



King Street Chambers

The Chambers of Mrs Nancy Hillier

CRIMINAL TEAM NEWS

Recent Cases:

Discount for Guilty Plea:

A defendant was not entitled to full credit for his Guilty plea where he had waited for all of the Crown's evidence to be served before entering his plea. At the first hearing in the Crown Court the Crown indicated that it would be serving further material and D1 was not arraigned. 2 months later, the Crown indicated that it still intended to serve further evidence and was considering making an application to amend the indictment, at which point the defendant pleaded Guilty to the original indictment. The Court of Appeal agreed with the Crown Court judge that, given the defendant had not admitted the offence in interview and had not indicated a willingness to plead Guilty at the first hearing, only 'very limited' credit could be allowed. *R v Ali & Mahmood* [2007] EWCA Crim 1843.

Discount for Guilty Plea after losing a Newton hearing:

The Court of Appeal handed down its judgment in *R v Lincoln* [2007] EWCA Crim 2489 this week. James Bide-Thomas successfully appealed against the decision of a circuit judge not to allow a defendant credit for his Guilty plea after the defendant lost a Newton hearing. The Court of Appeal ruled that, even if the defendant enters a basis of plea that

requires a Newton hearing, which the defendant then loses, he ought to be allowed a discount of 'some significance.' In this case the Court of Appeal reduced a sentence of 3 years to one of 2 ½ years.

Maximum Sentence:

The Court of Appeal re-affirmed the principle that the maximum sentence available for an offence may be imposed for offences falling within the 'broad band' of the worst offences of that type. The practice of advocates urging upon the court examples of more serious offences of the type was said to be based on the misapprehension that if a more serious case can be imagined then the judge is precluded from passing the maximum sentence. Where the maximum sentence is low, the band of worst offences of that type may be wide. R v Bright [2008] EWCA Crim 462

Court of Appeal urges caution when admitting mere allegations as bad character evidence:

R v McKenzie [2008] EWCA Crim 758 is an interesting new case on Bad Character. The defendant was convicted of causing death by dangerous driving after having made a dangerous right turn into the path of an oncoming motorcycle. The trial judge allowed the crown to adduce, under s 101 (d), evidence from the instructor who had taught the defendant to drive 5 years earlier and who remembered him to be an aggressive and over-confident driver and from a woman who had been the defendant's girlfriend three years earlier who said that he had a habit of driving too quickly and taking unnecessary risks. The Court of Appeal said:

1. Where the prosecution seek to prove propensity to commit offences by evidence other than previous convictions the judge may have to consider

whether the admission of the evidence would result in the trial becoming unnecessarily and undesirably complex, even if not unfair.

2. Where propensity is established by evidence of previous convictions, the defendant's guilt has been established, either by his admission or his conviction after trial. Relying upon evidence other than convictions requires the trial of a collateral issue which carries the danger of adding to the length and cost of the trial and complicating the issues for the jury to decide, whilst taking the focus away from the most important issues.

3. The fewer the number of the previous allegations, the less likely it is that those allegations will establish a propensity to commit offences, but the greater the number of allegations, the greater the risk of the trial losing its proper focus.

4. If the allegations have not given rise to an investigation the evidence is liable to be stale and incomplete and the lapse in time may leave the defendant prejudiced in trying to meet the allegations.

Legislation:

Football Banning Order Control Period:

The Euro 2008 tournament in Austria and Switzerland has been designated a control period for the purposes of Football Banning Orders made under the Football Spectators Act 1989. Clients subject to Football Banning Orders may be required to report to police stations and surrender their passports.

The control period begins on May 28 and lasts until the last match in the tournament is finished or cancelled.

The police are also granted additional powers of detention during the control period. See sections 21A and 21b of the 1989 Act.

New Forms:

New Forms have apparently been issued for use when applying for Anti-Social Behaviour Orders and Serious Crime Prevention Orders. They have not yet appeared on the Criminal Procedure Rules website but no doubt will do so shortly. Keep an eye on http://www.justice.gov.uk/criminal/procrules_fin/

Chambers News:

Mary and Paul Prior:

Mary and Paul have been familiar faces in Leicester for some time now so chambers was delighted when they chose to join us at the beginning of April. Mary has a heavyweight criminal practice whilst Paul accepts both criminal and civil instructions. More details available on chambers' website: <http://www.kingstreetchambers.com/counsel.html>

John Small:

Chambers is equally delighted to welcome John Small. John joins us from Nelson's solicitors and looks set to be a strong addition to chambers' expanding civil law team.

Seminars:

Did you know chambers is an accredited provider of CPD with both the Law Society and the Bar Standards Board? With our wide range of experience and expertise chambers is able to provide seminars on most areas of criminal, civil and family law. The length, time, date and location of our seminars can be tailored around you. Why not let us visit your offices once a month and provide all the CPD your entire firm needs? For more details

telephone Keith Wilding or James Bide-Thomas on 0116 254 7710 or email
cpd@kingstreetchambers.com

Senior Clerk: Sharon Easton

65-67 King Street, Leicester LE1 6RP - DX 10873 Leicester 1

Tel: 0116 254 7710 - Fax: 0116 247 0145

email: clerks@kingstreetchambers.com

www.kingstreetchambers.com