

R. v DEAN BONESS AND OTHERS

5. The judge heard evidence in addition to that which he found sufficient to make the ASBO as we have indicated. That, as we have also indicated, will be considered in detail and in principle on a later occasion.

6. For the purposes of today's hearing we deal simply with the custodial sentence. It is argued by counsel that the sentence of three years was too long following a very early plea of guilty. Applying the principles contained in the well-known case of *McInemey* we are satisfied that this sentence for offences in respect of which early pleas had been entered is too long. Bearing in mind the clear refusal of the appellant to comply with community orders, a sentence of custody was inevitable.

7. However, the dwelling house burglary, although of quite high value and causing considerable distress, fell into the category of an offence committed by a first-time burglar, albeit with those two aggravating features. There was also the receiving of stolen goods which the appellant must have known had come from a dwelling house burglary. The total sentence appropriate for that offending, in our judgment, would be one of 18 months.

8. We therefore allow the appeal to the extent of reducing the sentences to 18 months and six months concurrently. To that extent, as we say, the appeal in relation to the custodial term is allowed. . . .”

The ASBO was in the following form:

“The court found that

- (i) The defendant had acted in an anti-social manner which caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself as shown by:
 - (a) The present conviction;
 - (b) His previous convictions; and
 - (c) The summary of anti-social behaviour acts set out in the request form attached

And that

- (ii) an order was necessary to protect persons in England and Wales from further anti-social acts by him.

It is ordered that the defendant, Dean Boness is prohibited from:

In England and Wales:

Entering any public car park within the Basingstoke and Deane Borough Council area, except in the course of lawful employment.

Entering any land or building on the land which forms a part of educational premises except as an enrolled pupil with the agreement of the head of the establishment or in the course of lawful employment.

In any public place, wearing, or having with you anything which covers, or could be used to cover, the face or part of the face. This will include hooded clothing, balaclavas, masks or anything else which could be used to hide identity, except that a motorcycle helmet may be worn only when lawfully riding a motorcycle.

Having any item with you in public which could be used in the commission of a burglary, or theft of or from vehicles except that you may carry one door key for your house and one motor vehicle or bicycle lock key. A motor vehicle key can only be carried if you are able to inform a checking officer of the registration number of the vehicle and that it can be ascertained that the vehicle is insured for you to drive