CITATION:	*Rankine v Drummond* [2026] NTLC 17
PARTIES:	*Stephen Edward Rankine* v *Mark Wayne Drummond*
TITLE OF COURT:	LOCAL COURT
JURISDICTION:	CRIMINAL
FILE NO(s):	22554659
DELIVERED ON:	11 November 2026
DELIVERED AT:	DARWIN
HEARING DATE(s):	19 August, 28 August 2026
DECISION OF:	Judge Woodroffe

CATCHWORDS:

CRIMINAL LAW – drive with prohibited drug in body - disqualification period – commencement - possession – obtaining of a licence – whether s 30(1) an offence of 'strict liability - authorisation s 26(1)(d) – mistake of fact or law

Traffic Act 1987 ss 28(1)(a), 29AAS, 30, 30(1)(a), 51, Part VI Offences
Motor Vehicles Act 1949 s 10
Criminal Code Act 1983 ss 23, 26(1)(d), 32, 43AN, 43AX, Part II, Part IIAA
Australian Road Rules r 200

Murphy v Molony (1997) 113 NTR 10
Jettner v Peach [2003] NTCCA 16
Lawrence v Hayes (1989) 44 A Crim R 210
Craig McPherson v Harold Ball [2008] NTMC 069
Ostrowski v Palmer (2004) 218 CLR 493
Morcom v Police [2017] SASC 147
He Kaw The v The Queen (1984-1985) 157 CLR 523

REPRESENTATION:

Counsel:

Prosecution:	Mr Campbell (DPP)
Defendant:	Ms Toohey (NAAJA)

Decision category classification:	B
Decision ID number:	[2026] NTLC 17
Number of paragraphs:	29

IN THE LOCAL COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. 22554659

BETWEEN:

Stephen Edward Rankine

Plaintiff

AND:

Mark Wayne Drummond

Defendant

REASONS FOR DECISION

(Delivered 11 November 2026)

JUDGE WOODROFFE

1. Mark Drummond ('the accused') was charged on complaint with the following charges:

   - an offence of, while disqualified from holding a licence for six months did obtain a licence contrary to s 31(1)(a) of the *Traffic Act 1987* (being charge 1); and

   - 27 offences of being disqualified from holding a licence in driving on various on public roads on various dates from 5 September 2025 to 29 October 2025 contrary to s 31(1) of the *Traffic Act 1987* (being charges 2-19 and 21 – 29).

   The accused has entered not guilty pleas to those charges that are the subject of the hearing. There was also a single guilty plea to charge 20 of holding a handheld mobile phone while driving on a road contrary to rule 200 of the *Australian Road Rules*.

2. Factually there is no dispute as to the conduct of the accused that on each occasion he was the driver of silver Toyota Camry (NT CF72KY) and that he had attended the Motor Vehicle Registry seeking to obtain a driver's licence and indeed was provided with one on 5 September 2025. The agreed conduct of the accused is set out in exhibit P1 of the Agreed Facts, outlined in 39 paragraphs.

The Disqualification to Drive

3. Previously the accused was sentenced on 17 June 2025 for a disqualifying offence of Driving with Prohibited Drug in body contrary to s 28(1)(a) of the *Traffic Act 1987*, 1 and 5 other charges on file 22513035. On sentencing, the Court was required to consider whether it was the first, second or subsequent offence under s 29AAS (2) of the *Traffic*

[1] Maximum penalty for a second or subsequent offence – 7.5 penalty units or imprisonment for 6 months.

Act 1987. The sentencing Judge found that it was a subsequent offence and proceeded to sentence the accused to the mandatory minimum period of disqualification of six months.

4. The *Traffic Act 1987* provides for an automatic commencement of disqualification under s 29AAS:

> *(3) The cancellation of a person's licence occurs automatically by operation of this Part and takes effect from the date of the finding of guilt.*
>
> *(3A) The disqualification of the person from obtaining a licence is imposed automatically by operation of this Part and the period of disqualification commences from:*
>
> *(a) The date of the finding of guilt; or*
>
> *(b) If the Court makes an order under subsection (7) that the period of disqualification is to commence from a later date – the later date ordered by the Court.*

5. Despite some uncertainty during the sentencing remarks as to the commencement date of the disqualification was an automatic outcome from the date of the finding of guilt, being 17 June 2025.[2] However, the sentencing Judge's remarks remain a material consideration to the present hearing, given it was made in the presence of the accused and his legal counsel. A transcript reveals the following:

> ….
>
> *His Honour: All right. What is this – six months, is it disqualification?*
>
> *Prosecutor: Your Honour, for – yes, for a subsequent drug drive repeat under s 28 a 6 month disqualification, 7.5 penalty units or 6 months and under s 30 -32, sorry, for driving unlicensed, its 20 penalty units or 12 months.*
>
> *Def Counsel: I should note, your Honour, this would be an immediate suspension offence. I would be assisted by my friends clarifying whether or not it was issued under s 29 AA and …*
>
> *His Honour: The Registry will pull it out.*
>
> *Def Counsel: Yes.*
>
> *His Honour: He needs to be – when he gets out – contact them and say, "Is my disqualification up?" look into it from that perspective.*
>
> *Def Counsel: If the Court pleases.*
>
> *His Honour: All right, Mr Drummond…you are convicted of counts 1, 2, 3, 5, 6 and 7, Counts 4 – I think it's 4, 8 and 9 withdrawn and dismissed. On count 6, which is the possess charge, you are sentenced to 1 month from 5 February. On count 7, 3 months from 5 February. On*

[2] *Murphy v Molony* [1997] 113 NTR 10.

counts 1, 2, 3 and 5, an aggregate fine of $2000 with levies of $600 and you are disqualified from driving for 6 months. Anything arising?

Def Counsel: No.

His Honour: No. All right.

The provision of a driver's licence to the accused

6. The evidence reveals that accused subsequently was spoken at his residence on 7 November 2025 by Detective Sergeant Dale Motter-Bernhard in relation to his driving on the dates of the charges. It is further an agreed fact at paragraph 36 that:

'Whilst being spoken to by police, the defendant identified to police that he believed that he was no longer disqualified because he had obtained a driver's licence from the Motor Vehicle Registry in September 2025. The defendant told police that he believed that he had not done anything wrong because he attended the Motor Vehicle after he was released from custody and they did a check on their system and issued him the drivers' licence. The defendant then produced his driver's licence which was confirmed to be valid. The licence was subsequently seized by police, and the defendant was informed that he would be dealt with after further inquiries were made.'

7. The Registrar of Motor Vehicles has power to grant a person a licence on application under s 10 of the *Motor Vehicles Act 1949*. On the totality of the evidence there is nothing to suggest that the issuing to the accused of a driver's licence on 5 September 2025 was not done in good faith, and an exercise of the powers of the delegate of the Registrar.[3]

The contended issues on the hearing

8. Mr Wye, counsel for the accused, contends that given the admitted fact of the accused's statement to the Detective Sergeant of his belief that he was not disqualified and was a licenced driver on each relevant occasion of driving the accused is excused from any criminal responsibility on a number of defences that are available.

9. Firstly, by the provision of a driver's licence by the Motor Vehicle Registry to the accused, was accordingly authorised to drive on each separate occasion. The relevant legislation concerning criminal responsibility and excuse of authorization are set out in Part II of the *Criminal Code Act 1983*.

10. These provisions are set out below:

22 Exclusion of regulatory offences

Except for sections 26(1)(c) and (d) (and sections 23 and 24 to the extent necessary to give effect to section 26(1)(c) and (d)), 30(3) and 38, this Part does not apply to regulatory offences.

[3] See section 121 *Motor Vehicles Act 1949* 'Protection from Liability'.

23 Effect of authorization, justification or excuse

A person is not guilty of an offence if any act, omission or event constituting that offence done, made or caused by him was authorized, justified or excused.

Division 2 Authorization

26 Execution of the law &c

(1) An act, omission or event is authorized if it is done or made or caused:

(d) subject to subsection (3), pursuant to authority, permission or licence lawfully granted.

11. A person is not guilty if their act was authorised, justified or excused s 23 of the *Criminal Code Act 1983*. The accused bears the onus to point to or produce evidence from which it could be inferred that there is at least the possibility of any such defence and for the prosecution to negative the possible defence beyond a reasonable doubt.[4] Rice J in *Lawrence v Hayes* (1989) 44 A Crim R 210 at [213] held that the application of s 26(1)(c) and (d) are both preserved and apply to a regulatory offence…In consequence, these provisions render an act as being authorised if it is done, made or caused pursuant to authority or permission lawfully granted; and by virtues of s 23 of the Code, a person is not guilty of an offence, inter alia, any act constituting that offence done by him was authorised.

12. On the contested hearing no evidence was called or examined in relation to the powers of the Registrar of Motor Vehicles or the delegate in the exercise of their powers to grant the accused a licence. The factual circumstances of *Lawrence v Hayes* are revealing, in that it involved the charge of a possession of a category D firearm of a SKS semi-automatic rifle without being licensed to do so. The appellant a firearms licence dealer and holder of category A, B and C licenses sought direction by telephone from the Acting officer McMaster of the Firearms Recording Section and advised to take it to the Pine Creek police station and duly did so and handed it to the officer in charge with a following discussion on how the defendant could retain the firearm and was advised he could apply for a collector's licence, though unlikely to obtain it. Rice J held that the appellant act of taking the weapon there was authorised by pursuant to authority or permission lawfully given by McMaster and endured until parted with the firearm at the police station.

Mistake of Fact

13. Secondly a further defence is raised by the accused as to whether the Crown has negated beyond a reasonable doubt any legal defence of an honest and reasonable mistake of fact as to the accused's entitlement to drive. Here the accused states that s 32 of the *Criminal Code Act 1983* provides:

[4] *Jettner v Peach* [2003] NTCCA 16.

A person who does, makes or causes an act, omission or event under an honest and reasonable, but mistaken, belief in the existence of a state of things is not criminally responsible for it to any greater extent than if the real state of things had been such as he believed to exist.

Whether the offence is a strict liability offence

14. There are considerations on whether the contested offences are offences of 'strict liability'. It is the prosecutor's contention that both offences of s 31(1) and s 31(1)(a) are strict liability offences and relies on s 51 of the *Traffic Act 1987* that states:

    An offence against or failure or contravention against this Act are regulatory offences, '(other than sections 29AN(1), 30, 30A, and 31).

15. It was Mr Chamer's contention that any defence arising of mistake of fact would arise under s 43AX of the *Criminal Code Act 1983* given s 43AN provides:

    (1) If a law that creates an offence provides that the offence is an offence of strict liability:
        (a) There are no fault elements for any of the physical elements of the offence; and
        (b) The defence of mistake of fact is available under s 43AX is available.
    (2) If a law that creates an offence provides that strict liability applies to a particular physical element of an offence:
        (a) There are no fault elements for that physical element; and
        (b) The defence of mistake of fact under s 43 AX is available in relation to that physical element.
    (3) The existence of strict liability does not make any other defence unavailable.

16. Both offences of s 31(1) and s 31(1)(a) are found within Part VI Offences of the *Traffic Act 1987*, with other non-regulatory offences of s 30 Dangerous Driving or Riding; s 30A Driving at Dangerous Speed. Defence counsel contended that given neither offence is contained within Schedule 1 of the *Criminal Code Act 1983* that outlines offences that are of strict liability under Part IIAA. Further given this absence and as a matter of legal interpretation, had it been the legislature's intent to be an offence of strict liability it would have expressly done so in the provision.

17. Former Chief Magistrate Blokland, held in *Craig McPherson v Harold Ball* [2008] NTMC 069 that the offence of Drive while Disqualified was neither a regulatory offence or a declared offence under Part IIAA of the *Criminal Code Act 1983* and the criminal responsibility provisions of Part II of the *Criminal Code Act 1983* applied. Further given the offence attracted full criminal responsibility under s 31 of the *Criminal Code Act 1983*, the mental element of the offence was driving in the knowledge of the disqualification at [9].

18. I do follow the reasoning in *Craig McPherson v Harold Ball* (supra) that the defence of mistake of fact would arise under s 32 under Part II of the *Criminal Code Act 1983*, rather than s 43AX under Part IIAA.

19. An examination of the evidence as to the accused's state of mind are distinguishable from the circumstances as presented in finding of guilt in *Craig McPherson v Harold Ball* (supra).

    i. Despite being present at Court with legal counsel, there still remains ambiguity of the sentencing remarks as to the commencement and cessation of the disqualification period.
    ii. The sentencing transcript reveals the statement to the accused added to the ambiguity in being directed as follows, '…he's need to contact them and say "Is my disqualification up"?'.
    iii. That the accused in attending the Motor Vehicle Registry was advised on his entitlement to a driver's licence and subsequently provided with a driver's licence on 5 September 2025.
    iv. That he was in possession of a Northern Territory driver's licence that was produced to the questioning Detective Sergeant.
    v. That there would be less general community awareness of disqualification in relation to drug driving offences than drink driving offences as was relevantly taken into account in *Craig McPherson*.

20. The prosecution contends that were it to be a mistake is based on incorrect information of an official government body or from any other third party would be a mistake of law as to a Court order. In support of this contention relies on *Police v Pace* [2008] SASC 182 where a confusion of a letter from the Deputy Registrar of removal of a disqualification to drive providing he did not have any other convictions as well – as he did in fact have – as well as the authority of *Ostrowski v Palmer* (2004) 218 CLR 493.

21. In *Morcom v Police* [2017] SASC 147 a disentitled driver due to fines suspension made enquiries to SA Services and was informed his licence was not suspended. Justice Kelly in *Morcom* held [17] that the 'appellant's state of mind on the relevant day was that his belief was a belief in a state of facts that, if true, would provide a defence to the charge of driving whilst the licence was suspended. It is belief that went directly to one element of the offence'.

22. As Gibbs CJ in *Haw Keh Teh v The Queen* (1984-1985) 157 CLR 523 at [535]: '…provided there is evidence which raises the question the jury cannot convict unless they are satisfied that the accused did not act under the honest and reasonable mistake'.

23. I am satisfied that the evidence contained in the admitted facts and on the hearing as to the accused's state of mind was mistaken as to the existence of a 'state of things' rather than any mistake of law as to the disqualification to drive.

24. But rather in my view, was an error as to a state of things given his specific enquiry at the Motor Vehicle Registry as to his driver's licence and advised of his entitlement to obtain a licence and its subsequent provision on 5 September 2025. With such a mistake of fact gave rise to each and all subsequent occasions of driving in respect of each charge on the complaint.

25. Equally on the present hearing, where there is evidence as an admitted fact that the accused was authorised by the relevant authority for the issuing of driver's licence being the delegate of the Registrar of Motor Vehicles. There has not been any evidence as to the delegation of the person whom initially advised he was entitled to obtain and driver's licence as there was no disentitlement on the first occasions or the person who granted the driver's licence on the next occasion being 5 September 2025 and the lawful exercise of those powers.

26. I therefore cannot accordingly find that the prosecution has disproved that there was no authorisation under s 26(1)(d) of the *Criminal Code Act 1983* and accordingly s 23 applies.

27. I find on the evidence that the prosecution has not discharged it onus of disproving that the accused was neither authorised to drive or had an honest and reasonable excuse as to a mistake of fact to drive during his period of disqualification or was ineligible to apply for a driver's licence.

28. The charges are dismissed and the accused discharged.

29. I will now proceed to hear counsel in relation to the sole remaining charge.
