

JERSEY / JUDGMENT

The Attorney General v B

COURT

Royal Court

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Inferior Number Sentencing – motoring – causing injury by dangerous driving.

[2018]JRC016

Royal Court

(Samedi)

19 January 2018

Before :

Sir William Bailhache, Bailiff, and Jurats

Grime and Christensen.

The Attorney General

-v-

B

Sentencing by the Inferior

Number of the Royal Court, following a guilty plea to the following charge:

1 count of:

Causing serious injury by dangerous driving,

contrary to Article 23A(1) of the Road Traffic (Jersey) Law 1956

(Count 2).

Age: 18

but 17 at time of offence.

Plea: Guilty.

Details of Offence:

On Friday 12th May, 2017,

the defendant collected four youths from outside Midland Stores shortly before midnight to give them a lift home. The four had attended a party in the area. The roads were wet from the rain and it was a dark night.

The defendant drove towards Five

Oaks. All four passengers describe

the defendant driving too fast on the road from Midland Stores to Five Oaks. They note that the wheels spun when

setting off, that the engine was being revved excessively and that the car

crossed the central dividing lines of the road on occasion. One passenger felt that the defendant was

showing off. The passengers were

put in fear, and two asked the defendant to slow down several times. He did not.

The moments immediately prior to the

crash were captured on camera by a taxi driver, driving the opposite way in a car equipped with a dashcam. It shows pedestrians and other vehicles in the area. The defendant's Ford Fiesta is seen as it rounds the bend by St Saviour's School. Later analysis shows he was travelling at 53 mph in the 30 mph zone. The passengers describe how the Fiesta could not make the bend, slid into the left kerb, and bouncing off and into the oncoming traffic, where it hit an oncoming Mercedes head on, writing off both vehicles. The taxi driver said the driving was "extremely dangerous and probably some of the worst I have ever seen". The defendant was uninjured. The driver of the Mercedes had minor lacerations. The passengers had a range of injuries, some serious. One had whiplash and pain in his hip and shoulders, one suffered a broken forearm and three fingers, one had a broken wrist and nose which required ongoing surgical treatment, and one had a broken femur and dislocated shoulder. All four were due to take GCSE exams in the near future, and they were either unable to do so or reported that their performance was sub-par. The defendant was interviewed and made no comment. He was interviewed again on 3rd July, 2017, where his representative read out a statement on his behalf to the effect that the defendant accepted that his driving was careless. This position was maintained until expert evidence was received placing his speed at 53 mph, after which a guilty plea was entered to causing serious injury by dangerous driving.

Details of Mitigation: Youth (17 at the time of the accident, and the provisions of the Criminal Justice (Young Offenders) (Jersey) Law therefore apply), supportive family, remorse, positive good character (positive school report and reference from Head of Year), letter of apology to Court and messages to victims, very low risk of reconviction in social enquiry report.

Previous Convictions: None.

Conclusions:

Count 2: 264 hours' Community Service Order, equivalent to 20 months' youth detention, together with disqualification from driving for a period of 3 years and to re-take a driving test.
Total: 264 hours' Community Service Order, equivalent to 20 months' youth detention, together with disqualification from driving for a period of 3 years and to re-take a driving test.

Sentence and Observations of Court:

Count 2: 200 hours' Community Service Order, equivalent to 14 months' youth detention, together with a disqualification from driving for a period of 4 years and to retake a driving test.
Total: 200 hours' Community Service Order, equivalent to 14 months' youth detention, together with a disqualification from driving for a period of 4 years and to retake a driving test.
The defendant has the option of applying to the Court after three years and must be able to show maturity and responsibility at that stage.
R. C. P. Pedley, Esq., Crown Advocate.
Advocate M. T. Jowitt for the Defendant.

JUDGMENT

THE BAILIFF: 1. The Indictment lays against you one charge of dangerous driving causing serious injury to others which we have to deal with today. This is a relatively new offence which has been created by the legislature and full reasons for the decision which we are about to give are reserved and will be handed down later. Your counsel will get that judgment and I hope very much that you will read it carefully. 2. Your driving on this occasion was extremely dangerous and has caused serious injury to three of your passengers. You are very lucky that you did not cause them more serious injury. You are extremely lucky that you did not have any serious injury yourself. Your driving was completely irresponsible. 3. It is clear on their personal statements that the effect of what you did has been to damage them considerably during the last 12 months, in a very important year of their lives as it is an important year in your life. You were driving at an excessive speed in a residential area, at night in conditions which were not good. 4. We think the right sentence to impose and it is the sentence we do impose on that count on the Indictment is 200 hours' community service and the alternative is 14 months youth detention. You will serve that period of community service and if you do not, if there is any difficulty with it, you are liable to be brought back to this Court and sentenced again. 5. You will also be disqualified from driving for 4 years. There is power under Article 15(3) of the Road Traffic (Jersey) Law 1956 for this Court to return the driving licence to you sooner than the 4 year disqualification, but you ought to know that we would not be disposed at present to look well upon an application until at least 3 years have gone by. What you will need to demonstrate, if you do come back to court and ask for the disqualification to be lifted, is some maturity and responsibility, which so far you have not demonstrated in your driving. 6. A motor vehicle is capable of causing death to others. It is in that context a potentially lethal instrument. You should have known that at the age of 17, hopefully you do know it now. You will serve 200 hours' community service and be disqualified for four years. You will also have to take a test at the end of the 4 year period. Authorities Road Traffic (Jersey) Law 1956. Road Traffic Offenders Act 1988. Magistrate's Court Sentencing Guidelines for Motoring Offences (Dangerous driving and Dangerous driving causing serious injury). Sentencing Council Guidelines on Dangerous driving. Sentencing Council Definitive Guideline on Causing

Death by driving. R-v-Ellis [2014] 2 Cr.App.R.(S) 50, CA R-v-Dewdney [2015] 1 Cr.App.R. (S) 5, CA Archbold, 2018 edition, 32-30 R-v-Aziz [2017] 1 Cr.App.R.(S) 28, CA DDP-v-Smith [1961] A.C. 290, HL. R-v-Cunningham [1982] A.C. 566, HL R-v-Brown (A) [1994] 1 A.C. 212, HL. R-v-Brown and Stratton [1998] Crim.L.R. 485, CA. Archbold, 2018 edition, 19-258. R-v-Passon [2016] EWCA Crim 1992. R-v-Jenkins [2015] EWCA Crim 105. R-v-Rimmer [2015] EWCA Crim 490. R-v-Dicken [2017] EWCA Crim 530.

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