

Decision Number 60C [2015] 1937

IN THE MATTER

of the Sale and Supply of Alcohol
Act 2012

AND

IN THE MATTER

of an application by
RAMANDIP SINGH for a
Manager's Certificate pursuant to
s219 of the Act.

DECISION OF THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE

Chairperson: Mr R.J.Wilson

Members: Mr A.J.Lawn
Mr G. Buchanan

HEARING at Christchurch on the 20th August 2015

APPEARANCES

Mr Ramandip Singh, Applicant

Sgt J. Harris, NZ Police

Ms J. Davison, Alcohol licensing inspector, CCC

Mrs J. Anderson, Hearings Adviser, CCC

INTRODUCTION

This is an application by Ramandip Singh for a Manager's Certificate pursuant to s219 of the Act. The application is opposed by the NZ Police and by the Alcohol Licensing Inspector. The opposition is based on convictions recorded against Mr Singh and also on his failure to disclose these.

The Chairperson explained to Mr Singh the significance of the Osborne decision which would be referred to by the Police and the Inspector. So that Mr Singh was in a position to respond appropriately to the opposition, Sgt Harris was asked to give his evidence first.

EVIDENCE OF SGT J.HARRIS

Sgt Harris tabled as Exhibit A a copy of Mr Singh's Criminal and Traffic History. He also tabled as Exhibit B the Summary of Facts with respect to the Careless Driving and Failing to Stop matters. No further details were available relating to the Excess Breath Alcohol matter. The Police oppose the granting of a Manager's Certificate to Mr Singh at this time as insufficient time has elapsed since Mr Singh's last Court appearance based on the guidance offered in the Osborne Decision.

In response to a question from the Chairperson Sgt Harris stated that he believed 19th March 2016 to be the date that the application would no longer be opposed applying the guidance in Osborne. After reflection he stated that perhaps the two traffic matters should also be taken into account but in his view this might be overly harsh. He drew the Committee's attention to the Summary of Facts for those offences. There were what might be regarded as mitigating circumstances and it may be that the modest penalties imposed reflected that the Court had taken these into account. The matter was complicated however by the fact that Mr Singh had not disclosed these convictions on his application.

CROSS EXAMINATION

Mr Singh had no questions for Sgt Harris nor had the Inspector. Mr Lawn, for the Committee, wanted to know whether any action had been taken by the Police to have the Manager's Certificate Mr Singh then held suspended as a result of the Excess Breath Alcohol conviction. Sgt Harris responded that he had been unable to find any record of such an application either by the Police or Licencing Inspectors in Wellington where Mr Singh was living at the time.

EVIDENCE OF MR RAMANDIP SINGH

Mr Singh acknowledged his Criminal and Traffic History. He said that the Excess Breath Alcohol matter in 2011 was an error of judgment on his part. He accepted the conviction and penalty as appropriate and he now made it a practice not to drink at all when he is driving. The conviction had serious consequences for him as he was a taxi driver at the time and lost his employment. With respect to the Careless Use and Failing to Stop matters Mr Singh explained that he had been driving a passenger who became argumentative. He stopped the taxi and asked this person and his companions to alight. When he did so the passenger leant over the bonnet as if he intended to interfere with the windscreen wiper or wing mirror. Mr Singh said he started to drive away but in doing so nudged the person with his vehicle. The man fell to the road but immediately got up again and advanced on the taxi. Mr Singh then drove off. He believed the Court had accepted there were mitigating circumstances and the penalty reflected that. Mr Singh explained that he was anxious to get his Manager's Certificate as he was keen to own his own business and an opportunity had arisen to be part of a partnership opening a new bottle store in Ashburton.

CROSS EXAMINATION

Sgt Harris asked why Mr Singh had not disclosed his convictions on his application. Mr Singh replied that he thought traffic matters did not have to be reported. After being shown the application form, Mr Singh conceded that this was incorrect. Mr Singh agreed that he had held a Manager's Certificate at the time of his Excess Breath Alcohol conviction although he had since allowed it to lapse. He agreed that he had not suffered a suspension as a result of the offence and had continued to work in the industry.

To the Committee Mr Singh acknowledged that the present application was important to him as he was currently a joint applicant for an Off Licence in Ashburton and he wished to take part in the management of the business.

The Inspector had no questions for Mr Singh.

CLOSING STATEMENTS

Sergeant Harris said that he believed that it would be overly harsh for the Traffic matters to be taken into account but the Police supported the guidance offered in the Osborne decision and opposed the granting of a Manager's Certificate at this time. He believed 20th March 2016 to be the appropriate date for a fresh application. He also asked the Committee to take account of the fact that Mr Singh had failed to reveal his convictions in his application.

Ms Davison initially sought the opportunity to make written submissions given the position taken by the Police. However after consideration the Committee decided this was unnecessary as it had sufficient evidence to deal with the matter and an adjournment which would be required would be unfair to the applicant. Ms Davison then gave an oral submission in which she supported the Osborne guidelines and therefore opposed the application.

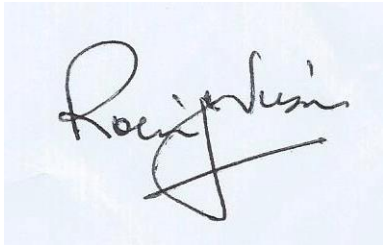
DISCUSSION

It is unfortunate that Mr Singh failed to disclose his convictions because he presented well and otherwise appeared an applicant to whom some leniency might be extended. The Committee has considered the Criminal and Traffic History and is of the view that the two traffic matters in 2014 can be put to one side. We can recognize some mitigating circumstances and believe the District Court reflected these in the sentences imposed. However the Committee does take into account the conviction for Excess Breath Alcohol in 2011. We agree with Sergeant Harris that the appropriate time for this application to be considered would be 20th March 2016. We considered whether some leniency might be extended to Mr Singh and his application granted before that time. However we believe there has to be some penalty for failing to disclose his convictions. We also note that through oversight on the part of the Agencies no period of suspension of Certificate was served after the Excess Breath Alcohol conviction. Accordingly we are not prepared to grant Mr Singh's application at this time. He should apply again in March 2016.

DECISION

The application for a Manager's Certificate pursuant to s219 of the Act by Ramandip Singh is refused.

DATED at Christchurch this 20th day of August 2015.

A handwritten signature in black ink on a light blue background. The signature is written in a cursive style and appears to read 'R.J. Wilson'.

R.J. Wilson
Chairperson
Christchurch District Licensing Committee