

IN THE COURT OF APPEAL

CRIMINAL DIVISION

[2022] EWCA Crim 1869



No. 202200750 A4

Royal Courts of Justice

Tuesday, 13 September 2022

Before:

LORD JUSTICE SINGH
MR JUSTICE FRASER
MR JUSTICE HENSHAW

REX
V
SEAN GERALD DOYLE

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MR S WALKER appeared on behalf of the Appellant.

J U D G M E N T

MR JUSTICE FRASER:

- 1 This is an appeal against sentence brought with the leave of the single judge. The appellant pleaded guilty to a single count of dangerous driving contrary to s.2 of the Road Traffic Act 1988, the facts of which we will come to presently.
- 2 On 4 March 2022 in the Crown Court at Northampton, having previously pleaded guilty before the Northampton Magistrates' Court on 31 January 2022 and having been committed to the Crown Court for sentence, Mr Recorder Green sentenced the appellant to a Community Order for 12 months with a ten-day rehabilitation requirement and a six-month mental health requirement and disqualified the appellant from driving for a period of 30 months. The appellant was also ordered to take an extended retest.
- 3 The maximum sentence for the offence to which the appellant had pleaded guilty is one of two years' imprisonment. By virtue of s.34(1) of the Road Traffic Offenders Act 1988 the court must disqualify the offender when convicted of dangerous driving for a period of at least 12 months, unless special reasons apply. As we have said, the appellant was disqualified for a period in excess of that; namely, 30 months or two and a half years. This appeal solely concerns the period of that disqualification and that is the one ground of appeal.
- 4 The facts of the offending are as follows. On 1 January 2022 the police received reports that the appellant was driving potentially under the influence of alcohol and those contacting the police were concerned for his safety, observing that he had or potentially had the intention to commit suicide or harm himself.
- 5 Police officers picked up the appellant's vehicle whilst it was at a red light at around 9.20pm in the evening. When the traffic lights changed to green, the vehicle made off at speed. The officer in the vehicle was of the view that this was because the appellant had noticed the police car, and the police followed him. The appellant's vehicle was travelling at high speed and was pursued along the A45 by the police. The officers activated the blue light on the vehicle to make the appellant stop, but the appellant failed to do so and reached speeds as high as 110mph along the A45 itself. The appellant forced his vehicle past traffic at a roundabout and then drove through a 40mph zone at a speed of 70mph. At that point, officers requested a helicopter to assist and a police helicopter was deployed. The period of driving lasted for about six minutes. When the police attempted to box the appellant's vehicle in, the appellant attempted to take evasive action and, again, made off at speed. The police did not manage to stop the appellant's vehicle and he was later arrested at his home address.
- 6 The appellant was, prior to this, a man of good character. The sentencing Recorder had the benefit of a pre-sentence report which observed that the appellant recounted a mental breakdown and mental health difficulties at the time, possibly initiated by a break up with his partner of some 14 years, but also exacerbated by other matters. He was said to have been drinking heavily on the day of the offence and had limited recollection of it.
- 7 He personally had made, as had his family and friends, various attempts to obtain mental health support in the days leading up to the offence, visiting A&E and also his GP on more than one occasion. There were a number of contacts with the medical authorities on the day of the offence itself. After he was arrested, an urgent care and assessment team or UCAT report was obtained from the Northamptonshire NHS Trust on 4 January 2022, which concluded that he was suffering from Emotionally Unstable Personality Disorder, that he had mental health issues within his family and had experienced them over a period of

months and he was prescribed medication. That report was also before the court for sentencing.

- 8 On this appeal we have been assisted by Mr Walker and we are grateful for his persuasive submissions, which we have found to have been of great assistance and very well expressed by him. He places particular emphasis upon the number of times that the appellant contacted either A&E or his GP in the days leading up to the offence. There were three separate occasions; namely, on 19 December, 20 December and again on 29 December and on the day itself. He submits that the impact of the disqualification period upon the appellant in terms of his work – the appellant being a self-employed electrical engineer – are significant and he also places attention upon the length of time that disqualification period has been passed in excess of the statutory minimum. It is said by Mr Walker that insufficient consideration was given by the sentencing Recorder to the risk of future dangerous driving manifesting itself and he also draws attention to the high impact on the appellant in terms of his work and contact with his children.
- 9 This court when considering any sentence under appeal must decide whether it is wrong in principle or manifestly excessive. Here, there can be no doubt that the disqualification of itself was entirely correct in principle, and indeed a disqualification period of a minimum of 12 months is a statutory requirement. The sentence passed upon the appellant must be considered in aggregate and a Community Order for this driving could not be said to have imposed an onerous effect upon the appellant. The disqualification element cannot be viewed solely in isolation from the other component parts of the overall sentence. To focus upon disqualification in isolation runs the risk of losing sight of the correct test in law for this court that will be applied upon an appeal against sentence, which is whether the sentence is either wrong in principle or manifestly excessive.
- 10 Mr Walker has submitted that the risk of a further mental health breakdown on the part of the appellant, with the risk of similar further offending occurring, is not such that disqualification for this period is necessary or proportionate, particularly given the effect upon the appellant of that disqualification period, and therefore it ought to be reduced. There is no doubt that the appellant made considerable efforts to obtain help for his mental health issues, particularly in the days running up to, and the day of, the offending itself. The UCAT report also states that the appellant had been using cannabis daily for a period of five years and would engage in binge drinking of up to one litre per day of spirits. The pre-sentence report observed that in December when visiting his GP, the appellant declined medication that was potentially to be prescribed for him for his depression, because the appellant was concerned about the side-effects of such medication when combined with substance misuse. Consumption of excessive alcohol and use of illegal drugs, namely cannabis, are features of this offending that it should be borne in mind were being used voluntarily by the appellant.
- 11 There are in the court's view a high number of aggravating features to this driving. The appellant had been drinking, although he passed a breathalyser test, but he was pursued by the police under a blue light and refused to stop, evading the boxing-in technique deployed. His speeds were extraordinarily high; 110mph on a road with a limit of 70mph and 70mph on a road with a limit of 40mph posed a very high risk of danger to other members of the public. Any dangerous driving by definition poses some threat to life and limb of other road users, but in the court's judgment this driving in particular did so to a very high degree. This was a very bad case of dangerous driving causing a high risk of death to other road users and pedestrians.
- 12 The mitigation that the appellant has, and the other points skilfully put by Mr Walker, have been considered carefully both by the sentencing Recorder and again by us in this appeal.

The fact remains this was an exceptionally dangerous piece of driving and in our judgment a lengthy period of disqualification was required both to protect members of the public from driving of this nature, and also to act as a deterrent. Those who engage in escaping from the police in a high speed chase using such dangerous driving can expect to be made subject to lengthy periods of disqualification.

- 13 In all of the circumstances and when considered as a whole, the learned Recorder arrived at a sentence that properly and fairly reflected the different purposes of any sentence, including both punishment and also protection of the public, but also taking into account the particular considerable mitigation available to this appellant in particular. We are not persuaded that either this sentence in general or the disqualification period in particular is or are manifestly excessive. We therefore dismiss the appeal and the sentence remains undisturbed as passed by the learned Recorder.
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This transcript has been approved by the Judge