence in overlooking the renewal date. He only became aware of the expired insurance when stopped at a roadblock and took immediate steps thereafter to renew his insurance policy. However, during the appeal hearing he said that he was in the process of gathering funds to pay for his expired motor vehicle insurance, which implies that he actually was aware of the said expiry date.

Respondent Submissions

8. The Respondent/Prosecution opposes the appeal and urges this Court to uphold the disqualification order.
9. It is submitted that the twelve (12) months' disqualification is mandatory under Section 3(2) of the Motor Vehicle Insurance (Third Party Risks) Act¹, Chapter 90, unless the Court finds the existence of "*special reasons*."²
10. Relying on *Whittal v Kirby*³ and subsequent authorities including *Public Prosecutor v Lim Jin Lee*, *Public Prosecutor v Salina binti Mohd Salleh*⁴, *LLP 14691 Patra bin Kunchil v Public Prosecutor*⁵ and *Pengiran Sharifuddin bin Pengiran Rendah v Public*

¹ "...a person convicted of an offence under this section shall, unless the court for *special reasons* thinks fit to order otherwise..., be disqualified from holding or obtaining a driving licence..., for a period of 12 months from the date of the conviction." – **Section 3(2) Motor Vehicle Insurance (Third Party Risks) Act**

² id

³ *Whittal v Kirby* [1946] 2 ALL ER 552

⁴ *Public Prosecutor v Lim Jin Lee*, *Public Prosecutor v Salina binti Mohd Salleh* [2000] 2 JCBD 68

⁵ *LLP 14691 Patra bin Kunchil v Public Prosecutor* [2015] 2 JCBD 62

*Prosecutor*⁶, it was stressed that “*special reasons*” must relate directly to the commission of the offence, and not to the personal circumstances of the offender.

11. The Appellant’s failure to renew his insurance policy for nearly three months was due solely to his own negligence, and this cannot amount to a special reason. The fact that the Appellant was able to renew the insurance immediately upon discovery suggests there was no financial impediment to renewal and therefore no reasonable excuse for the delay.
12. As for the Appellant’s claim of financial hardship, that inconvenience or hardship caused by disqualification, such as difficulty travelling to work, potential loss of income, or the burden on family members, does not constitute a “special reason” in law. Such factors are personal to the offender and not connected with the commission of the offence.
13. Pointedly, the Appellant has not provided evidence that his employment has been terminated or that he has suffered actual financial loss as a result of the disqualification.

Court’s Consideration

14. I note that Section 3(2) of the Motor Vehicle Insurance (Third Party Risks) Act imposes a mandatory disqualification of not less than twelve (12) months upon conviction unless the court is satisfied that there are “*special reasons*” to the contrary⁷. The issue before me, therefore, is whether the Appellant has demonstrated such special reasons.
15. The law is clear, as laid down in *Whittal v Kirby* and followed in our courts, that a special reason must:
 - (a) be a mitigating circumstance,
 - (b) not amount to a defence in law,
 - (c) be directly connected with the commission of the offence, and
 - (d) be one which the court ought properly to take into account when imposing sentence.⁸
16. The Appellant’s grounds of appeal; his financial commitments, sole responsibility for his mother, and potential impact on his job are all circumstances personal to him rather than circumstances connected to the commission of the offence. Consistent with authorities such as *Pengiran Sharifuddin v PP*⁹, such hardship, though

⁶ *Pengiran Sharifuddin bin Pengiran Rendah v Public Prosecutor* [2002] 1 JCB 218

⁷ *Supra*, no.1

⁸ *See* *Haji Adanan bin Haji Md.Zin V Public Prosecutor* [1997] 1 JCB 114 at pp.116

⁹ *Supra*, no.6

unfortunate, does not amount to a special reason. As stated by Dato Paduka Steven Chong, J (as he was then) in *Pengiran Sharifuddin*,

*"It is settled law that special reasons must relate to the offense itself and not to the offender..."*¹⁰

17. This is further reiterated by the Court of Appeal in *Public Prosecutor V Lim Jin Lee and Salina Binti Mohd Salleh*¹¹ :

*"We reiterate that, to be a special reason, the reason must be an extenuating or mitigating circumstances: it must not amount in law to a defence : it must be directly connected with the Commission of the offence and not with the offender : it must be a matter which the court ought to properly to take into account when considering sentence."*¹²

18. It is the Appellant's negligence or complacency in failing to renew his insurance cannot constitute a special reason. Indeed, the lapse lasted for almost three months and only came to light because of the roadblock. The prompt renewal thereafter only demonstrates that the Appellant could have done so earlier but failed to act.

19. Finally, while the Court is sympathetic to the hardship that may result from a disqualification order, such hardship is the natural and foreseeable consequence of the offence and cannot justify a departure from the statutory requirement.

Conclusion

19. For the reasons stated above, I find that no special reason exists to warrant a reduction or lifting of the mandatory disqualification period.

20. The appeal is accordingly dismissed, and the order of disqualification imposed by the Learned Magistrate on 9 July 2025 is affirmed.

MUHAMMED FAISAL BIN PDJLD KOL(B) DSP HAJI KEFLI
Judicial Commissioner

¹⁰ *Supra*, no.6 at pp.219

¹¹ *Public Prosecutor V Lim Jin Lee and Salina Binti Mohd Salleh* [2000] 2 JCB 217

¹² *Id* at pp.223