

Neutral Citation Number: [2014] EWCA Crim 2236

No: 2014/3950/A6

**IN THE COURT OF APPEAL**  
**CRIMINAL DIVISION**

Royal Courts of Justice  
Strand  
London, WC2A 2LL

Thursday, 9 October 2014

**B e f o r e:**  
**LORD JUSTICE FULFORD**  
**MRS JUSTICE ANDREWS DBE**

**SIR RODERICK EVANS**

**R E G I N A**

v

**ABID NAZEER**

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**Mr M Nawaz** appeared on behalf of the **Appellant**

**J U D G M E N T**  
(Approved)

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1. MRS JUSTICE ANDREWS: The appellant, who is a young man in his mid-thirties, pleaded guilty on re-arraignment on the first day of trial, 22nd July 2014, at the Crown Court at Manchester, to a single count of dangerous driving contrary to section 2 of the Road Traffic Act 1988. The judge, Mr Recorder Williams, having previously given a Goodyear indication that suggested he would be minded to suspend a custodial sentence if a guilty plea was entered, passed a sentence of 12 months' imprisonment suspended for 24 months with a condition of 180 hours unpaid work. The appellant was disqualified from driving for 12 months, ordered to pass an extended retest and ordered to pay £500 towards the prosecution costs. He appeals against sentence to this court by leave of the single judge.
2. The facts of the case can be very briefly stated. At about 2.30 in the afternoon on 25th June 2013, a uniformed police officer was on duty in a marked police car at the junction of Appian Way and Bury New Road in north Manchester. Bury New Road has a single carriageway which tends to get quite congested with traffic, and the speed limit along the whole of that road is 30 mph. The officer, of course, was looking for drivers committing road traffic offences. Whilst he was stationed there, the appellant drove past in his white BMW car, travelling significantly in excess of the 30 mph speed limit. The estimate was that he was doing double the speed limit as he went along. The officer observed him then jumping the red traffic lights at the junction with Great Cheetham Street, fortunately not encountering any other vehicles as he passed through. On reaching the other end of the junction, he continued to drive at speed, and was pursued by the officer, who pulled him over to the side of the road. The officer, having cautioned him, spoke about the reasons for stopping him. The appellant replied: "I need to pick up my mother from the airport. I am really sorry." When he was told he would be reported for an offence of dangerous driving he replied: "It's my fault. I'm in the wrong. I should have set off earlier."
3. Despite that full and frank admission to the officer, the appellant did not plead guilty until the beginning of the trial. In sentencing him, the Recorder stated that there could be no dispute but that his driving was dangerous. He had been seen not only to exceed the speed limit and jump a red traffic light, but also to overtake at least one vehicle on the wrong side of the road. The Recorder mentioned the fact that the appellant's wife was in the car. He said that the offence was so serious that he would have had to have passed an immediate custodial sentence after trial. However, because of the guilty plea and the submissions in mitigation made by his counsel, he was prepared to suspend the sentence.
4. Before this court today it was submitted, as it had been before the Recorder, that in light of a number of mitigating features the case never passed the custody threshold. First, the driving was only over a very short distance and therefore for a short period of time. Secondly, there was no collision and consequently nobody was hurt. Thirdly, all the aggravating features that would generally place an offence of this nature across the custody threshold, such as the presence of alcohol, racing, pursuit by the police over a period of time, use of a mobile phone at the wheel, damage to other vehicles, and so forth, were absent. Fourthly, the appellant was of essentially good character. He had a

single conviction for two offences of failing to stop after an accident and failing to report it, but that went back to 2004. He also had a caution for using a mobile phone whilst at the wheel of a car. However, since 2004 he had qualified as a primary school teacher, and he was otherwise of good character. Finally, a matter to which some weight had to attach, he pleaded guilty to the offence, albeit late in the day.

5. In our judgment, there is considerable force in all those submissions. Although dangerous driving is always a serious offence, this offending was nowhere near at the top end of the scale and given the circumstances which we have described, we agree that it did not pass the custody threshold. Therefore, we consider that the sentence that was passed by the Recorder was manifestly excessive. We do not have any specific information as to how many of the hours of community work have already been carried out by the appellant, but we see no reason to depart from the figure of 180 hours that the judge imposed. For those reasons, we will substitute for the sentence of imprisonment a sentence of a community order with the sole requirement that he complete the 180 hours of unpaid work. Needless to say any work that he has already carried out under the suspended sentence will count towards the hours under this sentence.