

IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT BRADFORD

MR RECORDER KELLY CP No: 13BD0477323

CASE NO 202502289/A2

NEUTRAL CITATION NUMBER: [2025] EWCA Crim 1177

Royal Courts of Justice

Strand

London

WC2A 2LL

Friday, 15 August 2025

Before:

LADY JUSTICE MACUR DBE

MRS JUSTICE CUTTS DBE

MR JUSTICE MURRAY

REFERENCE BY THE ATTORNEY GENERAL UNDER

S.36 OF THE CRIMINAL JUSTICE ACT 1988

REX

V

DANIEL BOSTAN

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MISS K BROOME appeared on behalf of the Attorney General

MR I KHAN appeared on behalf of the Offender

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JUDGMENT
(APPROVED)

1. LADY JUSTICE MACUR: On 1 April 2025 at the plea and trial preparation hearing, Daniel Bostan ("the offender") entered guilty pleas to two counts of perverting the course of justice and three counts of fraud, contrary to section 1 of the Fraud Act 2006. Sentence was adjourned for the preparation of a pre-sentence report.
2. On 3 June 2025 he was sentenced to a total of 22 months' imprisonment, made up of nine months on each count of perverting the course of justice, consecutive to each other, and four months' imprisonment on each count of fraud to be served concurrently *inter se* but consecutive to the sentences in relation to perverting the course of justice. These sentences were suspended for 24 months with 28 rehabilitation activity requirement days and 100 hours of unpaid work. Other usual ancillary orders were made.
3. This is an application by His Majesty's Solicitor General, pursuant to section 36 of the Criminal Justice Act 1988, for leave to refer those sentences which she regards as unduly lenient. We grant leave.
4. Miss Broome appears on behalf of His Majesty's Solicitor General. Mr Khan appears on behalf of the offender. He did not appear in the court below.
5. The offender is now 26 years old and was aged between 23 and 24 at the time of the offences.

The facts

6. The offender was disqualified, by reason of the "totting up" provisions, from driving for six months from 1 November 2022. He would therefore be disqualified until 30 April 2023.

7. On 11 December 2022, a BMW 1 Series motorcar activated two speed cameras on Leeds Road in Bradford. The first at 1.41am, when the camera recorded a speed of 42mph in a 30mph zone; and the second at 2.55am when the camera recorded a speed of 36mph in a 30mph zone.
8. The offender, as the registered keeper of the vehicle, was then sent a Notice of Intended Prosecution ("NIP") regarding each speeding offence. The notices were both dated 12 December 2022. They each included a request pursuant to section 172 of the Road Traffic Act 1988 for details of the driver of the vehicle.
9. The offender returned the completed NIP for the speeding offence timed at 2.55am, signed and dated 22 December 2022 nominating a Mr Ali Shamas as the driver of the vehicle at the time of the offence. He gave a date of birth of 11 October 1992 and an address in Littlemoor Lane, Loughborough.
10. The address provided did not correspond with the postcode that had been provided and so the offender was sent a letter dated 30 January 2023 asking him to reconsider his nomination as it was suspected to be false or misleading.
11. The reply from the offender was dated 9 February 2023. It again nominated Shamas Ali but provided a different address in Mount Avenue, Dewsbury. The postcode given was incorrect; it was corrected by police who had researched the address. The NIP was then sent to the corrected address, but this was returned marked "Return to Sender".

12. On 9 January 2023 the offender completed an online nomination in response to the NIP for the speeding offence timed at 1.41am, which also identified Shamas Ali as the driver of the vehicle with the same details as indicated above. A NIP dated 10 January 2023 was sent to Shamas Ali but was returned by Royal Mail marked as "address incomplete".
13. On 18 January 2023 a letter was sent to the offender suggesting he reconsider the nomination as it was suspected that the information he had provided was false or misleading. The offender replied to this letter, again nominating Shamas Ali at the same address and signed a declaration that the information was true to the best of his knowledge.
14. On 3 April 2023, PC Ransom attended at the offender's address to hand deliver another copy of the NIP for each offence. The offender was not present and PC Ransom spoke to the offender over the phone. The offender said that the previous nomination had been "an administration error" and that he had completed a further check and that he had now found the correct nomination.
15. On 4 April 2023, PC Ransom received an email from the address "daniaalbostang8@gmail.com" with an attachment entitled "SUPPLEMENTARY AUTHORISED DRIVER CHECK SHEET" which provided the details of a Mafsur Rahman. On 5 April PC Ransom met with the offender who handed him the two NIP completed with Mr Rahman's details. The offender had signed the declaration that the information was true to the best of his knowledge.
16. On 20 April 2023 PC Ransom spoke to Mafsur Rahman. Mr Rahman stated he had no

knowledge of the BMW 1 Series motorcar. However, when informed by PC Ransom that a Daniel Bostan had nominated him as a driver, Mr Rahman informed the officer that he had recently hired a car from "A Star hire" in Bradford and the person who dropped it off was called Bostan. He provided a mobile phone number for the car hire company. Police enquiries showed this to be the mobile phone number of the offender's brother, Adal Bostan.

17. Further police investigation continued. Police systems were checked for information regarding Shamas Ali which identified Salma Ali Iqbal with the same date of birth provided, but who lived in Worcester. A credit check conducted in relation to the Loughborough address (which had been provided in relation to the 2.55am offence) revealed that no one with that name had never lived at that address. PC Ransom contacted Mr Iqbal via letter. On 12 April 2023, Mr Iqbal phoned PC Ransom and stated that he had no knowledge of Daniel Bostan or the BMW and that he had no connection to the West Yorkshire area.

18. Cell site analysis was made of the mobile phone numbers provided for the offender, his brother Adal and Mr Iqbal. Although no cell site location was available for the offender's number at the time of the speeding offences, the analysis indicated that Adal's mobile phone was in the relevant vicinity at the relevant times. Mr Iqbal's phone was located in Worcester at all relevant times.

19. Adal Bostan was arrested. Ultimately no further action was taken against him.

20. However, PC Ransom located a WhatsApp chat between Mafsur Rahman and Adal Bostan about car hire, on 30 January 2023; a bookmarked web link to Yeadon DIY Store and

Hardware in Leeds; and a logo of A-Star Hire – the company that Mafsur Rahman used to hire a car and provided his driving insurance.

21. A police check on the offender's vehicle established that it was insured to "Yeadon DIY & Hardware, in the High Street, Leeds."

22. PC Ransom contacted the owner of Yeadon DIY and Hardware. He stated he had owned the company for the last 10 years and he had never employed either Daniel or Adal Bostan although he had received post in the name of Daniel Bostan to the shop address.

23. On 19 September 2024, PC Ransom contacted MS Amlin Insurance. The policy which insured the vehicle to Yeadon DIY & Hardware was taken out on 23 September 2022 via a broker. The offender had not made the relevant disclosures, in particular that he had been disqualified from driving since 1 November 2022. The policy was cancelled on 25 April 2023.

24. In addition, a policy had been taken out on 18 January 2023 by Daniel Bostan, said to be trading as "Yeadon Hardware". The policy was cancelled on 27 February 2023.

25. Further checks revealed that the vehicle was insured to the offender at an address in Bradford Road, Wakefield. This policy had been taken out via a different broker on 28 February 2023. The offender had again failed to disclose his disqualification or the cancellation of the earlier insurance policies. The policy was cancelled on 24 March 2023.

26. Police officers attended the Bradford Road address and left contact details. A Mr Buchan later contacted PC Ransom to inform him that he had not heard of Daniel Bostan.

27. The Offender was arrested and interviewed under caution. He was represented by a solicitor at the time.

28. In interview the offender stated that he owned a DIY hardware store located in Yeadon called "Daniaal Fabrics" at the insured address of the vehicle and which he ran with his brother. He stated the store sold plumbing tools but that it was no longer a company and that they were in the process of moving address. When asked for further information about the company the offender made "no comment". However, he stated that he had employed Mr Rahman on a trial basis between 6 December and 12 December 2022; Mr Rahman was not paid for his work due to behavioural issues and bad attendance. The offender said that the first nomination of Shamas Ali was an administrative error. He confirmed the true nomination was Mafsur Rahman. This account is acknowledged to be false by virtue of the pleas he indicated and eventually entered.

29. A pre-sentence report was prepared and available for sentence together with character references which spoke of the offender's positive characteristics and commitment to his work and family. One reference from his place of work referred to him as "a pillar of trust within our practice" and "a man of integrity". Regrettably little can be placed upon such assertions. The offender wrote a letter to the court in which he expressed remorse and apologised to the court and everyone else affected by his actions.

30. Sentencing the offender the judge, Mr Recorder Kelly said:

"... These offences do cross the custody threshold. ... This was persistent conduct over a period of about six months in relation to each of the two counts. You were given the opportunity by the police to think again because they suspected you hadn't told the truth about who the driver was but you'd persisted in saying it was somebody else, causing the police to have to undertake extensive investigations which revealed that what you had told them was untrue.

Therefore, it is culpability level A, in my judgment, albeit that the underlying offence was not serious. It's also level 2 harm because suspicion was cast on an innocent third party and it caused some impact on the administration of justice, in the sense that the police, as I say, were involved in fairly extensive investigations given the false information you had provided [to] them."

31. The Recorder referred to the relevant Sentencing Council Guideline for perverting the course of justice and intimidation of witnesses, and identified the starting point of two years with a range of one to four years. He made a downward adjustment to reflect good character and "genuine remorse" and afforded one-third credit for plea, leading to the custodial sentences indicated above.

32. The judge said that the fraudulent activity was conducted over a sustained period of time of about six months. He then went on to say:

"... No harm was caused ... so I'm going to assume category 5."

33. The starting point was nine months which he had reduced for mitigation and then the credit for plea. This led to a total sentence of 22 months. He decided to suspend the sentence because of the real prospects of rehabilitation noted in the pre-sentence report with which the

judge agreed. The judge did not consider it necessary to disqualify the offender to protect other road users since, "I would simply be perpetuating the problem if I were to disqualify you further".

Submissions

34. Miss Broome takes no issue with the categorisation of the offences, nor otherwise the discount given for mitigation. Her simple point is that the judge obviously regarded this case to have crossed the custody threshold, and it should have been immediate. The mitigation available to the offender did not warrant the exceptional step of suspension in the context of the offences of perverting the course of justice.
35. The facts of this case necessitated an immediate custodial sentence. The offender had been persistent in his deceit. Extensive police investigation had been necessitated and warranted and was a waste of police resources. Innocent people had been placed under suspicion.
36. Miss Broome acknowledges that the Recorder had not been assisted by counsel with reference to the relevant authorities , but when considering the overarching guideline on imposition of custodial and community penalties, he should have recognised that the inherent seriousness of the offences meant that appropriate punishment could only be achieved by an immediate custodial sentence. This factor was not outweighed by the offender's prospects of rehabilitation and the impact upon his family members.
37. Mr Khan who appears on behalf of the offender submits that the judge weighed and considered all relevant factors in the round and by doing so reached a sentence which in the

circumstances of this case was just and fair. He submits that the underlying offence, namely the driving and fraud offences, were not such as serious an offence to call for an immediate sentence. If we are against him in that regard, he would submit that the circumstances of the offender are such that we should be persuaded to exercise our discretion and not to impose a greater or more severe sentence than did the Recorder.

Discussion

38. We agree entirely with the submissions of Miss Broome.

39. The principles to be derived from Attorney General's Reference (R v Feve) [2024] EWCA Crim 286, which reviewed authorities decided prior to Sentencing Council Guidelines, are clear. R v Abdulwahab [2018] EWCA Crim 1399 at [14] and [20] and Attorney General's Reference (R v Graham) [2020] EWCA Crim 1693 at [21] reflected:

"the long-established principles that doing acts tending and intended to pervert the course of justice is by its nature always a very serious offence, and that the inherent seriousness of such conduct almost always requires an immediate custodial sentence. References to 'exceptional circumstances', and cognate terms, are a convenient shorthand; but in our view they simply emphasise that there will be few cases in which the normal consequence of immediate custody can properly be avoided, and that very compelling reasons will be needed if immediate custody is to be avoided."

40. This Court in Feve noted that the Sentencing Council Guideline for perverting the course of justice, which must now be followed unless not in the interests of justice to do so, only advocated a community order for cases of the lowest culpability and limited harm. The overarching 'imposition' guideline required the sentencer to weigh listed factors which militate

in favour of or against suspension. The weight to be given to individual factors would of course vary from case to case and, in any particular case, one factor may be determinative of the final decision. However, in the great majority of cases of perverting the course of justice the most important factor will be that which provides that appropriate punishment can only be achieved by immediate custody. This would be the usual position even when, “as will not infrequently be the case, the offender has a realistic prospect of rehabilitation, has strong personal mitigation and immediate custody will result in a significant harmful impact on others.” In short, as was expressed at [26] of Attorney General's Reference (R v Graham): “almost invariably an immediate custodial sentence should and will be imposed in cases of perverting the course of justice”.

41. We reject Mr Khan's submissions that the underlying driving and fraud offences were of the lowest culpability and limited harm. This was a persistent and aggravated course of conduct over six months. Innocent victims of the offender's deceit were contacted by police and their addresses made subject to investigation. The offender, despite the opportunity to do so on several occasions, did not take the opportunity to make clear his deceit until he entered his pleas.
42. The only question for us is whether, even though, we determine the sentence to be unduly lenient, as we do, we should exercise our discretion not to interfere with the sentence.
43. We have no doubt that, in the circumstances of this case, that an application for permission to appeal against a sentence of 22 months' immediate custody as manifestly excessive would be dismissed.

44. We note from the reports dated 16 July 2025, as updated yesterday that the offender has fully complied with probation and community sentence requirements. He has completed all but six hours of his unpaid work requirement. His wife is now pregnant, and his mother has medical complaints.

45. Nevertheless, we are satisfied that those aspects of mitigation cannot undermine the principle to which we have referred, namely that an immediate custodial sentence is required. We have regard to the unpaid work he has completed. We quash the sentence imposed below and re-sentence the offender, to 12 months imprisonment in respect of the two offences of perverting the course of justice to be served immediately and concurrently. Sentences of nine months will be imposed in respect of each of the counts of fraud, to be served concurrently, making a total of 12 months imprisonment in all.

46. We order that the offender surrenders himself to the Trafalgar Square Police Station by 5.00pm today.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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