

25.27 Exclusion requirement

R v Blake 2013 EWCA Crim 1884 D pleaded to two burglaries. He entered a property and a shed in the garden during the day whilst the occupier was at work. He took a Satellite Navigation system, tax discs and DVDs were taken and passed them over the garden fence to an accomplice. D was released on bail with an exclusion condition preventing him from accessing the street where the burglary took place. D lived with his partner and three children on the same street. When sentenced, the Judge imposed an exclusion requirement in the same terms, for a period of 2 years. The Judge was concerned that the victims of the burglary would come into contact with D when they had been devastated by the burglary. He also said the exclusion term enabled him to suspend the sentence. He subsequently varied the sentence of his own volition, reducing the exclusion requirement from 2 years to 9 months¹. D had some convictions. Held. This exclusion term was not wrong in principle. The Judge could take into account the term when considering whether to suspend the imprisonment. He could also take into account the proximity of the victims and that D was too ill to work but not too ill to burgle. Before an exclusion order is imposed the court must consider carefully the effect on the family, especially any children. There had been a cooling-off period and D would shortly return home. 4 months was the longest term we could impose. As that had passed we quash the order.

¹ The judgment states that in the variation hearing the exclusion requirement was reduced to 9 months, but later states that it was reduced to 12 months. Given the Judge's reasoning, 9 months seems most likely but in any event little turns on it. Ed.