

Judicial Communications Office

Thursday 12 May 2011

COURT SENTENCES FOR CAUSING DEATH BY DRIVING WITHOUT DUE CARE AND ATTENTION

Summary of Judgment

Her Honour Judge Patricia Smyth, sitting today in Antrim Crown Court, sentenced Alan Archibald to 240 hours community service after he pleaded guilty to causing the death of Mark Proctor by driving without due care and attention.

The court heard that at around 8.15 am on 15 August 2008 the tractor driven by Archibald collided with the motorbike ridden by Mark Proctor on the Ballyrashane Road, Coleraine. Mark Proctor was thrown from his bike and died at the scene from his injuries. There were no witnesses and the case against Archibald centred on the forensic evidence. The court was told that Archibald was emerging slowly from a lane onto the main road and was in the early stages of turning right when the collision occurred. The evidence gave no suggestion of speed on the part of Mark Proctor. It was agreed that Archibald's view of the road was severely restricted because the lane emerged at the crest of a hill and at a bend in the road. His view was also limited by a hedgerow. The court heard that the bike would only have been clearly visible to Archibald for approximately 1.2 seconds prior to impact if it was travelling at an average speed of 60 mph. A Letter submitted to the court confirmed the dangers associated with emerging from this particular lane onto the Ballyrashane Road and stated it was "an accident waiting to happen".

Judge Smyth said there were no aggravating factors in the case. She said there were a number of mitigating factors. The pre-sentence report indicated that Archibald was genuinely remorseful and deeply regretted the death of Mark Proctor. At the time of the offence, Archibald was an experienced tractor driver although only 19. He had never had any points on his licence and had a clear criminal record. He is currently in his second year of a degree in agricultural technology. The judge said that, in particular, she took into account the fact that after the collision Archibald did everything he possibly could to help Mr Proctor until professional help arrived.

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Judge Smyth then referred to the relevant sentencing guideline case of R v Doole [2010] NICA 1. This states that “where the level of carelessness is low and there are no aggravating factors, even the fact that death was caused is not sufficient to justify a prison sentence”. The judge said that the PPS accepted that this case falls into the lowest category of culpability. The sentencing guidelines recommend that a community order is a suitable disposal for such cases. The judge said that such an approach does not fail to recognise the extreme distress and hurt which this offence causes to the families and friends of the deceased. She quoted from a judgment of the Court of Appeal in England and Wales which stated:

“We wish to stress that human life cannot be restored, nor can its loss be measured by the length of a prison sentence. We recognise that no term of months or years imposed on the offender can reconcile the family of a deceased victim to their loss, nor will it cure their anguish.”

Judge Smyth said this was a truly tragic case:

“Had it not been for the fact that Mr Proctor had put petrol in his wife’s diesel car by mistake the previous night, and wanted to sort out the problem before leaving for work, he would not have been on his motorbike that morning, but would have been picked up by a colleague in a work van. This case serves as a warning to all of us who step behind the wheel of a vehicle that even a momentary lapse of attention can give rise to the most tragic of circumstances.”

The judge sentenced Alan Archibald to 240 hours Community Service which is the maximum Community Service Order the Court can make. She disqualified him from driving for 12 months until tested.

ENDS

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