3 February 2016

PRESS SUMMARY

R v Taylor (Appellant) [2016] UKSC 5
On appeal from [2014] EWCA Crim 829

JUSTICES: Lord Neuberger (President), Lady Hale (Deputy President), Lord Mance, Lord Sumption, Lord Carnwath, Lord Hughes, Lord Toulson

BACKGROUND TO THE APPEAL

Under section 12A of the Theft Act 1968 the offence of aggravated vehicle taking is committed where a person has committed the 'basic offence' of taking a vehicle without authority, and "*owing to the driving of the vehicle, an accident occurred by which injury was caused to any person*" (s12A (2) (b)). If the injury is fatal, the offence carries a maximum of 14 years imprisonment.

On 23 June 2012, the appellant and another man called Marriott took a van belonging to Marriot's employer, without the latter's consent. While driving it, he collided with a scooter on a bend in a narrow country lane. The driver of the scooter was killed, and the appellant was later found to be over the drink drive limit and uninsured. The appellant was charged jointly with Mr Marriott with aggravated vehicle taking contrary to s12A of the Theft Act 1968 and with causing the death of the scooter driver whilst uninsured contrary to s3ZB of the Road Traffic Act 1988.

The Crown accepted that there was no fault in the manner of the appellant's driving. A Not Guilty verdict was therefore directed on the Road Traffic Act count, in accordance with the decision in *R v Hughes* [2013] WLR 2461. The judge held that fault also had to be proved in relation to the accident on the aggravated vehicle taking count; a decision which the Crown appealed.

The Court of Appeal allowed the appeal, relying on *R v Marsh* [1997] 1 Cr App R 67, in which it was held that no element of fault was required in the offence of aggravated vehicle taking. But it certified a question of law of general public importance for consideration by the Supreme Court, namely "*Is an offence contrary to s12A (1) and 2(b) of the Theft Act 1968 committed when, following the basic offence and before recovery of the vehicle, the defendant drove the vehicle, and without fault in the manner of his driving the vehicle was involved in an accident which caused injury to a person*".

JUDGMENT

The Supreme Court unanimously allows the appeal, holding that the driving must have been at fault for a person to be convicted of aggravated vehicle taking under s12A of the Theft Act 1968. Lord Sumption gives the judgment.

REASONS FOR THE JUDGMENT

The reasoning in *R v Hughes* cannot be distinguished, because the offences under s12A(2)(b) of the Theft Act 1968 and s3ZB of the Road Traffic Act 1988 are both drafted in terms which require a direct causal connection between the driving and the injury. [**20-22; 30**].

Strict liability is typically imposed where the enactment is regulatory or "quasi-criminal". Aggravated vehicle taking under s12A is neither: it is a serious crime, exposing defendants to the possibility of much longer maximum sentences. It imposes strict liability only to the extent that anyone who was party to the taking of the vehicle (and in the immediate vicinity at the time of the injury) commits the offence, whether or not he was driving at the time. The appellant's driving explained how the vehicle came to be in the place where the accident occurred, but cannot be said to have caused it [**23-29**].

The test is as set out in *R v Hughes*: there must be "*at least some act or omission in the control of the car which involves some element of fault, whether amounting to careless/inconsiderate driving or not, and which contributes in some more than minimal way to the death*" [**30; 32-3**].

References in square brackets are to paragraphs in the judgment