



HMA

v

Ashley Christina Smith

7 October 2008

Today at the High Court in Edinburgh Lord Woolman sentenced Ashley Smith to seven years in prison after she pled guilty to causing death by dangerous driving on the A926 Forfar to Kirriemuir Road on 24 June 2007.

On sentencing Lord Woolman made the following statement in court:

“As a result of the offence to which you have pled guilty, a young father is dead. When he was killed, Colin McGregor was a vulnerable pedestrian on a pavement near to his home. He was walking the family dog on a lead. His conduct played no part in the crash.

The death of another person is the greatest harm that anyone can inflict. I must make it clear, however, that the sentence I will pronounce is not intended to measure the value of Mr McGregor’s life, or to place a figure on the extent of his family’s grief. Such matters are beyond calculation. No sentence any Court could pronounce could ever reconcile the family to their loss, or cure their anguish. The sentence pronounced today, while it is influenced by their terrible bereavement, does not imply any assessment of the depth of their suffering.

In pronouncing sentence, the primary consideration is the degree of blame which attaches to you as the driver responsible for Mr McGregor’s death. In this case, the standard of your driving fell far below that to be expected of a competent and careful driver. On 24 June last year, you were a danger to yourself and to other road users.

The previous night you had socialised until 5am and had taken alcohol and cannabis. A blood sample taken after the crash found evidence of both those substances in your system, as well as diazepam and MDMA (ecstasy). The Crown has accepted that some or all of the diazepam may be attributable to the injection of the drug at the hospital which you received after the crash. With regard to the ecstasy, you maintain that you did not knowingly take any the previous night. The Crown do not accept your position and you declined to have a proof in mitigation on this point. In any event, by your plea you have accepted that you were under the influence of both controlled drugs and alcohol at the time of the collision and.

The critical feature in this case is that it must have been obvious to you—as it was to other witnesses—that you should not have been driving that evening. You appeared tired and unwell to the witness who saw you in the McDonald’s restaurant in Forfar

between about 6.00pm and 6.30pm. Mr and Mrs Gough, also listed as witnesses in this case, saw your car behind them on the road between Forfar and Kirriemuir. They were so concerned about your erratic driving that he took avoiding action to keep well clear of your car and she tried to find a mobile phone to call the police. Immediately after the crash, you said words to the effect: "My friend said I should have stayed" and "I should have stayed where I was but I wanted to get home."

Accordingly you must have been aware that your ability to drive was materially impaired, yet you chose to drive that evening. Further, you chose to continue driving when it was plain that it was wholly inappropriate for you to do so.

This is not a case of momentary inadvertence, or a single error of judgment. The fatal accident was a readily foreseeable consequence of your being on the road in the condition you were in. You showed a disregard for the great danger you presented to others.

I have carefully considered the Social Enquiry report and the difficulties in your life and background which it discloses. I have also listened with close attention to everything that counsel has said on your behalf. I take into account the following factors of mitigation:

- You come before the court with a very limited record, with only have one prior conviction for speeding in Brechin District court in 2005.
- At the time of the accident you were not travelling at an excessive speed.
- Your blood alcohol level was below the prescribed limit.
- The Social Worker has found that you are clearly remorseful.

I have also had regard to the tragic consequences of your act on your own family life.

As your counsel rightly recognised, however, only a significant custodial sentence is appropriate. This Court must drive home the message that dangerous driving, particularly under the influence of drink and or drugs is a very serious offence, which may have the gravest consequences.

I have decided that if you had been convicted of this serious crime after trial, the appropriate sentence would have been eight years' imprisonment. As you pled guilty on the first day of the trial, I shall discount that sentence by one year. Accordingly, the sentence is one of seven years' imprisonment, from today's date.

I admonish you in respect of charge 2, the possession of cannabis with an illicit street value of approximately £10.

You will be disqualified from holding a driving licence for a period of 10 years and thereafter until you have sat and passed the extended test of competence to drive. Your licence will be endorsed.

That is the sentence of the Court".