

[2019] EWCA Crim 1582
2019/02425/A1
IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
The Strand
London
WC2A 2LL

Friday 20 September 2019

B e f o r e:

LADY JUSTICE NICOLA DAVIES DBE

MR JUSTICE LAVENDER

and

MR JUSTICE NICKLIN

REGINA

- v -

IRFAN MOHAMMED

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Mr G Bermingham appeared on behalf of the Appellant

JUDGMENT
(Approved)

LADY JUSTICE NICOLA DAVIES:

1. On 17 June 2019, in the Crown Court at Worcester, the appellant pleaded guilty and was sentenced in respect of the following offences:
 - Count 1: aggravated vehicle taking, 22 months' imprisonment;
 - Count 2: dangerous driving, 22 months' imprisonment, to run concurrently;
 - Count 3: possession of a Class B controlled drug, one month's imprisonment, to run concurrently; and
 - Driving without insurance, no separate penalty was imposed, other than his licence was endorsed.

The total sentence was, therefore, 22 month's imprisonment. He was disqualified from driving for a period of five years and eleven months.

2. The appellant now appeals against sentence by leave of the single judge.

The facts

3. On 17 May 2019, a van which had been parked in the car park of a hotel in Birmingham was found to have been stolen. It was subsequently detected by police officers as it exited a junction of the M5 in the Droitwich area. The occupant of the vehicle was the appellant. Police officers pulled alongside the vehicle when it had stopped. An officer approached the vehicle on foot. However, the appellant manoeuvred the van over a central reservation and drove off on the opposite carriageway. Police vehicles followed utilising their sirens. The appellant stopped the van and deliberately reversed into the police vehicles, causing damage and injury to one of the officers. The police attempted to block the van, but the appellant drove the van onto a kerb and directly at a police officer who, fortunately, managed to dodge it. Police continued to follow the van which maintained its dangerous course, during which it rammed police vehicles on more than one occasion, causing injuries to officers and damage to their vehicles. The van was eventually hit by a police vehicle, causing it to move on to an embankment. When the vehicle came to a halt, the appellant exited it and ran into some woods in order to escape from the police. He was apprehended and taken into custody.
4. During the course of the chase police officers sustained injuries which included whiplash, soft muscle injury, stiffness to the neck and upper back, and a hand injury. Considerable damage was caused to the police vehicles, the value of which exceeded £70,000. When the appellant was searched by the police, two bags of cannabis were seized.
5. At the sentencing hearing the appellant was aged 30 years. He had one conviction for an unrelated offence, for which he was sentenced to a community order in April 2016.
6. In sentencing, the judge stated how seriously he regarded the driving of the appellant. He took as the starting point the maximum sentence in respect of counts 1 and 2, namely, two years' imprisonment. The judge stated that the sentences should be concurrent. The only reduction given was that of credit for the guilty pleas. The appellant had pleaded guilty to

the offences as the plea and directions hearing. However, the judge limited the degree of credit for the pleas because he was of the opinion that, as the appellant was under the scrutiny of the police and on camera, he had no choice but to plead guilty. The credit he allowed was in the order of eight to ten per cent.

7. There is one ground of appeal. It is that the judge failed to give the appropriate discount or credit of 25 per cent for the guilty pleas.
8. We accept the submission made on the appellant's behalf that, given the stage at which the pleas of guilty were entered, the appropriate credit which should have been given following the guidance issued by the Sentencing Council was 25 per cent. The guideline specifically states that "the benefits apply regardless of the strength of the evidence against an offender. The strength of the evidence should not be taken into account when determining the level of reduction".
9. In our judgment, the judge erred in reducing the appropriate figure for credit to reflect the strength of the evidence. Accordingly, the total sentence of 22 months' imprisonment is quashed and substituted for it is a sentence of 18 months' imprisonment.
10. As to the period of disqualification imposed, the guidance set out in *R v Needham and Others* [2016] EWCA Crim 455 is to be followed. Given the reduction in the sentence, the extension period of eleven months is to be reduced to a period of nine months. Thus, the disqualification is for a total period of five years and nine months, comprising a discretionary disqualification of five years and an extension period of nine months.
11. Finally, pursuant to section 36 of the Road Traffic Offenders Act 1988, following a conviction for dangerous driving an extended re-test is to be ordered by the sentencing court. The judge did not make such an order. By reason of the provisions of section 11(3) of the Criminal Appeal Act 1968, this court does not have the power to impose what would be a more severe sentence than that ordered by the Crown Court. In the circumstances we do not impose a re-test.
12. For the reasons given and to the extent identified, this appeal is allowed.

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

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