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IN THE COURT OF APPEAL

CRIMINAL DIVISION



CASE NO 202002060/A1

Neutral Citation Number: [2020] EWCA Crim 1217

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Friday 4 September 2020

LORD JUSTICE HOLROYDE  
MRS JUSTICE ELISABETH LAING DBE  
MR JUSTICE FREEDMAN

REFERENCE BY THE ATTORNEY GENERAL UNDER  
S.36 OF THE CRIMINAL JUSTICE ACT 1988

REGINA  
V  
YAASHMI RAVIKUMAR

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Mr P Jarvis appeared on behalf of the Attorney-General

Mr C Martin appeared on behalf of the Offender

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**J U D G M E N T**

1. LORD JUSTICE HOLROYDE: Yaashmi Ravikumar pleaded guilty to one offence of causing death by dangerous driving, contrary to section 1 of the Road Traffic Act 1988 (count 1), and four offences of causing serious injury by dangerous driving, contrary to section 1A of that Act (counts 2 to 5). On 13 July 2020, in the Crown Court at Newport (Isle of Wight), she was sentenced by Her Honour Judge Evans QC to a total of 18 months' detention in a young offender institution. She was disqualified from driving for two years nine months and until she has taken and passed an extended retest. Her Majesty's Solicitor General believes that sentence to be unduly lenient. Application is accordingly made pursuant to section 36 of the Criminal Justice Act 1988 for leave to refer the case to this court so that the sentencing may be reviewed.
2. On 14 April 2019, Miss Ravikumar, then aged just 18 years nine months, was visiting the Isle of Wight with three friends. She was driving on roads which were unfamiliar to her and was reliant on her satellite navigation device to guide her to their destination. She drove along Whitehouse Road, a long and largely straight road, keeping well within the speed limit. She came to the junction with the A3054 Forest Road. Her route lay across that junction and on to Betty Haunt Lane. As she approached the junction, she came to a road sign instructing her to give way. Adjacent to that signpost the word "SLOW" was painted in large letters on the surface of the road. Just before the junction itself there was a further give way sign. There was then the usual broken white line marking the point at which she was required to give way to traffic on the major road. Shortly before she reached that point, a car on the far side of the junction turned out of Betty Haunt Lane and onto the major road to Miss Ravikumar's right.
3. By what the judge aptly described as a "catastrophic error", Miss Ravikumar failed to see these warnings and did not appreciate that she was approaching a crossroads at which she would have to give way. It was only when she was on top of the junction that she realised the need to brake and did so. She could not stop in time. Her car went onto the major road and into collision with a double decker bus driven by Mr Stephen Pitman. The impact forced the bus to its right, and it collided with an oncoming car driven by Mr Derek Copland. Mr Copland's passengers were his wife Yvonne, his son Warren and Warren Copland's partner, Richard Wealsby. Neither Mr Pitman nor Mr Copland could have avoided these collisions. Both were blameless.
4. Emergency services quickly arrived. Very sadly, Mrs Copland had sustained injuries of such severity that she died at the scene. The three men in the car survived, as did Mr Pitman, but they all sustained life-changing injuries. Mr Copland's injuries included fractures of his spine, both arms and both legs. He was on a ventilator for several weeks and in hospital for nearly six months. He was unable to attend the funeral of his wife, to whom he had been married for 43 years. It fell to his children to tell him of her death. At the date of the sentencing hearing, 15 months after the collision, Mr Copland remained in residential care, unable to walk unaided, unable to use one of his hands and needing help with everyday tasks. His mental health also suffered as a result of all that he had been through physically and emotionally.
5. Warren Copland suffered severe injuries to his arms and other injuries which necessitated laparoscopic surgery. He was sedated and intubated for five days in hospital. He has scarring of his right arm and stomach and has lost strength in his right arm.

6. Richard Wealsby suffered seven fractured ribs and serious injuries to his abdomen and legs. He underwent surgery several times and had to wear a stoma bag for about a year. For months he needed help with everyday tasks, which his partner Warren Copland could not provide because of his own injuries, and he has had to use a wheelchair to move any appreciable distance.
7. Mr Pitman suffered a fractured vertebra, a head injury, injury to his shoulder and severe whiplash. When discharged from hospital, he was for some months dependent on the 24-hour care of his wife. It was about a year before he was physically fit to return to full-time employment. He too has suffered mental as well as physical trauma and has experienced feelings of guilt, although he has no cause to do so. He can no longer derive his former enjoyment from his work as a bus driver.
8. Miss Ravikumar herself was also injured. She suffered a fracture of her left tibia.
9. Further details of the dreadful consequences of these offences were set out in the victim personal statements which were read to the judge at the sentencing hearing and which each member of this court has read. They are most moving statements. We have their contents well in mind, and we offer our condolences to those bereaved by Mrs Copland's death. It is clear from the statements written by members of the Copland family, both those who were injured and others, that they were and are a very close-knit family, that Mrs Copland was greatly loved and that the whole family have struggled to come to terms with their loss. The statements bring home very clearly the extent of that loss, and the life-changing effect of the injuries sustained by those who survived. Mr Pitman's statements similarly bring home the consequences for him, both physical and mental.
10. From the outset, Miss Ravikumar accepted responsibility and expressed her deep remorse. She indicated, and investigation subsequently confirmed, that as she drove along Whitehouse Road the visual and audible messages from her satellite navigation device had told her to go straight on to Betty Haunt Lane but had not given any explicit warning of a junction. In letters which she wrote to the judge and to the Copland family, she made clear that she found it unbearable to live with the knowledge that she had caused a death, and would rather have lost her own life than end that of Mrs Copland. She did not seek forgiveness because she could not forgive herself, but she wished to express her remorse. She accepted that a custodial sentence would be imposed.
11. Perhaps because of the need for a detailed investigation of this fatal road traffic accident and later because of the Covid-19 pandemic, many months passed before this prosecution was commenced. It was not until 10 June 2020 that Miss Ravikumar was first required to appear in a magistrates' court. She immediately indicated that she would plead guilty to all five charges. She did so on her first appearance in the Crown Court, which was on 13 July 2020, her 20th birthday.
12. Miss Ravikumar was of previous good character. At the time of the offences she was a university student and hoped to go on to become a primary school teacher. A number of testimonials were provided to the court by persons who know her well. From these it is clear that Miss Ravikumar is a kind, considerate and community-spirited young woman. She has always been a careful driver. It was apparent to those who knew her that she was distraught about the pain she had caused to others and that she had become a withdrawn and sad figure. A pre-sentence report also made clear Miss Ravikumar's recognition of the anguish she had caused and indicated that she was struggling emotionally, constantly thinking about the collisions.

13. In addition to the material which was before the judge, this court has been provided with a report in favourable terms from the young offender institution at which Miss Ravikumar is serving her sentence. It indicates that as a result of the pandemic, all work and education are currently suspended.
14. The judge indicated during the hearing that she was familiar with the junction where the collisions occurred. In her sentencing remarks, she observed that it was not the easiest of junctions and that this was not the first time that a serious road traffic accident had taken place at it. Whitehouse Road has high hedges and does not afford a good view of the major road although, the judge said, a double decker bus would probably have been visible to Miss Ravikumar. She said:
  - i. "It is incumbent upon a driver to observe the road and most importantly the road signage, the road markings and the change of road surface which were clear. In addition to that, three or four seconds before you reached the junction, another vehicle emerged from the road opposite Whitehouse Lane and should have been a visible warning to you. You were however a very inexperienced driver which may have contributed to your error. By the time you realised what was happening, and it looks like you must have braked hard at that point, it was too late."
15. The judge agreed with the submissions of both counsel that the offence of causing death by dangerous driving fell into category 3 of the Sentencing Guideline Council's definitive guideline, because Miss Ravikumar's driving had created a brief but obvious danger arising from her seriously dangerous manoeuvre in failing to observe the give way signs. That offence was seriously aggravated by the four offences of causing serious injury by dangerous driving. Concurrent sentences were appropriate, with the sentence for the lead offence reflecting the overall criminality. The judge accepted that Miss Ravikumar was genuinely and deeply remorseful, that she was ordinarily a careful and considerate driver and that at the relevant time she was only 18 and had limited driving experience. The judge also took into account the delay in the commencement of the prosecution, which was no fault of Miss Ravikumar, who had admitted her guilt from the outset, and which must have been a very difficult period both for her and for the victims. The judge also referred to the added difficulty of serving a prison sentence during the pandemic.
16. Balancing the aggravating and mitigating factors, she concluded that the appropriate total sentence before giving full credit for the guilty pleas was 27 months. In those circumstances she imposed a sentence of 18 months' detention on count 1, with concurrent sentences of 12 months' detention on each of the other counts.
17. For the Solicitor General, Mr Jarvis submits that the sentences were unduly lenient. He acknowledges that there was powerful mitigation, although he points out correctly that the guideline starting point and category range apply to a first-time offender. He points however to the aggravating features of the serious injuries caused to each of the other victims, which he submits necessitated a substantial upward movement from the guideline starting point before taking account of matters of mitigation. The overall sentence should have been substantially higher than 18 months.
18. Mr Martin, representing Miss Ravikumar in this court as he did below, submits that the judge carefully weighed all the relevant factors in what was a difficult sentencing

decision, and consciously took a merciful course. He accepts that the total sentence was lenient but submits that in all the circumstances it was not unduly so.

19. We are grateful to both counsel for their written and oral submissions, which we have found most helpful.
20. On any view this is a very sad case which presented a difficult sentencing process for the judge. We agree with her that count 1 was a category 3 offence under the guideline. There is, as yet no definitive guideline covering the offences charged in counts 2 to 5. We agree with the judge that it was appropriate to treat count 1 as the lead offence, increasing the sentence to reflect the overall criminality and to pass shorter concurrent sentences on the other counts. The judge's approach therefore cannot be faulted. We understand moreover why she felt it a proper case for leniency. With all respect to the judge, however, we are unable to support the conclusion which she reached.
21. There were undoubtedly a number of powerful mitigating factors which the judge correctly identified. Miss Ravikumar was a young, inexperienced driver. She was of positive good character, with no previous endorsements on her driving licence and she is most unlikely ever to offend again. She was immediately remorseful and has done all she can to express her apologies to her victims. She has shown a full appreciation of the extent of the harm she has caused and must live with that burden. Her future education and employment are at present uncertain. In addition, she had a long period of anxiety awaiting the prosecution which she knew would come, and which she knew would result in the custodial sentence which she dreaded. Significant weight has to be given to those factors. But we have no doubt that, even collectively, they were outweighed by the aggravating feature of the related offences. We accept Mr Jarvis' submission that any one of those offences was a serious aggravating feature in its own right. Account must of course be taken of the principle of totality, but the fact that four persons were seriously injured must be reflected. In our judgment, it was not open to the judge to conclude that the balancing of aggravating and mitigating factors should result in a downward movement from the guideline starting point. That balancing should, on the contrary, have resulted in an upward movement.
22. Giving as much weight as we can to the mitigation, we conclude that the total sentence before reduction for the guilty pleas could not properly be less than three years six months' custody. With full credit for the pleas, the total sentence could not have been less than two years four months. The total sentence of only 18 months was therefore unduly lenient and must be increased accordingly. Pursuant to section 35A of the Road Traffic Offenders Act 1988, there must be a corresponding increase in the period of disqualification.
23. For those reasons, we grant the Solicitor General leave to refer. We quash the sentences imposed below as being unduly lenient. We substitute for them the following sentences of detention in a young offender institution: on count 1, two years four months; on each of counts 2 to 5, 18 months, those sentences to run concurrently with each other and with the sentence on count 1. Thus the total sentence becomes one of two years four months' detention in a young offender institution. Miss Ravikumar must be disqualified from driving for three years two months and until she takes and passes an extended retest.

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