

302.16 *Incriminating innocent people Rape claims Cases*

See also: *R v Beale* 2019 EWCA 665 (D was convicted of three counts of perjury and four of perverting the course of justice. In 2005, when aged 13, she was raped. In 2008, she claimed rape (retracted). In 2010, she claimed abduction and rape falsely. The victim was tried twice and sentenced to 7 years and served 2 years 9 months. D received £11,000 in compensation. In 2012, she claimed robbery and sexual assault, involving barbed wire at the entrance to her vagina. The victim, V, was charged and bailed and fled the country. CCTV showed the allegation was false and her gloating at V's misfortune. In 2012, D claimed she had been attacked by seven men including her ex-boyfriend, leaving her unconscious. This allegation was withdrawn. In 2013, D claimed attempted rape. Later she claimed rape where there had been consensual sex. One victim proved he was at home at the time. The other was on bail for two years. During the trial two victims were attacked as rapists with their character blackened. D was aged 18-21 during the offending and aged 25 when sentenced. She was of good character and had a borderline personality disorder. Held. The victims had suffered incalculable harm. The system of justice had suffered significant harm. Considerable resources had been expended. **10 years** was stern but not excessive.)

302.30 *Prosecution/conviction, To avoid Cases*

R v Griffin 2019 EWCA Crim 563 D pleaded to four counts of perverting the course of justice. On three separate occasions D's van triggered speed cameras by exceeding the speed limits. Two of the offences were driving at 42 mph and 47 mph in a 30 mph area. On a fourth occasion D's partner's Mercedes triggered a speed camera. The speed was 48 mph in a 40 mph area. D was party to the creation of the responses to each Notice of Intended Prosecution, which nominated false drivers as having been responsible. The names were genuine but the addresses given were false. On the third occasion, police suspected that D had passed the form to someone else to complete, so they wrote to D explaining that he was legally required to complete the form himself. D then admitted to having been the driver of the van and opted to take up the offer of attending a Speed Awareness Course, which he completed. On the fourth occasion, police recognised the false address given because it was known to them as an empty business premises which had been used for similar fraud in the past. D's fingerprints were found on the false document together with those of another person who was being investigated by the police for a large number of similar offences. In interview, D said that he had paid £200 to an Asian man whose details he could not remember. The deal was that the Asian man would make arrangements so that the speeding offence did not result in any penalty points or any other consequences for D. D apparently understood that there was a person in the public service who was available to this criminal team and who could corruptly ensure that no conviction would result. D was now aged 43 and had some previous convictions, including one in 2009 for driving with excess alcohol. A pre-sentence report demonstrated apparently genuine remorse from D and he said that he had not fully appreciated the seriousness of his crimes at the time. The Judge observed that this case involved the abuse of the identities of innocent people in a sophisticated scheme although that was not the responsibility of D, who merely availed himself of a pre-existing scheme. The Judge also noted the significant personal mitigation including a number of references about D building up his business as a personal trainer, references from his two children of whom he has custody and information about health problems afflicting his mother and sister, to whom he provides substantial support. The Judge started at 3 years and with the personal mitigation reduced that to 30 months. With the guilty plea, that made 20 months. Held. This was a very serious form of this offending and clearly required a substantial and immediate term of imprisonment. We consider it is not appropriate to increase the sentence by reason of D's previous offending nor to make any further discount from the appropriate sentence in relation to matters of personal mitigation. We start

at 2 years concurrent on each offence so, after the plea discount, **16 months**. 3 years' disqualification was proportionate. We amend the extension period to reflect the substituted sentence.

302.36 Statement *Making a false statement*

R v Mahmood 2019 EWCA Crim 732 D pleaded to perverting. When driving, he filmed a collision and was sent a form about an intended prosecution. D returned the form claiming someone else was driving the car. He was caught and fined £51 for the incident. D was aged 33 and of good character. His family depended on him and he helped with a younger sibling who had Down's syndrome. Held. The family problems would be temporary rather than significant. Immediate imprisonment cannot be faulted. Because of D's good character, we start at 12 weeks, not 6 months, making with plea **8 weeks**, not 18.