IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2026] SGHC 116

Magistrate's Appeal No 9131 of 2025

Between

Public Prosecutor

… *Appellant*

And

Eng Kwan Meng Garrick

… *Respondent*

GROUNDS OF DECISION

[Road Traffic — Offences — Driving without a licence — Section 35(1) Road Traffic Act 1961]
[Criminal Procedure and Sentencing — Sentencing — Appeals]

Public Prosecutor
v
Eng Kwan Meng Garrick

[2026] SGHC 116

General Division of the High Court — Magistrate's Appeal No 9131 of 2025
Sundaresh Menon CJ
22 April 2026

26 May 2026

Sundaresh Menon CJ:

Introduction

1 The respondent, Mr Garrick Eng Kwan Meng ("Mr Eng"), pleaded guilty in the District Court to two charges. The first was a charge under s 35(1) punishable under s 35(3)(*a*) of the Road Traffic Act 1961 (2020 Rev Ed) ("RTA") for driving without a valid motor vehicle licence ("RTA Charge"). The second was a charge under s 3(1)(*a*) punishable under s 3(2) read with s 3(3) of the Motor Vehicles (Third-Party Risks and Compensation) Act 1960 (2020 Rev Ed) ("MVA") for using a motor vehicle without a policy of insurance or security in respect of third-party risks as required by the MVA ("MVA Charge"). A third charge for driving while using a mobile phone under s 65B(1) of the RTA was taken into consideration for the purposes of sentencing.

2 In respect of the RTA Charge, the learned District Judge ("DJ") sentenced Mr Eng to a fine of $5,000 (in default ten days' imprisonment) and disqualification from holding or obtaining a driving licence on all classes of vehicles ("DQ Period") for a period of 24 months. HC/MA 9131/2025/01 was the Prosecution's appeal against the sentence imposed for the RTA Charge. The Prosecution did not appeal against the sentence imposed for the MVA Charge.

3 As Mr Eng was a "Qualified Driver" (meaning a driver who once held a valid licence but who had failed to renew or validate it prior to the offence: *Public Prosecutor v Rizuwan bin Rohmat* [2024] 3 SLR 694 ("*Rizuwan bin Rohmat*") at [39] and *Seah Ming Yang Daryle v Public Prosecutor* [2024] SGHC 152 ("*Daryle Seah*") at [19]), the question of how sentencing should be approached for Qualified Drivers under s 35(1) of the RTA presented itself for my determination. This issue arose because in *Daryle Seah*, a three-Judge panel of the General Division of the High Court set down the benchmark sentence for the archetypal "Unqualified Driver" (meaning a driver who had never held a valid driving licence for the class of vehicles he or she was driving: *Rizuwan bin Rohmat* at [39] and *Daryle Seah* at [3]). However, the sentencing approach for Qualified Drivers has not been settled, and this case presented me with the opportunity to address this in a way that would secure a coherent sentencing approach for all offences under s 35(1) of the RTA.

4 The appeal was heard on 22 April 2026. I allowed the appeal and set aside the fine of $5,000 that had been imposed below for the RTA Charge. I sentenced Mr Eng to a term of four weeks' imprisonment and ordered that the DQ Period for the RTA Charge was to commence from the expiry of the DQ Period for the MVA Charge. I furnished brief reasons at the time and now set out the grounds for my decision in detail.

Facts

5 The facts giving rise to the offences were unremarkable. On 24 October 2024, at about 1.54pm, a police officer stopped Mr Eng along Braddell Road for using his mobile phone while driving a van. When the police officer asked for Mr Eng's driving licence, Mr Eng admitted that he did not possess a valid Class 3 Singapore Driving Licence ("Class 3 Licence") authorising him to drive the van.

6 Mr Eng had previously held a Class 3 Licence, but it was revoked on 14 June 2018 after he was fined and disqualified from holding or obtaining a driving licence on all classes of vehicles for a period of five years. Mr Eng did not obtain a Class 3 Licence after the disqualification period, as he was unable to pass the Basic Theory Test while attempting to requalify for the said licence.

7 The van belonged to a rental company, and it had been leased by Mr Eng's company. Mr Eng claimed that he had intended to drive the van from his residence in Woodlands to various work sites in the Ubi and Thomson areas of Singapore.

8 As Mr Eng did not hold a Class 3 Licence at the material time, there was no insurance policy or security in respect of third-party risks as required by the MVA in relation to his use of the van.

The decision below

9 Mr Eng pleaded guilty to the RTA Charge and the MVA Charge on 14 August 2025. In respect of the RTA Charge, he was sentenced to a fine of $5,000 (in default ten days' imprisonment) and a 24-month DQ Period. In respect of the MVA Charge, he was sentenced to a fine of $1,000 (in default

two days' imprisonment) and a 12-month DQ Period. The DQ Periods for both charges were ordered to take effect from 14 August 2025. The aggregate sentence imposed was a fine of $6,000 (in default 12 days' imprisonment) and a 24-month DQ Period with effect from 14 August 2025.

10 The DJ subsequently issued the full grounds for his decision on 22 September 2025 (see *Public Prosecutor v Garrick Eng Kwan Meng* [2025] SGDC 255 ("GD")). As the appeal concerns the sentence for the RTA Charge, I shall mainly address the portions of the DJ's decision which touch on the RTA Charge.

11 The RTA Charge against Mr Eng was for an offence under s 35(1) of the RTA for driving without a valid motor vehicle licence, punishable under s 35(3)(*a*) of the RTA. Sections 35(1) and 35(3) of the RTA provide as follows:

> **Licensing of drivers, etc.**
>
> **35.**—(1) Except as otherwise provided in this Act, a person must not drive a motor vehicle of any class or description on a road unless the person is the holder of a driving licence authorising him or her to drive a motor vehicle of that class or description.
>
> …
>
> (3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction as follows:
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> (a) to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 3 years or to both;
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> (b) where the person is a repeat offender, to a fine not exceeding $20,000 or to imprisonment for a term not exceeding 6 years or to both.

12 The DJ first considered that Mr Eng was a Qualified Driver, and therefore the benchmark sentence for Unqualified Drivers set out in *Daryle Seah*

was not directly applicable. In the DJ's view, where an offender was a Qualified Driver, the indicative starting sentence ought to be a fine (GD at [18]–[19]).

13 The DJ next considered the non-exhaustive list of factors set out in *Rizuwan bin Rohmat* at [63], and concluded that there were no offence-specific or offender-specific factors present that would warrant a custodial sentence (GD at [33]).

14 In respect of the offence-specific factors, the DJ found that the custodial threshold was not crossed on the facts of the present case, having considered the following:

(a) Whether the offender had committed other serious driving-related offences together with driving without a driving licence: The DJ explained that committing serious traffic offences (such as drink driving, dangerous driving or inconsiderate driving resulting in an accident) may result in the custodial threshold being crossed. In the present case, Mr Eng had one charge for using a mobile phone while driving taken into consideration for sentencing (GD at [23]).

(b) The offender's reason(s) for driving: The DJ explained that driving to commit other offences may lead to the custodial threshold being crossed. In the present case, Mr Eng had driven the vehicle because his work assistant, whom he had engaged on a temporary basis while he could not drive, was unavailable (GD at [24]).

(c) The number of occupants in the vehicle: The higher the number of occupants, the greater the potential harm caused. In the present case, Mr Eng was alone in the vehicle (GD at [25]).

(d) The offender's conduct following the offence: When an offender attempted to evade arrest, the custodial threshold might be crossed. In the present case, Mr Eng was co-operative with the police and readily admitted to the offence (GD at [26]).

15 In respect of the offender-specific factors, the DJ considered that Mr Eng had one previous court conviction ("2018 Incident"). Mr Eng was convicted of one charge for causing death by a negligent act under s 304A(*b*) of the Penal Code (Cap 224, 2008 Rev Ed) ("2008 PC") and another charge for causing hurt by an act which endangered life under s 337(*b*) of the 2008 PC. Two other charges under s 337(*b*) of the 2008 PC and three charges under r 8(1)(*a*) of the Road Traffic (Motor Vehicles, Wearing of Seat Belts) Rules 2011 ("Road Traffic (Seat Belts) Rules"), punishable under r 10 of the Road Traffic (Seat Belts) Rules, were taken into consideration for sentencing (GD at [27]–[29]).

16 During the 2018 Incident, Mr Eng lost control of the vehicle he was driving and crashed. His first wife and three children were passengers in the vehicle. His first wife died from the resulting injuries suffered while one of his children suffered injuries. Both were not wearing approved restraints. Mr Eng was sentenced to a total fine of $12,000 and a five-year DQ Period. Thereafter, Mr Eng appeared not to have driven. The DJ did not find that Mr Eng's driving history was sufficiently egregious to warrant a custodial sentence (GD at [30]–[32]).

17 Turning to the aggravating and mitigating factors, the DJ considered that the only aggravating factor was the charge for driving while using a mobile phone that was taken into consideration for sentencing, and this offence would be compoundable if Mr Eng were a licensed driver. The DJ also considered that

Mr Eng's plea in mitigation was unremarkable, and there was nothing to warrant a downward adjustment in his sentence (GD at [35]–[36]).

18 Finally, in calibrating the appropriate sentence, the DJ noted that where fines were imposed by the District Courts for Qualified Drivers, these were generally in the region of $4,000 with a 24-month DQ Period. As the present case involved one charge taken into consideration for sentencing, this warranted an uplift of $1,000. Accordingly, the DJ sentenced Mr Eng to a fine of $5,000 (in default ten days' imprisonment) and a 24-month DQ Period for the RTA Charge (GD at [37]–[38]).

The Young Independent Counsel's submissions

19 As I was faced with the prospect of developing a sentencing framework for Qualified Drivers who contravene s 35(1) of the RTA, I appointed a Young Independent Counsel ("YIC"), Mr Marcus Teo ("Mr Teo"), to assist me on the following question:

> Considering the sentencing framework in *Seah Ming Yang Daryle v Public Prosecutor* [2024] 4 SLR 1561 ("*Daryle Seah*"), what is the appropriate sentencing framework for offences under s 35(1) of the Road Traffic Act 1961 (2020 Rev Ed) ("RTA") committed by "Qualified Drivers" (*ie*, persons who "possessed a driver's licence but who for one reason or another did not maintain its validity, [who] knew how to drive, or at the very least, was previously assessed to be capable of doing so": *Daryle Seah* at [40])? In answering this question, please consider if the threshold for the imposition of a custodial sentence is presumptively crossed when a Qualified Driver commits an offence under s 35(1) of the RTA.
>
> [emphasis in original omitted]

20 I am grateful to Mr Teo for his assistance. Mr Teo submitted that the appropriate sentencing framework for Qualified Drivers was a sentencing matrix fashioned on two axes: (a) the Qualified Driver's driving competence; and (b) the degree of disregard the Qualified Driver showed for the law.

21 In respect of the first axis, Mr Teo submitted that a Qualified Driver's driving competence could be classified into four categories based on the reason for the offender not possessing a driving licence: (a) incompetent, (b) unknown competence, (c) semi-competent, and (d) competent. While Mr Teo acknowledged that the court should not usually assess an offender's driving competence, he submitted that the court could nevertheless rely on the conclusions of other institutions (such as the traffic police) which had already assessed the offender's driving competence on the basis of reliable evidence.

22 In respect of the second axis, Mr Teo submitted that the degree of disregard shown by a Qualified Driver for the law could be classified into two categories: (a) Qualified Drivers who showed a particular disregard for the law; and (b) Qualified Drivers who showed an ordinary disregard for the law. The former category comprised Qualified Drivers who showed disregard for a legal order, while the latter category comprised the remaining Qualified Drivers.

23 With these two axes in mind, Mr Teo submitted that Qualified Drivers would fall into one of the following six categories:

(a) Incompetent, Particular Disregard ("Category A").

(b) Unknown Competence, Particular Disregard ("Category B").

(c) Semi-competent, Particular Disregard ("Category C").

(d) Incompetent, Ordinary Disregard ("Category D").

(e) Semi-competent, Ordinary Disregard ("Category E").

(f) Competent, Ordinary Disregard ("Category F").

24 At the hearing before me, Mr Teo revised his proposed sentencing framework, in light of the Prosecution's position that it would typically charge Qualified Drivers who drove while under a revoked licence or a suspended licence under ss 35C(4), 47(5) or 47C(7) of the RTA, rather than s 35(1) of the RTA. Mr Teo submitted on this basis that the degree of disregard shown by a Qualified Driver for the law was no longer a relevant consideration. Instead, the sentencing framework for Qualified Drivers should focus solely on the offender's driving competence. Mr Teo proposed a "multiple starting points" sentencing approach for Category D–F drivers (see [23] above), and the following starting points:

(a) Category D: Two weeks' imprisonment and a two-year DQ Period.

(b) Category E: A fine of $7,000 and above and no DQ Period.

(c) Category F: A fine of less than $3,000 and no DQ Period.

25 In respect of the aggravating and mitigating factors, Mr Teo submitted that the non-exhaustive list of factors set out in *Rizuwan bin Rohmat* at [63] in respect of Unqualified Drivers could be similarly considered in calibrating the sentence for Qualified Drivers.

26 Finally, applying his proposed framework to the facts of the present case, Mr Teo submitted that Mr Eng was a Category D Qualified Driver whose starting sentence was two weeks' imprisonment, and there should be an upward adjustment of one week in light of his use of a mobile phone while driving.

Mr Teo also submitted that a two-year DQ Period should be imposed on Mr Eng. Accordingly, Mr Teo submitted that the appropriate sentence in respect of the RTA Charge was three weeks' imprisonment and a two-year DQ Period.

The parties' submissions

The appellant's submissions

27 The Prosecution disagreed with Mr Teo's proposed sentencing framework on the basis that, among other things, it was overly rigid and prescriptive. The Prosecution instead submitted that a dual benchmark sentencing framework was appropriate as this would ensure theoretical and practical coherence in the sentencing approach for offences under s 35(1) of the RTA.

28 As a starting point, the Prosecution submitted that the key distinction between a Qualified Driver and an Unqualified Driver was that a Qualified Driver had been found to be competent in fact to drive at some point, even though he was no longer competent in law to drive. An Unqualified Driver, by contrast, was not competent either in fact or in law to drive.

29 Adopting this distinction, the Prosecution submitted that Qualified Drivers could be divided into two categories, based on whether the Qualified Driver remained "competent in fact" to drive.

30 The first category comprised Qualified Drivers who, based on their conduct, had been found by an appropriate authority to lack competence in fact to drive. The Prosecution argued that these drivers ought to be treated the same as Unqualified Drivers, as their past conduct evidenced that they were no longer

competent both in fact and in law to drive. The Prosecution referred to these drivers as "Category 1" Qualified Drivers.

31 The second category comprised Qualified Drivers whose licences had either ceased to be in force or who possessed a foreign licence that had not been converted. For this category, there was no intervening event in the form of an appropriate authority finding that the driver was not competent in fact to drive. The Prosecution referred to these drivers as "Category 2" Qualified Drivers.

32 The Prosecution submitted that the following benchmark sentences were appropriate:

(a) Category 1 Qualified Drivers: A benchmark sentence of two weeks' imprisonment and a two-year DQ Period should apply to Category 1 Qualified Drivers who were first-time offenders, who did not cause an accident, and who pleaded guilty at the first stage of the Sentencing Advisory Panel's Guidelines on Reduction in Sentences for Guilty Pleas ("PG Guidelines"). This was similar to the benchmark sentence set out for Unqualified Drivers in *Daryle Seah* at [73]–[81].

(b) Category 2 Qualified Drivers: A benchmark sentence of a $5,000 fine and a two-year DQ Period should apply to Category 2 Qualified Drivers who were first-time offenders, who did not cause an accident, and who pleaded guilty at the first stage of the PG Guidelines.

33 In respect of the aggravating and mitigating factors, the Prosecution submitted that the non-exhaustive list of factors set out in *Rizuwan bin Rohmat* at [63] could be considered in calibrating the appropriate sentence for each individual case.

34 Finally, applying the Prosecution's proposed framework to the present case, the Prosecution submitted that Mr Eng was a Category 1 Qualified Driver, and the starting point of two weeks' imprisonment and a two-year DQ Period was appropriate. Taking into account Mr Eng's driving history and the three aggravating factors of his reason for driving, his manner and length of driving, and the driving-related charge that was taken into consideration for sentencing, the Prosecution submitted that an upward adjustment of the benchmark sentence to three to four weeks' imprisonment was warranted.

35 Accordingly, the Prosecution submitted that the sentence of a fine of $5,000 and a 24-month DQ Period imposed by the DJ was wrong in principle and manifestly inadequate. The sentence ought to be enhanced to three to four weeks' imprisonment and a 24-month DQ Period.

The respondent's submissions

36 In his mitigation plea, Mr Eng stated that he was the sole breadwinner for his family and that his mental health had deteriorated following the death of his first wife, for which he required frequent medication. Mr Eng submitted that any imprisonment term would have negative consequences on his mental health and the finances of his family.

37 Mr Eng also submitted that he was a first-time offender for driving licence offences, that he had not caused any injuries or property damage, and

that he had driven solely for the purpose of commuting to work. No intentional harm was caused to anything or anyone during this incident.

Issues for consideration

38 The following issues arose for my consideration:

(a) What is the appropriate sentencing framework in respect of Qualified Drivers who commit an offence under s 35(1) of the RTA?

(b) Did the DJ err in imposing the sentence of a fine of $5,000 (in default ten days' imprisonment) and a 24-month DQ Period for the RTA Charge?

My decision

The YIC's proposed sentencing framework should not be adopted

39 In my judgment, the YIC's proposed sentencing framework for Qualified Drivers should not be adopted for three reasons.

40 I turn first to the fact that the YIC's proposed sentencing framework focuses on the offender's driving competence. In my judgment, this runs squarely against the warning in *Daryle Seah* that the court should avoid assessing a driver's skill in the context of sentencing offences under s 35(1) of the RTA. As the court in *Daryle Seah* explained, focusing on the driver's skill would introduce "significant complexities" (*Daryle Seah* at [41]). Moreover, the focus on a driver's competence may obscure the true gravamen of the offence under s 35(1) of the RTA which is the driver's disregard for the safety of other road users.

41 The difficulty with the concept of a driver's "competence" is that it conflates two distinct ideas. The first is whether a driver has the legal right to drive, which is an issue of *status*. The second is the question of how well that driver actually drives, which is an issue of *skill*. A person may be a highly skilled driver yet have no legal right to drive. Conversely, a person may hold a valid licence and yet drive poorly. The fact that a person has been disabled from driving, whether for want of a valid licence or by reason of having accumulated sufficient demerit points to trigger a suspension, says nothing about his technical ability behind the wheel.

42 In my judgment, where a driver is disabled from driving, this does not necessarily reflect a lack of driving skill. Rather, it reflects his disregard for the rules that are designed to keep other road users safe. The focus in calibrating the appropriate sentence under s 35(1) of the RTA should therefore not be on "competence" in the sense of how well the offender drives. Instead, the linchpin of the offence lies in the degree to which the offender's conduct discloses a disregard for the safety of others. It is this — the offender's willingness to flout the rules of the road and the legal constraints on his right to drive — that must be the sentencing court's central concern.

43 The second reason is related to the first. The focus on the offender's driving skill may suggest that "competent" or "semi-competent" drivers, as defined by the YIC (see [21] above), are less culpable than other Qualified Drivers. However, this is not necessarily the case, because the assessment of the offender's culpability may turn on other considerations, such as the offender's pattern of driving or his reasons for driving.

44 Third, and finally, any sentencing framework developed for Qualified Drivers should be consistent with the sentencing framework for Unqualified Drivers set out in *Daryle Seah*, given that both concern the same offence under s 35(1) of the RTA. In my judgment, it is better to adjust the existing framework in *Daryle Seah* to accommodate Qualified Drivers, than to devise a completely different framework. This will ensure greater coherence in sentencing offences under s 35(1) of the RTA. For this reason, I did not consider either of the approaches proposed by the YIC to be appropriate, given that the court in *Daryle Seah* had adopted the benchmark approach for Unqualified Drivers (*Daryle Seah* at [75]).

The appropriate sentencing framework

45 I turn next to address the appropriate sentencing framework for Qualified Drivers.

46 Both Mr Teo and the Prosecution helpfully identified the range of scenarios in which a Qualified Driver would be liable for an offence under s 35(1) of the RTA. I agree that there are different types of Qualified Drivers who are not able to drive lawfully, and I begin by setting out how I consider these different types of Qualified Drivers should be classified.

Drivers holding driving licences issued elsewhere and drivers whose licences cease to be in force upon reaching the prescribed age

47 I begin with two broad categories of Qualified Drivers. The first comprises foreigners holding driving licences. Under ss 38(1) and 38(2) of the RTA, a foreigner or non-work pass holder who holds a valid foreign driving licence may drive in Singapore for a period of 12 months. Beyond that period, he must convert his foreign driving licence to a Singapore driving licence,

failing which, he would commit an offence under s 35(1) of the RTA if he continues to drive in Singapore. Separately, a driving licence granted to a foreigner remains in force for a maximum of five years from the date of such grant. After which, pursuant to s 35(10)(*b*) of the RTA, the licence must be renewed to remain valid.

48 The second category comprises drivers whose licences cease to be in force upon their attaining the prescribed age. Under s 35(10A) of the RTA, a person's driving licence "ceases to be in force" when he "attains any of the prescribed ages applicable to the person", unless he is certified as physically fit to drive by a medical practitioner and passes any required test of competence.

49 In my judgment, these two categories of drivers are *sui generis* in that the drivers concerned have not lost their lawful right to drive due to any wrongdoing on their part. Instead, they have lost that right because of the operation of the law governing their failure to take what is essentially a regulatory step.

50 As Mr Eng did not fall into either of these categories, these grounds of decision do not deal with these two categories of drivers. This approach reflects the general principle that sentencing guidelines should be developed in the context of the facts that are actually before the court. This is also consistent with the approach taken in *Daryle Seah*, where the court only dealt with the particular factual matrix before it (see *Daryle Seah* at [36]–[42]). In any event, cases involving these two categories of drivers appear to be uncommon.

The other categories of Qualified Drivers

51 The remaining Qualified Drivers are drivers who are disabled from driving by the operation of law following a finding of guilt. These are drivers whose licences have been voided, suspended or revoked as a result of the application of the law which reflects Parliament's view that such drivers should not be permitted to drive.

52 These Qualified Drivers can be classified into two categories:

(a) The first comprises Qualified Drivers who lose their licence *temporarily* (by which I mean a driver who is disabled from driving for a specified period and will thereafter regain his driving licence once the specified period has elapsed). This may be due to a disqualification by conviction or court order, or a suspension by the police, for less than a year. This may also be due to an immediate suspension by the police pending investigation of certain offences. Generally, the Qualified Driver retains his legal competence to drive but is only disabled from doing so for the specified period.

(b) The second comprises Qualified Drivers who lose their licence *completely* (by which I mean a driver who is disabled from driving and must requalify for a driving licence before being permitted to drive again). This may be due to a disqualification by conviction or court order, or a suspension by the police, for a year or more. This may also be due to revocation by the police. Generally, to regain their licences, Qualified Drivers must pass the prescribed test of competence to drive.

53 Mr Eng is a Qualified Driver whose licence was voided upon his conviction for the 2018 Incident, which attracted a five-year DQ Period. He has not since requalified for a driving licence. He therefore falls into the category of Qualified Drivers who have lost their licence *completely*, and it is the benchmark sentence for this category that I will address.

54 In my judgment, a Qualified Driver who has lost his licence completely is a driver whose culpability is greater than the archetypal Unqualified Driver, as defined in *Daryle Seah* at [75]. This is because a Qualified Driver who has lost his licence completely not only lacks a valid licence entirely – and is therefore, at least as a matter of status (see [41] above), neither qualified nor competent to drive either in fact or in law – but will invariably also have a string of driving related antecedents that led to the disqualification in the first place.

55 Using the benchmark sentence of two weeks' imprisonment for the archetypal Unqualified Driver in *Daryle Seah* as a starting point, the benchmark sentence for a Qualified Driver who has lost his licence completely, and then drives without a licence, is a term of imprisonment of three weeks. As with the benchmark sentence in *Daryle Seah*, this benchmark sentence applies to a first-time offender who pleads guilty and who does not cause an accident (see *Daryle Seah* at [75]).

56 In arriving at this benchmark sentence, I also wish to address the suggestion that is sometimes put forth that Unqualified Drivers should necessarily attract a more severe sentence than Qualified Drivers. This, in my view, is incorrect, at least in so far as a Qualified Driver who has lost his licence completely is concerned. Such a driver, for all intents and purposes, is in the same legal position as an Unqualified Driver. He has no licence and must requalify to establish his competence to drive. In my judgment, such a driver is

in fact *more* culpable than the Unqualified Driver: his disability to drive was the product of prior conduct serious enough to warrant the complete removal of his licence, and his decision to drive regardless reflects a persistent disregard for the safety of other road users. His culpability is therefore not diminished by the fact that he once held a licence.

57 As the issue of Qualified Drivers who lose their licences temporarily does not arise on the facts of this case, I do not have to make a decision on this point, but I make some related observations at [66]–[70] below.

The appropriate sentence for the RTA Charge

Imprisonment sentence

58 Turning to the facts of the present case, Mr Eng was a Qualified Driver who lost his licence completely by virtue of the five-year DQ Period he received from the 2018 Incident. He did not cause an accident and was a first-time offender. He also pleaded guilty to the RTA Charge. The starting point was therefore an imprisonment term of three weeks.

59 There are two further factors that aggravate the offence. First, Mr Eng drove a significant distance from his residence in Woodlands to Braddell Road before being stopped, and had intended to go to multiple locations spanning two distinct parts of Singapore. Second, a charge for driving while using a mobile phone under s 65B(1) of the RTA was taken into consideration for the purposes of sentencing.

60 The Prosecution also argued that Mr Eng's reason for driving, namely that he was driving for his own personal benefit and convenience, was an aggravating factor. I did not agree. As explained in *Rizuwan bin Rohmat* at

[63(a)], the offender's reason for driving may be relevant: it is potentially aggravating where the offender drove in order to commit an offence, and potentially mitigating where he drove out of an emergency. Mr Eng's act of driving for his own personal benefit and convenience fell into neither category, and I therefore regarded it as a neutral factor. In the circumstances, I was of the view that it was appropriate to increase the starting benchmark of three weeks' imprisonment to four weeks' imprisonment on account of the two aggravating factors.

61 For completeness, I also considered whether the fact that Mr Eng drove despite having attempted and failed to requalify for his driving licence should be treated as an aggravating factor. Mr Teo submitted that treating his failure to requalify as an aggravating factor might have the unwanted effect of incentivising Qualified Drivers who have lost their licences completely, and who harbour an apprehension that they might not pass the test of competence, not even to attempt to requalify. Deputy Public Prosecutor Nicholas Khoo ("DPP Khoo") took the position that this should be a neutral factor: while Mr Eng had shown a high degree of disregard for the law by driving despite having tried and failed to requalify, he had at least attempted to go through the proper legal route of requalification. I agreed with the submissions of both Mr Teo and DPP Khoo, and found that Mr Eng's failed attempt to requalify did not constitute an aggravating factor.

Disqualification period

62 I turn next to address the DQ Period imposed on Mr Eng. The DJ ordered the DQ Periods for the RTA Charge and the MVA Charge to run concurrently, both commencing on 14 August 2025 (GD at [41]). In my judgment, this was incorrect.

63 In *Daryle Seah*, the court considered, in respect of Unqualified Drivers, that the total period of three years' disqualification – comprising the two-year DQ Period imposed for the offence under s 35(1) of the RTA and the one-year DQ Period imposed for the offence under s 3(1) of the MVA – was "proportionate for a first-time offender who drove without a licence" (*Daryle Seah* at [81]). This makes clear that the court in *Daryle Seah* envisioned the DQ Periods for the two offences to run consecutively rather than concurrently.

64 In my judgment, the DQ Periods for the RTA Charge and the MVA Charge should run consecutively in order to achieve the necessary deterrent effect. This is permissible because the DQ Period for an offence under s 35(1) of the RTA is imposed pursuant to s 42(1) of the RTA, which provides that the court may impose a DQ Period "for any period that the court thinks fit". Section 42(1) of the RTA therefore confers on the court the discretion to order the DQ Period for the offence under s 35(1) of the RTA to run consecutively to the DQ Period for the offence under s 3(1) of the MVA. I therefore ordered the DQ Periods for the RTA Charge and the MVA Charge to run consecutively.

Overall sentence

65 I accordingly set aside the sentence imposed by the DJ in respect of the RTA Charge. I sentenced Mr Eng to a term of four weeks' imprisonment and a two-year DQ Period. The DQ Period is to take effect upon the expiry of the DQ Period imposed for the MVA Charge.

Coda on the sentencing precedents for offences under s 43(4) of the RTA

66 While the sentencing benchmark for Qualified Drivers who lose their licences temporarily was not the subject of this appeal, I make some observations about the sentencing precedents in respect of this category of Qualified Drivers.

67 Before me, the Prosecution submitted that the sentencing benchmark for Qualified Drivers who lose their licences temporarily should be four weeks' imprisonment. The Prosecution's case was that a Qualified Driver who drives in defiance of an *active* order displays a more blatant disregard for the law, and that this justified the higher starting benchmark as compared to Qualified Drivers who had lost their licences completely but were no longer subject to any active order. The Prosecution also took this position on the basis that this would be consistent with the sentences imposed for offences under s 43(4) of the RTA, which is the offence for driving under disqualification. Section 43(4) of the RTA provides as follows:

> (4) If any person who is disqualified as mentioned in subsection (3) drives on a road a motor vehicle or, if the disqualification is limited to the driving of a motor vehicle of a particular class or description, the person drives on a road a motor vehicle of that class or description, the person shall be guilty of an offence and shall be liable on conviction as follows:
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> (a) to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 3 years or to both;
>
> (b) where the person is a repeat offender, to a fine not exceeding $20,000 or to imprisonment for a term not exceeding 6 years or to both.

68 While I saw some force in the Prosecution's submissions, I was of the view that there may also be cogent reasons in favour of adopting a different view. On the one hand, the precedent sentences for offences under s 43(4) of

the RTA point towards a starting sentence of four weeks' imprisonment (see *Rizuwan bin Rohmat* at [47], citing *Chng Wei Meng v Public Prosecutor* [2002] 2 SLR(R) 566 at [42]–[44] and *Fam Shey Yee v Public Prosecutor* [2012] 3 SLR 927 at [12]).

69 On the other hand, a Qualified Driver who is temporarily disabled from driving has not lost his licence altogether – he retains his underlying competence to drive and has merely been disabled from exercising that right for a period of time. This is to be contrasted with a Qualified Driver who has lost his licence completely and does not have even a presumptive factual ability to drive, and who not only carries the baggage of his antecedents but also knows that he has no legal basis to drive at all. It was therefore not obvious to me that a Qualified Driver who drives while having temporarily lost his licence should necessarily be treated more harshly than one who drives after having completely lost his licence. Nor was it entirely clear to me that a Qualified Driver who drives while having temporarily lost his licence necessarily shows a greater disregard for the law than a Qualified Driver who drives after completely losing his licence and is *not under an active order*. The Qualified Driver who is temporarily disabled from driving might be under a more immediate order, but the Qualified Driver who has completely lost his licence also knows that he is not supposed to drive.

70 As this issue did not arise on the facts of the present case, it is not necessary for me to come to a view on this, and I leave it open for determination on a future occasion. I would only observe that it may also be necessary for the courts to re-assess the sentencing ranges for offences under s 43(4) of the RTA in light of the benchmark sentences for offences under s 35(1) of the RTA laid down in *Daryle Seah* and the present case.

Coda on the sentencing precedents for offences under s 3(1) of the MVA

71 I also make some observations about the sentencing precedents for offences under s 3(1) of the MVA. Sections 3(1) to 3(3) of the MVA provide as follows:

> **Users of motor vehicles to be insured against third-party risks**
>
> **3.**—(1) Subject to the provisions of this Act, it is not lawful for any person to use or to cause or permit any other person to use —
>
> (a) a motor vehicle in Singapore; or
>
> (b) a motor vehicle which is registered in Singapore in any territory specified in the Schedule,
>
> unless there is in force in relation to the use of the motor vehicle by that person or that other person (as the case may be) a policy of insurance or a security in respect of third-party risks that complies with the requirements of this Act.
>
> (2) If a person acts in contravention of this section, the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $1,000 or to imprisonment for a term not exceeding 3 months or to both.
>
> (3) A person convicted of an offence under this section is (unless the court for special reasons thinks fit to order otherwise and without affecting the power of the court to order a longer period of disqualification) to be disqualified from holding or obtaining a driving licence under the Road Traffic Act 1961 for a period of 12 months starting on the date of the person's conviction or, if the person is sentenced to imprisonment, on the date of the person's release from prison.

72 The offence under s 35(1) of the RTA is almost always charged with the offence of driving without insurance under s 3(1) of the MVA. In my view, this obscures the true reason why the sentences for driving without a valid insurance policy under s 3(1) of the MVA tend to be on the low side. The real reason is that the sentence for the offence under s 35(1) of the RTA already takes into account the tremendous potential harm arising from the fact that such drivers will, by definition, be uninsured (see *Daryle Seah* at [54]). It is precisely this

additional element, taken with the sheer risk of injury, that makes the offence under s 35(1) of the RTA so serious. Once those factors have been reflected in the sentence for the offence under s 35(1) of the RTA, it would be incorrect to take them into account again in sentencing for the offence under s 3(1) of the MVA, which explains why a much lower fine tends to be the norm for the latter.

73 It follows that when an offender who holds a valid driving licence commits an offence under s 3(1) of the MVA, the sentencing court must ensure that the potential harm in terms of unrecoverable damages is sufficiently taken into account in calibrating the appropriate sentence.

74 It appears that this distinction has not always been appreciated, as the usual sentence of a fine of $600 to $800 and a 12-month DQ Period appears to be consistently applied for offences under s 3(1) of the MVA, irrespective of whether the charge under s 3(1) of the MVA was accompanied by a charge under s 35(1) of the RTA for driving without a valid licence (see, for instance, *Public Prosecutor v Ririn Arindy Rizk Rahayu* [2023] SGDC 48; *Public Prosecutor v Shah Gunjan* [2023] SGDC 146; and *Public Prosecutor v Naresh Kumar Ilango* [2025] SGDC 139) or whether it was not (see, for instance, *Public Prosecutor v Yee Leh Kheong* [2021] SGDC 263; *Public Prosecutor v Mohamed Haris bin Abdul Halim* [2023] SGDC 160; and *Public Prosecutor v Erzat Erdayat bin Abu Bakar* [2024] SGDC 144).

Conclusion

75 For the foregoing reasons, I allowed the appeal and set aside the fine of $5,000 imposed by the DJ for the RTA Charge, substituting it with a term of four weeks' imprisonment. I further ordered that the two-year DQ Period imposed by the DJ for the RTA Charge was to commence from the expiry of

the DQ Period for the MVA Charge. I wish to record my appreciation to Mr Teo and the Prosecution for their considerable assistance in this matter. I would also record my appreciation for the measured and fair-minded way in which the Prosecution's submissions were presented.

Sundaresh Menon
Chief Justice

Nicholas Khoo and Andrew Low (Attorney-General's Chambers) for the appellant;
The respondent in person;
Assistant Professor Marcus Teo (Faculty of Law, National University of Singapore) as young independent counsel.
