

**Judgment 44/2009**

**D (a Juvenile) – Royal Court (Criminal Appeal 10 of 2009)  
21 September 2009**

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**Driving without due care and attention – appeal from the four months disqualification of driving licence imposed by the Juvenile Court – circumstances of the offence at a pedestrian crossing near La Houquette School – careless driving or riding near schools will be punished hard – appeal dismissed**

**IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY**

**Criminal Appeal No 10 of 2009**

**In the Royal Court of Guernsey**

**On Appeal against Sentence from the Juvenile Court**

**D (a Juvenile)**

**(Appellant)**

**-v-**

**Law Officers of the Crown**

**(Respondents)**

**Date of hearing: 21 September 2009**

**Before Richard John Collas, Deputy Bailiff**

**Jurats: S E F Le Poidevin, P G Lane, M H De La Mare,  
E I J S M Mowbray, B J Bartie, J Ferguson, S M Jones, C Le Pelley, P S T Girard**

**Advocate for the Appellant: J A S White  
Advocate for the Respondents: L Roffey**

1. Appellant, D, you appeared in the Juvenile Court this year on the 6<sup>th</sup> July in front of Assistant-Magistrate McMillen. You admitted riding your motor-bike without due care and attention. A more serious charge, that you were driving dangerously, was dismissed. You appear today to appeal against the sentence that the Juvenile Court gave you when it fined you £100 and disqualified you from riding your motor-bike for four months. As I understand it, you are not challenging the fine, but you are just appealing against the licence suspension.
2. The Juvenile Court was told that you were riding home from school on Thursday 11 June. The school you go to is La Mare de Carteret and on the way back home to your house you pass La Houquette School. A bus was in front of you and had stopped close to the pedestrian crossing, outside La Houquette School so that someone could get off the bus. The Juvenile Court was told that the bus had stopped before the crossing, and we don't not know whether it was on the zig-zag or not. All the court was told was that the bus had stopped before the crossing, not on it. The bus driver indicated to a lady and her 8 year old grand-daughter that they could cross the road in front of the bus. You decided to pass the bus and you said that was because you did not want to hold up any other traffic. As you were doing so, the bus driver saw you and at that time the lady was near the middle of the road and she saw that the bus driver was alarmed, she could see that from his face, she knew that something was wrong

so she stopped. The Juvenile Court was told that she looked around the side of the bus and saw you approaching quickly past the bus. Those were the words used in Court: you were approaching **quickly** past the bus. I accept that may be a subjective view of speed, but nevertheless it does not suggest that you were approaching slowly. The court was also told that you didn't stop, but you went straight over the crossing and it was said that you narrowly avoided hitting the lady and the child. The bus driver took your number because he thought that you were in the wrong and so he reported you to the Police.

3. In interview, as I have said, you told the Police you passed the bus so as not to hold up other traffic and you said that you had not realised you had done anything wrong until the Police came to the house.
4. The court was aware that this was your first offence and you have no previous convictions. We wish to say that if the bus was stopped on the crossing, or near the crossing, then the bus should not have stopped there. It is quite clear the bus should not have stopped either on the crossing or the zig-zag. Also it is clear from the Highway Code that the bus driver should not have waved the lady and grand-daughter to pass. Having said that, two wrongs do not make a right. When you were approaching the crossing, you had to be ready to stop and you shouldn't have over-taken the bus at all, or if it was necessary for you to overtake, then you should have used extreme care. What you said was that you swerved as you were passing and that suggests that you were going too fast to stop and suggests that you were not using the extreme care that was necessary in those circumstances.
5. What we have to decide is whether your sentence was manifestly excessive, that is to say whether the suspension was far too long. Not whether it was a bit wrong, but whether it was very wrong.
6. We have read all that was said in the Juvenile Court and we have listened very carefully to what your Advocate has said for you today. Four months is a long time to be off the road, but was it far too long in the circumstances?
7. We have to say that all road users have to take care when they are driving near a school, especially at the start of the school day and at the end of the day. There are likely to be children around and children, especially young children, don't always look where they are going, so accidents can happen very easily and very quickly. School children must be protected. The States have said that and that is why they have introduced speed limits near all the Island's schools, so that motorists and motor-cyclists slow down and the States do want road users to take extra care near our schools. Road Safety is very important and the courts have to support the States with that message. We have to back them up. What you did in overtaking that bus outside the school near the pedestrian crossing, was very careless. It was very lucky that no one was injured. There could have been a nasty accident as a result of your carelessness. All road users must realise that people who drive cars or ride motor-bikes carelessly near schools will be punished hard and in the light of all that, the court has considered very carefully the sentence that was imposed upon you by the Juvenile Court, but having done so, this court considers that the sentence does reflect the concerns the court had and this court has decided that the sentence was not manifestly excessive so the appeal is dismissed.