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*Judgment: approved by the court for handing down
(subject to editorial corrections)**

ICOS No: 23/108305

Delivered: 02/07/2024

IN THE CROWN COURT IN NORTHERN IRELAND
SITTING AT LAGANSIDE COURTHOUSE

THE KING

v

AMY ALLEN

SENTENCING REMARKS

HHJ MILLER KC

Introduction

[1] At the outset I should record my thanks to Mr Connolly, who appears on behalf of the Crown for his detailed statement of facts, which are not the subject of dispute by or on behalf of the defendant who is represented by Mr O'Donoghue KC (appearing with Mr Molloy). I am also grateful to all counsel for their focused written submissions in this highly sensitive case.

[2] I have been asked to pass sentence without the benefit of a Pre-Sentence Report. I have agreed to do so because in addition to the comprehensive written submissions I have two Victim Impact Statements from family and friends of the deceased, together with detailed medical reports relating to the defendant.

[3] The defendant, Amy Allen was originally indicted on a single count of Causing death by dangerous driving, contrary to Article 9 of the Road Traffic (NI) Order 1995 (1995 Order). She was arraigned on 22 February 2024, when she entered a plea of 'not guilty' to the charge, but guilty to the lesser offence of causing death by careless driving. That plea was not then acceptable to the Crown and a trial was fixed to commence on 1 July 2024.

[4] On the morning of trial further discussions took place between the parties, which resulted in the Crown adding a second count to the bill, being a charge of causing death by careless driving, contrary to Article 11A of the 1995 Order.

Ms Allen pleaded guilty, and the Crown then asked that Count 1, the original charge, be left on the books on the usual terms.

[5] I shall explore in a little more detail later in these remarks, the basis of the change in approach taken by the prosecution, but at this stage I should indicate that by virtue of her plea at the first opportunity, the defendant is entitled to the maximum reduction of one third on the sentence that would have been imposed had she been convicted of this charge after a contested trial.

The background to the fatal RTA

[6] Shortly after 4:45pm on the afternoon of Thursday 1 April 2021, Mr Alisdair Wallace, was riding his Moto Guzzi motorcycle along Ballyblack Road East heading in the direction of Carrowdore. The weather was fine and dry and the sun, though bright, was not impacting on the view of either the deceased or the defendant. The national speed limit of 60mph applies to Ballyblack Road East and Mr Wallace was travelling well within that limit.

[7] Amy Allen was driving her VW Up along the Grangee Road, which runs at right-angles to the Ballyblack Road East. This road is also subject to the national speed limit and as Ms Allen approached the junction with Ballyblack Road East, she was travelling at a speed of approximately 46 mph, reducing to 43mph as she entered the junction. Grangee Road intersects with Ballyblack Road East, which is the major road, before crossing directly opposite into Ballyblack Road, this being Ms Allen's intended direction of travel. Traffic emerging from Grangee Road, must stop at the junction and must not enter or cross Ballyblack Road East unless it is safe to do so.

[8] A 'STOP 100 yds' warning sign on a yellow-coloured backing board, with associated red coloured section of road surface, was located approximately 94 metres before the junction and on the nearside to traffic travelling in that direction. In addition, there was a Stop sign on a yellow-coloured board, located approximately 13 metres from the junction. These features indicating the presence of the Stop controlled junction were first in a position to be seen when Ms Allen's car was approximately 215 metres from the junction.

[9] Finally, a Stop line painted on the road surface at the junction, though faded, would have been visible when the car was approximately 48 metres from the junction. Notwithstanding these several warnings, Ms Allen's vehicle proceeded through the junction, barely decreasing in speed as it did so. In the process the offside front of the car collided with Mr Wallace's motorcycle. As a result, he was thrown from the bike contacting the windscreen and roof of the car before landing on the road surface near the mouth of the Ballyblack Road. The VW Up continued across the road, before coming to rest after striking a fence on the Bangor-bound Lane of Ballyblack Road East.

[10] Tragically Mr Wallace was killed in the collision. The reports of eyewitnesses and of medical personnel, would suggest that death was almost certainly instantaneous.

The deceased - Alisdair Wallace

[11] Before I turn to consider the circumstances of the accident in more detail and those relevant to the defendant, I should say a few words about the deceased. Alisdair Wallace was 66 years of age at the time of his death. He was a talented musician, described as the best trumpeter and flugel horn player on the Northern Ireland music scene for over 40 years. His reputation extended throughout Ireland and beyond. He appeared at many iconic venues including the Royal Albert Hall and he acted as a mentor and tutor to young trumpeters of the Cross Border Orchestra of Ireland, touring and performing each year with them in the Peace Proms. Closer to home he was beloved by his pupils at Victoria Primary School where he conducted the guitar and badminton after school activities.

[12] His talents and interests extended far beyond his love of music. The court is in receipt of a testimonial from his sister, Audrey Reynolds, and his lifelong friend McCaffrey. The picture that emerges is of a man who loved life and lived it to the full. He is described as a man with a wicked sense of humour, with a warm and charismatic personality, a man of integrity, a true and sincere gentleman, and the best of friends. Recently retired he had time to enjoy his many passions, including boating, caravanning, classic and race cars and, of course his motorcycles. At the time of his death his main project was refurbishing his home to make it as he wanted it to be.

[13] The tragic events of 1 April 2021 have had a profound impact on all involved, whether directly or indirectly. This is most clearly expressed by Mr Wallace's sister when talking of the effect upon their elderly mother who was 96 at the time of his death. She suffered from dementia and Alisdair was her devoted carer. His death was particularly hard for her as she could not get used to his absence, hoping, as Mrs Reynolds put it, 'that one day the bad dream would end, and he would walk through her door.' Mrs Wallace passed away in early April of this year within days of the third anniversary of her son's death.

[14] It is palpably obvious that the hurt expressed in the statements of both Mrs Reynolds and Mr McCaffrey, has not dissipated in the intervening three years. Nothing that this court can say or do can restore the life that has been lost or ease that pain, but it is to be hoped that the conclusion to these proceedings will afford everyone involved an opportunity to reflect and start to rebuild their lives.

The defendant in her life-setting

[15] In addition to his comprehensive written and oral submissions, Mr O'Donoghue (leading Steven Molloy) has referred the court to two reports prepared in respect of Ms Allen. The first is a psychiatric report prepared by Dr Adrian East (dated 19 July 2024) and the second a psychological report prepared by Dr Christopher McCusker (dated 1 June 2024). Before I turn to consider the contents of these reports and of Mr O'Donoghue's submissions, I wish to emphasise that these should be seen in the context of the defendant's unequivocal acceptance of responsibility for her actions leading to Mr Wallace's untimely death. Mr O'Donoghue stressed this at the time of the defendant's original arraignment in February, something he repeated in court today.

[16] Amy Allen is a single woman who is now 24 years of age (DOB 26 May 2002). She is the youngest of four sisters, growing up in the family home in Belfast. It is suggested in Dr McCusker's report that the family background was emotionally charged and volatile. Ms Allen told the doctor that it was lucky she had her older sisters to 'protect' her and 'that she enjoyed school so much.' She left school with three 'A Levels' before going on to complete a degree in Social Policy. She is currently employed as a barista and lives with one of her sisters. There is no history of alcohol or drug misuse, and she is in good physical health.

[17] Prior to the road traffic accident (RTA) Ms Allen had no mental health issues, this notwithstanding what Dr McCusker described, as a distressing developmental history. Subsequently, and as a direct result of what happened that afternoon, she has experienced anxiety symptoms, involving reliving the incident daily, significant sleep disturbance and an exaggerated startle response. Her GP prescribed her with citalopram, an antidepressant medication. It is noted that this has not proven successful to date. Dr East opines that Ms Allen meets the diagnostic criteria of both A Post Traumatic Stress Disorder (PTSD) and a prolonged depressive reaction.

[18] Dr McCusker was at pains to point out that he believed Ms Allen presented in a genuine way with her predominant thoughts being of shame, remorse, and guilt. Rather than dwell on the impact on herself she focused on the consequences of her actions on the deceased and his loved ones.

The defendant's account of the RTA

[19] In her police interview, in her interaction with Dr McCusker and in her instructions to her legal representatives, Ms Allen gave a consistent account of her recollections of events leading up to the accident.

[20] She told Dr McCusker that she had been 'out with friends that afternoon; that no alcohol or anything else was consumed and that she was in a "happy...normal" mood state. She suggested there were no adverse weather conditions. She noted she

had to take a route home (about 4:30pm in the afternoon) that was not familiar to her and that she went “straight through a crossroads” without seeing any stop signs.’

[21] It is difficult to understand how it was that Ms Allen did not see the signs that were so plainly visible, but there is nothing in the papers before the court to suggest that this young woman was distracted, eg by a passenger or radio. She was subject to a preliminary breath test, which gave a ‘zero’ reading. This was confirmed later by an evidential blood test.

[22] During interview under caution at Sprucefield Police Station on 5 May 2021, she indicated that she was talking to her sister, handsfree, via her mobile phone, when the collision occurred. A download from the device indicates that an incoming call occurred at 1639 hours. This lasted 7 mins 58 seconds. The download would tend to support that the phone was in use at the point of collision. A telecommunication application confirmed that the incoming phone number identified on the triage report was registered to a Miss Laura Allen: who, it is understood, is the defendant’s sister.

[23] There is no suggestion that Ms Allen was driving at high speed. Rather the impression is that being unfamiliar with the road she somehow missed the warning signs and mistakenly believed that the Ballyblack Road, located directly opposite from the Grangee Road, was, in fact a continuation of that road. There is some substance for this belief in the correspondence disclosed in a FOI request, indicating that this junction was indeed an accident blackspot. I shall refer to this in more detail later in these sentencing remarks.

[24] I turn now to consider the sentencing authorities and how the principles set out therein should be applied to the facts of this case.

Sentencing considerations

[25] Causing death by careless driving is not a scheduled offence for the purpose of the Criminal Justice (NI) Order 2008.

[26] The leading authority in this jurisdiction is the case of *R v Doole* [2012] NICA wherein the Court of Appeal provided guidance in cases of Causing Death/GBI by Careless Driving. In paras [7] and [8] of the judgment the Lord Chief Justice generally endorses the approach of the English Sentencing Council:

- The central feature should be an evaluation of the quality of driving involved and the degree of danger that is foreseeably created.
- The degree to which an aggravating feature is present and its interaction with other aggravating/mitigating features will vary.

- Imprisonment is only appropriate where there is a level of carelessness that gives rise to real culpability.

[27] There are three general bands:

- Driving falling not far short of dangerous driving would attract a starting point of 15 months custody with a range of nine months to three years.
- Carelessness arising from momentary inattention with no aggravating features would attract a community disposal.
- Cases falling between these two categories would attract a starting point of nine months with a range of high community order to two years' custody.

[28] In this type of case a sentence of imprisonment ought only to be suspended when there are exceptional factors (para [25] of *Doole* refers).

[29] Set within this context the guilty plea at arraignment, the lack of any previous convictions, the clear evidence of remorse together with the defendant's personal circumstances are the core matters in mitigation. Mr O'Donoghue also asks the court when considering the ultimate disposal of this case to bear in mind that no sentence this court may impose will reduce the defendant's own sense of culpability for being responsible for the death of Mr Wallace.

Sentencing analysis

[30] In determining the level of the defendant's culpability, I have considered the papers as presented including the agreed statement of fact. The reasons why this accident occurred seem to result from a combination of the defendant being unfamiliar with the topography of the road and her failure to observe the several signs indicating that she was approaching a junction with a major road and was required to stop.

[31] As previously noted, the court has received documentation, released to the defendant's legal advisers under a FOI request. These outline how over a period of at least six years prior to this tragic accident, there had been numerous complaints and warnings to the Department of Infrastructure as to the dangers of this junction. Between January 2014 and December 2023, 22 collisions are disclosed - two were fatal [including this case], five were serious; and seven people have been seriously injured, 43 slightly injured.

[32] There are several emails from the constituency MP, Mr Shannon and MLA, Mr Easton, and other individuals, raising concerns as to the signage, the hedge growth, and the layout of the Grangee Road and Ballyblack Road. This is something

that is underscored by the dashcam footage taken from the defendant's car immediately prior to the accident.

[33] Whilst some of these issues had been addressed over the years, the concerns persisted up to and beyond the date of this terrible accident. The measures in place on 1 April 2021 should have alerted Ms Allen to the presence of the junction. Nevertheless, the court accepts that this is an accident black spot, a fact underlined by the additional measures, in the form of improved road markings and signage put in place subsequent this accident.

[34] A simple act or lack of concentration can lead to catastrophic and life-changing or even life-ending results. All of us who get behind the wheel of a car must bear in mind that it can be an instrument of death and destruction if we ever allow ourselves to be distracted and the consequences for the driver, passenger or other road user including pedestrians can be devastating.

[35] On the facts as they have been presented, I consider that this case falls at the lower end of the first category of careless driving cited by the Sentencing Council (E&W) and adopted in this jurisdiction in *Doole*, that is: Driving falling not far short of dangerous driving. I have concluded this based on the culpable act of negligence, by the defendant completely failing to observe the clear warning signs and thereby failing to note she was approaching a junction. I have arrived at this conclusion by focusing on the evaluation of the quality of her driving and the degree of danger that it foreseeably created. It is beyond peradventure that to drive through a junction without stopping clearly involves a very significant risk of danger to others established on the main road.

[36] I have, however, weighed this assessment, against the defendant's lack of knowledge of the area and the specific issues surrounding the locus of this accident, as highlighted earlier in these sentencing remarks. I accept that there are no other aggravating features.

[37] On the other hand, the mitigating features (aside from the guilty plea) obviously include the defendant's genuine remorse and the impact upon her as evidenced in the psychiatric and psychological reports furnished to the court. No sentence imposed by this court will reduce her sense of responsibility for and grief at the loss sustained. She knows only too well that because of her carelessness Mr Wallace was denied the opportunity that time would have brought to enjoy the many aspects of life which he had embraced and looked forward to sharing with family and friends. She, like them, will have to live with the consequences of those few seconds of inattention. But this is a young woman who has led an otherwise blameless life and in no other circumstances would she ever be likely to appear in a court charged with any form of criminal offence.

[38] I have noted with care Mr O'Donoghue's submissions made on the defendant's behalf and given due weight to the contents of the reports of Dr East and Dr McCusker. In *Doole*, Morgan LCJ quoted para [8] of the guidelines as follows:

"Where the level of carelessness is low and there are no aggravating factors even the fact that death was caused is not sufficient to justify a prison sentence."

He then continued:

"Such an approach does not fail to recognise the extreme distress and hurt which this offence causes to the families and friends of the deceased."

[39] The Lord Chief Justice repeated what was said by Lord Taylor CJ in *Attorney General's Reference Nos 14 & 24 of 1993* (1994) (AR(S)1640 at 644):

"We wish to stress that human life cannot be restored, nor can its loss be measured by the length of a prison sentence. We recognise that no term of months or years imposed on the offender can reconcile the family of a deceased victim to their loss, nor will it cure their anguish."

[40] In the circumstances I am satisfied that a community sentence is not appropriate, and a probation order is not required. Contrary to Mr O'Donoghue's submission, I am satisfied that the seriousness of the case must be marked by a custodial term. I consider after taking due account of the seriousness of the defendant's omission in failing to see the warning signs she would have faced a total sentence of not more than 18 months had she been found guilty of this charge after a contested trial. I have already indicated that she is entitled to the maximum one third credit by virtue of her guilty plea, which reduces that sentence to 12 months.

[41] In all the circumstances I am also satisfied based on the several mitigating factors highlighted earlier in these remarks that the stated sentence should be suspended for a period of two years. In so doing I have had regard to the observations of the court (at para [12]) in *R v Kevin Brannigan* [2013] NICA 39. In addition, and taking account of the defendant's limited driving history, prior to this accident and the need to ensure the safety of other road users, in addition to herself, she shall be disqualified from driving for three years and will require to be re-tested before being permitted to drive again.

Sentence

Count 1 - Causing death by Careless Driving - 12 months suspended for two years.

Disqualified for three years and until tested.