Appeal against sentence – manifestly excessive – driving disqualification – totality – consecutive disqualifications not permitted.

[2025]GRC085

IN THE ROYAL COURT OF GUERNSEY
(CRIMINAL DIVISION)

ON APPEAL FROM THE MAGISTRATE'S COURT
APPEAL AGAINST SENTENCE

14 October 2025

Before: Catherine Maureen Fooks, Judge of the Royal Court
and Jurats: Felicity Jane Quevâtre, David James Mortimer,
Marilyn Jasmine King, Heather Reed, Ian Michael Brown,
Kay Alison Parnwell and Susan Elizabeth Gallienne

GRZEGORZ TRACZYK

-v-

THE LAW OFFICERS OF THE CROWN

Advocate J D McVeigh appeared for the Crown
Advocate S E Steel appeared for the Appellant

Cases and Materials referred to in the Judgment:

The Motor Taxation and Licensing Guernsey Law, 1987
The Magistrate's Court (Criminal Appeals) (Guernsey) Law, 1988
The Road Traffic Offences Act, 1988
The Road Traffic (Drink Driving) (Guernsey) 1989
The Road Traffic (Guernsey) Ordinance, 2019

The Law Officers v Roger Charles Hatwell and Michael Peter Ogier Jmt 22/2004
English Sentencing Guidelines on Totality and Driving Disqualifications

JUDGE OF THE ROYAL COURT:

Introduction

1. This is an appeal by Mr Grzegorz Traczyk ("A") represented by Advocate Steel against the disqualification element of the following sentences imposed on him for driving offences by the Magistrate's Court on 30 June 2025:

    (a) £900 fine and a driving disqualification of 2 years 6 months for driving with excess alcohol in his breath contrary to Section 2(2)(a) of The Road Traffic (Drink Driving) (Guernsey) 1989, ("DIC"), maximum penalty of 3 months' imprisonment and/or a fine not exceeding level 5.
    (b) £800 fine and disqualification of 1 year 6 months for driving in a manner dangerous to the public contrary to Section 10(1) of The Road Traffic (Guernsey) Ordinance, 2019 and punishable by virtue of Section 10(2) of the said Ordinance.

Maximum penalty 12 months and/or fine not exceeding level 5 power of the Magistrate Court to disqualify drivers is contained in Section 8 of The Motor Taxation and Licensing Guernsey Law, 1987.

2. The appeal is resisted by the Law Officers of the Crown ("P") represented by Crown Advocate McVeigh.

Law Applicable to the Offence

3. Under section 1 of the Magistrate's Court (Criminal Appeals) (Guernsey) Law, 1988 ("the 1988 Law") A has a right of appeal against sentence which is not limited by any of the restrictions in section 2.

Powers of the Royal Court

4. Under section 6 of the 1988 Law the Royal Court has the following options on appeal:

> *6. (1) On the termination of the hearing of an appeal the Royal Court*
> *(a) may confirm, reverse or vary the decision appealed against, or*
> *(b) may remit the matter with its opinion thereon to, the Magistrate's Court, or*
> *(c) may make such other order in the matter as may be just, and by such order exercise any power which the Magistrate's Court might have exercised.*
> *(2) If the appeal is against a conviction or a sentence, the preceding provisions of this section shall be construed as including power to award any punishment, whether more or less severe than that awarded by the Magistrate's Court whose decision is appealed against, if that is a punishment which the Magistrate's Court might have awarded……..*"

5. There is a power to increase sentence.

The Grounds of Appeal

6. The grounds of appeal are that the sentences, limited to the disqualifications, were manifestly excessive and that the totality principle was not fairly applied given the substantial overlap between the two offences.

Approach of the Court to appeals

7. There are no prescribed Grounds of Appeal in the 1988 Law. This Court approaches appeals against sentence as the Court of Appeal approaches such appeals from the Royal Court, namely that it will not interfere with a sentence unless it is wrong in law i.e. beyond the Magistrate's Court's powers, wrong in principle or manifestly excessive.

8. The task of the Royal Court is not to review the reasons of the sentencing judge as the Administrative Court would a public law decision. Its task is to determine whether the sentence imposed was wrong in law, wrong in principle or manifestly excessive.

9. In order to succeed on a submission of a sentence being manifestly excessive, A has to satisfy the Court that the sentence falls outside the appropriate range of sentences for the offence and the offender and not just because it might be more severe than this Court itself would have passed. Specifically, this Court will not tinker with a sentence. Issues which the Court will consider when applying the test include whether the learned Judge of the Magistrate's Court has taken into account factors which he should not have or not taken into account factors which he should have and totality which is the point raised in this case.

Totality

10. Advocate Steel has filed the English Sentence Guidelines on totality generally and in relation to Driving Disqualifications which is helpful but it is to be noted that we do not have the same legislation in terms of such disqualifications. The principle of totality is a well-established part of our sentencing process and is applied in all criminal Courts and is usually simply stated as:

> *"Court when sentencing for more than a single offence, should pass a total sentence which is just and proportionate to the offending behaviour before it.*
>
> *Totality is achieved by either consecutive sentences where there is likely to have to be a downward adjustment or concurrent sentences where there is likely to need to be an upward adjustment to ensure that the overall offending is reflected."*

Facts of the case/Approach of the Magistrate's Court to sentence

11. On 21st June 2025, A, an English resident, arrived in Guernsey with two work colleagues in a van to work here for two weeks. At about 8.50pm on 22 June he went to a local bar with his colleagues. A member of bar staff considered him to be under the influence of alcohol. That witness saw A at 11.20pm drive through North Plantation which is a no through road at that time of night, turn into Le Tourgand and drive along it and the lower Pollet against the one-way system to the taxi rank. When the witness saw A drive along the North Plantation a second time, he contacted JESSC. On that occasion A drove up St Julian's Avenue and around St Ann's Place into the Lower Pollet without disobeying any traffic signs. A parked and he and one of his colleagues went to a bar where they were served and drank alcohol. Officers arrived and arrested A. The lower breath reading at the police station was 72/100. A accepted that he had driven after drinking and, as described, against the traffic signs and the risks this posed in view of the number of venues in the North Plantation area. A had no previous convictions.

12. In mitigation, A's Advocate asked the Magistrate Court to impose a hefty fine and an appropriate disqualification. It was submitted that A had only just arrived in Guernsey and was unfamiliar with the road layout and got stuck in a one-way system. Although he had consumed alcohol after driving, he sought credit for not wasting the Court's time with any back calculation. A's personal circumstances were that he is the main breadwinner for his family in England, namely a partner and young son. The learned Judge of the Magistrate's Court rejected the submission that only a short distance had been driven. It was said in mitigation that no one was hurt. Advocate Steel has added to that mitigation that there was no collision and that A should have full credit for his openness at interview and early Guilty Pleas.

13. The Learned Judge of the Magistrate's Court gave full credit for A's early Guilty Pleas, mitigation advanced and the fact there were no previous convictions. He said that the offences were extremely dangerous. He set out the DIC penalty and added the fine and disqualification for the dangerous circumstances surrounding A's driving. The financial penalties totalled £1,700 and he imposed a 4 year disqualification.

A's submissions on appeal

14. The focus of A's submissions is that the total disqualification of 4 years is manifestly excessive. Advocate Steel submitted that, if in England, there would be difference as it is not possible to consecutive disqualifications. Our law is silent on the point. He did not wish to pursue the point and asked this Court to rule on the appeal on the basis of totality, not the composition of the sentences. He asserted that the disqualification should be 3 years whether comprised of 2

years 6 months for the DIC plus 6 months consecutive for the dangerous driving or 3 years for the DIC plus 6 months concurrent for the dangerous driving. He submitted that a 25% reduction is not tinkering. Advocate Steel submitted that the manner of driving was at the lower end of dangerous driving and was akin to disobeying a traffic sign; there was no evidence of excessive speed, showing off, driving aggressively, disregarding warnings from others or deliberate disregard for the safety of others. The road system was unfamiliar to A. There is a significant difference between deliberately ignoring a sign versus unintentional disobedience which is relevant to length of the disqualification needed to protect the public. There was no evidence that there was significant number of persons around. He cautioned against the risk of double counting by reason of the overlap between the two offences, each aggravating the other. He asked this Court to take a step back and consider totality.

15. Advocate Steel made reference to the English Sentencing Guidelines on Driving and Disqualifications and the factors to consider – is there a history of poor driving, will the public be at risk, is the proposed disqualification a sufficient deterrent, how will it affect prospects of rehabilitation with impact on employment and family being specific considerations. The final question is whether disqualification is fair and proportionate considering the matters addressed, the culpability of the offender and harm. In his submission, 4 years is manifestly excessive considering the absence of previous convictions. A is 34 years old, there was no collision, danger or injury. An Additional 18 months for disobeying a sign twice is manifestly excessive and a disproportionate uplift on DIC.

Respondent's submissions on Appeal

16. Advocate McVeigh clarified what the witnesses saw in terms of the driving. She clarified that what was being prosecuted which was not just the driving in North Plantation but all of the driving. In her submission the learned Judge of the Magistrate's Court wanted to achieve a 4 year ban. Guernsey does not have sentencing guidelines; the length of disqualification is discretionary; the issue of consecutive bans need not be considered and the question is totality. The fact that A is resident in England does not lead to disproportionality. If a person commits an offence in another jurisdiction where penalties are tougher, this does not justify tinkering with a sentence. There was no double counting. The same sentence could have been achieved with 2 concurrent bans each of 4 years. The total disqualification is not manifestly excessive.

Discussion

17. We remind ourselves of the test for appeals against sentence on the grounds of the sentence being manifestly excessive which are as set out above namely that the sentence falls outside the appropriate range of sentences for the offence and the offender.

18. The Learned Judge of the Magistrate's Court took into account all points in mitigation available to A. The issue raised is whether the Learned Judge of the Magistrate's Court has failed to apply properly the principle of totality regarding the disqualification. The guideline case on sentencing for DIC is The Law Officers v Roger Charles Hatwell and Michael Peter Ogier Jmt 22/2004 in which it is said that a first-time offender can expect to receive a driving disqualification of 3 years. There are sometimes lower disqualifications when readings are lower but A's reading was more than twice the limit. A and his friends had been drinking all day yet A took to the wheel. We note his comment that he had not driven far. That demonstrates a poor attitude to drink driving. Had it been a standalone matter, D could not have complained at a higher disqualification than 3 years.

19. In relation to the dangerous driving, it was a separate charge. We agree with the learned Judge of the Magistrate's Court that this was a prolonged and dangerous piece of driving. In this case, the dangerous driving was, according to A himself, not as a consequence of the consumption of alcohol but because of unfamiliarity with the restrictions in North Plantation. This is

questionable as he had been in Guernsey before and, in any event, he drove through North Plantation twice. He asserted that, once he had gone wrong and was in the one-way system, he was stuck but that is incorrect as he could have turned right at the end of North Plantation to exit onto the front, as he did the second time. The driving around a blind corner into the Lower Pollet is plainly dangerous. Whilst there was no evidence of any significant number of persons in North Plantation, driving twice through that pedestrian area with an increased chance that pedestrians would be under the influence of alcohol was particularly risky. Were the charge a standalone one, we do not consider the sentence outside the range. We reject the comparison with disobeying a traffic sign.

20. Turning now to totality, Advocate Steel urged this Court to reconfigure the sentence to one of 3 years, whereas Advocate McVeigh submitted that a sentence of 4 years is not manifestly excessive. That is the test we must apply and we are looking at totality so must take a step back and look at the total disqualification of 4 years for the total offending. In our view it could be argued that an overall disqualification of 3 years 6 months rather than 4 years would have been more appropriate but 4 years cannot be said to be manifestly excessive. In terms of composition a reduction of 6 months would be tinkering. We rejected the appeal on the basis of totality and announced this decision on 14th October 2025 and reserved judgment in terms of the reasons and the issue of consecutive disqualification.

21. Whilst neither counsel wished to pursue the point about the legitimacy of consecutive disqualifications, the Judge of the Royal Court considered that it must be resolved. She has undertaken some research as to the historic practice of the Magistrate's Court and the Royal Court and has concluded that it is settled as a matter of principle and practice in Guernsey that driving disqualifications are effective from the date of sentence if more than one and must be concurrent. This can be seen in practice when they are imposed on those in custody or already disqualified where, as in England, the disqualification is increased to take account of the time in custody or of the existing disqualification. There are also practical issues with consecutive bans. The proper approach to disqualifications for multiple offences is to take one as the lead offence and increase the disqualification period to include the other offence(s) and make the other disqualification concurrent or to impose two identical concurrent disqualifications.

22. The Judge of the Royal Court directed the Jurats that in view of the settled principles and practice, although the overall length of the ban was not varied on appeal, this Court must reconfigure the disqualifications as follows:

    Charge 1 – DIC 4 years (3 year starting point for DIC aggravated to 4 years to include the Dangerous Driving).
    Charge 2 – Dangerous Driving 1 year concurrent

    and to that extent only, the appeal is allowed.

23. As was mentioned at the hearing, in future appeals, in the interests of the administration of justice, written submissions from A will be required.

Conclusion

24. Accordingly, the Appeal is allowed to the extent that the disqualifications are set out in para 22 above.

Catherine Fooks
Judge of the Royal Court