



Neutral Citation Number: [2023] EWCA Crim 1335

Case No: 202300991 B4

**IN THE COURT OF APPEAL (CRIMINAL DIVISION)**  
**ON APPEAL FROM THE CROWN COURT AT CHESTER**  
**HIS HONOUR JUDGE LEEMING**  
**T20217126**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 15 November 2023

**Before:**

**LORD JUSTICE STUART-SMITH**  
**MR JUSTICE HOLGATE**  
and  
**HIS HONOUR JUDGE MARKS KC**  
**The Common Serjeant of London**

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**Between:**

**REX**

**Respondent**

**- and -**

**NATHAN SCHULTZ**

**Appellant**

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**Adam Watkins** (instructed by **Turnocks Defence Solicitors**) for the **Appellant**  
**Maria Masselis** (instructed by **CPS Appeals and Review Unit**) for the **Respondent**

Hearing date: 7 November 2023  
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**Approved Judgment**

This judgment was handed down remotely at 10.30am on 15 November 2023 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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## **Lord Justice Stuart-Smith:**

### **Introduction**

1. On 7 November 2023 the applicant renewed his application for leave to appeal against both his conviction of an offence of causing death by dangerous driving and the sentence of 10 years imprisonment imposed by the trial judge, HHJ Leeming. At the end of the hearing we ruled that the renewed application for leave to appeal against conviction was dismissed, for reasons we gave in an ex tempore judgment that do not need not be repeated here. At the same time we indicated that we would reserve our judgment on the renewed application for leave to appeal against sentence. We adjourned the hearing having asked Mr Watkins, who represents the applicant as he did in the court below, to assemble the evidence (including video evidence) that went to the question of the quality of the applicant's driving before and at the time of the fatal accident. Mr Watkins kindly agreed to attempt to agree his assembly of evidence with the prosecution.
2. Since the hearing, our attention has been drawn to paragraph 10.2.7 of the Criminal Procedure Directions 2023 which directs the court to consider adjourning the hearing where, in a case involving a fatality, leave is granted to appeal against sentence. Consequently, this judgment deals solely with the question of permission to appeal and its immediate consequences.
3. We have concluded that permission should be given to appeal against sentence. In our judgment, the submissions that the applicant wishes to advance are reasonably arguable. Having decided that leave should be granted, we adjourn the hearing so that the CPS may instruct an advocate, and the victim's family be given the opportunity to attend. The appeal is not reserved to this constitution of the Court or any particular members of it.
4. In the course of the hearing before us, a significant proportion of the argument focused on the question whether the judge was right in his sentencing remarks to refer to "a flagrant disregard for the rules of the road", which at least in part he appears to have been based on factors extrinsic to the quality of the applicant's driving at the time and which caused him to categorise the case as falling into Level 1. Our direction that the evidence relevant to the quality of the applicant's driving should be assembled stands, so that the full court may have easy and comprehensive access to the evidence going to the quality of his driving before and at the time of the fatal accident.
5. It is appropriate that we should grant a representation order for junior counsel instructed on the appeal, and we do so.
6. Beyond what we have said above, we do not express any view on the merits or likely outcome of the appeal against sentence.