

**IN THE COURT OF APPEAL OF NEW ZEALAND**

[REDACTED]  
[2017] NZCA [REDACTED]

BETWEEN

[REDACTED]  
Appellant

AND

THE QUEEN  
Respondent

Hearing: [REDACTED] 2017

Court: Harrison, Gilbert and Katz JJ

Counsel: A J Haskett for Appellant  
JEL Carruthers for Respondent

Judgment: [REDACTED] 2017 at 2 pm

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**JUDGMENT OF THE COURT**

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**A The appeal is allowed.**

**B The conviction entered against the appellant in the District Court is set aside.**

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**REASONS OF THE COURT**

(Given by Harrison J)

**Introduction**

[1] The appellant, [REDACTED], was found guilty following a defended hearing in the Manukau District Court on one charge of driving under the influence of drink to such an extent as to be incapable of having proper control of a motor

[REDACTED]