

JERSEY / JUDGMENT

AG -v- De la Haye [2017]

JRC 128 (11 August 2017)

[2017] JRC 128

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JUDGMENT

THE commissioner: 1. It is clear that you should not have struck this 70-year old victim and it is your fault that you did. Even though she may have hesitated in the middle of the road, you had ample time to see her before that and you should have seen her and slowed down rather than, as seems possible, you just hoped to pass her. 2. Your careless driving in this respect is aggravated by the fact that shortly beforehand you had twice swerved round a car waiting to turn right, nearly causing an accident in one case. That was clearly a very dangerous manoeuvre which you did twice. So whilst there is no suggestion of excessive speed or any other aggravating factor, this was a course of poor driving and the accident has had very unfortunate consequences for the victim who, as well as suffering a fracture at the time, has apparently lost the hearing in one ear and her mobility and her general confidence have been affected. 3. This is a serious case of poor driving but there is much personal mitigation. You have pleaded guilty and accepted responsibility, you have no previous convictions of any sort, in particular it is more than you have no previous convictions, you have an excellent character in so many ways. We have read the many, many references. They speak very highly of you, saying you are a caring person and you do voluntary work when you can with organisations like Durrell. You have much to offer. You had a challenging upbringing as we have read and at present you face particular health challenges or rather your family does, particularly given the difficulty with your father's health. It is clear that you are suffering yourself. We have read the psychological report, it recommended treatment and we are pleased to hear that you have been to the mental health team and are hopefully benefitting from their treatment. We hope you can continue to address that. 4. Now the Crown says that were it not for these difficult personal issues facing you and your family they would have moved for a custodial sentence. We think that would have been the correct thing to do because of the combination of the dangerous driving beforehand and the circumstances of the accident itself. Even though this is not a case where there is excessive drink or excessive speed or people using their mobile phones, the combination of what happened before and what happened when you did not see or react to the victim in the road, make it such that a custodial sentence would have been appropriate. But we do agree with the Crown that in the particular circumstances of this case a prison sentence is not necessary; so we are going to grant their conclusions. 5. On Count 1; 90 hours' Community Service Order, equivalent to 3 months' imprisonment, on Count 2;

120 hours' Community Service Order, concurrent, because we have treated the dangerous driving on Count 1 as an aggravating feature of Count 2 and one should not therefore double count. That is a total of 120 hours which we say is the equivalent to 6 months' imprisonment which is what would have been the sentence had we imposed a prison sentence. I must warn you that you must carry out this community service to the letter, you must turn up when you are told to, work hard, and work conscientiously because if you do not you will be brought back here and then you can be re-sentenced and possibly sent to prison, do you understand. 6. You are disqualified from driving for a period of 2 years from 30 th June, 2017, which is the date on which your interim disqualification started on indictment and you will have to retake a test after that period.

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