

**WARNING: reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.**

**This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.**



IN THE COURT OF APPEAL  
CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT CAMBRIDGE  
MR RECRODER A. HAWKS S20230091

CASE NO: 2024 02642 A3

[2024] EWCA Crim 1336

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Thursday 17 October 2024

Before:  
LORD JUSTICE COULSON  
MR JUSTICE FOXTON  
HIS HONOUR JUDGE DREW KC

REGINA  
v  
ANTHONY JOHN CAMPBELL

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

MR JP STEVENS appeared on behalf of the Appellant

J U D G M E N T

## **LORD JUSTICE COULSON:**

### **1. Introduction**

1. The appellant is now 55. On 12 July 2024 in the Crown Court at Cambridge he was sentenced by Mr Recorder Hawks ("the judge") to 2 years' imprisonment for one offence of causing serious injury by dangerous driving, contrary to s.1A of the Road Traffic Act 1988. He appeals against that sentence with leave of the single judge.

### **2. The Relevant Facts**

2. Just after 2 pm on 3 January 2024, the applicant was driving a Scania heavy goods vehicle along the A47. His nearside wheels went onto the grass verge. He corrected that by swerving back across the carriageway, hitting a Mercedes GL320 travelling in the other direction. The car was very seriously damaged and halted in the middle of the road. Although the driver was unhurt, his passenger, Qamar Aslam, suffered very serious injuries. He was trapped in the vehicle and had to be cut out and taken to hospital by helicopter. He suffered injuries to his chest, forearm, pelvis, left thigh and knee, some of which involved clinical intervention and surgery. He spent 20 days in hospital.
3. The appellant tested positive for cannabis. His blood was found to have a level of 3.7 micrograms per litre, which was close to twice the safe limit of 2 micrograms per litre. A search of the appellant's cab revealed an overnight bag containing further cannabis resin.
4. In his witness statement Mr Aslam talked about the consequences of the crash and his injuries. His knee will need ongoing multiple surgeries and he has to wear a leg brace. It has been suggested he may need a mobility scooter. He is no longer able to take part in any physical activity or sport. He has been prescribed antidepressants. He said that "on occasions the situation into which I have been placed by the injuries I sustained has been overwhelming. I have also been under and reviewed by the Community Mental Health

Team, who have discussed with me the possibility of a PTSD diagnosis and the ongoing effect that will have on me".

### **3. The Sentencing Exercise**

5. The judge said that, by reference to the sentencing guidelines, "whether this is a 1B offence, (which I'm inclined to think that it is), or a 2A offence, matters not because I take the view that the proper starting point here is a sentence of three years' imprisonment". The judge went on to say that he could not suspend that sentence. He applied a discount of one-third to reflect the appellant's guilty plea, thereby producing a term of immediate custody of 2 years' imprisonment.

### **4. The Grounds of Appeal**

6. There are two grounds of appeal. The first is that the judge erred in putting this in category 1B or 2A. It was suggested that the right category was C2, with a starting point of 12 months' imprisonment. Secondly, it was submitted that the sentence should have been suspended.
7. We agree with Mr Stevens that some aspects of the sentencing exercise were unsatisfactory. The judge should have indicated which category this offending fell into for sentencing purposes, and should have explained why that was the correct category. Furthermore, we accept that there is at least a suggestion that the judge thought that, because his starting point was in excess of 2 years, the sentence could not be suspended. That was of course wrong. It is where the actual sentence, following discount for plea and the like, is 2 years or less that a suspended sentence can be considered. The starting point is immaterial. We therefore redo the sentencing exercise, taking into account the points raised by Mr Stevens on this appeal.

### **5. The Sentencing Guidelines**

8. By reference to the sentencing guidelines, culpability will be in category A if, amongst other things, there was a deliberate decision to ignore the rules of the road or a disregard for the risk of danger to others. Another indication of culpability A is where the driving was highly impaired by consumption of alcohol and/or drugs. Category B is where the driving is impaired by consumption of alcohol or drugs. Category C is where the standard of driving is just over the threshold of dangerous driving.
9. In relation to harm, Category 1 is where there is a particularly grave and/or life-threatening injury, or physical or psychological harm resulting in lifelong dependency on third party care, or where the offence resulted in "a permanent, irreversible injury or condition which has a substantial and long-term effect on the victim's ability to carry out normal day-to-day activities or on their ability to work". Category 2 harm is "All other cases".
10. It was Mr Stevens's submission that this offending fell into category C2. That is the lowest possible category in the relevant sentencing guidelines for this offence. For the reasons noted below, we strongly disagree with that submission.
11. In our view, this was a case where culpability was within or certainly on the cusp of Category A. The appellant had almost double the legal limit of cannabis in his system. Furthermore, the fact that he had further cannabis resin in the bag appears to us to demonstrate a deliberate decision to ignore the rules of the road and/or a disregard for the risk or danger he posed to others. The appellant was driving a large HGV with a trailer. To have consumed that much cannabis before embarking on a journey in a vehicle capable of doing so much damage showed a complete disregard for other road users.
12. In addition we have seen the video. This was a long, straight stretch of road and the appellant had no reason to veer onto the verge and then overcorrect. The only proper conclusion is that his driving was highly impaired by his cannabis use. It was certainly

*impaired* by the cannabis use. That would put the offending in category A or at the top end of category B.

13. So for those reasons, in our judgment, it is wrong to suggest, as Mr Stevens does, that the standard of his driving was just over the threshold of dangerous driving. It was considerably worse than that.

14. As to harm, the evidence is clear: that the injuries suffered by the victim had a substantial and long-term effect on his ability to carry out normal day-to-day activities. His mobility is permanently impaired. His injuries have left him with a permanent and irreversible condition or, indeed, a series of conditions. The effect on his mental health is incalculable; and we refer back to the passage we have quoted from his statement. In our view, therefore, harm was within Category 1; the suggestion that it was within Category 2 is untenable.

15. The starting point for category A1 is 4 years, with a range of 3-5 years. The starting point for Category B1 is 3 years, with a range of 2-4 years. Taking into account all the circumstances, we consider that the proper starting point in this case was somewhere between those two starting points (that is to say, 4 years in A1 and 3 years in B1). That would put it at 3 years 6 months.

16. In our view there was some mitigation (good character, remorse, character references) which would bring the starting point down to 3 years. There was, as Mr Stevens rightly said, an entitlement to a one-third discount for the appellant's early guilty plea. But that would only serve to bring the final sentence back down to one of 2 years' imprisonment, which was of course the period identified by the judge. Having redone the exercise, therefore, we conclude that the term identified by the judge cannot be criticised.

## **6. Suspension**

17. The final question is whether or not the sentence should be suspended. There was no reference, either in the judge's sentencing remarks or in the submissions, to the helpful table provided in the guideline concerned with the Imposition of Community and Custodial Sentences. That table sets out three factors which may indicate suspension and three factors which may indicate immediate custody.
18. As to the factors indicating suspension, we agree that there is a realistic prospect of rehabilitation. We do not consider that there is strong personal mitigation; there is some, and we have already taken that into account in reducing the term of imprisonment. It is not suggested that immediate custody had resulted in a significant harmful impact on others.
19. As to the factors indicating immediate custody, there is no question of any history of poor compliance with court orders. As to the risk or danger to the public, the pre-sentence report did not indicate any such risk or danger, but the fact that the appellant was prepared to drive an HGV in the condition he was in makes us very wary of concluding that he presented no risk or danger to the public.
20. The final indicator against suspension is where appropriate punishment can only be achieved by immediate custody. In our view that is the decisive factor in this case. The appellant was driving an HGV on a straight road but contrived to cause Mr Aslam very serious injuries because he had taken illegal drugs and was almost twice over the safe limit. In such circumstances, we consider that immediate custody was the only appropriate punishment.
21. Accordingly, although we accept some of the criticisms properly made by Mr Stevens about the original sentencing exercise, having redone it, we arrive at the same sentence as the judge. For those reasons, therefore, this appeal against sentence is dismissed.

**Epiq Europe Ltd** hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

Lower Ground Floor, 46 Chancery Lane, London, WC2A 1JE  
Tel No: 020 7404 1400 Email: [Rcj@epiqglobal.co.uk](mailto:Rcj@epiqglobal.co.uk)