



IN THE CROWN COURT AT ISLEWORTH

CASE No. T20237028

THE KING

-v-

Rida KAZEM

SENTENCE 17th May 2023

1. Introduction

1.1 Rida KAZEM you are aged 24.

1.2 In the early hours of 22nd August 2022 you drove your Range Rover motorcar so dangerously as to cause the death of one passenger, Ms Yagmur Ozden and serious injury to your other passenger, Ms Zamerod Arif. That resulted in the two counts on which you are to be sentenced today, and to which you pleaded guilty on 16th February this year.

1.3 In the light of those pleas, and the acceptance on your behalf that this would be an aggravating feature, a separate allegation of failing to permit the analysis of a specimen of blood was discontinued by the prosecution on public interest grounds.

1.4 A third person, Mr Baxnaan Hersi, was also significantly injured but that did not result in a separate charge.

1.5 Sentence has been delayed to allow your representatives to obtain a psychological assessment and other documentation now before me.

2. The crash

2.1 On the evening of 21st August 2022 two women, Ms Ozden and Ms Arif, were enjoying a night out ending up in the early hours of 22nd August at the Whish Lounge Shisha Bar in Park Royal.

2.2 Ms Arif knew you socially and a prior arrangement had been made with you to give them a lift home after closing time. They met you there and at about 3.45am you left the bar to go and collect your Range Rover motor car. You brought it to the club where Ms Arif got in the front passenger seat and Ms Ozden into the rear. Neither you nor Ms Ozden wore your seatbelts. Ms Arif wisely did. The Range Rover was a black SVR model, a particularly powerful motor car, that you had bought on finance some 3 months before.

2.3 From the club you drove along several roads before you joined the A 40. Mr Alhasan, who had been at the same club, saw you there at some traffic lights and, when they turned green he saw you drive forward at a very quick speed and then turn around the corner onto the A40 in the other direction, now heading westbound in the direction of Park Royal and, as he put it “*fly away from us .. really quick*” although the speed limit was 40mph.

2.4 From that point up to and including the crash you were caught on various CCTV cameras and we have watched that compilation.

2.5 You were travelling in the middle lane of three. The weather was dry and there was no other traffic. That does not excuse your accelerating to about 110mph. I have no doubt that you were showing off to your passengers, both showing off your powerful car but also what you thought of as your superior driving skills. What is all too clear is that your skills were wholly inadequate. There is no evidence that you were racing against other vehicles.

2.6 To the author of the PSR you were to say that you did not appreciate how fast you were going. That can be no mitigation. The suggestion that you made that because of your previous driving disqualification you would not knowingly have exceeded the speed limit is clear nonsense.

2.7 At that speed you came to a slight, but marked, bend to your right. The Range Rover that you were supposed to be controlling drifted from the middle to nearside lane, you seeming to make no attempt to steer. As you lost control, the front wheel of the Range Rover struck the nearside curb. For at least the last four seconds before collision you were applying maximum acceleration.

2.8 The rear wheel of the Range Rover then came away and the Range Rover, now airborne to judge from the CCTV, started to roll crashing across a pavement, through a fence and into a Tesla car park which was at a lower level As it passed through the car park – spinning nose over rear – the Range Rover impacted with a Tesla car using a charger causing injury to Mr Baxnaan Hersi, who was sitting in the driver’s seat of that vehicle.

2.9 Ms Ozden was thrown from the still moving Range Rover and sustained injuries that resulted in her death at the scene.

2.10 The Range Rover, however, was still moving, rolling over a wall and coming to rest on the railway tracks of Park Royal Tube Station.

2.11 The speed and violence of this unfolding crash is simply horrific, and the Range Rover was reduced to a mangled heap of metal.

2.12 Ms Arif, wearing a seatbelt, was still inside that mangled heap, trapped in the passenger seat. She suffered serious injury including fractures of both bones in her left forearm, a fracture of the middle of the right thighbone and ligament damage to the right knee. These injuries required surgery.

2.13 You yourself were also thrown from the moving Range Rover landing on the railway tracks and suffering a range of serious injuries set out in the medical notes. The treatment required a below knee amputation of your lower left leg. A blood sample was taken early on and you were to remain in hospital until 14th October 2022.

2.14 After your discharge from hospital you voluntarily attended for interview under caution on 31st October and were formally arrested. To the police questions you answered no comment and you refused permission for a blood sample taken at the hospital shortly after the crash to be tested for alcohol or drugs.

3. Loss

3.1 At the heart of our considerations today must be the loss of Ms Ozden and the serious injury to Ms Arif, and the consequences for all who loved them. I must also keep in mind the effects on Mr Hersi.

3.2 The victim personal statements, mostly made in March 2023 have been read to the court. They wisely acknowledge that no sentence that I can pass today can equate to the grief and pain that your criminal conduct has brought upon your victims and those that loved and depended on them.

3.3 Ms Ozden was just 33. The most grievous loss is to Ms Ozden's now 13 year old daughter Melek. Her powerful personal statement was read to the court, and I had studied it in advance. Melek came to court but, understandably, not into the courtroom. She lost her mother and is now cared for by her grandmother, and, of course, the wider family. Every time she sees a Range Rover it brings back the trauma of learning of her mother's death.

3.4 I also have the statement from Ms Ozden's sister in law, Ms Kelly, describing the effect on the family,

As a family we feel sick, it is so unbelievably heart breaking what we are going through. We did not just lose a sister we lost a best friend. Yagmur ... was a kind and gentle person, who would put anyone before herself. She was always that shoulder to lean on, which is now missed. She was the rock of our family. Yagmur had so many plans but sadly her plans got cut short. Yagmur had the biggest smile and we will miss her so much. Her daughter Melek, is still coming to terms with everything, her life has been turned upside down but as a family we are trying to support her as best we can.

3.5 Ms Arif, wrote of her own, and her family's, grief for the loss of Yagmur, who she thought of as being like an older sister. As for her own serious injuries she wrote:

My life is completely changed by what has happened on that night. I don't think it will ever be the same again. As a result of what happened I can't do the things that I used to be able to do and love. In particular I now cannot play my favourite sport which is volleyball or go to the gym to train and keep fit. This is because of the screws in my arm from the operation and I have been told by my doctors that I cannot play anymore and this will affect me for the rest of my life. ... I will now never be able to play again and this has really hit me hard and I am very depressed that I cannot do the things I love anymore.

I don't feel like a whole person anymore as I feel really limited in terms of the things that I can do now ... I am now permanently scarred both physically and mentally. I am no longer able to go back into work or my clinic that I built up myself from scratch...

3.6 She speaks of the effect of this trauma on her relationships, of her continued difficulty standing for long periods, or walking, of a limp, and of her depression and insomnia, and the effect on her memory. She says:

I feel like I have a hole in my heart that will never be filled.

3.7 Mr Baxnaan Hersi was the man charging his Tesla motor car in the Tesla Car Park, and sitting in the driving seat, when it was struck by the then airborne Range Rover. He was a taxi driver, and his statement was made in September 2022.

3.8 He says that he heard the noise and looked to see the Range Rover coming at him “*like a missile*”. He thought he was going to die. He covered his face but the impact resulted in glass flying all over including into his eyes. As at September 2022 he wrote:

I have suffered a swollen leg, swollen ankle, glass pieces in both my eyes and cuts all over my body. I was told by the doctor that they removed twenty six (26) small pieces of glass from my eyes. I still can't walk as my ankle and leg are still swollen. I have not been able to go back to work and this has had a huge impact on my life. My hip and my back are still in great pain and I am taking very strong medication to cope with the pain. I can't sleep at night and suffer with nightmares from what happened. I struggle to do all my daily tasks and every day I am in pain and very tired from not sleeping.

3.9 In all this we should not forget the inevitable effect on those who witnessed the crash and went to help those hurt. Mr Qana Alhasan was among the first and, whilst also calling up the emergency services, he went to the aid of Mr Hersi, and then on to Ms Ozden, and then gained access to the tube station where he went to the aid of Ms Arif trapped as she was in the passenger seat of the wrecked Range Rover, endeavouring to comfort and reassure her until fire officers arrived some 15 minutes later.

3.10 Mr Mohamed Ibrahim also arrived at the scene and stopped to render such assistance as he could and to call emergency services.

3.11 We should acknowledge that those who stopped to help, and the emergency workers who then arrived, will all have been affected in their own ways by this unnecessary tragedy.

3.12 It is clear that the distress of those bereaved and injured has been aggravated by social media postings, including unwise and insensitive postings from your family members or friends or the wider community. However there is no clear evidence before me as to who is responsible for this and therefore I do not treat that as an aggravating factor against you. That said the distress that they may feel at the consequences of your crime cannot excuse such behaviour.

4. Guidelines

4.1 I am obliged to apply the Sentencing Council Guidelines, guidelines which impose a self-contained framework. Since those guidelines were published the maximum sentence has been increased from 14 years to life, giving enhanced sentencing powers for the most serious cases. I have regard to the guidance in *R v*

Soto [2023] EWCA Crim 55. The minimum disqualification has also been increased to 5 years.

4.2 On Count 1 I categorise this driving as being at the most serious level and your counsel accepts this. To drive as you did at about 110mph on a road with a speed limit of 40mph, a speed limit imposed for good reason, amounted, in my judgement to a deliberate decision to ignore the rules of the road and an apparent disregard to the great danger being caused to others, both inside the car and out. Your advocate does not dispute that.

4.3 I acknowledge that speed alone is not the determinate factor but I have reviewed evidence of other witnesses who saw your driving, and the features of Western Avenue A40 as you drove westbound. There are 1609m in a UK mile. A speed of 110 mph means that you covered some 49m/second. The road had 3 lanes in the westbound direction at the relevant section but there are businesses such as service stations alongside with service roads and slip roads from which vehicles might join the main road.

4.4 From the examples given of determinants of seriousness I consider that this was a persistent and deliberate course of very bad driving from the point witnessed by Mr Alhasan, with greatly excessive speed. I will deal with your failure to give permission for a sample to be tested and the vulnerability of Ms Ozden separately.

4.5 From the guideline I take a starting point of 8 years. Having regard to *R v Soto* I conclude that the culpability here is such that the increase in the maximum sentence requires me to adjust that figure to 9 years.

4.6 Aggravating features

4.7 There are a number of aggravating features.

4.8 First, in the time since you obtained a full driving licence in March 2017 you acquired two relevant previous convictions for speeding. On 1st May 2020 you drove at 95mph on a road with a speed limit of 50mph. There was a further speeding offence on the following day and that resulted in your being disqualified for six months from 6th November 2020 to 5th May 2021. You had clearly failed to respond to that disqualification which had expired just some 15 months before this crash.

4.9 Second there were the life changing serious injuries to Ms Arif and the significant injuries to Mr Hersi.

4.10 Third, there is no evidence whether you were aware that Ms Ozden was not wearing a seatbelt and was therefore more vulnerable but you accept that it was your responsibly to check that your passengers were wearing seatbelts and you did not do so, setting a poor example by not wearing your own.

4.11 I turn to the question whether you were affected by drink or drugs.

4.12 I must take account of your decision to refuse to allow the analysis of the blood sample taken at the hospital when you were asked on 31st October 2022 – a considered decision made following legal advice. The prosecution has not pursued a separate charge because it was accepted to be an aggravating factor and would not serve the public interest. By the time you had changed your mind and gave consent

on 27th January 2023 the hospital sample was no longer available, and, in fact, had been destroyed before you were first asked to consent. We will therefore never know the precise answer.

4.13 It would be absurd, of course, to approach that decision other than on the basis that you were concerned that analysis would reveal that you had been drinking alcohol prior to driving, and I note that you told the author of the PSR that you “had not been drinking to excess” that night and also your failure to steer whilst at the same time maintaining maximum acceleration. I balance that by the fact that hospital records (in non-evidential format) do not show alcohol or drugs reported, and there is certainly no evidence that you were affected by drugs.

4.14 I conclude that it would not be right to proceed on the basis that you were driving with excess alcohol.

4.15 Nevertheless the overall aggravating factors, in my judgement, require an uplift to 12 years.

4.16 Mitigating factors

4.17 There is mitigation.

4.18 First your own serious physical injuries to many parts of your body. They include that you were in a coma for a period and have memory loss and there is the partial loss of a limb, described in your medical notes and the update from Dr Sooriakumaran of May 2023. There may need to be further surgery. I factor in that that will make custody harder.

4.19 Second your main victims were friends.

4.20 I turn to other material before me.

4.21 I take into account your age of 23 then and 24 now, but that is not so young as to materially reduce your culpability. Prior to this crash you had led a comfortable lifestyle and your family remains supportive.

4.22 There are also a number of helpful references from people who have known you for many years. All speak highly of you, of the support you have given them, and of contributions you have made the community.

4.23 As was said in *R v Braid [2002] EWCA Crim 737* in these cases the defendant’s personal circumstances do not weigh heavily. Those being sentenced for these crimes often have the highest personal credentials but the courts have to reflect the loss of a precious life and that driving dangerously is a very serious social evil. That decision pre-dates but is reflected in the 2008 guidance.

4.24 It is your case that you have no recollection of events from about a week before the crash to when you woke up in hospital. That I shall accept. However in assessing your remorse and the necessary acceptance of responsibility that will guard against repetition there are troubling elements. Mr Rhodes said on your behalf that you stand by your plea and accept that you were the driver.

4.25 I acknowledge that it is hard for any person to shoulder the blame for such serious crimes, particularly where there is memory loss. When a person truly does that is a significant mitigating factor but the reports show that you are far from that.

4.26 Making all allowance for the real human issues of which your counsel has spoken so powerfully I do not find evidence of real remorse. Your letter to me is focussed predominantly on your own predicament.

4.27 To the author of the PSR you minimise your dangerous driving and even went so far as repeatedly to say that you believed it possible that you had not been driving and that one of your victims had been the driver. Since, after the crash, Ms Arif was found trapped in the passenger seat you were pointing the finger at Ms Ozden. Plainly that is wholly inconsistent with your guilty pleas and there is no application to change those pleas. Seeking to shift blame to your victims is, itself, an aggravating feature not a mitigating feature.

4.28 To Dr Rajput the psychologist, whose report I have read, you asserted a total lack of memory from a week before the crash to waking from a coma in hospital but went on, again, to express doubt that you had been the driver. Although there were undoubted real psychological issues Dr Rajput found your answers to some indicators suggested that you may not have answered in a completely forthright manner and your response patterns were unusual, indicating a defensiveness about personal shortcomings as well as an exaggeration of certain problems.

4.29 Nevertheless I accept that following the crash and the physical injuries you sustained you have developed a depressive disorder, and likely post traumatic stress disorder. Your physical injuries and loss of your lower left leg are a constant reminder of what occurred and what you have lost. I shall assume in your favour the element of survivor guilt described by the doctor.

4.30 In your letters written to Ms Arif and to Ms Ozden's family you express remorse, and thankfully do not repeat your suggestion that one or other of them had been driving. But, taken with your own letter to me and the contents of the PSR and psychological assessment I can give them little weight.

4.31 It remains clear however that your crimes have brought upon you great physical and mental suffering quite independent of any penalty I impose on you today.

4.32 That mitigation reduces to 10 years the sentence that I consider would have been appropriate had you been convicted after a trial.

5. The Offence of causing serious injury to Ms Arif

5.1 This would have merited a substantial sentence on its own. But this was one crash with multiple victims and the guidelines for causing death also encompass other victims so the penalty for this offence will be concurrent.

5.2 Had you been convicted by a jury I consider that the sentence would have been 4 years.

6. S.308(1) Sentencing Act 2020

6.1 The author of the PSR assesses you as currently presenting a high risk of causing serious harm in the future. However I am satisfied that that risk can be managed by the inevitable immediate custodial sentence and the period of disqualification.

7. Credit for guilty pleas

7.1 You entered your pleas of guilty at the PTPH and are entitled to a reduction of sentence of 25%.

7.2 That brings the sentences to:

7.3 Count 1 – Causing death by dangerous driving 7 years six months

7.4 Count 2 – Causing serious injury by dangerous driving 3 years

8. Totality

8.1 The law is clear that where there are multiple victims from a single crash there should be concurrent sentences, not least, because the additional victims are taken into account in setting the sentence on Count 1.

8.2 Count 1 is a Schedule 15 offence and so of that sentence you will serve 2/3 before you are released on licence

9. Disqualification.

9.1 You must be disqualified from driving. The minimum period is 5 years. In determining the appropriate period the primary purpose is the protection of the public in the future, but there remains an element of punishment and and since you have received a sentence of immediate custody I must adjust the disqualification in line with s.35A RTOA 1988 and the principles of the case of Needham.

9.2 You asserted to the author of the PSR that the disqualification made you more conscious of the speed limits. But that night you wholly disregarded them, repeating, and exceeding earlier behaviour with tragic consequences.

9.3 I find that your repeated assertions that you do not believe you were driving is clearly a mechanism to avoid taking responsibility and gives serious concern about your prospects of driving safely in the future.

9.4 I keep in mind the need to keep the period of disqualification to a minimum. You are still a young man and you have a disability. However you are also a resident of London with its sophisticated transport systems.

9.5 The primary disqualification period will be 8 years.

9.6 The extension period is 5 years less the period you have spend in custody on remand which I take as 19 weeks and therefore the extension period is 4 years 33 weeks and the total disqualification 12 years 33 weeks.

9.7 You are also required to pass an extended driving test.

10. Costs and Compensation

10.1 Compensation to your victims will be dealt with through the civil courts.

10.2 Your financial circumstance are now such that I shall not order you to contribute to the costs of the prosecution but I direct that you pay the compulsory statutory surcharge by 30th June 2023.

HHJ EDMUNDS KC

17th May 2023