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**IN THE CROWN COURT IN NORTHERN IRELAND
SITTING AT BELFAST CROWN COURT**

THE KING

v

**MARTIN SEAN O'LALI
HUGH O'NEILL
MARTIN PAUL O'LALI
TIERNAN JACK HOLDEN
EMMA McCUNE**

SENTENCING REMARKS

REEL HHJ

Introduction

[1] Offences to be sentenced:

Martin Sean O'Lali (referred to as Martin O'Lali Jnr)

- | | |
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| Count 1 | Causing death by careless driving on 5 February 2021, on the Stewartstown Road, Belfast, causing the death of Richard Boyle, contrary to Article 11A of the Road Traffic (NI) Order 1995 – max five years. |
| Count 4 | Failing to stop where an accident had occurred, contrary to Article 175 of the Road Traffic (NI) Order 1981 – max six months. |
| Count 5 | Failing to report, failing to stop where an accident had occurred, contrary to Article 175 of the Road Traffic (NI) Order 1981 – max six months. |

- Count 6 Using a motor vehicle without insurance, contrary to Article 90(4) of the same order – max six months.
- Count 19 Perverting the course of justice, contrary to common law on 6 February – unlimited imprisonment.

Hugh O'Neill

- Count 7 Assisting offenders, on 5 February 2021, providing a false alibi to Martin O'Lali Jnr, knowing or believing him to be guilty of causing death by careless driving contrary to section 4(1) of the Criminal Law Act (NI) 1967– max five years.
- Count 10 Withholding information, knowing information that was likely to be of material assistance in the apprehension of Martin O'Lali Jnr, without reasonable excuse failed to give that information to police, contrary to section 5(1) of the Criminal Law Act (NI) 1967– max three years.

Martin Paul O'Lali (referred to as Martin O'Lali Snr)

- Count 12 Withholding information - knowing information that was likely to be of material assistance in the apprehension of Martin O'Lali Jnr, without reasonable excuse failed to give that information to police, contrary to section 5(1) of the Criminal Law Act (NI) 1967– max three years.

Tiernan Jack Holden

- Count 15 Assisting offenders, on 5 February 2021, provide a false alibi to Martin O'Lali Jnr, knowing or believing him to be guilty of causing death by careless driving, contrary to section 4(1) of the Criminal Law Act (NI) 1967– max five years.
- Count 17 Withholding information, knowing information that was likely to be of material assistance in the apprehension of Martin O'Lali Jnr, without reasonable excuse failed to give that information to police, contrary to section 5(1) of the Criminal Law Act (NI) 1967– max three years.

Emma McCune

- Count 14 Withholding information, knowing information that was likely to be of material assistance in the apprehension of Martin O'Lali Jnr, without reasonable excuse failed to give that information to police, contrary to section 5(1) of the Criminal Law Act (NI) 1967– max three years.

[2] As will be clear from my opening remarks, this court is limited by the sentencing powers available in relation to the offences for which pleas have been

entered. The most serious offence is the one committed by O'Lali Junior, causing the death of Mr Boyle. A plea has been accepted by the prosecution to the offence of causing death by careless driving, as opposed to causing death by dangerous driving. The reason for that acceptance is a matter for the prosecution, and it is no function of this court to look behind that decision, which I am quite sure was considered in detail and at length. I am told that the decision was discussed with Mr Boyle's family. As a result, the maximum sentence available to this court is one of five years' imprisonment. This court will have to assess this offence against all the types of offence of causing death by careless driving and deciding where it sits within that category. It would be very rare to find that an offence is the most serious one and that the maximum sentence is appropriate, in particular in relation to a defendant who does not have a criminal record for similar behaviour. This court must have regard to sentencing guidance provided by higher courts for that offence. This court has to give some reduction in sentence, because the defendant has pleaded guilty. The overall effect is that the sentence that this court can reasonably impose will be a good deal lower than the maximum, which itself is five years imprisonment. So, it is likely that the sentence imposed will appear too low, even trivial, to the family of Mr Boyle.

[3] As is said by courts all too frequently, there is no sentence that will ever bring back Mr Boyle to his loved ones. There is no sentence that will ever lessen or even truly reflect the degree of pain and loss felt by his family. I will say more about Mr Boyle later in these remarks, but I want at this stage to explain that to his family and to pay tribute their dignity and forbearance throughout this lengthy process.

The timing of pleas

[4] The defendants entered these pleas on 8 September 2025, when they were rearraigned.

[5] The defendants had maintained denials of the offences throughout the trial process. It was open to those charged with ancillary offences to accept guilt but to refrain from entering pleas until the offence that Mr O'Lali Junior was charged with resolved. They did not do that. Mr O'Lali Junior could have arraigned and pleaded guilty to careless driving and contested the aspect of dangerousness only, he did not do that. That said, the court was told that the case was making progress towards resolution, and I am told that discussions had gone on for some months prior to final resolution. These were not pleas entered on the day of trial.

[6] The appropriate reduction in relation to the pleas entered is one of 25%. I do not see a basis to distinguish between the defendants in that regard.

The outline of facts

[7] On 5 February 2021, shortly after 22:00 hrs Mr Richard Boyle, aged 43, was crossing the Stewartstown Road in Belfast, walking a dog. He was about 60m away

from a pedestrian crossing. He was struck by a car driven by Martin O'Lali Jnr and he was killed, as was his dog. This is Count 1 on the indictment.

[8] The defendant Martin O'Lali (Jnr) was driving a navy-coloured high-performance VW Golf R. He did not remain at the scene, he did not stop, he did not render to or seek assistance for Mr Boyle, and he did not report the collision to police. This makes up counts 4 and 5 on the indictment. CCTV footage shows the car driving off in the direction of Lisburn after the collision. The car was later found at Norfolk Way in Belfast, having been set alight.

[9] The car was the subject of a report from Mr Nicholson of the Forensic Science Agency of Northern Ireland, and I have read his typically detailed and painstaking report. He concluded that the mechanical condition of the vehicle did not contribute to the cause of the accident. The vehicle had accelerated away from a junction, towards the scene of the collision. It was accelerating at close to its maximum possible rate prior to the collision. Indeed, substantially faster than a police officer, trying to replicate the circumstances of the collision, was able to achieve. It had reached a speed of nearly 90mph in this 30mph limited section of road. Mr McConkey KC appears on behalf of O'Lali Jnr and I accept his point that it is not possible to say precisely what the speed of the car was at the time of the collision, but having read the report, I conclude that it was in or around 90mph, any distinction being meaningless in so far as either the consequence for Mr Boyle was concerned or the level of culpability of Mr O'Lali Junior. The Stewartstown Road in this area is a long straight road, it is a road with street lights, in the city, clearly a 30mph zone, and flanked, not by housing, but by a wide verge and trees, with a shopping centre set back from the road, and Glider bus stops on the road. It is far from a deserted stretch of road. Furthermore, the accident happened at 22:00 HRS, not the small hours of the morning. The CCTV imagery shows that the road had other vehicles on it, travelling in both directions. It is hard not to conclude that any bystander, seeing Mr O'Lali Jnr drive at nearly 90mph along this road, would have appreciated the risk of causing death or serious injury.

[10] Mr Boyle had crossed more than halfway across the road, prior to impact. He crossed one lane, then the chevroned central division and then was on the offside of the outer lane, travelling into town, with his dog on the inside of that lane. Had O'Lali Jnr been travelling at 30 mph, Mr Boyle would have had sufficient time to cross the road safely. There was damage to the front offside corner of the Golf, attributed to the impact with Mr Boyle and to the nearside corner, attributed to the car striking Mr Boyle's dog. There was damage to the wing mirror, including plastic trim, part of the door handle, and parts of the car were left strewn on the road. On examination of the car, although it had been burned, there was identifiable accident damage to the offside front corner, with the offside quarter panel deformed around the wheel arch, the front offside headlight lens fractured, the front bumper fractured and the bumper largely separated from the vehicle. There was also damage to the front nearside corner where it had struck the dog, the bumper was fractured at the nearside with a section removed.

[11] Mr Boyle was wearing dark clothing, and he was not crossing at a pedestrian crossing. Lights from oncoming vehicles may have posed a distraction and visibility was such that even travelling at 30mph, a driver may not have been able to avoid a collision if just detecting Mr Boyle when he was on the offside of the Belfast bound lane, in other words, close to the point of impact. However, when he had partially crossed the road and was around the centre of the Lisburn bound lane, he would have been visible from nearly 60metres away and when he was still on the footpath, before stepping onto the road, he would have been visible from just over 80meters away. While the lights of oncoming vehicles may have posed a distraction for the defendant, the circumstances of the road, the busy nature of the area and the amount of traffic on the road, all served to indicate to any competent driver the danger of exceeding the speed limit, let alone the folly of reaching a speed in or around 90mph.

[12] Just before 01:00 hrs on 6 February 2021, Mr O'Lali Jnr reported to police that his car and phone had been stolen from outside Hugh O'Neill's address at Fallswater Street. This is count 19 on the Indictment. He claimed that the theft had happened sometime after 21:30 hrs. This was a false allegation.

[13] On 7 February, Mr O'Lali was located by police at Emma McCune's house in Lisburn. He was arrested and interviewed. He denied any involvement in the collision and claimed that he had been working for his father Martin O'Lali Snr in County Tyrone on the day of the accident. He claimed that he had driven to Hugh O'Neill's house in his VW Golf arriving between 21:15 and 21:45 hrs and stayed for a number of hours. When he left, he saw that his car was gone and remembered that he had left his phone in his car. He claimed that O'Neill gave him a phone, so that he could ring his father. He claimed that a man called 'Dylan' eventually collected him and that he had gone to bed and slept most of the day. He denied being in Turf Lodge or setting fire to his car. He was interviewed again on 9 November 2021 and again made no admissions.

[14] At the time of the accident Martin O'Lali Jnr was driving significantly over the speed limit. This was a busy residential area, he was not insured to drive, he had made a false declaration in his application for insurance and hence would not have been covered. This is count 6 on the indictment. In interview, he provided the police with a false alibi, he made a false report to police that his vehicle and phone had been stolen.

[15] CCTV camera footage showed that Mr O'Lali Jnr's vehicle was parked at Norfolk Way at 22:20 hrs, 17 minutes after the collision. Between 23:29 and 23:34 hrs two people approach the car and set it alight. This was a deliberate fire. Efforts had been made to conceal the vehicle's number plates.

[16] CCTV and cell site analysis place both Mr O'Lali Jnr's vehicle and mobile phone at the scene of a collision at the relevant time. Mr O'Lali Jnr's phone was in use and in communication with Tiernan Holden after he said that he had left the phone in the

car. At 22:07 hrs he attempted to phone Holden and Holden returned the call two minutes later. At 22:18 hrs O'Lali Jnr returned calls from Holden.

[17] Hugh O'Neill assisted O'Lali Jnr by providing a false alibi, this is count 7 on the Indictment. He told police that O'Lali Jnr had been at his house on the evening of the fatal collision, he claimed that O'Lali Jnr had come to see him because he was having mental health issues. He claimed that when O'Lali Jnr was leaving the house, they noticed that O'Lali Jnr's car had been stolen. However, O'Neill's mother denied that O'Lali Jnr had been in the house that evening. At interview he made no reply to questions, but he provided a written statement in which he said that he came out of the house for a short period of time to go to the shop. He committed two offences. He provided a false alibi, and he withheld information about the fatal road traffic accident, the latter conduct representing count 10. I accept that his lies were less consequential in terms of deflecting the investigation from its proper course. For this he has to thank his mother, perhaps the only person to emerge with credit from this shameful litany of events.

[18] Martin O'Lali Snr is O'Lali Jnr's father. He was contacted several times by his son in the aftermath of the collision. He was aware of his son's involvement in the collision but, during two police interviews under caution, he made no comment answers throughout. This is count 12.

[19] Tiernan Holden transported O'Lali Jnr after the accident. He provided a false alibi for him, count 15. He was aware that steps had been taken to destroy evidence, his car is captured on ANPR cameras heading away from the area where the VW Golf was abandoned and then burned. I am told that it is not alleged that he was aware of the burning of the car. He was interviewed on 24 April 2021 and he made no comment. He did not tell police within a reasonable time what he knew about the incident. This is count 17.

[20] Emma McCune was O'Lali Jnr's girlfriend at the time of the accident. She also withheld her knowledge of what had happened. She was aware that he been involved in a collision and bore some criminal responsibility. She was with him in the aftermath and at times travelling in the same car. He was arrested at her home. Her phone had been used to contact others. She relayed none of this information to the police. This is count 14.

[21] The effect of the ancillary offending was to cause the police to spend months and hundreds of man hours in a complex investigation to prove O'Lali Jnr's guilt. This is far from a trivial false alibi that is disproved within days and has no meaningful consequence. This is quite apart from the additional trauma caused to the victim's family who were left wondering who killed their loved one and in what circumstances.

[22] I do not find culpable delay in this case. All of the accused are entitled to point to what has happened in their lives over the period since these offences, where that

shows that they have successfully avoided further offending, in the same way that any defendant would be entitled to.

[23] I have looked at the chronology of events. There was an intensive investigative effort in 2021 and 2022, much of that was required as a result of the attempt to pervert the course of justice and associated offences. It caused a great deal of heartache and frustration to the victim's family.

[24] Thereafter, in 2022 there was a judicial review application that delayed analysis of the phone evidence, and the failure of McCune to provide the access PIN to her phone. It was not until April 2024 that the judicial review was complete and by October that year the indictable summons were issued. Thereafter, the case took its normal course to get to this point, with a withdrawal of services intervening.

The offender

Martin O'Lali Jnr

[25] He was born in April 1998. He has 26 previous convictions, eight of which are for road traffic offences; four excess speed offences. He also has a conviction for assault occasioning actual bodily harm in 2017. He was sentenced to a community service order, which he breached. In 2021, he was convicted of the offence of making a false declaration to obtain insurance. In 2022, he was convicted of the offence of excess speed twice and offences of driving while disqualified and without insurance. One of those excess speed offences was just weeks before this offence, one a little over a year after it. After this offence, he was convicted again of the offence of excess speed in August 2024.

[26] I have read a pre-sentence report. He is now 28 years of age. When seen by probation he was living alone, in private rented accommodation. He said that his relationship with Emma McCune had broken down for a period, but they were now back together, and he was due to become a father. I am told that they now live together and have a six-month-old son. They've been together for 12 years. His father was not around when he was growing up, and he has three half siblings. His parents separated when he was four. He claims to have experienced a lot of racial abuse growing up. He achieved 10 GCSEs and one A level. He completed a personal training course. He also spent some time studying an electrical course. He then started working as a personal trainer and began buying and selling cars. He opened a dog grooming business with his partner and he also bred dogs. For a while he ran a café. He has now opened a business selling edible sea moss. He has no financial issues. He has a business plan to grow his various enterprises. I have seen impressive documentation in relation to his business. He has no physical health issues. There are no particular mental health issues, other than that he felt somewhat paranoid after this accident because he was under threat. He became tearful with the probation officer when reflecting upon the impact of his offences on himself. He does not have a problem with alcohol or drugs.

[27] Probation asked the defendant to give an account of the circumstances of the accident. He claimed that he met a man to sell a car and was then asked by his father to drive to his house and feed his dogs. He then claimed to have received a phone call from his friend O'Neill. He says he was rushing to see O'Neill, who was experiencing mental health problems, when the accident happened. He said that he was under a lot of pressure and did not see the victim at all, he only saw his dog. He said that he believed he had only hit the deceased with a wing mirror and that he left the scene because he was frightened and did not want to go to jail. The account is not consistent with the frontal damage to his vehicle that I have outlined. I reject that account. Mr McConkey, wisely in my view, did not take up the opportunity to identify any parts of the accident investigation report that would support that account. Furthermore, it hardly explains the efforts to dispose of the car and create a false alibi. I conclude that Mr O'Lali Jnr knew that he had hit a pedestrian at enormous speed and must have realised that he had, at the very least, inflicted serious injury.

[28] To quote his words used to probation, "there was responsibility for the accident on both sides," because, he claimed, the dog was being walked off the lead, the victim had drink taken and was not using a proper road crossing. To be clear, none of that bears any weight at all. The victim was perfectly entitled to cross the road where he was, he would have crossed safely if the defendant had been driving at the speed limit. And he would have crossed safely whether he had drink taken or not. This fatal road traffic accident has one cause and only one cause and that cause is the driving of Martin O'Lali Jnr.

[29] The defendant was also seen by Dr Hussain and provided an account to Dr Hussain. This is a rather different account to the one he provided to probation. He told Dr Hussain that he had been with Mr O'Neill before the accident, not after, and that at the time of the accident he had three other passengers. He said that after the accident everyone panicked. He said, "If I was by myself, I would have stopped but everyone was panicking in the car."

[30] He claimed that he did not name these other people for fear of being branded as a tout. He says that he simply left his car with these other men after the accident, and presumably it was they who set fire to it.

[31] He was then reinterviewed by probation who challenged him about the markedly different account that had given Dr Hussain. He provided a third account to probation, an account different from his initial account to probation and different from the account provided to Dr Hussain. He now claimed only to have seen Mr O'Neill after the accident. He said that when he was trying to find Mr O'Neill's house, before the accident, he had met three males and that he had been persuaded to allow one of these three males to drive his car. He says that they drove out onto the motorway before they swapped driving seats and the defendant drove back onto the Stewartstown Road. He said that after the accident the people in the car encouraged him to leave and drive on. He describes them as being rough fellows and says that he

was intimidated. He claims that one of these men said that they would take the car after the accident and that he was dropped off and collected by Tiernan Holden on a back road. He claims that he received threats after the accident. He claimed that he would be in fear of his life if he mentioned who these people were.

[32] The result of all of this, is that this court can have no confidence in any of the accounts given by O'Lali Jnr, they are self-serving. What is not self-serving is the defendant's attempt to blame the victim for the accident, which is despicable. The defendant knew that he had been involved in a heavy impact with a passenger, while travelling at grossly excessive speed, he simply decided not to stop in an attempt to save himself from the consequences of his actions, thereafter he has spun different accounts each time with the same objective – of minimising his responsibility.

[33] Probation assess Martin O'Lali Jnr as being at high risk of reoffending, they note poor compliance with court orders and past sentences, poor decision-making and his lack of candour. They say that he demonstrates limited understanding of victim issues and lack of victim empathy.

[34] Probation also note that the defendant had a further offence of excess speed in August 2024.

[35] I have read medical reports from Dr Devine and Dr Hussain. The defendant is of part Nigerian heritage, and this accounts for the racial abuse that he says that he suffered. His father spent time in prison, and the defendant was exposed to some distressing experiences in his childhood. He says that he was manipulated by his father. Dr Devine formed the view that the defendant had a complex developmental history that rendered him vulnerable to threats. He described paranoia and social isolation. It was Dr Devine's summary that the defendant was a psychologically vulnerable person whose life had been shaped by adversity and trauma, but who had made huge strides and demonstrated a desire to live a pro-social life.

[36] I have read Dr Hussain's report, he views the defendant's attempts to manage the adverse life experiences both before and after this incident as fragile. He describes symptoms of PTSD although much that relates to his experiences of the repercussions of this criminal act. Dr Hussain opines that the defendant would benefit from treatment for these issues. An updated report from Dr Devine speaks of declining emotional health as a result of threats against him, focusing on his involvement in these events.

[37] I have read a number of references which all speak to the defendant as being a responsible and caring individual.

[38] I do accept the points made in the medical reports. I accept that Mr O'Lali Jnr has had more than his share of challenges and that in many aspects of his life he has shown a credit worthy degree of drive and enterprise. In another less serious case these are factors that may have tipped the balance of sentencing in favour of a

non-custodial outcome. However, probation assess him as at a high likelihood of reoffending and his criminal record speaks of his disregard for particularly motoring laws.

The harm caused by the offence

[39] I have spent some time discussing each of the defendants. That is important and necessary because I am about to sentence them. But Mr Boyle must not be forgotten in this exercise. I have been provided with victim personal statements from his family members, his mother, siblings nieces, and nephews.

[40] Mr Boyle did not have children of his own and perhaps as a result he had an impact on a wide circle of his broader family. He was an uncle who brought a lot of joy, happiness and support into the lives of his nieces and nephews. He is described as the sort of uncle who collected those children from school when they were young. They all speak of the unfillable void left by his loss and that he was the type of person who was always there to offer support for anyone who needed it, literally the sort of person who gave up his own bed for others. Many of his nieces and nephews referred to him as being having been a father figure.

[41] One of his nieces said, “he was one of the most loyal, loving and down-to-earth people you could ever meet. Richard would have walked to the moon and back if I needed something.”

[42] The effect on his siblings is summed up by a sister who speaks of the loss of his daily presence. She describes still picking up the phone to text him, only to remember that he is not here anymore. His brother has been left with the indelible image of having to identify his remains to the police. He also speaks of the almost unbearable stress that the whole long drawn-out legal process had on the family.

[43] But perhaps the most poignant statement is the shortest one, that provided by his mother who provides a simple and unfiltered account of the loss of her son. The effect of that loss might be thought of as inevitable, but it is no less profound for that. Her life has been completely upended and much of the joy removed by Mr O’Lali’s actions. It is a great pity that some of the defendants, who decided to provide him with assistance by lying to police or withholding information, could not have spent a few minutes with her, before deciding to do what they did.

Sentencing principles

O’Lali Jnr

[44] The sentencing guideline case is *R v Doole* [2010] NICA 11. The Court of Appeal decided that the approach of the Sentencing Guidelines Council of England and Wales should be adopted in this jurisdiction:

“[9] A number of key points emerge from the Guidelines in the present context:

- (a) As the Introduction clearly states, the central feature should be an evaluation of the quality of the driving involved and the degree of danger that it foreseeably created.
- (b) The degree to which an aggravating factor is present and its interaction with other aggravating and mitigating factors will be immensely variable. The court is best placed to judge the appropriate impact on sentence. Clear identification of those factors relating to the standard of driving as the initial determinants of offence seriousness should assist the adoption of a common approach.
- (c) Imprisonment is only appropriate when there is a level of carelessness which gives rise to real culpability. As para 8 of the Guidelines states:

‘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.’

[10] The range of appropriate sentences in relation to causing death by careless driving put forward by the English Council are as follows:

- (a) In respect of careless driving falling not far short of dangerous driving it puts forward a starting point of 15 months with a range of 9 months to 3 years;
- (b) In respect of cases of careless driving arising from momentary inattention with no aggravating factors it recommends a community order disposal;
- (c) In relation to cases falling between those two ranges it recommends a starting point of 9 months with a range of 2 years down to a community order (high);

Subject to our comments below we agree with the general approach recommended by the Council.

[11] Accordingly there will be occasions where the culpability of the offender will be very low. In such circumstances a custodial sentence will generally not be appropriate even though death has resulted. 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. We repeat what was said by Lord Taylor CJ in *Attorney General's Reference Nos 14 and 24 of 1993* (1994) CAR (S) 640 at 644:

“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 diseased victim to their loss, nor will it cure their anguish.”

[12] There are, however, cases of careless driving in which the standard of driving will lie very close to the test for dangerous driving. In those cases, we agree that an appropriate starting point in a contested case for a driver with no previous convictions is 15 months' imprisonment. Aggravating and mitigating factors may result in a higher or lower sentence, but the range identified by the Definitive Guidelines will generally be appropriate.

[13] The large majority of cases of causing death by careless driving will fall between those categories. Prior to the introduction of this legislation the unintended tragic consequence of a death was not identified as a material aggravating factor (see *Megaw* (1992) 11 NIJB 25). The statutory purpose of this legislation was to alter that approach, and we agree that in these cases the starting point in a contested case for a driver with no previous convictions is now nine months imprisonment. We stress, however, the pressing need to pay careful attention to culpability in individual cases. This will move the starting point up or down as will relevant aggravating and mitigating factors. In some cases, this will result in a sentence well above the starting point but in others it may properly lead to a suspended sentence or non-custodial disposal. In particular, where the application of these principles point to a prison sentence of less than six months sentencers should carefully consider whether a non-custodial alternative would be more appropriate and

meet the justice of the case. The imposition of a short prison sentence in such circumstances may tend to trivialise the tragedy of the death of the deceased victim but at the same time be a disproportionate penalty for the defendant who may have a completely clear record and good character.”

The offence

[45] In this case, the defendant was driving at extreme speed, following flat-out acceleration to reach that speed. He was travelling at around 90mph in a 30mph zone. It is my view that this is driving falling not far short of dangerous driving. The prosecution submit that the defendant’s driving falls into at least the medium bracket of culpability. In my opinion, it falls in the high culpability bracket. I reject the defence contention that this case might properly be categorised as low culpability. This is an extreme example of driving at a speed that was inappropriate for the conditions. Having regard to the speed, the road and the conditions, it merits placement in the high category of culpability. I intend to treat the associated motoring offences with concurrent sentences.

[46] This court finds the following aggravating factors:

- (i) The deceased was a vulnerable road user – a pedestrian.
- (ii) The defendant has prior convictions for excess speed.
- (iii) The defendant had no valid insurance.
- (iv) The defendant failed to stop.

[47] This court finds the following mitigating factors:

- (i) Guilty plea.

[48] I do not find the defendant to be a dangerous offender, in light of his record.

[49] Although the defendant has shown much initiative in his life and has worked hard to found a business, overcoming difficulty and adversity in his youth and although the references to speak to a person of some ability, this has to be set against this offence, his reaction to it, his lack of candour and his record. Weighing up all these factors, I find that the starting point is one of two years six months’ imprisonment.

[50] The defendant is also to be sentenced for perverting the course of justice.

[51] The leading authority in this jurisdiction is the case of *Brannigan* [2013] NICA 39. The circumstances of that case were not entirely dissimilar to this one. The defendant had been involved in a road traffic accident, in which he had knocked down a pedestrian. On the day of his trial, he pleaded guilty to perverting the course of justice in addition to offences relating to his driving. After the accident the police located the defendant's car covered with a tarpaulin. The number plates had been removed and the tax and MOT discs were not displayed. Those acts of hiding the vehicle were the basis of the charge of perverting the course of justice. The defendant was 20 years of age, he was assessed as presenting a low likelihood of reoffending, he said that he panicked and was fearful after the accident, he had only one previous conviction of driving without due care and attention, he was diagnosed with attention deficit hyperactivity disorder. The court said;

“[9] It is absolutely clear from the authorities particularly in relation to the offence of perverting the course of justice that almost invariably a sentence in relation to such activity will be an immediate sentence of imprisonment consecutive to the sentence that needs to be imposed in respect of the offence itself.”

[52] In that case, the court concluded that, while the acts of perverting the course of justice showed some deliberation, the period of deception was relatively short, although it was ended by detection by the police, rather than any act by the defendant. The court had to have regard to the respondent's medical condition, and his response may have been an impulsive reaction, in respect of which his medical condition played a part. The court concluded that the appropriate sentence was, on a plea, six months imprisonment consecutive to the sentence imposed.

[53] In terms of principles by which such offences can be assessed, I find some assistance in the case of *R v Tunney* [2006] EWCA Crim 2066. In which the Court of Appeal said:

“[10] In our judgement the sentence which is appropriate for offences of this nature depends effectively on three matters. Two of those were referred to by the judgement of this court in *Rayworth* [2004] 1 Cr.App.R. (S.) 75 (pg.440) in which 2½ years were upheld on a plea of for perverting the course of justice. The particular factors which the court must have regard to are, first, the seriousness of the substantive offence to which the perverting of the course of justice relates. Here the offence in question, murder/manslaughter, was at the most serious end of the spectrum. The second matter which the court must have regard to is the degree of persistence in the conduct in question by the offender. Here there was a degree of persistence, although ultimately the appellant ceased to

persist in his lies. Thirdly, one must consider the effect of the attempt to perverting the course of justice on the course of justice itself. Here it was unsuccessful. Nonetheless, the substantive offence of murder or manslaughter could scarcely have been more serious.”

[54] The court imposed a sentence of two and a half years’ imprisonment. The defendant had given a false statement in relation to the death of a man who was knocked down as he attempted to prevent the theft of his car. The person driving the car was convicted of manslaughter. The defendant had been volunteered as an alibi witness. He attended the police station and provided a witness statement providing a false alibi for the driver, three days later he provided a second, similar statement. He was arrested and interviewed later that same day but maintained his account. Through their investigations police had been able to disprove the alibi and ultimately the defendant pleaded guilty.

[55] In the instant case, the perversion of justice was much more sophisticated. The car was set alight and a complex system of alibis put in place with the co-accused. The police were required to engage in a complex investigation to prove the defendant’s guilt. On the other hand, the substantive offence, causing death by dangerous/careless driving was not so serious as murder/manslaughter.

[56] In relation to this offence, I find it to be one of medium culpability, this was a relatively sophisticated and determined act over a reasonable period of time. However, the underlying offence was not as serious as in *Tunney* (although at the time of the offence the underlying investigation was more serious than the accepted plea). Similarly, it is an offence of medium harm, it caused delay and required investigative effort to uncover, but it appears that the police were quickly aware that the alibis were false albeit that it took time to marshal proofs.

[57] In terms of aggravating factors:

- (i) The defendant inveigled others into his offending, including his partner; and
- (ii) The act involved the attempted destruction of evidence.

[58] In terms of mitigating factors:

- (i) Plea

[59] Having regard to totality, I find that the appropriate starting point sentence is one of 12 months’ imprisonment.

Reduction for Plea

[60] In relation to perverting the course of justice there is no reason for the late plea. As AG Ref (No.1 of 2006) [2006] NICA 4 makes clear, a discussion in relation to one count does not justify failing to plead to an entirely different count. He will get a measure of reduction in relation to this plea, which I assess at 25%.

[61] The defendant will be sentenced as follows:

Count 1	Causing death by careless driving – 22 months
Count 4	Failing to stop – three months' concurrent
Count 5	Failing to report – three months' concurrent
Count 6	Using a motor vehicle without insurance – three months' concurrent
Count 19	Perverting the course of justice – nine months' consecutive

[52] The sentence that I pass on you is one of two years seven months' imprisonment. I have considered suspension but the offending is too serious to allow for such a disposal.

[53] You will serve one half of this sentence in custody. You will then be released on licence pursuant to the provisions of the 2008 Order.

[54] The dates spent on remand in custody will automatically count towards your sentence. You will be disqualified from driving for three years.

Licence conditions

[55] As I have indicated when you are released from custody you will be subject to licence conditions.

[56] The power of the court in relation to licence conditions for sentences of 12 months or more is set out in Article 23 of the Criminal Justice (NI) Order 2008. In essence the power of the court is confined to recommending to the Secretary of State particular conditions which in the view of the court should be included in any licence granted to a prisoner on release from prison.

[57] While such recommendations of the court are not part of the sentence of the court it seems to me that the court should only make a recommendation which is both necessary and proportionate.

[58] Having considered the proposed licence conditions suggested in your pre-sentence report I do consider there is merit in recommending them.

[59] The appropriate offender levy will apply.

[60] I will turn now to deal with the co-accused.

Hugh O'Neill

[61] Born on 20 September 1997, the defendant is a 29-year-old single man. At the time of assessment by probation, he was serving a sentence in relation to a domestic matter. His father passed away when he was 10 and he spent time in foster care, before settling in a kinship care arrangement. He returned to live with his mother at age 16. He is now the father of three children, he has had no contact with his eldest child for some time and is in the process of attempting to obtain contact with his youngest child through the Family Court. The mother of that child is the beneficiary of a non-molestation order against the defendant.

[62] He left school prior to his A-levels. He worked as a self-employed electrician until December 2024, when problems with alcohol intervened. He consumed cannabis most days prior to being incarcerated, he has had times when he drank too much.

[63] He tells probation that he was in bed when O'Lali Jnr knocked his door, upset, explaining that he had been involved in a car accident with a pedestrian. He accepts that his actions in providing a false alibi were stupid, he said he did not know what to do at the time. He says that he now no longer associates with O'Lali Jnr. He tells probation that he wishes to apologise to all involved. His criminal record is limited, two common assaults and two convictions for threatening behaviour. These are all linked to domestic incidents.

[64] He had no criminal record the time the commission of this offence. Probation assess him as posing a medium likelihood of reoffending, probation say that he is suitable for any community disposal. As I have said earlier, his parents wisely limited the consequences of his actions.

Martin O'Lali Snr

[65] He was born in September 1975. He is 51 years old. I have read a probation report in relation to him. His level of engagement with probation was limited. He queried the relevance of some of their questions and was reluctant to provide them with information. He described a good childhood, he was heavily engaged in sport, playing football, engaging in boxing, playing for Northern Ireland. He has three adult children including the co-defendant. He has two much younger children with whom he shares care. He now lives alone.

[66] After leaving school he was involved in a youth training scheme and then worked in labouring and hospitality. For several years, probation say that he was a professional poker player. He then ran his own dog kennels for three years. Over the last year he has been unfit for work. He is currently in receipt of benefits, although it seems that he has substantial debts from his poker playing days.

[67] While alcohol has never been a problem, he regularly consumes cannabis, he has a medical prescription, he openly admits that he also purchases the drug illegally and he challenges any suggestion that this is problematic or that it could cause any issues with his own mental health. He has suffered from chronic back pain since 2011.

[68] His attitude towards these offences is beyond ambivalent. He gave two no-comment interviews to police, which he says were on legal advice. He denies that he was aware of any information when he spoke to police, he says that he suspected that something may have happened but at that point was privy to no additional information. He says that he does not know what he is guilty of. He says, "I'm annoyed that I've been dragged through the courts over him." His counsel now says that he does accept his criminal culpability and accepts that he was aware of his son's responsibility and did not provide that information to police.

[69] His attitude to the criminal justice system is reflected in his criminal record which contains 67 previous convictions; there are motoring offences, obstructing police, possession of drugs, receiving stolen property, theft, common assault, affray, assaulting police and assault occasioning actual bodily harm. These convictions were largely assembled in the 1990s. Post 2001, there are drugs convictions, motoring offences, including dangerous driving, and driving while unfit, and making off without paying. After 2015 there is just one conviction, for simple possession of a class B drug. After these offences he was convicted of transferring criminal property and converting criminal property in 2024. This relates to underground poker games. He received a suspended sentence of imprisonment for this.

[70] I acknowledge the reduction in his criminal record and his current stable accommodation.

[71] The defendant refused to consent to any form of community order. He said he could not do community service because of his health and he refused to do a probation order because he was told that would involve counselling in relation to cannabis.

Tiernan Holden

[72] Born in September 2000, he is 26. He is a single man who lives with his family. He has a four-year-old daughter. He is no recollection of his parents being together, they had separated and he was very young and he was raised by his stepfather. There were no adverse experiences during his childhood. Sadly, his stepfather took his own life in 2022. He left school at age 16 and commenced an apprenticeship. At the age of 21 he was a stonemason, more lately he worked as a cleaner. He left work in the summer of 2023 because he says he was not coping with his mental health. He then started working for his father, where he works as a rigger. His work is sporadic. However, to his credit, he has not claimed benefits, he manages financially. He has no debts.

[73] He developed problems with his mental health after the sudden death of his stepfather and then the death of his grandmother. He was prescribed antidepressants, although he no longer takes those. When not working he runs and attends the gym.

[74] In relation to the index event, he transported his co-defendant. He was aware that steps had been taken to destroy evidence, namely burning the vehicle. When interviewed by police, he made no comment. He says that he got a phone call from the co-accused looking for a lift, this was a man that he had known for many years and a friend. He denies any knowledge of his co-accused being involved in the road traffic accident at that time, but he says he became suspicious over the following days and accepts that he ought to have notified the police. On his next encounter with the co-accused he says his suspicions were confirmed, but again he did not provide this information to the police.

[75] He says, "I wish I never got involved, I didn't know the deceased, but I feel terrible, and sorry for my role and I feel ashamed of being associated with it." He has a limited criminal record with three motoring offences. Subsequent to these offences, he was convicted of being concerned in supply of class A drug and was sentenced, by me, to 12 months' imprisonment suspended for two years. I accepted that those offences were committed at a vulnerable time in his life, after his step father had taken his own life.

[76] He was previously assessed as suitable for community orders.

Emma McCune

[77] Born in October 1997, she is 28. She generally resides with her co-accused O'Lali Jnr. She is his partner. She relates no adverse childhood experiences and has been in a relationship with O'Lali Jr from she was 15. She is now the mother of a young child. She enjoyed her time at school, completed three A-levels and then went to university obtaining a degree in business studies. She has remained in employment since. She currently works along with O'Lali in a business selling sea moss. She said that she works long hours to grow the business but finds it rewarding. There are no health issues.

[78] In relation to the offences, she says that she had contact with O'Lali shortly after the accident, she was aware that something had happened, but it was a week before she knew the full details. She accepts that she withheld information and says that she regrets having done it, but she says that she was frightened and worried about the consequences for her partner. She says that she is disappointed in herself and expresses remorse for the trouble that she caused to the investigation. Probation say it is evident that she panicked in the scenario that she found herself in. They say that she demonstrated a positive reflection during the interview. She has no previous convictions and is assessed as posing a low likelihood of reoffending. Probation do not see a need for a probation order and say that she would be amenable to a community service.

[79] She is now the mother of her first child, a six month old boy.

Sentencing authorities

[80] There is little authority in relation to the offence of assisting offenders. The prosecution has referred me to the case of *AG Ref (No.16 of 2009) (Yeates)* (2009) EWCA Crim 2439 in which the court said:

“[34] We do not intend to give detailed guidance on the sentences which would be appropriate for assisting an offender who has committed an offence. When assessing the sentence in such cases the first question to be addressed is the nature and extent of the criminality of the offender for whom assistance was provided. Here, the killer had shot dead a young boy. The second is the nature and the extent of the assistance actually provided. Here it was everything that the offender could do, to the extent of assisting in the washing down of the killer in petrol to remove all traces of evidence. The third is the extent to which the efforts at assisting the killer damaged the interests of justice. That requires that those who are guilty of serious crimes should be brought to justice, convicted and sentenced. As to that, there is no doubt that the activities of the offender and the remaining members of the gang slowed down the administration of justice which, fortunately, in the end was vindicated.”

[35] In such circumstances the sentence of six years’ detention for assisting an offender, in the context of a maximum sentence of ten years, was, taken on its own in isolation from the crime of possession of the firearm, within the appropriate range. More important, in our judgment the sentences in this type of case should normally be consecutive to the sentence imposed for any other offence and we can see no reason to disapply that principle here. These sentences should have been consecutive.”

[81] Although the Court of Appeal specifically said that it was not intending to give detailed sentencing guidance, and it is the Court of Appeal in England & Wales, it involved a very different offence, one of assisting offenders involved in a gun related murder as part of gang violence and a different sentencing maximum – one of 10 years, rather than five, it nonetheless sets out some considerations which are relevant:

- (i) the nature and extent of the criminality of the offender for whom assistance was provided;
- (ii) the nature and the extent of the assistance actually provided; and
- (iii) the extent to which the efforts at assisting the killer damaged the interests of justice

[82] In relation to withholding information, again there are no sentencing guidelines. But I have been referred to a number of first instance decisions *R v Seales and Others* [2014] NICC 12, *R v Gill and Others* [2023] NICC 21, *Bustard, Seales and Wilson* [2019] NICC 1, *R v Crymble* [2007] NICC 54. These are all cases in which the investigation in respect of which information was withheld was a murder. Although this case also involved a death, it is right to reflect on the fact that a murder inquiry is the investigation of a more serious offence than a death even by dangerous driving.

[83] In *Seales* the court sentenced five co-accused. Four were charged with perverting the course of justice and one with withholding information. Weir J decided to deal with them all on the same basis, as their culpability was mainly the same; they had told lies to police to provide false alibis. Each had a clear criminal record. Each became involved either from pressure from the principal defendants or from a misguided sense of loyalty or both. Each genuinely regretted their involvement, the police investigation was not hindered much, or at all. Each pleaded at a relatively early stage. Each was sentenced to 18 months' imprisonment suspended for two years, in what Weir J described as an exceptional disposal.

[84] In *Wilson*, a defendant was sentenced for withholding information, failing to inform police of what he had become aware of in relation to a murder. He acted out of misguided loyalty. There was no impedance of the investigation at all. He had a lengthy criminal record, but it was for magistrates' court offending, largely motoring, and he entered an early plea. Colton J said:

“[98] Counsel have carried out a search of sentencing decisions of the courts in this jurisdiction for this offence. They could not find any in which an immediate custodial sentence was imposed and invariably suspended sentences were deemed to be the appropriate disposal.”

[85] He was sentenced to 12 months' imprisonment suspended for two years.

[86] In *Gill*, the court sentenced three accused, each having entered a late plea, Scofield J said:

“[77] In each of their cases, the third to fifth defendants have no relevant criminal record to speak of. I proceed on the basis that their involvement in the circumstances of

Mr McCormick's death was a one-off, in which they were placed in a very difficult situation by David Gill who was either a relative or close friend. I consider William Gill's offending marginally less serious than that of Leslie, who knew where the body was disposed of at an early stage, and of Montgomery, who was contacted by David Gill earlier than the others. All of them contributed to the anguish experienced by Pat McCormick's family when he was missing. In my view, a custodial sentence is necessary in each case to meet the seriousness of the offending."

[87] However, he decided that a suspended sentence was appropriate and he referred to Colton J's comments in *Bustard*, that such an approach was now a common disposal for this offence. Each defendant was sentenced to between 12 and 15 months' imprisonment suspended for two years.

[88] Although it is not referred to in the published judgment, which refers to a murder tariff, I am told that in *Crymble*, following a trial, Dawn Ferguson was sentenced to a suspended sentence for providing a false alibi for her son.

[89] In *R v McHugh* [2009] NICC 42, the defendant had withheld information in relation to a serious assault, not a murder. The defendant concealed the identity of the defendant from police, however, any effect on the investigation was modest. He had no criminal record, he had genuine remorse, he was sentenced to two years' imprisonment suspended for three years by Weir J.

[90] In *R v Sikorskas* [2018] NICC 13, McBride J sentenced two defendants in relation to withholding information in respect of a manslaughter investigation. In respect of one of the agreed basis of plea stated that the investigation was not materially affected by the defendant's act, he was sentenced to 12 months' suspended for two years. Another defendant had given persistently false information, although its effect was to delay the arrest of the main defendant by a matter of days only, he was sentenced to 12 months' imprisonment suspended for two years nine months.

[91] While emphasising that all offences of this type were highly fact specific, she said:

"[70] The case law illustrates that withholding information may occur in infinitely varying circumstances. These first instance decisions however show that the offence attracts a custodial sentence. This is primarily because the nature of the offence is serious as it involves interference with the administration of justice. The degree of seriousness is higher in a case where the principal offence is one of gravity, for example murder or manslaughter. The period of imprisonment in cases where

the police investigation was not hampered appears to lie between 6 months and 2 years. The place within this bracket depends on the defendant's personal circumstances and the other mitigating and aggravating factors. I consider that the upper figure may vary significantly upwards in circumstances where the police investigation is actually hampered or the defendant's conduct prevents a successful prosecution of a perpetrator."

Hugh O'Neill

[92] In relation to Mr O'Neill, the principal offence is the active offence of providing a false alibi. This was done in the context of a death by driving offence. His lies did not deflect the principal investigation, thanks to the actions of his family, he acted out a sense of misguided loyalty to the defendant. At the time of the offence, he was 23 and with no criminal record. He says that he did not know what to do when O'Lali approached him. He is assessed as at a medium likelihood of reoffending.

[93] The appropriate sentence is one of 12 months' imprisonment. The defendant is entitled to a measure of reduction in sentence in relation to his plea.

[94] The defendant will be sentenced as follows:

Count 7	Nine months' imprisonment
Count 10	Nine months' imprisonment

[95] Those sentences will be suspended for 18 months.

Martin O'Lali Snr

[96] He acted out of loyalty for his son. His acts were those of omission only. However, he maintained his withholding over two interviews. To this extent, he contributed to the need for a lengthy and expensive investigation. He has a lengthy criminal record. His attitude to his own culpability is ambivalent. I accept that there is now increasing stability in his life. The sentence must reflect the fact that this was a death by driving investigation. The starting point is 16 months. Allowing a reduction for the plea:

Count 12	12 months' imprisonment suspended for two years.
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Tiernan Holden

[97] You transported Mr O'Lali, you then provided him with a false alibi. You did not provide relevant information to the police. You were central to the false account that resulted in this lengthy investigation.

[98] On the other hand, I accept that your remorse is genuine, and that you were motivated by ill placed loyalty towards O'Lali. The starting point is two years

Count 15 18 months' imprisonment

Count 17 18 months' imprisonment concurrent

[99] These will be suspended for three years.

Emma McCune

[100] Yours is an offence of omission. You were placed in a difficult position given that the O'Lali was your partner. You have no record. I accept that your remorse is genuine. You are viewed as at a low likelihood of reoffending.

[101] The appropriate sentence is one of 15 months' imprisonment

[102] Allowing for your plea you will be sentenced to:

Count 14 11 months

[103] This imprisonment will be suspended for 18 months.

[104] If during the period of suspension any of you commit an offence punishable by imprisonment, you will be brought back to court and it is likely that this sentence will be brought into operation in addition to whatever sentence that court imposes upon you for your additional offending.