

71.6 Discount *How great should it be?*

R v Campbell 2018 EWCA Crim 802, 2 Cr App R (S) 24 (p 222) D pleaded to possession with intent to supply of cocaine (40 months) and of cannabis (no penalty). D was a drug dealer. He was the victim of an attempted murder and a robbery at his home address. He was shot and received physical and psychological injuries. He spent three weeks in hospital and had bullets remaining in his stomach and thigh. His recovery was estimated take 12 months. D and his wife gave evidence at the attempted murder trial. The Judge gave a discount for D's injury and his trauma but declined to give evidence for D's co-operation with the police and his giving of evidence. Held. That was wrong in principle. For this issue everything will depend on the degree of the assistance and the extent the assistance contributed to a successful co-operation. Here the prosecution had other evidence to prove the identity of the robbers so the assistance was very limited. On these facts we decline to reduce the sentence.

Note: A defendant is entitled to be considered for a discount even if the prosecution decide not to use his or her assistance. The problem here is that it is difficult to persuade criminals to give evidence against their assailants. At the time D chose to assist he would not know what the strength of the evidence against the robbers was. The failure to give a clear discount will discourage other criminals from giving assistance. The fear of retribution in prison and to criminals' families remains whether the evidence is very useful or not. That is why most Judges use their sentencing power to encourage other people to provide assistance. Ed.