

241.7 *Alcohol, Driving under the influence of Cases*

R v Howson 2013 EWCA Crim 1863 D pleaded to death by dangerous driving. D, V, and B had been drinking to celebrate a birthday. D only held a provisional driving license, a fact known to V. D was chosen to be the driver having consumed less alcohol than the other two. The vehicle was being driven erratically and at an excessive speed. B said D ignored several requests from V to slow down. D lost control of the vehicle which crossed the central reservation and rolled over onto a grass verge. At the scene D reportedly said “I am the driver, I was driving like an idiot”. D had no convictions. The PSR said the risk of reoffending was low. The Judge said the aggravating factors were: a) being twice over the limit, b) D was speeding to show off and wind up V, c) D had no licence and no insurance and d) he had ignored warnings. Held. The 8-year starting point was correct. D was entitled to full credit so 5 years 4 months not 6.

241.21 *Racing, competitive or aggressive driving*

R v Paul 2013 EWCA Crim 2034 D pleaded (on the second day of trial) to causing death by dangerous driving and driving whilst disqualified. He owned an Audi R8 supercar. He was previously disqualified from driving after an excess alcohol conviction. He re-registered the car in his sister’s name and continued to drive it. D was part of a group of friends who also owned high-powered, high-value cars. A number of them, D and V included, met in a pub. At about 11.45pm, they got into their respective vehicles, and left the pub. V was driving an Audi TT, with passengers. D also had a passenger. Initially, they drove ‘conservatively’. However at a set of traffic lights, D pulled alongside V and they agreed to drive at speed or race. Over a distance of about 2 miles, in 30 and 40mph limited areas, they drove at speeds in excess of 80mph. D reached 100mph at one point. D drove on the wrong side of a single carriageway causing oncoming drivers to take evasive action. V then decided not to continue to race. D fell behind V’s car and drove very close to his rear bumper. He was flashing his lights indicating that he wanted the race to continue. D overtook V at speed and V who was not racing at this stage, shortly after lost control¹. His car hit a wall and then a lamppost. His passengers were unscathed by V died at the scene. D continued his journey for a short distance and then turned around to return to the scene of the crash. A witness attempted to open D’s car door but it was locked. D drove off. The average speed over the 2-mile distance was 45mph. D and V had been good friends for a considerable period of time. D failed to report the accident. He lay low for a while, and had the car cleaned and replaced its tyres in an attempt to avoid detection. D, aged 27 at appeal, had the one previous conviction for excess alcohol (2011). At the Crown Court, the defence accepted that it was a category 1 case. Held. The driving fell on the boundaries between level 1 and 2. It is clear that D was showing off. At the time of the accident, D was trying to provoke V into continuing to race. It was a continuation of earlier dangerous driving characterised by high speed racing and dangerous overtaking manoeuvres. The excessive speed was not causative of V’s death. The appropriate starting point was 7 years. The previous conviction and driving whilst disqualified and uninsured were aggravating features, as was the lamentable failure to stop after the accident. The mitigation of the loss of a close friend did not carry much weight, neither did the belated remorse and late plea. A sentence of 9 years before the plea was appropriate. 10% credit for the plea as granted by the Judge was more than generous but would remain. **8 years** not 9. There was nothing wrong with the 10-year disqualification.

241.24 *Speeding Cases*

¹ Why V lost controlled is not stated. Ed.

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