

**239.9 Asleep. Defendant fell**

*R v Vinayagasivampilla* 2015 EWCA Crim 1769 D pleaded early to causing death by dangerous driving. D worked a 12-hour night shift at Sainsbury's, seven days in a row. After the last shift, at 7 am he went home and had a shower. His uncle, U, asked D to drive him to a cash and carry in a van. D did that and dropped U back at U's home. At about 11 am, D drove in the van to U's shop to drop off the goods that had been purchased. D drove at an appropriate speed but fell asleep and the van hit V who was jogging on the verge. D continued to drive for about 100 metres when he stopped and returned to V. Police arrived and noticed D was falling asleep. This was repeated at the police station. V died the next day. V was married with a 21-month daughter. Her husband continues to suffer from depression and a stress disorder. It was discovered V was not insured to drive the van. D had convictions for excess alcohol and two for driving whilst disqualified and when uninsured. He came from a very poor background in Sri Lanka. D was now suffering from depression and said he never wanted to drive again. Held. It was a Level 3 case with a range of 2-5 years. We take into account the earlier convictions, his references and D's genuine remorse and assiduously hardworking character. We start at close to the top of the range, 4 ½ years, not 6, making with plea **3 years** not 4.

**239.18 Racing, competitive or aggressive driving**

See also: *R v Etherington* 2014 EWCA Crim 1867, 2015 1 Cr App R (S) 7 (p 59) (Plea (25% credit). Accelerated from 61 to 71 mph at two girls on a bridge who had earlier shouted abuse. It appears this was because of the noise of his car's exhaust which was fitted to make extra noise. [Looks like a 30 mph area]. Both died. Defendant on drugs at time. Age 20 with speeding previous. Starting at close to 14 years, with mitigation 12 years, with reduced discount because case overwhelming, making **9 years** cannot be faulted. For more detail, see **236.14**)

**239.21 Speeding Cases**

See also: *R v Etherington* 2014 EWCA Crim 1867, 2015 1 Cr App R (S) 7 (p 59) (Plea (25% credit). Accelerated from 61 to 71 mph at two girls on a bridge who had earlier shouted abuse. It appears this was because of the noise of his car's exhaust which was fitted to make extra noise. [Looks like a 30 mph area]. Both died. Defendant on drugs at time. Age 20 with speeding previous. Starting at close to 14 years, with mitigation 12 years, with reduced discount because case overwhelming, making **9 years** cannot be faulted. For more detail, see **236.14**)