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IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT GLOUCESTER

HHJ LOWE CP No: 53BH0275623

[2025] EWCA Crim 112

CASE NO 202403249/A2

Royal Courts of Justice
Strand
London
WC2A 2LL

Wednesday, 22 January 2025

Before:

LORD JUSTICE BEAN
MRS JUSTICE HEATHER WILLIAMS DBE
MR JUSTICE BENNATHAN

REX
V
SHAYNE DONOVAN PRITCHARD

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MR S GOODMAN appeared on behalf of the Applicant

J U D G M E N T

1. MRS JUSTICE HEATHER WILLIAMS: The appellant faced a count of dangerous driving, contrary to section 2 of the Road Traffic Act 1988. At the Plea and Trial Preparation Hearing on 16 February 2024 in the Crown Court at Gloucester, he pleaded guilty to the lesser offence of driving without due care and attention, contrary to section 3 of the same Act. This plea had been indicated when the case was in the Magistrates' Court and in due course was accepted by the prosecution and the court. On 27 August 2024 at the same court before His Honour Judge Lowe ("the Judge"), the appellant, then aged 34, was sentenced to a fine of £500. He was also disqualified from driving for a period of eight months.

2. The appellant appeals this disqualification with the leave of the Single Judge.

3. The facts

On 21 June 2023 the appellant was riding his motorbike on the A4136. He was behind a line of traffic approaching the brow of a hill with a gentle left bend where there was double solid white lines down the middle of the road to indicate no passing. The appellant set off past these cars and came up behind a Ford Focus driven by Christine Miles. In order to pass her he moved over the two white lines. Jasmine Bennett was travelling in the opposite direction in her Vauxhall Corsa and the appellant collided with her vehicle. Ms Bennett's grandmother was a front seat passenger at the time. The vehicle's airbags were deployed and Ms Bennett had to brush broken glass from her own lap and that of her grandmother. She was very upset by these events.

4. The collision with the Vauxhall Corsa caused the appellant to lose control of his motorbike and he then crashed into Ms Miles' Ford Focus which he had just overtaken. This caused the petrol tank of the motorbike to explode and petrol went over Ms Miles' windscreen and some through her open driver's window causing burns to her arms. Also

in her vehicle was her brother and some dogs, including her assistance dog. Ms Miles sustained a soft tissue injury to her right knee as a result of the collision. In her Victim Impact Statement, made on 4 August 2023, Ms Miles indicated that her knee was still painful but improving and her arms were still sore. She said her assistance dog had been terrified of getting into the car again after the incident and this had caused her a great deal of difficulty as she relied upon her dog to come everywhere with her. More recently she had managed to get her dog to go into the car but she needed a lot of reassurance to do so.

5. The appellant came off his motorbike and broke some bones. His motorbike travelled 40 yards down the road. Both of the cars that he had collided with were significantly damaged.

6. The Sentencing Guidelines

The applicable guideline for offences of careless driving appears in the Magistrates' Courts' Sentencing Guidelines. There are three potential categories. Category 1, where there is higher culpability and greater harm. Category 2, where there is higher culpability and lesser harm or lower culpability and greater harm. And Category 3 where there is lower culpability and lesser harm.

7. The factors indicating higher culpability include "Excessive speed or aggressive driving". It is accepted that this was a greater harm case as there was injury to others and damage to other vehicles, as we have described.

8. The guideline sets out the starting points for the fines that are to be imposed for the Category 1, 2 and 3 cases. It is unnecessary to detail this, as there is no appeal against the £500 fine imposed in this case.

9. Reflecting schedule 2 of the Road Traffic Offenders Act 1988, the guideline states that the court must endorse the offender's licence and may disqualify and if there is no

disqualification, then three to nine penalty points must be imposed. The guideline indicates: 3 - 4 points for a Category 3 offence; 5 - 6 points for Category 2; and "consider disqualification OR 7 – 9 points" for a Category 1 offence.

10. The sentencing decision

The Judge noted that the appellant was convicted of four offences in 2009 including driving without a driving licence and driving without insurance. He observed that this conduct showed "a disdain for the laws of the road", albeit they dated back some 14 years. After summarising the facts of the incident and the impact upon the other drivers, the Judge said that he considered this to be "aggressive driving" that was "not that far from dangerous driving". He characterised the appellant's attitude at the time as:

"White lines, do not care, brow of a hill, do not care, I am passing".

11. Accordingly, given this and the level of harm involved, the Judge determined that this was a Category 1 offence. He said it was necessary to disqualify the appellant from driving:

"... because the public would want to know why there are rules of the road if a motorcyclist ignores the central white lines, passes aggressively on the brow of a hill, damages two cars and injures somebody who is not better two months later and then is told it is perfectly OK to carry on driving. It is not."

12. The Judge went on to say that he would have disqualified the appellant for 12 months but would reduce this by one-third to eight months because of the appellant's guilty plea at an early stage. It is accepted by Mr Goodman that this aspect of the Judge's approach was in error. The reduction in sentence that arises from a guilty plea has no application to ancillary orders such as driving disqualifications. The Judge said that he had taken into

account the appellant's injuries, his previous convictions and that he had been honest enough to indicate that he had been on a speed awareness course since the accident. He explained that the appellant would not have to take a further test after the period of disqualification. He also imposed the fine that we have referred to.

13. We understand that when giving leave to appeal, the Single Judge granted an application to suspend the disqualification from driving, pending the appeal. The effect of this, as Mr Goodman explained to us today, is that the disqualification ran for 104 days from 27 August to 9 December 2024.

14. The grounds of appeal

Mr Goodman submits the Judge was wrong to categorise the offence as one involving “aggressive driving”. He emphasises that the expert's report relied upon by the appellant below (and not contested by the prosecution) showed that he was not travelling above the speed limit at the relevant time. Accordingly, it was properly regarded as a Category 2 case, which, in accordance with the guideline, should have attracted five - six points rather than a disqualification.

15. Mr Goodman goes on to argue in the alternative, that even if this was a Category 1 case, the Judge was wrong to impose a disqualification or at least a disqualification of the length he did. He submits that the Judge had punishment at the forefront of his mind, although the guidelines make clear that disqualification is not part of the punitive element of the sentence. He says that this approach is shown by the Judge's choice of language and his absence of any reference to public safety in his sentencing remarks. The erroneous application of the guilty plea discount to the disqualification, reinforces this impression. Furthermore, although indicating that he would take into account that the appellant was injured in the incident, the Judge otherwise made no reference to the effect

of a disqualification, although the appellant's mitigation had emphasised he lived in a relatively isolated address; the impact it would have on his ability to maintain employment; and the effect on his disabled partner, who suffers from chronic regional pain syndrome requiring trips to collect medication and to A&E. Mr Goodman clarified today that the appellant has been able to keep his employment by cycling to and from work, but the distance is such that he is unable to do overtime. Mr Goodman also submitted that the imposition of penalty points, rather than a short disqualification, would have a deterrent effect for the future.

16. Analysis and conclusion

We consider the Judge was entitled to conclude that this was an instance of “aggressive driving”, essentially for the reasons he indicated. The fact the appellant was travelling within the speed limit does not negate this. Either excessive speed or aggressive driving may justify a conclusion of higher culpability. Here the aggression lay in the appellant disregarding the rules of the road and determining to continue his journey on the wrong side of the road in circumstances where he could not properly see what was coming in the other direction, rather than waiting in line as the other drivers were doing. Accordingly, we agree with the Judge that this was a Category 1 offence. The question of discretionary disqualification thus arose.

17. The structure of the careless driving guideline indicates that disqualification is to be considered at Step 6 along with other ancillary orders after the punitive element of the sentence (the fine) has been arrived at. The reduction in sentence for a guilty plea guideline clearly states that disqualification from driving is not part of the punishment that is imposed, as it states: "The guidance applies only to the punitive element of the sentence and has no impact on ancillary orders including orders of disqualification from

driving".

18. Mr Goodman has helpfully drawn our attention to decisions of this court, albeit some predating the sentencing guidelines, which indicate a somewhat more nuanced picture in which a punitive element may be present, albeit the main focus of the decision on disqualification is upon future road safety.

19. In R v Oliver Holman [2010] EWCA Crim 107, a case where the defendant was found guilty of careless driving, the court accepted the submission at [21]:

"... that one of the principal objectives of disqualification from driving in such cases is the protection of the public from further bad driving. It is by no means, however, the only objective. There are occasions on which it is appropriate to deprive the driver of his licence for the purpose of imposing mature reflection on the consequences of his offence. In other words, it is a personal deterrent."

20. In R v Geale [2012] EWCA Crim 2683, a case where mandatory disqualification applied as the offence was causing death by driving without due care and attention, Hickinbottom J (as he then was) said after reviewing the authorities:

"We respectfully agree that the main purpose of disqualification is to protect the public from the risk posed by an offender driving, and we agree that, where that risk is very low, a lengthy period of disqualification may be inappropriate, particularly where, as here, the offender is dependent upon driving for his livelihood...

However, such risk is not the only relevant criterion for the assessment of length of the disqualification period. In addition, there is or may be an element of punishment; as is apparent from the fact that, even where the future risk is nil, the statutory provisions require a 12 month minimum period of disqualification."

21. In R v Booth [2013] EWCA Crim 1358, a case of causing death by dangerous driving so

that a mandatory disqualification applied, this court confirmed that the main purpose of disqualification is forward looking and preventative, rather than backward looking and punitive.

22. We mention for completeness, as Mr Goodman pointed out, that in Step 6 of the stages set out in the guideline for offences of causing serious injury by careless or inconsiderate driving, reference is made to disqualification being part of the sentence and that, accordingly, the court is to have regard to the purposes of sentencing as set out in section 57 of the Sentencing Code which include, amongst other objectives, the punishment of offenders. There is no equivalent reference in the guideline that applies to careless driving, presumably because disqualification is discretionary.
23. In any event, we do not accept that the Judge focused solely upon disqualification as a means of punishing the appellant. Whilst he did not refer in terms to future public safety, it seems to us that he did have this in mind when he explained why he considered it necessary to disqualify the appellant. His identification of public concern if the appellant was able to carry on driving after the way he had driven in committing the offence reflected this. It is also reflected in the Judge's concern that the appellant had shown a disdain for the laws of the road in the past and his reference to the more recent speed awareness course.
24. However, we are with Mr Goodman to an extent. We accept that in deciding to disqualify the appellant for as long as his pre-credit figure of 12 months, the Judge also had a significant punitive element in mind; and that he appears not to have taken specific account of the impact of disqualification upon the appellant and his partner, as there was no reference made to that aspect.
25. Given the nature of this incident, the appellant's previous convictions and his recent

speed awareness course, we do consider that the protection of the public required a period of disqualification. However, taking all relevant matters into account, including the impact upon the appellant and his partner, we consider that a three month disqualification was appropriate in this instance.

26. The appeal therefore succeeds to this extent: the appellant's licence is endorsed and he is disqualified from driving for three months.

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