

21.24 *Postponement Cases*

R v Hall 2019 EWCA Crim 662 In October 2014, D pleaded to drug offences. His co-defendant needed to be tried. In October 2016, the two-year time limit expired. In June 2017, the Judge extended the time limit. In September 2017, D's confiscation order was made. The prosecution thought the time limit expired in June 2017, because they thought the time limit ran from when the co-defendant's trial concluded. Held. The Judge was entitled to rule as he did. We decline to give a ruling about the scope of section 14(8) as the prosecution have not attended this renewed application.

21.128 *Step 9 The available amount Property not owned outright etc.*

R v Reid 2019 EWCA Crim 690 D pleaded to drug offences. The Judge made a confiscation order for £1.33m. G, D's [partner¹], had purchased a property and at the beginning of the period for the assumptions, D had no interest in it. The prosecution said that after that he contributed to 84% of the mortgage repayments and other purchases which generated a trust as G could not have funded the property expenses. Held. para 39 *Jones v Kernott 2011 UKSC 53* (see above), furnishes authoritative guidance. The quantification of the beneficial share should turn on an objective evaluation of the course of dealings between the parties over the period in question. On the facts we substitute 50% instead of 75% for D's interest in the property.

21.142 *Step 16*

R v Baison 2019 EWCA Crim 1050 D and O were given confiscation orders in a disposal of waste case. The agreed assets figure was about £433,000. The prosecution said this was the "full extent of D's assets". The prosecution asked for costs and the transcript indicated that D's counsel consented to the order. About eight months later, the confiscation order was varied by agreement to about £306,000 on the basis of lack of means. Six months later an appeal was launched over the costs order. D had a state pension and a private pension of £82 a month. Held. Whether the order was agreed is not the end of the matter. The issue is whether the order was properly made. It wasn't, as he had no assets. This case is different from *R v Coleman 2016 EWCA Crim 1665* where the defendant was ordered to pay £16,000 in costs and asserted he had the money. There the Court considered the Magistrates' Court was the appropriate forum for the issue, see [22.67](#).

Note: The draconian rules that apply to the making of confiscation orders, do not apply to subsequent cost orders. Cost orders are determined by the same rules as non-confiscation cases. Ed.

¹ It is not stated, but the inference is there. There is an inference that it was their home, but that is not stated either.