

239.24 Speeding Cases

Att-Gen's Ref 2018 Re Morrison 2018 EWCA Crim 981 D was convicted of death by dangerous driving and causing serious injury by dangerous driving. In the morning, driving conditions were atrocious with high winds and heavy rain. Two Highways England traffic officers, V1 and V2, were clearing away debris at the site of a car accident on the M6 motorway. A temporary advisory 50 mph speed limit had been imposed as a warning to traffic to be careful when approaching the scene of the accident. D was driving on the motorway and for the 20 miles prior to the site of the accident had been averaging 81 mph. During this time D had been sending and receiving text messages on a regular basis. The last message was sent some 96 seconds before the collision. D lost control of his vehicle, probably due to a patch of standing water. He then travelled at speed across three lanes of the carriageway before he hit V1 and V2, who were standing on the hard shoulder. V1 died at the scene. V2 survived but with catastrophic injuries. He is paralysed from the chest downwards. There were victim personal statements from V1's partner and from V2. The devastation caused to their two families was immense. D was now aged 37 and had no previous convictions. In 2012, D received fixed penalty notices for speeding and using a mobile while driving (the car was then stationary). He was a family man with a young son and was in good employment with favourable references. During the trial, D expressed remorse. The Judge said that he was in no doubt that D's "persistent bad driving" created a substantial risk of danger so that the proper sentence was at the upper end of the range at Level 2 of the guideline. The Judge also noted that the injuries to V2 were a very serious aggravating feature and said that the overall sentence must reflect the effect on both victims. He said that were it not for matters of mitigation, the combination of aggravating factors would have taken the sentence into the Level 1 range. Held. Those aggravating factors significantly outweigh D's personal mitigation and the remorse which the Judge accepted D had demonstrated. Concurrent sentences were required so the injuries to V2 increased the sentence. **9 years** not 7.

239.26a Death of own child

R v Edohasim 2018 EWCA Crim 849 D was convicted of death by dangerous driving and causing serious injury by dangerous driving. At 10.50 am, D was driving his two daughters, V1, aged 9, and V2, aged 11, to a maths tutorial. All were wearing seat belts. There was a 30-mph limit and the weather was dry. D overtook two cars and a car coming the other way had to brake almost to a standstill. After that, D seemed to accelerate. For some distance he drove dangerously. He went through some red lights and struck two kerbs, one in the centre of the road and one on the footway and then hit a brick wall. For the four seconds before the collision the pressure on the accelerator was 100%. There was no application of the brakes in the six seconds before the collision. V1 died instantly. V2 and D had to be cut from the car. V2 suffered serious injuries to her abdomen. D maintained that his brakes failed but there was no evidence of any mechanical failure. D suffered multiple injuries including multiple rib fractures, multiple limb fractures and damage to his spleen. He was likely to develop avascular necrosis, known as bone death. The Judge found D pressed the accelerator in error and kept pressing it in [panic]. He put the case at the top of Level 3 because of the speeding and the overtaking. He moved upwards because of the two victims. The Judge identified the deceased was his own child, D's serious injuries, the 'ongoing physical and emotional symptoms', D's exemplary character, his references about his professional and family life, his good driving record and the fact he was a loving father as the mitigation. Held. This was a family tragedy. The one aggravating factor was V2's injuries. The Judge did not adjust the sentence enough for the mitigation including his exemplary family life and work in the medical profession. **13 years** not 4.

¹ News reports say that D was a doctor doing medical research.

