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Robert Banks, a barrister, writes *Banks on Sentence*. It is the second-largest selling criminal practitioner's text book and is used by judges for sentencing more than any other. The book is classified by the Ministry of Justice as a core judicial text book. The book is available as an app for Apple iPads and Windows 8/10 tablets and computers. It costs £95 plus VAT. The print copy has virtually sold out. If you have access to a computer, you can follow Robert on Twitter, @BanksonSentence and you can receive his weekly sentencing Alert.

Q I pleaded guilty to possession of a prohibited weapon and possession of ammunition. My barrister said I had no option. It was a foreign weapon with its ammunition. I hardly saw the gun. It was in a bag and I hid it. The Judge said he had no option but to give 5 years' imprisonment. I am only 23 and have three children, one aged 2 and twin boys aged 5. My partner wasn't much help with the children but he was sent to prison earlier this year. Since then I have felt threatened and could not refuse when three members of the local gang instructed me to keep the gun. My barrister said there were exceptional circumstances but the judge would not have it. Probation is trying to persuade someone to look after my children if my sister can't cope. I am all eaten up inside with worry. The barrister came to see me afterwards and just said he was sorry but there no appeal. I thought he was more concerned about missing his train than my kids. They mean everything to me. How could anything be more exceptional than this? You must help me.

A I wish I could but there is nothing I can do. Because it was a prohibited weapon there was a minimum sentence of 5 years unless you can show exceptional circumstances. This situation is similar to a question I answered in 2012, but since then the law has changed. You have impressive and heart-rending factors. You are young and vulnerable. You were acting in fear. You are the sole carer of your children and the welfare of children is an important factor for the courts. There appears to be no clear long term solution for your children. You pleaded guilty. There are however two factors against you. You helped store a gun which is for killing or maiming by a criminal gang. When not being used for that it is used for exacting terror by a drug gang or armed robbers. Armed gangs threaten your neighbours and society generally. Second, you had a gun in your house which, if it was just in a bag, could have been found by one of your twins and injured or possibly killed him or someone else. The courts have recently determined that if there are exceptional circumstances for people like you then the gangs will be able to store their weapons without fear of them receiving the 5-year minimum term. When I last wrote on this subject, a single mother with young children looking after a gun could collect factors to establish exceptional circumstances, *R v Edwards* 2006 EWCA Crim 2833. This January, the Court of Appeal heard a prosecution appeal for a case when the Judge had found exceptional circumstances, *Att-Gen's Ref No 115 of 2015* 2016 EWCA Crim 765. The Court quashed that finding and said *R v Edwards* 2006 no longer reflected the law. In March this year, the Lord Chief Justice pointed out that firearm offences are attracting increasingly severe sentences, *Att-Gen's Ref Nos 128-141 of 2015 and 8-10 of 2016* 2016 EWCA Crim 54. In that case he indicated that the starting point for the leader of a group who supplied guns to criminals was 25 years. The leader had been responsible for supplying 5 firearms. The Lord Chief Justice indicated in other supply cases the starting point would be higher.

Two other points arise. First, a plea of guilty cannot reduce the sentence below the 5-year minimum term. Second, your children engaged your article 8 rights under the Human Rights Act 1998, the right to family life. This means the Judge was required to investigate the children's circumstances and consider the proportionality of the sentence. In appropriate cases the Judge should adjourn for arrangements to be put in place for a defendant's children. However, none of these matters prevent the minimum sentence in your case being passed.

There is only room for one question this week.

Asking Robert and Jason questions

All letters should be sent to Inside Time, marked for Robert Banks or Jason Elliott. Letters are then sent by Inside Time to David Wells of Wells Burcombe, who forwards them to Robert and Jason.

Please make sure your question concerns sentence, prison law or release and not conviction. Prison law and release are dealt with by Jason Elliott (1 Amron House, North Shields, NE29 6RN). Conviction enquiries should be sent to Inside Time and they will be answered by someone else. Unless you say you don't want your question and answer published in Inside Time, it will be assumed you have no objection to publication. It is usually not possible to determine whether a particular defendant has grounds of appeal without seeing all the paperwork. Analysing all the paperwork is not possible. The column is designed for simple questions and answers. Robert and Jason cannot, in their answers, in effect do the work that should be done by solicitors and barristers who have the relevant case papers.

No one will have their identity revealed. Letters which: a) are without an address, b) cannot be read, or c) are sent direct to Robert, cannot be answered. If your solicitor wants to see previous questions and answers, they are at www.banksr.com.