IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2020] SGHC 97

Magistrate's Appeal No 9236 of 2019

Between

Neo Chuan Sheng

… *Appellant*

And

Public Prosecutor

… *Respondent*

GROUNDS OF DECISION

[Criminal Law] — [Statutory offences] — [Road Traffic Act]
[Criminal Procedure and Sentencing] — [Compounding of offences]
[Criminal Procedure and Sentencing] — [Sentencing] — [Appeals]

Version No 1: 27 Oct 2020 (22:41 hrs)

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Neo Chuan Sheng
v
Public Prosecutor

[2020] SGHC 97

High Court — Magistrate's Appeal No 9236 of 2019
Chua Lee Ming J
9, 17 March 2020

18 May 2020

Chua Lee Ming J:

Introduction

1 The appellant, Mr Neo Chuan Sheng, pleaded guilty to an offence of dangerous driving under s 64(1) of the Road Traffic Act (Cap 276, 2004 Rev Ed) ("RTA"). The charge alleged that on 7 December 2017 at about 2.10am, he drove his car

> … in a manner which was dangerous to the public, having regard to all the circumstances of the case, *to wit*, by reversing for about 203m on the left lane of the two lane road along Bukit Batok East Avenue 6 towards Bukit Batok Central along lamp post 86A before turning into Jalan Jurong Kechil towards Pan Island Expressway …

2 The District Judge ("DJ") imposed a fine of $4,500 and disqualification from holding or obtaining all classes of driving licences for ten months with effect from the date of sentence. The appellant paid the fine and appealed against

the disqualification order. He submitted that the period of disqualification was manifestly excessive and should not exceed five months.

3 I did not agree with all of the reasons given by the DJ for the length of the disqualification order. Nevertheless, after considering all the circumstances, I concluded that the disqualification order of ten months imposed could not be said to be manifestly excessive. Accordingly, I dismissed the appeal.

Facts

4 On 7 December 2017 at about 2am, police officers were performing road blocks at Bukit Batok East Avenue 6 towards Bukit Batok Central along lamp post 86A. Bukit Batok East Avenue 6 was a two lane road, *ie*, there were two lanes in each direction.

5 At about 2.10am, the appellant was driving his car on the left lane of Bukit Batok East Avenue 6 towards the road block. He stopped his car about 176m from the road block and reversed for about 203m before turning into Jalan Jurong Kechil towards the Pan Island Expressway: see the sketch plan at Annex A.[1]

6 The appellant stated that he did not see the road block but was sure that there was one because road blocks in that area were usual and he noticed that a taxi in front of him had braked.

7 A closed-circuit television ("CCTV") camera at Park Natura Condominium, located at 33 Bukit Batok East Avenue 6 ("the Condominium"), captured the appellant's car as it reversed past the Condominium.

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The DJ's reasons for the disqualification order

8 The DJ's Grounds of Decision ("GD") can be found at *Public Prosecutor v Neo Chuan Sheng* [2019] SGDC 236.

9 The DJ applied the sentencing framework laid out in *Public Prosecutor v Koh Thiam Huat* [2017] 4 SLR 1099 ("*Koh Thiam Huat*"), which involved a single charge of dangerous driving under s 64(1) of the RTA. In that case, the High Court held as follows (at [41]):

> … the two principal parameters which a sentencing court would generally have regard to in evaluating the seriousness of a crime are: (a) the *harm* caused by the offence; and (b) the accused's *culpability*. "Harm" is a measure of the injury which has been caused to society by the commission of the offence, whereas "culpability" is a measure of the degree of relative blameworthiness disclosed by an offender's actions and is measured chiefly in relation to the extent and manner of the offender's involvement in the criminal act. In the context of the offence of dangerous driving under s 64(1) of the RTA, the primary factor relating to the *harm* caused would be the extent of injury or damage caused. A related and equally important consideration would be the *potential* harm that might have resulted, given that driving is an inherently dangerous activity that can pose serious risk to road users and pedestrians alike. The factors increasing the accused's *culpability* would include a particularly dangerous manner of driving. As illustrations, the aggravating factors identified in [*Public Prosecutor v Hue An Li* [2014] 4 SLR 661], *ie*, speeding, drink-driving and sleepy driving, would clearly contribute to this, as would driving while using a mobile phone. In addition, if the dangerous driving was deliberate (for instance, in "hell riding" cases), this would also indicate a higher level of culpability. Aside from these two principal parameters, the court should also have regard to other mitigating and aggravating factors which do not directly relate to the commission of the offence *per se*. These include (but are not limited to) an accused's good or bad driving record, as well as his remorse of lack thereof.
>
> [emphasis in original]

10 The DJ's findings were as follows:

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(a) No actual harm had resulted but the potential harm to other road users and pedestrians "could be great or serious" (GD, at [28]).

(b) Although there was no evidence that the appellant was speeding, he was nonetheless reversing at a considerable speed in order to evade a police road block ahead of him. His actions were clearly intended to obstruct or disrupt police operations (GD, at [30]).

(c) The appellant's culpability was at the very least medium (GD, at [31]).

11 With respect to the disqualification order, the DJ reasoned that the period of disqualification should be commensurate with the fine imposed, to reflect the culpability of the offender as well as the harm caused or the potential harm that could be caused (GD, at [32]). The DJ then referred to the following information obtained from searches conducted in the Sentencing Information and Research Repository ("SIR"):

(a) A search for cases involving the offence of dangerous driving, decided between 20 June 2017 and 30 September 2019 and in which fines were imposed, showed that the median disqualification period ordered was one year whilst the mean was about 10.8 months (GD, at [34]).

(b) A search for cases involving the offence of dangerous driving decided after 20 June 2017, in which a fine of between $4,000 and $5,000 was imposed, turned up 22 cases which showed that:

(i) in 11 out of 16 cases (about 69%) where a fine of $4,000 was imposed, the disqualification order was for 12 months (GD, at [36]); and

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(ii) in the remaining five cases where the accused was fined at least $4,500, a disqualification order of at least 12 months was imposed, except in one case in which the disqualification order was for 11 months (GD, at [37]).

Cases decided before 20 June 2017 were ignored because the maximum fine that could be imposed for offences under s 64(1) RTA was increased with effect from 20 June 2017.

12 The DJ accepted the appellant's plea of guilt as a sign of remorse, but considered the following as aggravating factors (GD, at [39]):

(a) the appellant's compounded traffic offences between August and November 2017 for speeding, failing to stop after an accident, failing to report an accident within 24 hours, inconsiderate driving and causing a vehicle to remain at rest in a position likely to cause danger to other road users; and

(b) the appellant's convictions in November 2014 for driving whilst underage and driving without insurance coverage. The appellant was fined a total of $1,300 and a disqualification order of 12 months was imposed.

13 Based on the above, the DJ decided that a disqualification order of ten months was justified (GD, at [40]).

Disqualification orders: relevant principles

14 The punishment under s 64(1) RTA (before it was amended in 2019) for a first-time offender is a fine not exceeding $5,000 or imprisonment for a term

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not exceeding 12 months or both. A disqualification order pursuant to s 42(1) RTA is discretionary in the case of a first conviction under s 64(1) RTA.

15 Section 42(1) RTA provides as follows:

> A court before which a person is convicted of any offence in connection with the driving of a motor vehicle may, in any case except where otherwise expressly provided by this Act and shall, where so required by this Act, order him to be disqualified from holding or obtaining a driving licence for life or for such period as the court may think fit.

16 In *Edwin s/o Suse Nathen v Public Prosecutor* [2013] 4 SLR 1139 ("*Edwin Nathen*"), the court held as follows:

> 13 … A disqualification order combines three sentencing objectives: punishment, protection of the public and deterrence (see Peter Wallis gen ed, *Wilkinson's Road Traffic Offences* (Sweet & Maxwell, 20th Ed, 2001) at para 4.412; Kow Keng Siong, *Sentencing Principles in Singapore* (Academy Publishing, 2009) at paras 32.150–32.159 …
>
> 14 Where an offence reflects a blatant disregard for the safety of other road users and a lack of personal responsibility, there is a public interest in taking such a driver off the roads for a substantial period of time. The aims of deterrence are also served by sounding a stiff warning that such drivers can expect a lengthy disqualification order. The disqualification order should therefore increase in tandem with the severity of the offence, whether or not it is also accompanied by a substantial fine or period of imprisonment.

17 *Edwin Nathen* concerned a first offence under s 67(1)(*b*) RTA, which carries mandatory disqualification for a period of at least 12 months. However, in principle, the three sentencing objectives referred to above must be relevant in determining whether the court should exercise its discretion to impose a disqualification order under s 42(1) RTA as well as the duration for which such an order should be made.

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18 In his mitigation plea before the DJ, the appellant submitted that a disqualification order should not be made, and in the alternative that if such an order was to be made, a disqualification period of one to two months would suffice.[2] Before me, the appellant merely challenged the duration of the disqualification order. He was right not to contest the making of the disqualification order. There was clearly a public interest in taking the appellant off the roads for a period of time to protect the public. A disqualification order was also necessary as a deterrent to the appellant and to other drivers.

19 In deciding on the appropriate period of disqualification, it must first be borne in mind that the disqualification order and the fine imposed are not mutually compensatory; an increase in the quantum of the fine imposed should not be taken to mandate the imposition of a reduced period of disqualification than would otherwise have been ordered: *Edwin Nathen* at [13]. The fact that the fine imposed in this case was close to the maximum provided for under s 64(1) RTA was therefore not a reason to reduce the period of disqualification.

20 Next, it is clear that the period of disqualification should increase in tandem with the severity of the offence: *Edwin Nathen* at [14]. In this respect, *Koh Thiam Huat* provides useful guidance in evaluating the severity of an offence under s 64(1) RTA. In *Koh Thiam Huat*, the court held as follows (see [9] above):

> (a) The two principal parameters which a sentencing court would generally have regard to in evaluating the seriousness of a crime are (a) the harm caused by the offence, and (b) the accused's culpability.
>
> (b) In the context of s 64(1) RTA, the primary factor relating to the harm caused would be the extent of injury or damage caused. A related

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and equally important consideration would be the potential harm that might have resulted.

(c) The factors increasing the accused's culpability include a particularly dangerous manner of driving, *eg*, speeding, drink-driving, sleepy driving, driving while using a mobile phone, and deliberate dangerous driving (for instance, in "hell riding" cases).

21 The level of harm depends on the severity of the injury or damage actually caused or the severity of the potential harm. Potential harm refers to the harm that could have been caused but was not. The assessment of potential harm necessarily involves an assessment of the *likelihood* of the harm occurring. This assessment must be made against the relevant factual matrix and not in a vacuum. This very point is underscored in s 64(1) RTA itself, which requires the court to "[have] regard to all the circumstances of the case, including the nature, condition and use of the road, and *the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road*" [emphasis added].

22 The level of potential harm would be assessed against facts which would include (among other things) the condition of the road, the volume of traffic or number of pedestrians actually on or which might reasonably be expected to be on the road at the relevant time, the speed and manner of driving, visibility at the relevant time, the type of vehicle, and any particular vulnerabilities (*eg*, a truck or car colliding into a motorcycle or pedestrian). There would not be any potential harm to other vehicles or pedestrians if there were no other vehicles or pedestrians that were on or that might reasonably have been expected to be on the road at the relevant time. The volume of traffic and number of pedestrians might also be so minimal that the potential harm can only be assessed to be low,

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even if serious damage or injury could be caused if that unlikely possibility were realised.

23 As for culpability, it would be increased by factors such as a particularly dangerous manner of driving or where the dangerous driving was deliberate: *Koh Thiam Huat* at [41].

24 One important consideration with respect to disqualification orders is whether the disqualification order should be for a period of at least 12 months ("the 12-month threshold"). The 12-month threshold is significant because disqualification for 12 months or more means that the offender's driving licence ceases to have any effect and he has to retake and pass the prescribed test of competence to drive before he can drive after the period of disqualification: s 43(1)(*b*) RTA. Using the harm and culpability framework, the 12-month threshold would certainly be crossed if both harm and culpability are high. Conversely, it would not be crossed if harm and culpability are both low. Indeed, where harm and culpability are both low, arguably no disqualification order may be necessary although much will depend on the facts. Between the two obvious extremes are "myriad cases of varying levels of harm and culpability, and it would not be fruitful to attempt to lay down too fine a rule" (see *Koh Thiam Huat* at [42]).

25 Finally, the disqualification order would take into consideration any mitigating and aggravating factors, which include a good or bad driving record and remorse or lack thereof: *Koh Thiam Huat* at [41]. With respect to aggravating factors, a question arises as to whether a compounded offence is relevant for the purposes of sentencing.

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Whether compounded offences are relevant for purposes of sentencing

26 As mentioned at [12(a)] above, the DJ viewed the appellant's history of compounded traffic offences as an aggravating factor. While a criminal record is relevant for the purposes of sentencing, it does not include compounded offences: ss 228(2)(*a*) and 2(1) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) ("CPC"). However, the Prosecution may also address the court on any relevant factors which may affect the sentence: s 228(2)(*c*) CPC. As pointed out in *Koh Thiam Huat* (at [59]), s 228 CPC applies to plead guilty proceedings and, by virtue of s 230(1)(*x*), to trial proceedings as well. The question, then, is whether a compounded offence is relevant for the purposes of sentencing.

27 In my view, a compounded offence is relevant for the purposes of sentencing only if it can be said to amount to an admission of guilt. After all, it would be unjust to sentence an offender by taking into account conduct which he cannot be said to be guilty of.

28 In *Koh Thiam Huat*, the court concluded (at [56]) that an offence under the RTA (or its subsidiary legislation) which has been compounded *can* be taken into account for sentencing purposes. The court reasoned as follows:

(a) It was fair to say that, for the most part, composition of less serious traffic offences amounted to an admission of guilt (at [57]–[58]).

(b) Allowing a court to take into account a compounded offence allows for a more holistic approach in sentencing by "having regard to all *relevant* factors" [emphasis added], and better gives effect to the need to deter bad driving (at [59]–[60]).

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29 Both of the reasons given in *Koh Thiam Huat* are connected. A compounded offence cannot be a relevant factor in sentencing unless the anterior question of whether a compounded offence amounts to an admission of guilt is answered in the affirmative.

30 In *Koh Thiam Huat*, the court referred (at [57]) to *Public Prosecutor v Lim Niah Liang* [1996] 3 SLR(R) 702. In the context of an offence under the Environmental Public Health Act (Cap 95, 1988 Rev Ed) ("EPHA 1988"), the court held in that case (at [23]) that:

> It would also be pertinent to consider that, in the vast majority of cases, enforcement of the anti-littering provisions in the [EPHA 1988] is dependent on the direct observation of an enforcement officer, who witnesses the commission of the offence while he is performing his anti-littering rounds. As the DPP rightly pointed out, it would not be inconceivable that composition of such offences, in view of the straightforward nature of the offence itself, amounts to an admission of guilt. The offender having been caught red-handed would probably decide to pay the composition fine, if permitted, rather than to go to court. After all, an offence under s 18(1) of the [EPHA 1988] is what one could consider to be a "strict liability" offence, where no blameworthy mental element need be shown. Hence, the Prosecution would only have to show that the offender had littered and that he had done so voluntarily and not out of accident or automatism …

The court in *Koh Thiam Huat* accepted that the above passage "may not apply in its entirety to all traffic offences" but was of the view that "it [was], for the most part, applicable to less serious traffic offences for which composition is offered" (at [58]).

31 I am respectfully unable to agree with the proposition that compounded offences can be taken into consideration for the purposes of sentencing, absent legislative intervention. In my view, it is wrong to assume that composition of an offence amounts to an admission of guilt.

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32 Section 135(1A) RTA provides that on payment of the composition sum, "no further proceedings are to be taken" against the alleged offender in respect of the offence. It is true that s 135(1A) RTA does not state that payment of the composition sum amounts to an acquittal. In comparison, under the CPC:

(a) Where an offence is compounded in the course of investigations, "no further proceedings shall be taken against the person reasonably suspected of having committed the offence": ss 241(4) and 242(3) CPC.

(b) Where an offence is compounded after the accused has been charged in court, the composition results in or has the effect of an acquittal: ss 241(5) and 242(4) CPC.

33 Section 241 CPC applies to composition by victims of offences specified in the Fourth Schedule to the CPC while s 242 CPC applies to composition of prescribed offences by the Public Prosecutor. It seems to me that "acquittal" is referred to in ss 241(5) and 242(4) CPC only because the accused has been charged in court. Where he has not been so charged, the question of an acquittal does not arise and all that can be said is that no further proceedings shall be taken. In my view, the fact that s 135(1A) RTA does not use the word "acquittal" makes no difference to the effect of the composition. Whether the alleged offender has been charged in court or not, the effect of compounding an offence must be the same, *ie*, the compounded offence cannot be regarded as an admission of guilt. As highlighted by the High Court in *Re Lim Chor Pee* [1990] 2 SLR(R) 117 ("*Lim Chor Pee*") in the context of alleged tax evasion (at [84]):

> 84 … In principle, there is no difference between compounding an alleged offence of tax evasion in respect of which the taxpayer has not been formally charged but the amount on which tax is alleged to have been evaded is agreed and a composition of an alleged offence of tax evasion in respect of which the taxpayer has been formally charged and the

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> amount on which the tax is alleged to have been evaded is stated in the charge and is agreed upon. In neither case can the composition be considered as an admission of guilt.

34 The fact that composition of an offence, after the accused has been charged in court, results in or has the effect of an acquittal makes it clear that it would be wrong to take that compounded offence into consideration for the purposes of sentencing. In my judgment, it would be wrong in principle to treat the composition of an offence, where the alleged offender has not even been charged in court, less favourably.

35 Further, as the court held in *Lim Chor Pee* (at [55]–[56]), composition of an offence cannot be regarded as an admission of guilt as people may choose to compound an offence for a host of other reasons without admitting liability:

> 55 … composition of an offence by an alleged offender cannot constitute an admission of guilt against him. The effect of a composition is that no further action can be taken by the prosecuting authority against the accused on the offence compounded or indeed any other offence in respect of which he could plead *autrefrois acquit or autrefois convict* in respect of the offence compounded.
>
> 56 There are multiple reasons why a person may wish to compound an offence, whether it be an income tax offence or an offence compoundable under the Code, without any admission of guilt …
>
> [emphasis in original]

Lim Chor Pee did not appear to have been cited to the court in *Koh Thiam Huat*.

36 *Lim Chor Pee* concerned the effect of compounding an offence under the Income Tax Act (Cap 141, 1970 Rev Ed). *Koh Thiam Huat* concerned the effect of composition of offences under the RTA. However, in my view, whether a compounded offence can be taken to be an admission of guilt is a matter of principle that must apply to all offences. It would also be curious if,

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absent statutory intervention, compounded RTA offences were relevant to sentencing but not compounded offences under other legislation which are of a similarly regulatory and/or straightforward nature.

37 In my respectful view, it is wrong to assume that acceptance of an offer of composition is tantamount to an admission of liability. Even if an offer of composition is accepted in many instances because the offender in fact admits to the offence, the same cannot be said in respect of *all* cases. This much was in fact acknowledged in *Koh Thiam Huat* (at [58]). How is a sentencing court to decide whether a particular compounded offence amounts to an admission of guilt and can therefore be taken into consideration? It would be unsafe to simply assume so; one may accept an offer of composition purely on grounds of "practicality and expediency" without admitting liability (*Lim Chor Pee* at [56]). Whether the compounded offence is a less serious or more serious offence is irrelevant. Apart from the ambiguity as to what constitutes a "less serious" traffic offence, the relative severity of an offence bears no rational nexus to the question as to whether that offence should be taken into account for sentencing purposes once compounded.

38 Can the court not first ask an accused person whether he admits to the compounded offence? In my view, doing so would be unproductive. If the accused does not admit to the offence that has been compounded, there is little that the Prosecution can do. The position is very different from that involving previous convictions or offences to be taken into consideration for the purposes of sentencing ("TIC offences"). Where antecedents are disputed, the Prosecution is expected to provide proper proof of what they have alleged: Kow Keng Siong, *Sentencing Principles in Singapore* (Academy Publishing, 2nd Ed, 2019) at para 07:016. Proof of conviction is proof of the fact that the accused had committed the offences that he was convicted of. However, proof that an

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offence has been compounded is not proof that the accused committed the compounded offence. As for TIC offences, the Prosecution can simply proceed with charges if the accused does not admit to them. In contrast, once an offence has been compounded, the Prosecution has nothing left to proceed on.

39 It may perhaps be argued that composition of an offence does not prohibit the Prosecution from proving that the compounded offence was committed, if this is done for the purposes of sentencing only. In my view, this cannot be correct as a matter of principle. The effect of composition is that there is an acquittal or that no further proceedings may be taken. It seems clear that once an offence has been compounded, the alleged offender can no longer be said to have committed the compounded offence. It cannot be right that the Prosecution can still seek to prove the commission of the compounded offence. In any event, leaving aside whether the Prosecution would still be able to prove the offence when evidence may have been lost with the passage of time, having to do so defeats the very purpose of composition.

40 On a final note, the RTA was amended in 2019 to specifically provide in s 139AA that the court may consider compounded RTA offences as an aggravating factor for the purposes of sentencing a person convicted of an RTA offence. The newly enacted s 139AA took effect on 1 November 2019 and is inapplicable to the present case. However, it bears noting that during the Parliamentary debates, it was specifically pointed out that the amendment related only to the RTA: *Singapore Parliamentary Debates, Official Report* (8 July 2019) vol 94 (Josephine Teo, Minister for Manpower and Second Minister for Home Affairs). In other words, courts have since been given the discretion to consider compounded offences only in sentencing for offences under the RTA. This was an implicit acknowledgment of the general principle that compounded offences are not relevant for the purposes of sentencing. There

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is in principle no reason why the effect of compounding an offence should differ according to whether the offence is one under the RTA or some other legislation. In my view, the amendment to the RTA shows that the general principle that compounded offences are not relevant in sentencing should be departed from only by way of statutory intervention.

Applying the principles to the facts

41 It was not disputed that no actual injury or damage was caused in the present case. As for potential harm, I disagreed with the DJ's assessment that the potential harm was "great or serious". As the appellant pointed out, there were no other vehicles (whether moving or stationary) or pedestrians along the road. There was also no evidence to suggest that other vehicles or pedestrians could reasonably have been expected to be on the road then, at about 2.10am. In my view, the potential harm in this case was low, perhaps at the higher end of low. It bears reiterating that potential harm must be evaluated against the relevant factual backdrop and not in a vacuum – otherwise, it would always be possible to speculate, without more, that there *could* have been other vehicles or pedestrians on the road at the relevant time.

42 However, I agreed with the DJ that the appellant's culpability was medium. He did deliberately reverse against the flow of traffic for a significant distance, although not at a high speed. The CCTV recording from the Condominium showed the appellant reversing at a controlled and measured pace. I also agreed that the fact that he had reversed his car in order to undermine police operations by avoiding a road block contributed to his culpability.

43 As for aggravating factors, the DJ took the appellant's history of compounded traffic offences into consideration. I note that she was referred to

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Koh Thiam Huat but *Lim Chor Pee* was not cited to her. In my view, the DJ should not have taken the compounded traffic offences into consideration, for the reasons stated earlier. However, as the DJ pointed out, the appellant's previous convictions for driving whilst underage and without insurance coverage were aggravating factors. There was a heightened need for deterrence as the appellant had committed another traffic offence despite having been previously disqualified from driving for 12 months.

44 The only mitigating factor in the appellant's favour was that he had pleaded guilty.

45 Based on the above, how should the period of disqualification be calibrated? The possible disqualification period is wide-ranging and may extend to disqualification for life. In deciding on the appropriate period, it would be useful to first consider whether the 12-month threshold has been crossed by assessing the levels of harm and culpability (see [24] above). The DJ did not think that the 12-month threshold had been crossed in this case. I agree and this is consistent with the case precedents on s 64(1) RTA.

46 As stated at [11] above, the DJ referred to cases found in the SIR and took guidance from the disqualification orders imposed in s 64(1) RTA cases in which fines of between $4,000 and $5,000 were imposed. In my view, it was insufficient to consider merely the quantum of fines imposed. A higher fine would generally mean that the offence was more serious. However, it cannot be denied that the relevant facts would enable the court to better appreciate the context in which a disqualification order has been made. At my request, the Prosecution provided details of the cases referred to by the DJ (see Annex B), as well as further precedents on disqualification orders made in s 64(1) RTA

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cases decided after 20 June 2017 regardless of the quantum of fines imposed, with a summary of the relevant facts in each case (see Annex C).

47 The cases included some outliers and not all relevant facts were available in some cases. However, it appeared that disqualification orders of at least 12 months were generally made in cases in which the levels of both harm and culpability were at least medium. In a number of these cases, the level of either harm or culpability was high. Insofar as precedents go, these cases show that the 12-month threshold would generally not be crossed unless the levels of both harm and culpability are at least medium. However, these cases should not be taken to mean that every case involving medium harm and medium culpability invariably warrants a disqualification order of at least 12 months. Each case must be considered on its own facts, especially given the myriad cases between the two extremes on the spectrum.

48 As for the cases involving disqualification orders of less than 12 months, in my view, no meaningful trend could be discerned from those cases based on the harm and culpability matrix.

49 The appellant submitted that the disqualification order should not exceed five months and relied on the following cases:

(a) *Public Prosecutor v Michael Wong Yew Wah* [2010] SGDC 73: The accused was convicted of dangerous driving after a trial. The accused had turned at a cross-junction and knocked down a pedestrian who was crossing the road with the traffic light in her favour. The pedestrian suffered a fracture in the lateral tibia plateau of her left knee. The accused was untraced. He was fined $2,400 and given a

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disqualification order of six months. The accused withdrew his appeal against his conviction.

(b) *Public Prosecutor v Jeganathan Angamuthu @ Jeganathan s/o Angamuthu* [2010] SGDC 499: The accused pleaded guilty to a charge of dangerous driving by driving a bus against a traffic red light signal across a cross-junction. The bus collided with a taxi that had the right of way and the passenger in the taxi suffered a cut to her chin. The bus and taxi were moderately damaged. The accused had no antecedents and was fined $2,000 and given a disqualification order of five months.

50 In my view, both of these cases were of limited assistance because they were decided before the maximum fine for s 64(1) RTA offences had been increased with effect from 20 June 2017. Although the RTA amendment did not affect disqualification orders under s 42(1) RTA, Parliament's intent to deter offences of dangerous driving is reflected by the increase in the maximum fine that can be imposed for such offences. This heightened need for deterrence means that the court should take a tougher stance in respect of disqualification orders as well. As the DJ noted (GD, at [33]), there has been a concomitant increase in the length of the disqualification orders imposed for offences committed after that date.

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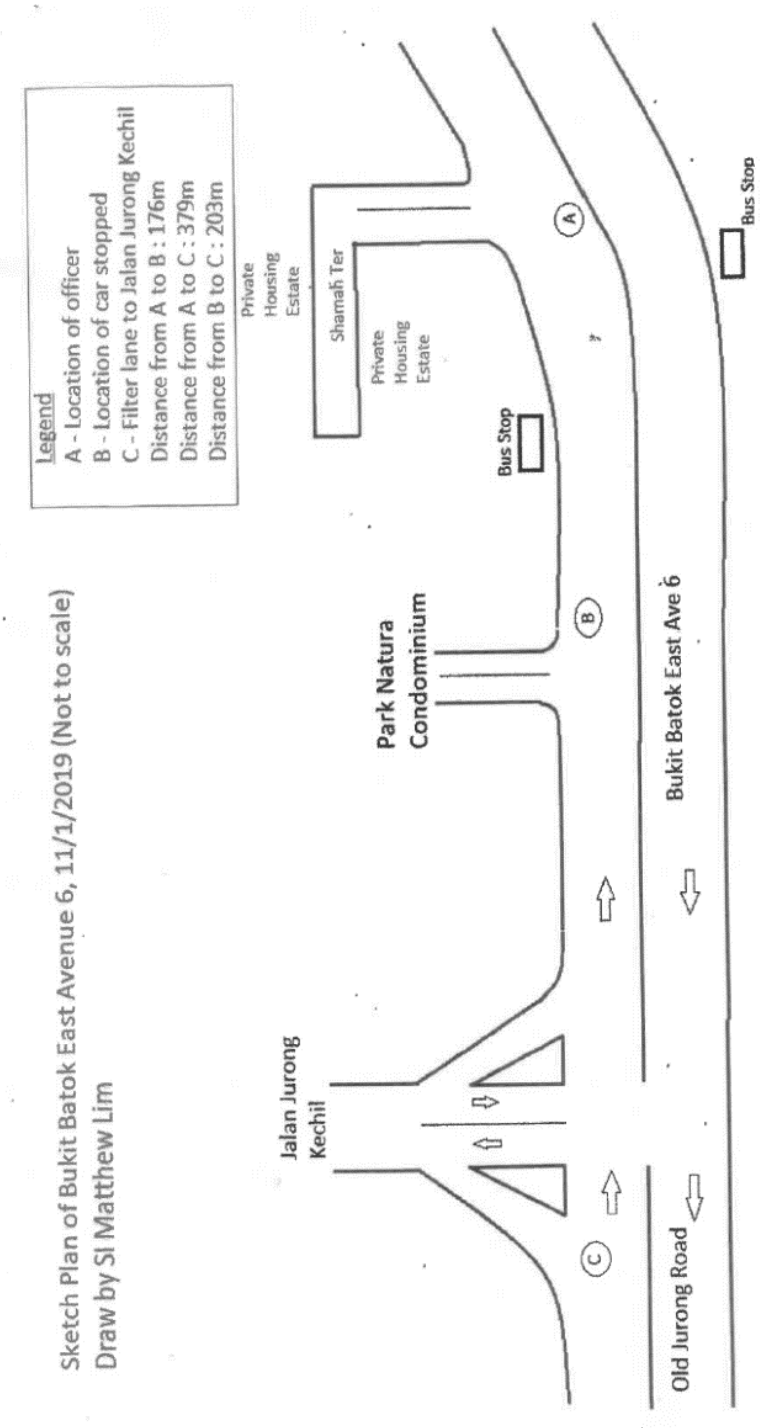
51 With respect to the present case, given that the level of harm was at the higher end of low and the level of culpability was medium, I was of the view that the appropriate indicative starting disqualification period was seven months. The fact that the appellant had pleaded guilty did not carry much mitigating weight given that his actions had been caught on the CCTV. Taking the aggravating factor of the appellant's previous traffic-related convictions into consideration, in my view, the disqualification period of ten months imposed by the DJ could not be said to be manifestly excessive. Accordingly, I dismissed the appeal.

Chua Lee Ming
Judge

K Jayakumar Naidu (Jay Law Corporation) for the appellant;
Zhou Yihong and R Arvindren (Attorney-General's Chambers) for the respondent.

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Annex A: Sketch plan



Annex B: Section 64(1) RTA cases referred to by the DJ and tendered by the Prosecution[3]

S/N	Case	Facts	Antecedents	Sentence
1.	SC-909683-2018 PP v. Yeung Wai Chung Henry	The accused drove his car on a 2-lane road at a fast speed, overtook other vehicles by driving across the centre line, entered lanes meant for vehicles travelling in the opposite direction, swerved his car to the right to overtake a lorry. In the course of overtaking the lorry, the accused's car mounted the centre divider kerb and went into the lanes for vehicles travelling in the opposite direction, where a taxi was travelling. The accused then drove against the flow of traffic before stopping his car. There was no collision. The traffic volume was light-moderate, the weather was clear and the road surface was dry. The accused's car was damaged.	Compounded offences for Speeding in 2012 ($150 + 6 Demerit Points), inconsiderate driving in 2015 ($200 + 9 Demerit Points) and careless driving ($150 + 6 Demerit Points)	$5000 fine and 13 months' DQAC
2.	SC-904233-2019 PP v. Guna Seelan A/L Subramaniam	The accused swerved in and out of traffic between lane 1 and lane 2 on a 4-lane expressway, on a motorcycle. He did so for 2.5km at a speed of 141km/h, without signalling or adequate vehicle clearance. This caused several vehicles brake suddenly to avoid a collision on several occasions. The traffic flow was light, the road surface was dry and visibility was clear.	Untraced	$5000 fine and 12 months' DQAC
3.	SC-905825-2018 PP v. Sahar Azmi Bin Yusof	The accused drove a trailer and failed to conform to the traffic red light signal whilst proceeding straight at a junction. This resulted in a collision with a lorry, which veered and collided into a motorcycle, which in turn collided into two traffic light poles. Six victims (lorry passengers and motorcyclist) were injured. The traffic flow was moderate, the road surface was dry and visibility was clear.	Untraced	$5000 fine and 12 months' DQAC
4.	SC-912205-2017 PP v. Tan Yan Hong Jonathan	The accused drove his car along a 3-lane expressway. He repeatedly swerved between lanes 1 and 2 without signalling. This caused two vehicles to brake to avoid a near collision, and also caused a motorcycle to wobble. During the process, he accelerated to 140 km/h, exceeding the maximum imposed speed limit of 90km/h of the road. The traffic police pursued the accused for 5km.	Compounded offences for Speeding in 2016 ($150 + 6 Demerit Points), inconsiderate driving in 2014 ($200 + 9 Demerit Points) and illegal parking in 2010 ($70)	$5000 fine and 11 months' DQAC
5.	SC-903595-2018 PP v. Baharuddin Bin Badrun	The accused drove a lorry on lane 2 of a 3-lane road and made an unauthorized U-turn, resulting in a collision with a motorcycle on lane 1. Both vehicles were damaged. The motorcyclist sustained various injuries and was given medical leave of 2 months. The pillion was also injured and was given 7 days' medical leave. The traffic flow was light, the road surface was dry and visibility was clear.	Untraced	$4500 fine and 18 months' DQAC

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6.	SC-902642-2019 PP v. Chew Spencer	The accused drove a car in a dangerous manner by failing to conform to traffic red light signal when proceeding straight across a junction, resulting in a collision with another car. Both vehicles sustained damages. The traffic flow was light, the road surface was dry and visibility was fair.	Untraced	$4500/- fine and 12 months' DQAC
7.	SC-902124-2019 PP v. Tan Choon Seng (Chen Juncheng)	At about 3:26am, the accused made a right turn at the slip road into Jalan Toa Payoh towards PIE (Tuas). There was a road block on Jalan Toa Payoh towards PIE (Tuas). In making the turn, the accused drove against the flow of traffic. He then made a left turn into Serangoon Road. At the signalized cross junction of Upper Serangoon Road and Jalan Toa Payoh, he failed to conform to the traffic red light signal when proceeding straight across the junction.	Imprisoned for drug offences Various compounded traffic offences from 1999-2018 for *inter alia* speeding, careless driving and failing to conform to red light signal	$4000 fine and 13 months' DQAC
8.	PP v Cheah Yean King, Winnie [2018] SGDC 177	The accused failed to conform to the red traffic light signal when driving a car across a signalised junction. She collided into another car which had the green light signal in his favour. The driver and passenger of the second car sustained injuries and were given medical leave of 4 days and hospitalisation leave of 6 days. Both vehicles were damaged. It was drizzling and the road surface was wet. Visibility was fair and the traffic flow was light.	Nine compounded traffic offences from 1999-2017, six of which were for speeding.	$4000 fine and 12 months' DQAC
9.	SC-900723-2018 PP v. Chan Soh Ha	The accused failed to give way to one motorcyclist when making a right turn on 'green light only' and in the process encroached onto the path of the victim, who was approaching from the opposite direction. The victim suffered injuries including facial fracture with loose tooth. The motorcycle was severely damaged. The weather was fine, the road was dry, visibility was good and traffic flow was light.	2 compounded parking offences for $70 each in 1999 and 2011	$4000 fine and 12 months' DQAC
10.	SC-900945-2019 PP v. Randhawa Harjit Singh	The accused failed to conform to the red light signal when driving a trailer across a signalized cross junction, resulting in a collision with another trailer. Both trailers were damaged. The accused sustained injuries and was warded for 1 day with 29 days hospitalisation leave. The victim was not injured. The weather was clear, road surface was dry, traffic flow was light and visibility was clear.	Convicted in 2016 ($600) and 2018 ($900) for speeding and was given 4 demerit points on both occasions.	$4000 fine and 12 months' DQAC
11.	SC-901200-2018 PP v. Subramani Pazhanikumar	The accused failed to conform to the red traffic light signal whilst making a right turn at a signalised cross junction, resulting in collisions with a motorcycle and a taxi, when the traffic light signal was showing green in favour of the said motorcycle and the taxi. The motorcyclist sustained multiple fractures. All three vehicles were damaged. The weather was overcast, the road surface was wet, traffic flow was moderate and visibility was good.	Untraced	$4000 fine and 12 months' DQAC

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12.	SC-901309-2019 PP v. Ernie Nur Hisnawati Binte Abdullah Shafi'e	Both accused persons performed a "superman" stunt on their motorcycles along Marina Coastal Expressway between 4-5am. This involves them each lying face down on the fuel tank and seat of the motorcycle, with legs stretched out to the rear of the motorcycle. There was a 26 second long video footage of the violation, which went viral. No surrounding vehicles were seen in the footage.	Untraced	$4000 fine and 12 months' DQAC
13.	SC-901310-2019 PP v. Rauhdah Binte Ramli		Untraced	$4000 fine and 12 months' DQAC
14.	SC-902974-2018 PP v. Sarathkumar Kumaran	The accused rode a motorcycle along an expressway at 171km/h, exceeding the speed limit of 90km/h for 2.5km. He repeatedly swerved abruptly from lane 1 into a slip road and back to lane 2. This caused several vehicles to break to avoid collision.	Untraced	$4000 fine and 12 months' DQAC
15.	SC-903714-3018 PP v. Muhammad Sallehuddin Tuah Bin Bahar	The accused failed to exercise care when making a left turn at a signalised cross junction. He collided into two victim who were crossing from his left to his right side at a designated pedestrian crossing when the traffic light signal was showing "Green Man" for pedestrians. One victim sustained abrasions. The other victim sustained fractures. The traffic flow was light, the weather was fine, and the road surface was dry. Visibility was clear.	Untraced	$4000 fine and 12 months' DQAC
16.	SC-906548-2019 PP v. Lee Kee Sin	The accused failed to exercise care whilst making a right turn at a signalised T-junction, resulting in a collision with two pedestrians, who were crossing the said junction when the pedestrian crossing signal was showing 'green man' in favour of pedestrians. Both victims sustained injuries involving *inter alia* contusions (no fractures). The weather was fine, the road surface was dry, traffic flow was moderate and visibility was good.	Untraced	$4000 fine and 12 months' DQAC
17.	SC-906553-2018 PP v. Kuldeep Singh A/L Mukhtiar Singh	The accused rode a motorcycle along PIE over 2km in the following manner: a) Travelling at 145 km/h exceeding the speed limit of 90 km/h b) Cutting abruptly across lanes, causing vehicles to shift and brake suddenly to avoid a collision.	Untraced	$4000 fine and 12 months' DQAC
18.	SC-909597-2018 PP v. Tay Ee Seng	The accused failed to exercise care when making a left turn in his car at a signalised junction, resulting in a collision with a victim, who was crossing from the accused's right to his left side at a designated pedestrian crossing when the traffic light signal was showing "Green Man" for pedestrians. The victim sustained minor injuries. She was discharged on the same day and given 7 days' medical leave. The accused's car was	One dated antecedent for absence without good cause Various compounded traffic offences from 1990-2018 for	$4000 fine and 12 months' DQAC

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		damaged. The traffic flow was light, the weather was fine, road surface was dry and visibility was clear.	*inter alia* speeding, illegal parking, failing to conform to red light signal	
19.	SC-911677-2018 PP v. Wong Kwek Meow	While riding a motorcycle, the accused failed to conform to the traffic red light signal at a signalised pedestrian crossing, resulting in a collision with a 10yo pedestrian who was crossing at the signalized pedestrian crossing using a kick scooter, when the pedestrian crossing light was showing "Green man". The victim sustained minor head injury, was warded for 2 days and given 7 days medical leave. It was drizzling, the road surface was wet and visibility was fair. The traffic flow was light.	Various compounded traffic offences from 2000-2017 for *inter alia* speeding, illegal parking, careless driving	$4000 fine and 11 months' DQAC
20.	SC-903446-2019 PP v. Soo Ah Say	When driving his car on lane 2 of a 5-lane road, the accused failed to give way to the right of way of traffic whilst executing a right turn on green light without any arrow into a signalised cross junction, resulting in a collision with a motorcycle, which was coming from the opposite direction. The motorcyclist sustained fractures. She was warded for 4 days and given medical leave for over a month. Both vehicles were damaged. The weather was clear, road surface was dry, traffic flow was light and visibility was clear.	Various compounded traffic offences from 1994-2019 for *inter alia* speeding, careless driving, inconsiderate driving	$4000 fine and 10 months' DQAC
21.	SC-904978-2019 PP v. Shen Wende	When driving his car along a junction, the accused braked and stopped unnecessarily, causing the car behind him to brake in order to avoid a near collision. Thereafter, the accused failed to conform to the traffic red light signal and proceeded straight across the junction thus encroaching into the travel path of a motorcycle, which was travelling across the junction, causing the motorcyclist to apply brake and stop to give way. The weather was fine, visibility was clear. The traffic volume was light and the road surface was dry.	Fined for offences under the Casino Control Act in 2015. Four compounded traffic offences for speeding, failing to conform to red light signal, careless driving and using a mobile phone while driving	$4000 fine and 10 months' DQAC
22.	SC-911048-2018 PP v. Ng Say Hong	When driving his car on a slip road into an expressway, the accused failed to keep a proper lookout while changing lanes, resulting in a collision with a motorcycle travelling on the expressway which had the right of way. The motorcyclist sustained various injuries and was warded for 47 days. He was given 75 days hospitalisation leave thereafter. Both vehicles were damaged. It was drizzling slightly and the road surface was wet. Visibility was clear and the traffic flow was light.	Untraced	$4000 fine and 6 months' DQAC

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Annex C: Additional s 64(1) RTA cases tendered by the Prosecution[4]

S/N	Case	Facts	Antecedents	Sentence
1.	SC-901375-2018 PP v. Mohamed Khalis Bin Mohamed Kamal	At about 12.55am, along the 2-lane Tampines Industrial Avenue 2, the accused persons both performed a 'wheelie stunt' on their motorcycles. The stunt involved lifting the front wheel of the motorcycle from the road and riding against the flow of traffic.	Untraced	$1000 fine and 3 months' DQAC
2.	SC-901373-2018 PP v. Nazrul Muhaimin Bin Abu Bakar		Untraced	$1000 fine and 3 months' DQAC
3.	SC-908316 -2018 PP v. Andy Ng Anli	At about 2.32am, along CTE towards AYE, the accused drove his car at 142km/h, exceeding the speed limit of 90km/h of the road. While changing lanes on two occasions, he encroached onto the paths of another car, both of which had to brake to avoid a collision.	Compounded offence of speeding in 2018	$1500 fine and 6 months' DQAC
4.	SC-905113-2018 PP v. Junadi Bin Osman	At about 5.01 pm, when driving at the Block 437 Hougang Avenue 8 residential open space carpark, the accused accelerated at a fast speed and braked aggressively in a continuous manner. He repeated this a few times.	Various compounded traffic offences from 1989-2017 for *inter alia* speeding and careless driving	$1500 fine and 6 months' DQAC
5.	SC-912358-2017 PP v. Satheesh s/o Kumar	The accused rode his motorcycle along Central Expressway towards the direction of Ayer Rajah Expressway at a fast speed of up to 130km/h, exceeding the maximum speed limit of 90km/h. He also executed multiple lane-changing on the 3-lane road without signaling.	Detained under CLTPA One compounded offence in 2011 for failing to display a distinguishing mark on vehicle during probation period, and driving along a public footpath	$2000 fine and 9 months' DQAC
6.	SC-903129-2019 PP v. Shane Paul Chitty	The accused was 'drifting' his car at Deck 4B of a HDB multistorey carpark. He then went to level 6, where he accelerated and pulled his handbrake at the same time to execute a handbrake turn, causing his vehicle to drift and screech. He executed a sharp U-turn at level 6 multiple times.	Compounded traffic offences in 2004, 2006, 2007, 2024 and 2017 for *inter alia* speeding, careless driving and failing to conform to red light signal.	$2000 fine and 6 months' DQAC
7.	SC-906790-2017 Mohamad Fadhli Bin Mohamed Hassan	The accused rode his motorcycle along the PIE at a fast speed of up to 140km/h exceeding the maximum speed limit of 90km/h, performing multiple lane-changing on the 3-lane road without signalling. He also overtook a lorry on the road shoulder. The accused's series of acts persisted for up to 6km.	Compounded offence in 2016 for speeding	$2200 fine and 8 months' DQAC

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S/N	Case	Facts	Antecedents	Sentence
8.	SC-900848-2019 PP v. Muzzammil Bin Raimei	When riding his motorcycle, the accused made an unauthorised U-turn at the junction of Admiralty Road and Woodlands Centre Road, travelled at 111 km/h exceeding the speed limit of 70 km/h along Admiralty Road, and beat 2 red lights.	Two traffic offences compounded in 2018, for using a mobile phone while driving and failing to confirm to red light signal	$2500 fine and 12 months' DQAC
9.	SC-901376-2018 Said Mokhtar Ali Bin Said Ibrahim	The accused was driving his car on lane 1 of the 3-lane road along CTE towards AYE. He swerved abruptly multiple times at fast speed from lane 1 into lane 2 and back into lane 1, without signalling. He travelled up to 157 km/h. At the material time, traffic flow was moderate, road surface is dry and visibility is clear.	Probation in 1989 for unrelated offences & imprisoned in 2007 for drug consumption Convicted in 1999 for speeding (fined $400), driving without a license (fined 800) and permitting others to use vehicle with insurance coverage (fined $600, DQAC 12 months)	$2500 fine and 6 months' DQAC
10.	SC-904851-2018 PP v. Idris Bin Ahmad	At about 3.36am, the accused made a U-turn along Crawford Street somewhere before a police road block. A traffic police officer gave chase, switched on his vehicle blinkers to alert, and signaled the accused to stop. The accused rode in the following manner: a) Against the flow of traffic along Crawford Street at the slip road of Beach Road, causing two unknown motor cars to take evasive action to avoid a collision; b) Against the flow of traffic along Beach Road towards the direction of Crawford Street for a distance of 90m.	Place on probation, sent to RTC and imprisoned for unrelated offences. No traffic-related antecedents.	$3000 fine and 10 months' DQAC
11.	SC-903657-2019 Muhammad Rizlan Bin Abdul Gani	At about 11.00pm, along a tunnel at Punggol Central towards Tampines Expressway, the accused performed a "Superman" stunt which involves his body lying face down on the fuel tank and seat, and with his legs stretched out to the rear of the motorcycle. There was a 5 second long footage of the video which was submitted to the police. The footage did not show any vehicles surrounding the accused. At the material time, the weather was fine, traffic flow was light to zero, road surface was dry and visibility was clear.	Untraced	$3000 fine and 12 months' DQAC
12.	SC-907151-2018 Raj Kumar V Chandran	At about 8.38am, the accused rode his motorcycle for at least 6km in the following manner:	Untraced	$3000 fine and 9

S/N	Case	Facts	Antecedents	Sentence
		a) Riding at 122 km/h on the leftmost lane of the PIE towards Tuas before the Eng Neo Avenue exit, exceeding the speed limit of 80 km/h for that segment of the PIE. b) Swerving lanes without signalling, causing a car to break to avoid a collision. c) Riding on the road shoulder for 100m after the Eng Neo Avenue exit. d) Abruptly changing lanes along BKE towards Woodlands Checkpoint without signalling, causing two vehicles to break to avoid a collision. e) Riding on the road shoulder along the BKE. f) At around the 2.5-3 km mark on the BKE, the accused rode at 136 km/h, exceeding the speed limit of 90 km/h on that stretch of the BKE. At the time of the accident, the weather was clear, the road surface was dry, and the visibility was clear. The traffic flow was heavy.		months' DQAC
13.	SC-904281-2019 PP v. Tay Peng Soon	While driving a bus, the accused turned right into the wrong direction of Victoria Street from Ophir Road, along lane 1 of the 4-lane road and as a result caused a few vehicles travelling on lane 1 and 2 to stop and swerve left to avoid the bus. 13 vehicles travelling along lane 1 of 4 lanes road of Victoria Street towards Kallang Road had to swerve left in order to give way to the accused's vehicle.	Two compounded traffic offences in 2004 and 2014, both for careless driving.	$3500 fine and 7 months' DQAC
14.	SC-910409-2018 Mohammad Adib Bin Mohammad Hamber	At about 3.40 p.m., along PIE towards Tuas, the accused: a) At about the 7km mark, drove his car on the left lane of the 3-lane expressway at the fast speed. The accused then swerved to the centre lane without signalling, and swerved back to the left lane, encroaching into the path of another vehicle which had to brake to avoid a collision b) Continued to drive fast and drove on the road shoulder from about the 7.1-7.6km mark, at a speed of 135km/h, exceeding the road limit of 90km/h. c) A traffic police had been tailing the accused and switched on the siren and blinkers at this point. However, the accused did not slow down and weaved in and out of traffic on the 4-lane road. d) At about the 9km mark, he swerved from lane 3 to lane 2, due to slow traffic ahead on lane 3, and almost collided with a motorcycle on lane 2.	Compounded traffic offences in 1999, 2004 and 2007. For failing to conform to red light, speeding, and speeding.	6 days' imprisonment and DQAC 24 months

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[1] Record of Proceedings ("ROP"), at p 33.
[2] ROP, at pp 40–41.
[3] Cases in which no actual harm was caused are in shaded rows.
[4] Cases in which no actual harm was caused are in shaded rows.