Courts and Tribunals Judiciary

IN THE CENTRAL CRIMINAL COURT

Rex v Anne Sacoolas

Sentencing Remarks

1. On 27th August 2019 you drove out of the military base at RAF Croughton and turned left onto the B4031 towards Croughton Village. It was about 8.20pm. There was good visibility. Two of your children were in the back of your car. When you turned, you immediately went onto the wrong side of the road where you travelled for about 350 metres. Just less than 30 seconds later your car hit the motorcycle being ridden by Harry Dunn who was just 19 years old. He had spent 27th August 2019 with his best friend, he was happy. He loved motor bikes. There is no suggestion that he was driving anything other than entirely properly. He was on the right side of the road, driving perfectly normally. Excessive speed was not involved on either side. At the point of the collision there was a slight bend and rise in the road. The impact with the front of your car threw him onto the front of your car, then over the top of it until he landed on the road. His bike caught fire and was pushed backwards.
2. Another driver arrived soon afterwards and called the emergency services. You got out, realised what had happened, and were very distressed. You spoke to Mr Dunn who was conscious and speaking. You got your children out of the car and called your husband and the RAF base. You confirmed to the police that what happened was your fault and you had been on the wrong side of the road. A breath test was administered and was negative. You said you had made a mistake.
3. Mr Dunn suffered multiple severe injuries. He was very gravely ill when he was taken to hospital and died soon afterwards.
4. You were not arrested at the time. You did not remain in the United Kingdom. You left on 15 September 2019.

5. You submitted to a voluntary interview with the police in Washington DC on 28 October 2019. As at the road side, you admitted you were responsible.
6. A request for your extradition was submitted in 2020. It was denied.
7. Immunity from criminal prosecution was claimed for you by the government of the United States of America and accepted by the British government. As the High Court of Justice in London found in it's judgment on the challenge of Mr Dunn's parents to that decision *R (on the application of Charlotte Charles and Tim Dunn) v Secretary of State for Foreign and Commonwealth Affairs & Chief Constable of Northamptonshire Police* [2020] EWHC 3185 (Admin) you did indeed enjoy that immunity at the time of the accident which killed their son.
8. There is no doubt that the calm and dignified persistence of these parents and family of that young man has led, through three years of heart-break and effort, to your appearance before the court and the opportunity for you to acknowledge your guilt of a crime.
9. Eventually, you were charged with causing Death by Dangerous Driving by written requisition pursuant to s.3, Crime (International Cooperation) Act 2003.
10. Changes in the law wrought to Part 8 of the Criminal Justice Act 2003 by the Police, Crime, Sentencing and Courts Act 2022 granted powers to the criminal courts to permit a person to take part in criminal proceedings through a live-link. The Chief Magistrate granted a live-link order and you appeared before Westminster Magistrates Court on 29 September 2022. Your case was sent to the Central Criminal Court.
11. By participating by video-link at Westminster Magistrates you surrendered to the court. When your case was sent for trial to the Central Criminal Court by the Senior Magistrate on you were given unconditional bail. Surrender to this court was accomplished when you were identified as being present, again by video-link on 20 October 2022. You were arraigned and pleaded guilty to a lesser offence, that of Causing death by careless or inconsiderate driving contrary to s.2B of the Road Traffic Act 1988. The court granted a live-link for your arraignment because in my judgment it was in the public interest for you to be able to enter your plea and it would not defeat the interests of justice if that was accomplished by you participating through a video link.
12. At no point in these criminal proceedings had it been suggested that you were not free and able to travel to this jurisdiction in person. Once you had pleaded guilty and were therefore a convicted offender there could be little reason in a case

where a young man had met his death, for you not to be required to attend at court for sentence. Your bail was not withdrawn and you were released from the court but directed to attend in person for this sentencing hearing. I directed you to attend and observed that attendance in person would be strong evidence of remorse.

13. For the purpose of s.6(1) Bail Act 1976 you had a duty to surrender to the court. Failure of a defendant in a criminal case to attend in person when directed to do so, without reasonable cause, is an offence contrary to the Bail Act. It has the potential to affect the court's ability to administer justice by damaging the confidence of victims, witnesses and the public more generally in the effectiveness of the court system. Judges have to consider taking appropriate action if there is no sufficient justification for a failure to attend. The usual action is to issue a bench warrant not backed for bail which will result in the arrest of the defendant when they are located.

14. Sentence was due to take place on 1 December. A week before that date, on 24 November, the court received a renewal of the application for you appear by a live link. This included reference to harassment and threats you and your family had received, mainly by social media and many emanating from the USA, and an assessment that this gave rise to a risk to your personal safety if you travelled to the UK. It did not include any reference to a barrier imposed by the government authorities to your travelling to London to face sentence in person. As a consequence of what the court had received I asked the prosecution to provide a response to the material submitted. Very swiftly, by 28 November the Northamptonshire police compiled an operation which set out in detail four plans by means of which your safety could be protected if you were to return to the jurisdiction to be sentenced.

15. Accordingly, I maintained my order that the hearing be in person. However a request was made on your behalf for a delay of a week to obtain further evidence. This was allowed. On Friday 2 December a statement was served from Amy Jeffries your attorney who accompanies you today. I granted the application on Monday 5 December. The reasons were that for the first time in these criminal proceedings a barrier to your attendance emanating from the American government was relied on in support of the application. In her statement Ms Jeffries says, "*The U.S. government does not in any way support Mrs Sacoolas's appearing in person at this hearing. In fact, Mrs Sacoolas' US Government employer has advised her not to return to the United Kingdom in person for this hearing because her return could place significant U.S. interests at risk. This advice was communicated to her by her employer on 30 November and*

she is not at liberty to disclose the communication itself or any further information to the court."

16. By s.51(3) of the CJA 2003, as amended by s.200 of the PCSCA 2022 a sentencing hearing falls within the list of eligible criminal proceedings for which the court has the power to make such a direction pursual to s.51 (1). The power may be exercised in respect of a person who is outside the jurisdiction of England and Wales. But the power is subject to s.51(4)(a) which requires that the court is satisfied, among other things, that it is in the interests of justice to make the direction.
17. The interests of justice in a criminal case are frequently different to the interests of a defendant. Respect for the law must be genuine and effective, substantial and real.

18. The Lord Chief Justice has provided the courts with guidance which must be considered alongside all the circumstances of the case, in particular factors which are set out in s.51(6) of the CJA. One of those factors is the need for the defendant to attend in person. Paragraph 9 of the Guidance issued by the Lord Chief Justice invites attention in such factors as the potential penalty to be imposed and in paragraph 18 whether a live link would risk damaging international relations so as to be contrary to the interests of justice.
19. When the sentence is to be imposed for an offence that involves a fatality there must be a strong public interest in the offender being before the court in person, in other words a need for the defendant to attend in person.
20. As will become apparent I concluded, provisionally and subject to hearing the submissions in mitigation today, that the barrier presented by your adherence to the advice given to you by your government employer was relevant to my decision on the use of a live-link and it would not interfere with the due administration of justice given the sentence I was likely to impose.
21. The alternatives would have been to withdraw your bail if you had not attended today. The result would have been a warrant for your arrest which would have been extant until executed or withdrawn. The issuing of a warrant for your arrest would have been close to an empty gesture and it would stall progress in this case. Another option open to the court would have been to conduct sentence in your absence as you are represented by counsel and the court has material upon which to proceed. It would have been perverse to refuse this video link in those circumstances and on 5

December I granted the application, which remained a joint one by the defence and prosecution.

22. In an eloquent impact statement Charlotte Charles, Harry Dunn's mother has expressed her sorrow at not being able to comfort her son as he lay on the side of the road or in hospital. She is full of regrets. Her other son, Harry's twin Nile feels emptiness. The deep suffering of the entire family at the unusual course of events I have outlined has generated the persistence she and Harry's father have shown. She wants justice for her son. As she promised him. Although they have been left with a gaping hole the family is determined to provide a legacy for him in projects to help others.

23. Who are you Anne Sacoolas? You are a citizen of the United States of America. You are 45 years old and happily married with three children aged 7, 9 and 14 years. You accompanied your husband on his posting to RAF Croughton having arrived a few weeks before the accident. You had been socialising on the base on 27th August with your husband and children, he left the base shortly before you and according to the material before me, you decided to drive home the way he did even though you were less familiar with it than another route you knew. You have expressed your condolences to Mr Dunn's family through a statement read by counsel on your behalf at this hearing.

24. Causing death by careless or inconsiderate driving contrary to s.2B of the Road Traffic Act 1988 can be committed in various ways. Sometimes a moment's inattention can lead to tragic results. This is not such a case. You drove along the wrong side of the road for much more than a moment and you did not realise what you were doing even when you were coming to a bend in the road when all drivers on a narrow carriageway would naturally check they were driving safely. It seems to me that your conduct, albeit careless rather than deliberate, falls at the other extreme, taking everything into account your behaviour on this occasion was not far short of deliberately dangerous driving which results in a death. I bear in mind that it was a short period of driving and you were not familiar with driving on English roads. The Sentencing Council Guideline places the starting point for sentence for your offence at fifteen months custody. The range it provides is nine months to three years custody.

25. The death of Harry Dunne amounts to the highest degree of harm but that is inherent in the charge and the starting point of 15 months.

26. There are none of the aggravating features that may appear in some such cases for example you were not driving uninsured.

27. There is mitigation in your case. In particular, you were not compelled to submit yourself to this charge and these proceedings but have chosen to do so. You had only limited experience of driving in this country, you offered assistance to Mr Dunne at the scene and you have never personally denied responsibility for his death. Other features such as a short time you drove before the collision also alleviate the gravity to a degree. You are to be treated as of good character apart from two minor driving matters in 1997 and 2006, both of which resulted in fines. Anyone who has caused death by driving would be expected to feel remorseful but remorse is important for sentencing purposes and I accept that you felt and feel genuine remorse.
28. These features require a reduction in the starting point. I allow 3 months.
29. You indicated a guilty plea to this offence in the Magistrates' Court and you entered your plea at the first opportunity in the Crown Court. The law requires a one third discount to recognise this.
30. The shortest term of imprisonment commensurate with the seriousness of the offence is therefore 8 months imprisonment.
31. The offence is so serious that neither a fine alone nor a community sentence can be justified for it. Imprisonment must always be the last resort. Your offence passes the custody threshold but before deciding that no alternative is appropriate I have considered whether it can be avoided. I ordered a Pre-Sentence Report at the last hearing. You will have seen the report. The author has provided me with a great deal of useful information about you and she has consulted senior officers and officials at His Majesty's Prison and Probation Service. However, the author concludes with no recommendation to the court and states that her enquiries do not reveal any practical way in which a form of community sentence, or any other non-custodial disposal imposed by this court could be managed in the United States of America. It is obvious that no enforcement can be carried out and no breach of an order could be prosecuted effectively while you remain abroad. Equally, no restorative justice process can take place except in person. I am grateful to the Probation Service for the enquiries they have made. Counsel on your behalf has submitted that sentence should be deferred and that you would arrange to do some form of voluntary work in recompense. I do not consider that there is any purpose in deferring sentence. As the Pre-sentence report makes clear you are not someone who needs rehabilitation, you need to be sentenced and then both you and the family of Harry Dunn can move on.

32. If I were to impose an immediate custodial sentence then you would be unlawfully at large thereafter and I would order you to return to the United Kingdom to serve it. The sentence would be put into effect if and when you entered the jurisdiction and surrendered to a police station. Before doing so, I have considered whether it is possible to suspend the sentence. You have the strong personal mitigation I have already summarised, you are also a mother of young children who would suffer disproportionate harm from your immediate imprisonment and I am satisfied that appropriate punishment can be achieved without immediate custody.
33. Please stand up Mrs Sacoolas. You are disqualified from driving for 12 months.
34. For the offence of causing the death of Harry Dunne by your careless driving the sentence is 8 months imprisonment suspended for 12 months. There will be no additional requirements. The sentence means that if in the next twelve months you commit any offence, whether or not it is of the same type for which I am sentencing you today, you would find yourself before the court again and it is likely that the sentence would be brought into operation either in full or in part.

Mrs Justice Cheema-Grubb

8 December 2022