

212.6 Robbery etc.

R v Toal 2017 EWCA Crim 1710 D was convicted of assisting an offender. AD was wanted by police for importing drugs into Holland. It was not suggested that D was involved with this. AD's co-defendant was arrested and AD fled to Spain. In March 2015, a National Crime Agency campaign was run to find AD. On the first day, AD's wife, W, was arrested. Her home was searched. D knew W and had an intimate relationship with her. On 18 June 2015, D flew to Spain. On 27 July 2015, he returned. On 29 July 2015, W drove to a meeting place where D helped with her bags and drove her away in his car. D brought her back the next day. She retrieved something and he drove her away in his car again. In August 2015, AD and W were seen near D's house with his young children. AD was arrested and pleaded to conspiracy to import drugs (13 years and 4 months). D was aged 45 with 13 convictions on nine occasions, including a supply cocaine offence (8 years). There was only a driving offence after that. D had worked hard after his release in a successful construction business. Held. D's assistance was providing AD with one night's accommodation and helping to transport W to AD twice. Perverting sentences have to be a clear warning to others. D did not help AD to flee. The assistance was limited to a week. D's life since his release was significant mitigation. **20 months** not 6 years.

R v Knight 2018 EWCA Crim 1755 D pleaded on the day his case was listed for trial to a new count of assisting an offender. S pleaded to possessing a prohibited firearm and possessing prohibited ammunition. He received 5 years. With sentences from other indictments S received 13 years 11 months in all. Armed police tried to arrest S. Police saw two men next to a car with the driver's door open. The men went into a wooded area and a man bag was left near a hedge. Both men returned to the vehicle, which drove off. The car hit a police car and drove on the pavement to avoid capture. The vehicle was abandoned and the two men made off on foot. They tried the back doors of nearby houses until they found a door unlocked. The two entered the house causing alarm to the occupants. Armed police arrived immediately afterwards. The occupants managed to leave and D and S were arrested. A police dog located the dropped man bag which contained a semi-automatic handgun and two live rounds of ammunition. One of the rounds was in the breach of the gun and one was in the magazine. D's basis of plea was D was unaware that D was attempting to dispose of the firearm but knew S had been in possession of the firearm earlier. D was aged 25 and had a conviction for class A supply (6 years' detention). He was still on licence for that offence. The Judge started at 3 years, which was reduced to 28 months for the plea. Because D could not be sentenced following the plea (S had not been produced from custody) and the remand time was not going to count, the Judge passed 25 months. Held. The assistance was to help S evade arrest. The 22% plea credit was not wrong. The underlying criminality was grave but it was accepted that D was not aware that S had disposed of the gun. The assistance was short-lived and largely ineffective. We start at 30 months and so with the plea and delay discount, **20 months**.

Note: The problem here is that the firearm concession to D was generous and a jury never considered whether D was involved with a joint enterprise with the gun. Had a firearm count remained, the sentencing exercise would have been easier as there would either be a conviction for a firearm offence or the Judge could have used the evidence given at the trial to determine the facts. Ed.