

Causing death by dangerous driving.

[2022]GRC043

**ROYAL COURT
FULL COURT**

24 June 2022

Before: John Russell Finch, Esq., OBE., Lieutenant Bailiff and Jurats:

**Stephen Murray Jones OBE, Claire Helen Le Pelley, Jonathan Grenfell Hooley,
David James Mortimer, Joanne Marie Wyatt, Marilyn Jasmine King, Tina Jane Le Poidevin,
Paul Martin Burnard, Felicity Jane Quevâtre-Malcic, Heather Reed.**

THE LAW OFFICERS OF THE CROWN

- v -

ANTHONY JAMES HAMON

**Crown Advocate R J Calderwood appeared for the Crown
Advocate S E Steel appeared for the Defendant**

LIEUTENANT BAILIFF:

Background

You appear here today for sentencing on an Indictment containing one count: causing death by dangerous driving; the maximum penalty is 14 years' imprisonment.

You are a local person, 28 at the time, now aged 29. You have a number of significant previous convictions, including possessing controlled drugs with intent to supply in this Court in 2014 when you received 30 months' Youth Detention, and also in 2018, concerned in the supply of controlled drugs, 34 months. We also note, previous of no driving licence and no insurance plus other matters; including, when you were younger in 2011, offences of offensive weapon and resisting the Police.

You committed the present offence whilst subject to supervision after your release. You were also, we have been told, on Police bail for possession of Class C drugs, which will be dealt with later by myself. So you offended whilst on bail.

The present offence was committed when you were driving your Ford Kuga with four passengers. Sophie Head, who was the only one wearing a seat-belt, and in the rear seats, Nikita Murphy, Jay Pengelley and Kade Bougourd. You were driving along the West Coast, on Vazon Road. You tried to get through a left-hand bend at an excessive speed, estimated by the Police expert as 64 to 77 miles per hour, when you lost control. Your vehicle went into the kerb on the opposite side, rolling five times off the road and moved along land adjacent to the road. This rolling caused substantial damage to the car roof, creating, the Prosecution say, an egress.

Sophie Head remained fastened in the passenger seat, the other four passengers were ejected during all this. The weather was fine and the roads dry and this is not a contributing factor. We have seen all the relevant photographs of the vehicle and the scene, as well as the CCTV of the incident.

Sophie Head escaped serious injury. Nikita Murphy also, with cuts and bruises.

You sustained 11 broken ribs and a broken collarbone, but did not lose consciousness. The other passenger, Jay Pengelley, was thrown a long way, sustained fractured neck vertebrae, a fractured rib, a laceration to the liver and a punctured right lung. The deceased received catastrophic chest injuries that proved fatal.

A neighbouring householder came out to assist and the Police, who were first on the scene, began immediate CPR on Mr Bougourd. Paramedics arrived, but could not find a pulse. At the PEH he was pronounced dead. The post-mortem showed serious injuries typical of a road traffic accident, not deemed survivable.

You admitted you were the driver and were released from hospital 11 days later. You made a 'no comment' interview, as you are entitled to do.

The Prosecution have told us that Mr Pengelley is seeing a psychotherapist with symptoms of PTSD and Miss Head is also receiving psychotherapy. This is hardly surprising in all the circumstances.

You have been on conditional bail throughout. There was some delay, which is not down to you. You pleaded guilty at a Plea and Directions hearing on 17 February 2022.

We note the Victim Impact Statement from Mr Bougourd's mother, and have read her poem, as she requested.

Sentencing Considerations

Although cases like this do occur from time to time in Guernsey, they are fortunately relatively uncommon. We have looked at the English Sentencing Council Guidelines, which do not bind us, but are helpful, especially when looking at aggravating and mitigating circumstances - things that make them worse and things that make them better.

This was greatly excessive speed in a 35 mph zone, creating a substantial risk of danger. Other victims received significant injury, both mental and physical. This speeding is a key aggravating factor, and the disregard of the very real danger that it caused. That is the central feature of the case. Each case, of course is different and depends on its own facts. We also stress that we sentence on Guernsey considerations, noting as stated, the 35 mph speed limit.

In our view we should select a starting-point; in this particular case, noting the deliberate decision to disobey the law and the danger, our starting-point has to be selected in our view, in the 4 – 7 year band. The figure we arrive at as a starting point is 6 years and 6 months; towards the higher level because of what took place, which we have taken into account. We repeat, you were on Police bail at the time and subject to an ABSO. We are bound to note, as stated, your poor previous record.

Mitigation

You pleaded guilty, but this was, putting it plainly, inevitable on the evidence. You have also expressed remorse and we have seen your letter. Speaking generally, you are a person of bad character, who has served time for two serious drugs offences, you are no stranger to prison and do not come here as a person of previously good character, appearing after a momentary lapse. You have committed many traffic related offences. We have listened carefully to your Advocate's submissions, read the helpful Probation report and taken everything, we consider fairly, into account. We apply limited mitigation – because that is what it is, of just under 25%, reflecting the facts in this case, including a very high likelihood of you reoffending in some way.

Sentence

A life was lost due to your appalling reckless stupidity and risk-taking. The clock cannot be put back. Two of the passengers are receiving psychotherapy, one had nasty physical injuries as well. It is all down to you. Relatives and friends of the victim, who was 19 years of age, have life sentences to deal with, with the ongoing grief and sense of loss and we extend our sympathy to all of them.

Taking account of the factors present in this distressing case, the sentence we pass is 5 years' imprisonment from today.

To protect the public, and, once again, looking at all the facts in this matter, you are disqualified from driving from today (which it has to be in law) for 12 years in view of the serious circumstances.

We have already expressed our sympathy, which we repeat, and thank the members of the public for their assistance and the officers for their CPR efforts when first on the scene and the paramedics and we hope all those involved, witnesses and officers, have been properly supported.

Go down for a moment and I will reconvene in a few moments as the Judge of the Magistrate's Court and deal with your drugs cases.

J R Finch, OBE.
Lieutenant Bailiff

24 June 2022