

ENGLAND AND WALES / JUDGMENT

R v Kylam Bristow

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

Mr Fox appeared on behalf of the Appellant.

J U D G M E N T LORD JUSTICE DOVE:

1. On 3 November 2025, the appellant pleaded guilty at the Derby Magistrates' Court to two charges, namely dangerous driving and driving without third party insurance, contrary to section 2 and section 143 of the Road Traffic Act 1988 respectively. On 18 March 2026 at the Crown Court at Derby, the appellant, who was at the time aged 24 but is now 25, was sentenced by His Honour Judge Hurst to a term of eight months' imprisonment in relation to the dangerous driving offence. No separate penalty was imposed for the offence of driving without third party insurance. An order was made disqualifying the appellant from driving for a period of two years and four months. The appellant now appeals against sentence with the leave of the single judge.

2. The offence occurred in Derby in the early hours of 16 November 2025. The road conditions at the time were poor, given that there had been recent significant rainfall, and there was the presence of pedestrians and other road users around on what was a busy Saturday night. The appellant, who was carrying a passenger, came to the attention of a police officer, having driven through a red light before nearly losing control at a roundabout on Mercian Way. The police officer signalled to the appellant to stop his vehicle by pulling up alongside him and turning on emergency lights. 3. Instead of stopping, the appellant made a turn on to Abbey Street, driving through a red light, and increasing his speed to 70 miles per hour, in an area where the speed limit was but 30 miles an hour. He then made a blind right turn on to Burnton Road, contravening the keep left barrier, and the police officer in pursuit described it as a matter of pure chance that no other vehicles were waiting at the junction following this manoeuvre. The pursuit continued with the appellant driving at around 50 miles per hour, including through red lights, which at one stage forced another road user to move out of the way to avoid a collision. He then turned on to a narrow residential street and increased his speed to 60 miles per hour, and was also seen to be driving on the wrong side of the road.
4. At this stage, the police officer abandoned the pursuit, but the appellant was soon after pursued by a different officer, who came across the appellant as he drove towards the centre of Derby. The appellant drove through a red light before driving the wrong way round a roundabout, and then accelerated to around 100 miles per hour through the junction of Midland Road. The pursuit continued onto the A52 main road toward Nottingham, with the appellant narrowly avoiding collisions with other vehicles. Eventually, he lost control of his vehicle, collided with the barrier, and became boxed in by the police.
5. Once apprehended, the appellant refused to leave his vehicle. Entry was subsequently forced, and the appellant was arrested and breathalysed. The roadside reading produced a result of 45 microgrammes per 100 millilitres of breath. Further readings were taken at the police station, where the appellant stated that he had been to a casino and drunk two double vodka and lemonades. The readings taken at the police station were lower than at the roadside test, and no further action was taken in relation to drink-driving.
6. At the sentencing hearing, it was conceded that this was a category 1 harm case, and His Honour Judge Hurst went on to find that the case fell within culpability A of the sentencing guidelines: the offence was committed in the course of evading the police; the appellant was impaired, although not severely impaired, through drink; the incident was a sustained one, lasting around 15 minutes; and the appellant had shown a clear disregard of the risk of danger to others and deliberately chosen to ignore the rules of the road.
7. Although His Honour Judge Hurst had initially identified this as an A1 case within the sentencing guidelines, as the harm criteria had been fulfilled only by relatively minor damage to the appellant's own vehicle, he chose to sentence on the basis that it was instead an A2 case, for which the starting point is 36 weeks' custody with a category range from a high level community order to one year and six months' custody. Having found the

appellant's driving to have been of an extremely dangerous type, the judge considered that a significant uplift from 36 weeks to 15 months was warranted prior to consideration of the mitigation available to him.

8. The court had the benefit of a positive pre-sentence report, which recorded the remorse of the appellant and his regret for his behaviour giving rise to the conviction. The report noted that the appellant had successfully completed an apprenticeship in welding, and that he was able to undertake unpaid work. He had secure accommodation with his grandmother, for whom he provided care, as she was seriously unwell with terminal cancer at the time. Sadly, since the sentencing hearing, the appellant's grandmother has passed away. The risks of reoffending were assessed as being low, and the author of the report recommended a 12 month community disposal, including unpaid work and a rehabilitation activity requirement.
9. In addition to the positive aspects of the pre-sentence report, the appellant relied upon his early guilty plea, entitling him to one third credit, and the fact that he was in effect a person of good character. He wrote to the judge, expressing his unreserved remorse for committing the offence and apologising for his conduct.
10. The judge, pointing to the length of the incident and the appellant's determination to escape the police, did not accept the appellant's explanation that panic was why he had driven as he did. The judge did, however, accept other aspects of his mitigation, such as his good character and remorse, and adjusted the sentence downwards to one of 12 months' custody. Full credit was then given for the guilty plea to yield the imposed sentence of eight months.
11. In the light of the length of the sentence proposed, the judge gave careful consideration to whether the sentence could be suspended. He concluded as follows:
 - i. "I accept, of course, that you are capable of rehabilitation, and I accept the contents of the report that you are immature, you have In other remorse and insight, and you are a low risk. circumstances, it might be appropriate to visit this with a community order or a suspended sentence, but I am afraid in my judgment, looking at the imposition guideline for immediate or suspended sentences, I think this falls very clearly into the box that says that only immediate custody will suffice. I am afraid I cannot suspend a sentence for this level of bad driving over this period. It is in category A1, but as I say, the modest damage to your own vehicle, rather than anybody else's, means that I shall limit myself to the guidelines for A2. As I say, the driving was very bad, with many elements of category A."
12. The judge thus considered that, given the seriousness of the offences, only an immediate custodial sentence would suffice.
13. This appeal is advanced on two grounds. The first is that the judge's uplift of the starting point from 36 weeks to 15 months was too great, leading to a final sentence that was too high. In particular, it is said that the aggravating factors in the form of the appellant driving without insurance and failing to stop, along with having a passenger in the car with him, were not sufficient to justify the extent of this uplift.

14. This is not a submission which we are able to accept. Firstly, as the judge observed, this was, albeit within category A2, a serious case where the driving was extremely dangerous and over a very protracted period, during which it would have been obvious to the appellant that he had to desist. The fact that there were not injuries and the damage to property was limited was pure luck. Many people and other vehicles were put in considerable danger as a result of the appellant's driving.
15. Secondly, the uplift kept the starting point within the category range, but placed the offence where it belonged, in the upper part of the category range. We are unable to accept the submission that there was double counting in this case, for instance on the basis of the judge accepting that one of the aggravating factors was evading the police. That was undoubtedly an aggravating factor, and it was not simply linked to the offence of driving without insurance, but was at large on the basis that it is clear from the description of the appellant's driving set out above that he, for a protracted period, was aware that the police wished him to stop but he refused to do so.
16. The appellant further complains that it is not possible to identify the allowance which the judge made for personal mitigation. Again, we disagree. The judge clearly reduced the sentence from 15 to 12 months to reflect the appellant's personal mitigation prior to applying the reduction for the appellant's guilty plea. This was an entirely appropriate approach.
17. The second ground of the appeal is that the sentence ought to have been suspended and was therefore wrong in principle. The appellant draws attention to the fact that all the factors identified in the imposition guidelines were present in the appellant's case, and that this should have commended a suspended sentence order with requirements to the judge. In particular, in addition to those factors, the judge ought to have taken account of the impact of the absence of the appellant from the life of his grandmother, who had cared for him since the age of 15, as she faced her final illness.
18. We understand and appreciate the force of these submissions, but it is necessary to bear in mind that the decision as to whether or not to impose a suspended sentence order is an exercise of discretion, and that a challenge to that discretionary judgment will generally need to show that there was an error of principle in the decision made. We have set out above the judge's reasoning for the decision which he reached. He clearly had in mind all of the relevant matters in support of suspending the sentence in this case, but concluded that the seriousness of the appellant's appalling driving could only be properly marked by an immediate custodial sentence. That is an outcome which is contemplated by the imposition guidelines, which do not suggest that evidence of the factors favouring suspension will inevitably result in a suspended sentence being imposed.
19. It is also necessary, when exercising the discretion, to consider whether the seriousness of the offence "means that appropriate punishment can only be achieved by immediate custody". The judge formed the view that this was the position in this case, and we are

unable to identify any error of principle in his exercise of judgment. The conclusion that only immediate custody could meet the requirement for appropriate punishment was one which was open to him, and which we accept was appropriate, bearing in mind the deplorable driving of the appellant in committing this offence.

20. Whilst it was suggested by Mr Fox in his submissions that the failure to impose a suspended sentence may have been wrong in principle because of the weight which the judge attached to the various factors identified by the imposition guidelines, the question of the weight to be attached to the various factors which those guidelines identify is a matter for the judge in exercising his discretion. It is clear from the judge's reasoning the weight which he attached to the various factors he had to bring into the balance, and we are unable to find flaw with that exercise of judgment as the decision which he reached was one which was open to him in the circumstances of this case.
21. Further, it has been submitted by Mr Fox this morning that the change in the law in relation to imposition of suspended sentences which has been recently effected ought to impact upon our decision in this case and favour the court substituting a suspended sentence. That again is a submission which we are quite unable to accept. The judge's decision, which is the one to which we have to apply our scrutiny, is one which was reached at the time and under the relevant legal provisions that were applicable.
22. For the reasons which we have given, the judge validly exercised his discretion in this case. Whilst the appellant has drawn attention to the current condition of the prison system, we are not satisfied that this carries any significant weight in our decision in this case.
23. For all of these reasons, and notwithstanding the impact which we understand that it will have upon the appellant, we are unable to accede to Mr Fox's submissions, for which we are grateful, and this appeal must be dismissed. Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof. Lower Ground, 18-22 Furnival Street, London EC4A 1JS Tel No: 020 7404 1400 Email: Rcj@epiqglobal.co.uk

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