JUDGMENT (Ex tempore) of the Court delivered on the 21st day of January 2019 by Birmingham P.

1. The matter before the Court concerns the duration of an order of disqualification from driving. The order in question was made in the Circuit Court in Longford on 3rd May 2016. The disqualification from driving was ordered on foot of plea of guilty to an offence of careless driving causing death.

2. The prosecution arose out of a fatal road traffic accident that had occurred on 22nd February 2014 at Leggan, County Longford. The circumstances of the fatality are set out in considerable detail in the remarks of the Sentencing Judge. In a situation where the issue before this Court is confined to the duration of the disqualification order, we have decided not to rehearse those facts today. We are concerned that to do so, in the particular circumstances of the case, which are quite unusual, might be disrespectful of the deceased and might serve to cause renewed stress and distress to the family of the deceased, a family who have suffered so grievously.

3. It is, however, worth quoting certain observations of the Sentencing Judge arising from the evidence that was presented to him. At one stage in the course of the sentence hearing, commented:

   
   
   
   
   "[g]iven the circumstances of this particular accident, I think it fair to say that even the most vigilant of drivers, presented with the scenario described by the accused in his interview with the Gardaí, would have great difficulty in avoiding an accident."

4. While it is not helpful to rehearse the facts of the accident, it is appropriate to say that the appellant made admissions of having consumed alcohol. He stated that he had consumed two and a half pints of Guinness and there was a blood reading of 91mg per 100ml of blood.

5. Having heard the evidence and the plea in mitigation, the Sentencing Judge then proceeded to impose sentence. The sentence that he imposed was a sentence of imprisonment for one year, which he suspended. He required the appellant to enter into a bond in the sum of €500 to keep the peace and be of good behaviour for a period of two years. He required him to refrain from drinking alcohol at any time during the period of the suspended sentence. He required the appellant to pay within a period of twelve months the sum of €5,000 towards the National Rehabilitation Institute in Dun Laoghaire, that to be applied towards victims of road traffic accidents, and required him to pay within the same twelve-month period the sum of €10,000 to the son of the deceased lady and he proceeded to disqualify the appellant from driving for life subject to the fact that the appellant was entitled to apply for the restoration of his Driving Licence after a period of fifteen years provided that when the appellant became eligible for restoration, that he would be obliged to undergo a full medical examination with particular reference to his cognitive impairment and that following such examination, the appellant had to be certified as medically and mentally fit to hold a Driving Licence before his Driving Licence is restored to him.

6. The Judge’s remarks in relation to disqualification bear quotation. He commented:

   "[g]iven the gravity of this offence and the consequences thereof, I am satisfied that it is appropriate to impose a lifetime disqualification from driving on the accused subject to him being entitled to restoration of his licence after a period of 15 years provided that when Mr. Moran becomes eligible for restoration of his licence, he will be obliged to undergo a full medical examination with particular reference to his cognitive impairment and following such examination, he must be certified as medically and mentally fit to hold a Driving Licence before his licence is restored to him . . . the disqualification from driving is also a significant punishment in and of itself and sends out a clear message that people should not drink and drive. It has to be remembered that an immediate prison sentence is not the only form of punishment available to the courts in determining sentence. The combined penalty imposed on Mr. Moran of 15 years disqualification and a financial penalty of €15,000 is significant and, in my view, is more effective as restorative justice than a prison sentence could ever be. Mr. Moran's cognitive impairment as being a result of being the victim of a road traffic accident when he was 16 years of age was an exceptional extenuating circumstance of the case which allows the Court to suspend the prison
7. The Sentencing Court, and this has been said to this Court too, was told that the disqualification has a significant impact indeed on Mr. Moran. He is a long-term employee of Longford County Council and he lives in a remote rural area which is not well served by public transport. We have been told today that he has managed to retain his employment and that with the assistance of neighbours, friends and colleagues who drive him about.

8. In the Court’s experience, disqualifications for life from driving, even in the cases of dangerous driving causing death, are very unusual and if they are encountered at all, it is normally in the case of repeat offenders who have persisted in driving and further offending when already subject to a disqualification order. Disqualification for life in the case of careless driving causing death would be rarer still.

9. It would seem likely that the sentencing Judge was influenced by the information before him about the cognitive impairment that Mr. Moran suffered as a result of being involved in that road traffic accident in his teenage years. However, the fact that he required a full medical assessment before the licence could be restored provided significant protection to the public.

10. The Court believes that a determinative disqualification order was more appropriate than an indeterminate lifetime disqualification. The period of disqualification had to be significant given the seriousness of the offence and the consequences that ensued from the driving on that occasion.

11. In the Court’s view, it was not a case where the statutory minimum period of disqualification would have met the situation. In the Court’s view, an appropriate period of disqualification would be one of six years. The Court agrees with the Sentencing Judge that before the licence can be restored, that Mr. Moran would have to undergo a full medical examination and that he will need to be certified to drive from a medical and mental fitness point of view. We do, however, take into account and factor into our order that we have been told that Mr. Moran has a long driving history, that he has been driving for some twenty-three years, that he held, not just an ordinary car licence, but also an articulated vehicle licence and a large rigid vehicle licence and that twenty-three years did not result in any convictions or any adverse driving incidents.

12. The Court will substitute for the lifetime disqualification a disqualification for six years which should date from the same day as the Circuit Court order which was 12th May 2016.