



THE COURT OF APPEAL

Court of Appeal Record No. CCA0T0225/2021

Neutral Citation No: [2022] IECA 301

Birmingham P

McCarthy J

Kennedy J

BETWEEN/

ANDREW McCORMACK

APPELLANT

-AND-

**THE PEOPLE (AT THE SUIT OF
THE DIRECTOR OF PUBLIC PROSECUTIONS)**

RESPONDENT

JUDGMENT of the Court delivered by Mr Justice McCarthy on the 21st day of December 2022

1. This is an appeal against sentence. On the 27th of May 2020 the appellant pleaded guilty to careless driving causing serious harm contrary to section 52 of the Road Traffic Act, 1961, as amended (“1961 Act”). He was sentenced at Monaghan Circuit Court on the 15th of June 2020 to 150 hours community service work *in lieu* of the nine months. The only issue on appeal pertains to the appellant’s disqualification from driving. Counsel for the Prosecution informed the trial judge that there was a mandatory four year disqualification (“*consequential disqualification order*”), in accordance with section 26 of the 1961 Act which was accordingly imposed.

2. We will now briefly summarise the facts. On the 21st of September 2017 at approximately midday, the appellant was driving an articulated lorry along the N2 and collided into the last of a line of cars which were stopped at temporary traffic lights creating a

six-vehicle pileup. The appellant remained at the scene, was fully cooperative with Gardaí and passed a preliminary breath sample. Examination of the Tachograph of the appellants vehicle showed he was travelling at approximately 92km/h. The appellant pleaded guilty to careless driving causing serious harm contrary to section 52 of the 1961 Act having originally been charged with the more serious offence of dangerous driving causing serious harm contrary to section 53 of the 1961 Act. The appellant had no previous convictions, his documents were all in order and was cooperative with the Garda investigation.

3. In *DPP v McCann* (Court of Appeal Record No. 68/2022) this Court, on this same day, decided *inter alia* that a [mandatory] consequential disqualification order does not always arise in respect of careless driving convictions. Reference should be had to this judgment. This is a case where such order does not so automatically arise because, to put the matter shortly, the appellant does not have two previous, or indeed any, convictions for careless driving within the period of three years preceding the present offence – the crucial factor in deciding whether or not a mandatory disqualification arises. We do not believe we need enter into the matter in further detail in the light of the Court’s ruling in *McCann*.

4. There is accordingly an error in principle and we quash that part of the order pertaining to disqualification. We will hear the parties on the question of re-sentence, in particular, on the issue of the imposition of a discretionary disqualification.