

**51.8**    *On the facts, dismissal incorrect*

*R v Robinson* 2014 EWCA Crim 1601 D was convicted of battery. D, who had been drinking hitched a lift with some three on-duty army colleagues in a taxi, driven by V. Everyone but D left the vehicle and argued about the fare. D was told to stay in the cab but left and bit V on the head. V played an active and willing part in the incident and didn't want a prosecution. D was a corporal in the Royal Military Police. He was aged 35 and had over 14 years' service. D was on heavy medication and had no convictions. He had five children, two with medical needs. The PSR said a) D should remain in the Royal Military Police, b) he posed a low risk of serious harm and reoffending and c) dismissal would severely affected D's pension. The Judge Advocate said like civilian police, D was expected to adhere to higher standards of discipline. Held. D's mistake was to leave the car and join the fight. We are not convinced that if D was a civilian policeman he would be sacked. V's attitude to the case assists in assessing culpability and harm. D's commanding officer's efforts to retain D were important. **Severe reprimand** and the loss of ten days' pay, not dismissal.

See also: *R v Price and Bell* 2014 EWCA Crim 229 (Staff Sergeant convicted of negligently performing duties in relation to a live firing exercise. Corporal pleaded to negligently performing duties whilst handling a weapon. Corporal's weapon had jammed. Staff Sergeant (supervising) failed to stop the exercise knowing the weapon was unsafe and failed to warn the officer attempting to clear the jam that he was pointing the weapon at a colleague. Officer attempted to clear the jam and the weapon discharged and killed colleague. The Corporal's training had been deficient. It was a failure to respond to unusual demands of a live firing exercise. Unblemished character with genuine integrity and professionalism. Army wanted the corporal to remain in service. Dismissal was not necessary. **Reduction to ranks** substituted.)