

R v Boyd
COURT OF APPEAL (CRIMINAL)

MACDERMOTT LJ14 JUNE 1996

14 June 1996MacDERMOTT LJ

This is an appeal against a sentence of 4 years imprisonment imposed on 26 March 1996 when the appellant pleaded guilty to several offences consequent upon stealing a Vauxhall Cavalier car on 6 October 1995: they were theft of the car, driving while uninsured, driving while disqualified and reckless driving.

The facts are set out in the careful judgment of Judge McKay:

"Some time after 2 o'clock on the afternoon of 6 October 1995 a Vauxhall Cavalier was stolen from Millbrook Motors, Upper Newtownards Road, Belfast. About 10 to 5 the same afternoon, three and a half hours later, two police officers saw the accused and another man get into the vehicle in the University area. The two officers were in an unmarked police car in plain clothes. They observed the vehicle registration number had been changed in the interim. A high speed car chase ensued in the Ormeau Road/Stranmillis area. At one point the stolen vehicle mounted the pavement to avoid a red light and almost knocked a number of civilians down. That's the reckless driving. The vehicle was abandoned at the junction of Haypark Avenue/Ormeau Road by the accused and the other passenger. The constables chased and apprehended the accused at the scene and the other man was arrested at the scene by two civilians."

This appellant's record is quite simply appalling. Since 1988 the appellant has had repeated court appearances for taking other people's cars, driving while disqualified and driving recklessly. As the reporting Probation Officer has stated 'his attitude has changed little in spite of various court penalties'. In a letter to the court the appellant claimed to have realised the error of his ways and his determination not to re-offend. In fairness to his family he should have so decided years ago. We are concerned by the fact that when on bail for these offences he continued to re-offend on 24 November 1995 and 28 November 1995.

Sentencing Judge McKay said:

"You are clearly a blight on the car-owning citizens of Belfast and the surrounding area. The citizens of Belfast and the car-owning public generally have earned a rest from your activities. I think in your case it is important that a deterrent sentence should be passed to bring home to you just how serious your offending is."

We entirely agree.

We would make this additional comment. Car stealing - sometimes euphemistically described as taking and driving away - is far too common and very much on the increase. Car owners are entitled to park their cars with a reasonable confidence that

they will be there when they return. They are entitled to feel incensed if the courts do not appear to be taking this kind of offence seriously by imposing properly stiff sentences which will be both fair punishment to the offender and a deterrent to others. Time and again the court sees a record akin to that of the applicant. The courts try a variety of responses: suspended sentences, probation, conditional discharges, community service and so on. In our view there is a strong argument that car taking should attract an immediate custodial sentence. This argument is not met by saying that people like you continue to re-offend despite repeated prison sentences. When a person is addicted to car stealing he must be kept in custody for such a length of time that the message may get through to him. If it does not at least the public will have been spared from his activities for a decent period of time. This case also gives us the opportunity to voice yet again our amazement that in the Magistrates' Court which deals with most of this type of offending the maximum sentence for taking and driving away remains at 6 months imprisonment. Such an unreal and totally inadequate limit makes a mockery of the legal system. This is a matter which is crying out for an immediate and effective remedy.

Car theft is a serious matter for another reason. Very often the cars which are taken are driven recklessly around the streets. As a result other road users and pedestrians are put at risk and may have been killed or seriously injured. In our judgment car theft is a grave social problem and the courts must be given the sentencing powers to deal realistically with these serious offences. Preferring a theft charge is a possible option when the necessary intent can be proved but the powers of Magistrates must be increased to reflect the reality of this plague which is affecting society.

We turn from these general observations to the present case. On behalf of the appellant Mr Gogarty made a number of points.

1. The appellant had pleaded guilty at the first available opportunity.
2. The appellant is now aged 25 and recognises that his life is at the cross-roads. He referred us to the letter which he had written. Remorse and an assurance of a change of attitude are familiar assertions. Sometimes they are genuine – sometimes self serving and meaningless. In this case we are concerned that the appellant persisted, despite growing maturity in this type of offending – indeed as we have pointed out he re-offended when on bail. Also in November 1990 after being sentenced to 6 months in the Young Offenders Centre probation was tried. Sadly to no avail – in December 1990 he again took a vehicle without the owner's consent.
3. It is not usual to charge for this type of offence under the Theft Act. That may be so but if the case can be established in law such a course is not wrong in principle and is appropriate where short sentences were proving ineffective.
4. For offences under the Theft Act a sentence of 4 years is appropriate for very serious thefts and we were referred to Sutcliffe 16 CAR (5). That may be so but we are dealing with an appellant with an appalling record for car offences.

Mr Gogarty has carefully said everything in what is an entirely hopeless appeal. We are entirely satisfied that the sentence was right in principle and in no way excessive. The appeal is dismissed.

Appeal Dismissed