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IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT WORCESTER

HHJ BURBIDGE 22DA1086823

CASE NO 202401640/A1

NCN: [2024] EWCA Crim 1189

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Thursday 12 September 2024

Before:

LORD JUSTICE SINGH

MRS JUSTICE MAY

MR JUSTICE GRIFFITHS

REX

V

JOSEPH JOHN O'CONNOR

Computer Aided Transcript of Epiq Europe Ltd,  
Lower Ground, 46 Chancery Lane, London WC2A 1JE  
Tel No: 020 7404 1400; Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)

NON-COUNSEL APPLICATION

J U D G M E N T

MRS JUSTICE MAY:

1. On 6 November 2023, in the Crown Court at Worcester before the Recorder of Worcester, the applicant (then aged 28) changed his pleas to guilty on one count of dangerous driving, one count of making threats to kill and one count of intentional non-fatal strangulation. He had earlier pleaded guilty to an offence of assault by beating. All the offences were committed on the same occasion against his then partner, Georgina Fradley. On the same date, he was sentenced by the Recorder to a total of 3 years' imprisonment, being 10 months each for the offences of dangerous driving and making threats to kill, both sentences running consecutively to each other and to a sentence of 16 months for the intentional strangulation offence. A sentence of 3 months for the common assault was ordered to run concurrently. The Recorder made an order disqualifying the applicant from driving for a period of 30 months, with a requirement for an extended retest. The applicant seeks to renew his application for an extension of time and for leave to appeal against the length of the disqualification period which the Recorder ordered. There is no challenge to the length of the total custodial sentence which was passed.

***The Facts***

2. The facts of the offending are set out in the Criminal Appeal Office Note. It is not necessary to repeat them all here. In short, the offending comprised a nasty attack by the applicant on Ms Fradley during the course of his driving her away from a music festival on 8 May 2023.

***Grounds of Appeal***

3. In grounds of appeal prepared by counsel it is submitted that the disqualification period was too long, in circumstances where the applicant had no previous driving offences and where he had the opportunity of employment as a driver available to him on his release.

### ***Decision***

4. The Recorder's decision on disqualification precisely followed the law, as explained by this Court in the case of *R v Needham* [2016] EWCA Crim 455. The offence of dangerous driving engages a statutory minimum disqualification period of 12 months together with an extended retest (see sections 34 and 36 of the Road Traffic Act 1988). Sections 35A and 35B of the 1988 Act require the court to extend a period of driving disqualification to ensure that a person who is also sentenced to custody does not serve all or part of their disqualification whilst in custody. The operation of these sections was fully explained by this Court in the case of *Needham*. Pursuant to section 35A, the court in this case was required to add an extension period equal to the time which the applicant was required to serve in respect of the driving offence, being half of 10 months, ie 5 months. This was then subject to a further uplift by operation of section 35B, equal to the additional time required to be served by reason of the sentences passed on the other non-driving offences sentenced at the same time. The additional time here was 13 months, being half of the total of 26 months resulting from the consecutive sentence of 10 months for the threats to kill and 16 months for the strangulation offence. In total therefore, 18 months equating to the time which the applicant would be expected to serve before being released from his sentence, was added to the mandatory 12 months' disqualification. This was all in accordance with the relevant statutory provisions designed to ensure that the mandatory disqualification period applies in full once a

convicted person has been released from custody.

5. As the single judge pointed out, the Recorder of Worcester simply applied the law and it is not remotely arguable that he was wrong to do so. For the same reasons as the single judge therefore, we refuse the extension of time and dismiss the appeal.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the

proceedings or part thereof.

Lower Ground, 46 Chancery Lane, London WC2A 1JE

Tel No: 020 7404 1400

Email: [rcj@epiqglobal.co.uk](mailto:rcj@epiqglobal.co.uk)