

234.2 *Disqualification, How long*

See also: *R v Hussain* 2015 EWCA Crim 1016 (Plea. D, a taxi driver, at work but without a passenger, sped at about 50 mph in 30 mph area. Jumped pedestrian lights and hit an 18-year-old woman with a glancing blow. She had her leg amputated and sustained other horrific and life-changing injuries. D had three speeding offences. Age 33. Given 2 years imprisonment. **4 years** disqualification not 7.)

234.2a *Cases*

R v Sandulache 2015 EWCA Crim 1502 D pleaded at the Magistrates' Court to dangerous driving causing serious injury. D drove on a twisty road with white lines prohibiting overtaking. He overtook at least two cars and whilst overtaking a third he hit a motorcyclist. The driver, V, was thrown off his bike and suffered a bleed to his brain, haematoma to his vertebrae, bruising to his lungs, 'some loss of dentition' and extensive injuries to both knees. V was an inpatient in hospital for six weeks. Afterwards he continued to suffer pain and loss of sleep. He had only been married for two months and the accident had changed him from being active and independent to largely inactive and dependant for much of his physical needs on his wife. He suffered from depression and frustration about his inability to look after himself. In interview, D said he was collecting members of his family from an airport and had started his journey later than he had expected. Further he knew that overtaking was prohibited and he 'regretted it terribly'. D was aged 22 and had lived most of his life in Romania. He had no convictions and worked as a lorry driver. Held. The collision had the most appalling consequences for V and his wife. In considering whether the maximum sentence was merited we consider the harm and the culpability. There was the highest level of harm. This was a very bad piece of driving, which created an obvious danger to other road users. If V had been killed, the case would have been level 1. There were no other road traffic offences committed at the same time. He did not flee the scene and he was not under the influence of drink and drugs. We start at 4 ½ years, so with plea, **3 years** not 4.

234.3 *Cases*

R v Jenkins 2015 EWCA Crim 105, 1 Cr App R (S) 70 (p 491) D pleaded guilty to two counts of causing serious injury by dangerous driving. No penalty was given for no licence and no insurance offences. D was travelling at 73 mph in a 30 mph area. It was raining heavily. D's car collided with Mr and Mrs V's car in a head-on collision on their side of the road. The closing speed was estimated to be 90-100 mph. Mr and Mrs V were trapped in their vehicle for about an hour. All three had to be cut free. Mr V had a broken arm and open fracture to his leg, a fractured ankle, two fractured ribs and a fractured hip. Part of his calf muscle had to be removed from his leg. He was confined to a wheelchair for some time and at the sentence hearing he had to walk with a stick. Mrs V had a broken arm, seven broken ribs, a punctured lung, internal bleeding and other injuries. D had fractures too. Mr and Mrs V's recovery was slow and painful. They had to postpone their daughter's wedding for a year. D had been in a similar accident not long before this one. D was aged 27 and had 23 convictions. In November 2013, he was convicted of due care. D was in breach of two community orders. The Judge found D was showing off and thrill seeking. Held. This was a very serious case of bad driving. The driving was deliberate, sustained and prolonged. The case was aggravated by D's motoring record, the fact two people were injured, lack of insurance and that he only had a provisional licence. However the Judge should not have passed consecutive sentences. *R v Noble* 2002 EWCA Crim 1713, 2003 2 Cr App R (S) 65 (p 312) applied. We agree with the Judge's starting point of 4 ½ years to reflect the aggravating features. We consider the case was evidentially

overwhelming. D was trapped in his car so there was no issue as to identity. There could be no issue about causation or that the driving was dangerous. We consider 20% credit not full credit was appropriate. That makes **3 years seven months** not 4 years 6 months in all.

See also: *R v Buckle* 2015 EWCA Crim 229, 1 Cr App R (S) 68 (p 477) (Plea. 2 ¼ times over drink/drive limit. Left pub with two children. Drove whilst disqualified. Children sustained fractures and internal bleeding. One now has difficulty in walking. Aged 34. 81 previous convictions including burglary, robbery, 10 TDAs and motoring offences. Drink/drive convictions in 1994, 2004, 2006 and 2013. Judge started at maximum of 5 years, making **42 months** with plea. Upheld.)

R v Hussain 2015 EWCA Crim 1016 (Plea (10% credit). D, a taxi driver, at work but without a passenger, sped at about 50 mph in 30 mph area. Jumped pedestrian lights and hit an 18-year-old woman with a glancing blow. She had her leg amputated and sustained other horrific and life-changing injuries. D had three speeding offences. Age 33. 2 years was severe not manifestly excessive.)

234.3b Cases Speeding

R v Jenkins 2015 EWCA Crim 105, 1 Cr App R (S) 70 (p 491) D pleaded guilty to two counts of causing serious injury by dangerous driving. No penalty was given for no licence and no insurance offences. D was travelling at 73 mph in a 30 mph area. It was raining heavily. D's car collided with Mr and Mrs V's car in a head-on collision on their side of the road. The closing speed was estimated to be 90-100 mph. Mr and Mrs V were trapped in their vehicle for about an hour. All three had to be cut free. Mr V had a broken arm and open fracture to his leg, a fractured ankle, two fractured ribs and a fractured hip. Part of his calf muscle had to be removed from his leg. He was confined to a wheelchair for some time and at the sentence hearing he had to walk with a stick. Mrs V had a broken arm, seven broken ribs, a punctured lung, internal bleeding and other injuries. D had fractures too. Mr and Mrs V's recovery was slow and painful. They had to postpone their daughter's wedding for a year. D had been in a similar accident not long before this one. D was aged 27 and had 23 convictions. In November 2013, he was convicted of due care. D was in breach of two community orders. The Judge found D was showing off and thrill seeking. Held. This was a very serious case of bad driving. The driving was deliberate, sustained and prolonged. The case was aggravated by D's motoring record, the fact two people were injured, the lack of insurance and that he only had a provisional licence. However the Judge should not have passed consecutive sentences. *R v Noble* 2002 EWCA Crim 1713, 2003 2 Cr App R (S) 65 (p 312) applied. We agree with the Judge's starting point of 4 ½ years to reflect the aggravating features. We consider the case was evidentially overwhelming. D was trapped in his car so there was no issue as to identity. There could be no issue about causation or that the driving was dangerous. We consider 20% credit not full credit was appropriate. That makes **3 years seven months** not 4 years 6 months in all.

See also: *R v Chrzaszcz* 2014 EWCA Crim 2185 (30% credit. D reversed, stopped, and then continued at speed, 5-year old son in back of vehicle. Vehicles hit, property damaged, and V struck. V had fractured pelvis, knee, lower back and ruptured bladder. D, drunk, almost five times over the limit (21/2 hours after). Aged 28, remorseful with references and good character. This case one of the worst of its kind. Starting at about 4 1/2 years, making **3 years**, was severe but upheld.)

R v Iqbal 2014 EWCA Crim 2353 (Pleas to three counts and aggravated vehicle-taking. Took mother's car, driving at over 100 mph in a 30 mph limit. Passengers feared for their lives. D lost control of car, and crashed into a tree and his passengers were seriously injured. D fled the scene. Aged 21, very bad record and on licence. As it was a very bad case, the Judge was able to start at 5 years, the maximum. **40 months** after plea upheld.)

R v Hussain 2015 EWCA Crim 1016 (Plea (10% credit). D, a taxi driver, at work but without a passenger, sped at about 50 mph in 30 mph area. Jumped pedestrian lights and hit an 18-year-old woman with a glancing blow. She had her leg amputated and sustained other horrific and life-changing injuries. D had three speeding offences. Age 33. **2 years** was severe not manifestly excessive.)

R v Dewdney 2014 EWCA 1722, 2015 1 Cr App R (S) 5 (p 36) (Plea. At 8.00 am after ignoring warnings, drove well in excess of 50 mph over humpback bridge. Lost control of car. Ecstasy in blood. Three passengers injured. One had brain haemorrhage and several fractures. One fractured vertebrae and spine. One lost area from scalp. Defendant had fractured skull. Convicted of dangerous driving when aged 14. Other relevant previous. Starting at **4 ½ years** was severe but upheld.)

234.3c Overtaking

R v Smart 2015 EWCA Crim 1756 D pleaded early to dangerous driving causing serious injury. At dusk, D was overtaking slow moving vehicles and then sought to overtake two at once. He was slightly exceeding the speed limit. D had repeatedly claimed he did not see the oncoming motorbike which he hit. The rider, V, aged 54, suffered life changing injuries (which the Court chose not to list). They include a below the knee amputation and they have left him with very serious disadvantages. D was aged 71 with a clean driving record for over 50 years. His wife had health issues. A police officer said V bears D no ill will. Held. D has been a safe and conscientious driver. It was a momentary albeit serious misjudgement. The accident has impacted on D very significantly. He has genuine remorse and finds it impossible not to relive the accident. This would be a level 3 offence in the *Causing Death by Driving Guideline 2008* (Dangerous driving section). 3 years was the starting point. The fact that V did not die and the very compelling mitigation means we start at 2 years not 3, making with plea **16 months** not 2 years.