

Judicial Communications Office

Thursday 24 February 2011

COURT OF APPEAL ISSUES GUIDANCE ALTERNATIVE VERDICTS

Summary of Judgment

The Court of Appeal today gave its reasons for its decision to quash Michael Gerard Croome's conviction for causing death by dangerous driving and to order a retrial.

The appeal was heard by the Lord Chief Justice sitting with Lord Justice Higgins and Lord Justice Coghlin. The Lord Chief Justice delivered the judgment of the Court.

Michael Gerard Croome was driving to Belfast International Airport on 12 August 2008 to catch a flight. He attempted to overtake a group of cyclists taking part in an organised and marshalled cycle race. During the manoeuvre a dog ran onto the road causing one of the cyclists to swerve. He was hit by Mr Croome's car and died almost instantly. Mr Croome was convicted by a jury of causing death by dangerous driving.

Mr Croome appealed against his conviction. He did so on a number of grounds but the focus of the appeal was that the trial judge erred in not leaving the jury with an alternative charge of causing death by careless driving.

The Court of Appeal heard that on the third day of the trial, the jury sent a note to the judge asking at which point careless driving became dangerous driving. The judge told the jury that they would be given proper directions on all relevant aspects of the law and the end of the trial but that they should concentrate on the facts for the time being. At the end of the evidence both counsel for the prosecution and defence addressed the judge on whether the jury should be directed that they could bring an alternative verdict of causing death by careless driving. Senior counsel for Mr Coome indicated to the judge that there were matters pertinent to the careless driving issue which might prejudice Mr Coome and in light of this, even though it was not explored further, the trial judge did not give the jury the option of bringing the alternative verdict.

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The Lord Chief Justice referred to judgments setting out the role of the trial judge:

“The judge is required to put to the jury for their consideration in a fair and balanced manner the respective contentions which have been presented. But his responsibility does not end there. It is his responsibility not only to see that the trial is conducted with all due regard to the principle of fairness, but to place before the jury all the possible conclusions which may be open to them on the evidence which has been presented in the trial whether or not they have all been canvassed by either of the parties in their submissions. It is the duty of the judge to secure that the overall interests of justice are served in the resolution of the matter and that the jury is enabled to reach a sound conclusion on the facts in light of a complete understanding of the law applicable to them.”

The Lord Chief Justice said that this was a clear case in which the jury had identified the alternative verdict themselves and that nothing was put before the court to indicate any possible unfairness to Mr Coome in doing so. He added: “It is regrettable that the learned trial judge was led into error because he accepted at face value a submission by senior counsel from the Bar.”

The Court of Appeal concluded that the failure to place the alternative verdict before the jury constituted an irregularity which made the conviction unsafe. The court quashed the conviction and ordered a retrial.

NOTES FOR EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available on the Court Service website (www.courtsni.gov.uk).

ENDS

If you have any further enquiries about this or other court related matters please contact:

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