

203.4 *General cases Up to three years*

R v Wright 2013 EWCA Crim 2672 D pleaded to ABH and affray. Whilst waiting for a taxi, D was approached by V1 who wrongly accused him of using racist words. D struck V1 causing bleeding and a fractured nose. Five days later, D and a friend had an altercation with V2 and V3 who were pushed and punched. V2 sustained bruising and swelling to the eye sockets with some concussion. V3 required no medical treatment. D was aged 20 and had no relevant convictions. Held. V1's injury, in part, was provoked by V1, was caused by a single blow, and was not particularly serious. V2's injuries, while more serious, if dealt with as ABH would likely have been category 3. The Judge was incorrect in passing deterrent sentences owing to a local problem with violence. There was no evidence that the problem was greater locally than nationally. 1 month, not 5 for the ABH. 4 months not 10 for the affray. Total concurrent sentence of **4 months**.

R v Crowsley 2014 EWCA Crim 1930 D pleaded (full credit) to affray and possessing an offensive weapon. V had a relationship with D's partner and there was a history of trouble. D sought revenge. D had harassed V on Facebook, receiving a police warning only the day before. V was at home with his partner and brother who, seeing the offenders, forewarned V of trouble. D and his co-accused kicked in V's door and, brandishing a snooker cue and baseball bat respectively, threatened to kill V. V escaped and hid and the offenders ran off. D made no comment in interview and expressed little remorse. He was also on bail. V was left concerned and anxious and considered moving. D was aged 24 on appeal and had significant antecedents, including s 18 from 2009, ABH, threatening behaviour and possession of an offensive weapon. Held. D took a leading role. It was planned. Weapons were taken. Two people were in the house at the time. D had been warned about his behaviour to V. D was on bail with a condition not to contact V. He had just been released from prison. The Judge overstated the case in saying that this was as bad an affray as could be imagined and in taking the maximum as a starting point. There was no violence, no vulnerable victim, it was not racially or religiously aggravated, it was relatively short-lived and, apart from the door, no damage was done. **18 months** in all, not 2 years.

203.6 *Domestic premises, On*

R v Pritchard 2013 EWCA Crim 2008 D pleaded to affray. He had a son who suffered from Asperger's Syndrome with whom he had lost contact. In 2011 he met V and they became friends. Over time, he considered himself her boyfriend and became increasingly possessive of her. They fell out and subsequently bumped into each other, whereupon D told V he was back in contact with his son and wanted her help in looking after him. From then on, she would occasionally help him do so. D and his son went to V's address and asked to stay the night. V agreed that they could sleep on the sofa. D began drinking and became argumentative and antagonistic. V asked him to leave but agreed that his son could stay. V then went to bed. She was awoken by D who was leaning over her, punching her in the face and ribs and calling her a slut. She began to scream and D's son entered the room and tried to pull D away from V. V told him to leave. D and his son went downstairs and D got a knife from the kitchen and waved it in front of V. When she tried to grab it, she suffered a cut to her finger which required three stitches. D was arrested. He had no relevant convictions. Held. The Judge wrote to the Court of Appeal acknowledging that he had taken too high a starting point. Starting at 2 years, not 3, was appropriate. With 25% credit, **18 months** not 27.

R v Gilbert 2014 EWCA Crim 1533 D pleaded (full credit) to common assault and affray which arose from the same occasion. The police were called to a domestic incident at D's flat. V saw that D's partner's car was damaged and went and told her. D then appeared and remonstrated with V at the door,

saying that it wasn't any of his business. D then grabbed V's jacket and head-butted him in the forehead (the common assault). D went back into the flat and produced a meat cleaver. V, frightened, ran back to his flat with D following him for a short distance. A *Newton* hearing was due to be held, but D's partner didn't turn up. D had a poor record, having already served custody for violence which included witness or juror intimidation. Held. **15 months**, not 21 for affray. **3 months concurrent** for assault unaltered.

203.10 Weapon(s) used

R v Bligh 2014 EWCA Crim 547 D pleaded to affray. V and another neighbour subjected D to a tirade of homophobic abuse. There had been a history of trouble and ill-feeling and D thought he was at the end of his tether. He had made complaints about his neighbours. In a fit of anger, D left the house and confronted V, holding a kitchen knife. D said the abuse against him continued. D held it handle-first towards V and invited V to stab him. M seized it and threw the knife away. A basis of plea indicated that at no time did D lunge at V with the knife. D, aged 39, had convictions for criminal damage and assault but was remorseful. A PSR recommended a community order or suspended sentence and concluded there were issues that D needed to address. A psychiatric report diagnosed depression. Held. Significant provocation, depression and an early plea were powerful mitigation and the Court could see the case for a suspended sentence. Nevertheless, the sentence passed was one open to the Judge and could not be criticised. **8 months** upheld.

Note: I would imagine few judges would pass this sentence on a victim of intimidation. I would also imagine most prosecutors would have sought to do a deal if there had been no plea to affray. Ed.