

IN THE COURT OF APPEAL (CRIMINAL DIVISION)

Royal Courts of Justice
Strand, London, WC2A 2LL

15 December 2021

B e f o r e :

THE VICE PRESIDENT OF THE COURT OF APPEAL CRIMINAL DIVISION

Lord Justice Fulford

Mr Justice Goss

Sir Andrew Nicol

Between:

Regina

- v -

James Campbell

Mr T Worden appeared on behalf of the Appellant

HTML VERSION OF JUDGMENT

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Mr Justice Goss:

1. Mr Justice Goss: On 12 August 2021, having entered guilty pleas in the Magistrates' Court four weeks earlier and been committed to the Crown Court for sentence, the appellant was sentenced in the Central Criminal Court to 12 months' imprisonment for an offence of dangerous driving, disqualified from driving for 10 years and ordered to take a mandatory extended driving test. For linked offences of using a motor vehicle without insurance and driving a motor vehicle otherwise than in accordance with a licence, no separate penalty was imposed, and it was ordered that his driving licence be endorsed with the particulars of those offences. A concurrent sentence of seven days' imprisonment was imposed for an offence of possessing cannabis.
2. This appeal relates only to the length of the period of disqualification which was made up of a discretionary period of nine years six months and an extension period of six months pursuant to section 35A of the Road Traffic Offenders Act 1988 ("the Act") to take account of the time spent serving the custodial term.
3. The appellant is 28 years of age. He had 33 convictions for 68 offences, spanning from 28 April 2006 to 14 September 2020, including three convictions for dangerous driving in 2013, 2014 and 2016, seven convictions for driving without insurance, one for driving without a licence, five for driving whilst disqualified and seven

drugs offences.

4. The facts may be stated shortly. On 13 July 2021 he was stopped by the police at a give-way junction at a roundabout driving an Audi A3 on St. Edwards Way in Romford, London as their checks had revealed that there was no valid insurance for the vehicle. He was asked to pull over. The appellant indicated as if he was about to pull over, but instead accelerated away at speed onto the roundabout, collided with a Mercedes vehicle and was effectively jammed in the central reservation. The police stopped directly behind his Audi in an attempt to block the car in. He tried to reverse his vehicle out and hit the front of the police vehicle and rammed the Mercedes vehicle, which by then had come to a halt. There was a young child and a heavily pregnant woman who subsequently required medical treatment in the Mercedes.
5. The dangerous driving lasted no more than 30 seconds. The appellant then attempted to run from his car and resisted arrest but was eventually overpowered and detained. Extensive damage was caused to the rear of the Mercedes vehicle. A small amount of cannabis was found in the centre console of the Audi. When interviewed the appellant admitted all of the offending and expressed remorse.
6. The grounds of appeal are, in summary, that the period of disqualification was manifestly excessive given the short period of the dangerous driving, the appellant's remorse, his efforts to get his life in order and holding down a job and was likely to hamper his prospects of rehabilitation.
7. Mr Worden, to whom we are grateful for his submissions, candidly accepted in his written grounds that he did not address the judge on the length of the period of disqualification. We fully understand counsel's primary focus will and should be on the form and length of any sentence but, without directing criticism at Mr Worden, we also consider it is always helpful for counsel to assist judges by submissions highlighting the relevance of the principles applicable to the determination of the appropriate length of disqualification in an offender's case.
8. The judge did not explain how he arrived at the period of nine-and-a-half years. Although each case is fact-specific, a number of principles are well-established in relation to the assessment of the appropriate period of disqualification. They were helpfully set out in the judgment of this court in *R v Islam* [2019] EWCA Crim 1494 at paragraphs 11 to 13 and may be summarised as follows.
 1. Disqualification should not be so long that it disproportionately adversely affects the prospects of rehabilitation. Regard should be had to the offender's individual circumstances and his prospects of rehabilitation and what is required to prevent harm to the public.
 2. There is a punitive element in disqualification from driving. It is part of the sentence and the sentence should reflect culpability and harm and should achieve the statutory purpose of sentencing set out in section 142 of the Criminal Justice Act 2003 which include punishment.
 3. There is no formula by which a court can measure the right length of disqualification. It is a judicial decision which should produce a result tailored to the offender and to the offence.
9. Having regard to the application of these principles, in our judgment the period of disqualification was excessive. The appellant's driving was wanton, caused injury to other road users and was aggravated by his being under the influence of drugs and at a time he was not licensed or insured to drive and his very bad record for similar offences, all of which all called for a significant punitive element and have regard to preventing future harm. However, there were early signs of some prospects of rehabilitation. In our judgment the period of disqualification should have been five years.
10. As the appellant was already subject to an extended retest, it was unlawful for a second retest to be imposed: see section 36(7) of the Road Traffic Offenders Act 1988 and *R v Anderson* [2012] EWCA Crim 3060.
11. Accordingly, we allow the appeal by quashing the disqualification from driving for 10 years and substituting a period of five years, comprising a discretionary period of four years six months and an extension period under section 35A of the Act of six months. We also quash the order that the appellant take a mandatory extended

driving test at the expiry of that period. To that extent this appeal is allowed.