

202.3 Cases

R v Eyles 2014 EWCA Crim 322 D pleaded to racially aggravated ABH, racially aggravated common assault and affray. At about 5pm, V was out shopping. She was wearing a hijab and carrying her 16-month old son. She became aware of D running towards her. D was shouting and swearing, causing V to fear for her safety. Witnesses heard him shout at her, "I don't want to fucking scare you, but I will. It's all your fault. Don't think I won't smash your baby's head in because I will." D punched V several times and at one point took hold of her baby and 'knocked' his head against a wall. V stopped D but was assaulted again and knocked to the ground. V sustained cuts and grazes to her arms and legs. As she fell, her son fell too and hit his head on the ground. Bystanders saw what was going on and tried to intervene. D was described as being in a world of his own. D put his hand in his pocket and made out that he was armed with a weapon. Fortunately the baby sustained no injury and so the charge in respect of him was common assault. A supermarket security guard tried to help and D said "I've got a knife and I'll fucking kill you." D was told to calm down and responded by saying he wanted to shake the security guard's hand. In fact D ran off. He went up to another man, grabbed his hand and said he had a 9mm firearm. That man froze with fear. The police arrived and D ran into a supermarket. D shouted "I've got a fucking gun. Get down or I'll shoot." The police followed him and fired at him with a Taser. He continued to run around the shop until he was stopped by a security guard. In the event it turned out he was not armed with a weapon. D said he had taken a legal high and some cannabis and heard voices. D said he targeted V because she was a Muslim and Asian. He had been told that there would be a terrorist attack. He said he had mental health issues. D was aged 30 at appeal and had been employed at a scrapyard. He had a conditional discharge in 2007 for assault PC and a suspended sentence in 2011 for animal cruelty. The PSR said D had said he was having a nervous breakdown on the day of the offences brought on by anxiety about not having contact with his daughter. A decision from the family court was pending. Held. The Judge was right to categorise the ABH as a category 1 offence. This was a serious and sustained assault in a public place on a woman carrying a small child. A total sentence of 3 years would have been appropriate, following a trial. With full credit, the appropriate sentences were as follows. For the ABH, 18 months for the basic offence and a 6-month uplift for the racial aggravation, making 2 years. For the common assault, 9 months and the affray, 18 months. So **2 years** not 2 years 8 months.