

222.7 General cases

R v Walsh and Brown 2014 EWCA Crim 1155, 2 Cr App R (S) 59 (p 468) W and B pleaded (full credit) to aggravated burglary. W was at college with V, whom he disliked. W learned that V had told others that his father had received a cash payment of \$10,000 for some work he had performed. W, B and two others went to V's house shortly before midnight wearing masks or face coverings, dark clothes and gloves. B was armed with what appeared to be a metal crutch. V's father answered the door and was immediately overpowered. He was told to get on the floor, face-down and his hands and mouth were secured with tape. A bag was placed over his head. W and B stayed downstairs with V's father, repeatedly jabbing him in the stomach or groin, whilst demanding \$10,000. The other two went upstairs and tied up V and V's mother. One pretended that he had a gun and made frightening threats. In fact, V's father's \$10,000 had already been stolen. V's mother had managed to make a 999 call before being tied up. The police arrived and the four men fled, taking with them several stolen items from the house. V's family were left feeling unsafe in their home and contemplated moving house and moving abroad, despite increasing the security provision. W was just short of his 18th birthday at the time of the offence with no relevant convictions. B was 17 years and 9 months at the time of the offence and was of good character. One co-accused was aged 17 years and 11 months and another was approaching his 20th birthday. It was common ground that this offence fell into Category 1. Held. This was a very serious offence and it was necessary to mark that. The principles in the *Youth Guideline* were to be applied. The Judge should have drawn a somewhat greater distinction than he did between W and B and the elder co-defendant on the grounds of [their] comparative youth. Reducing the sentences for their youth, the starting point was 8 years for both, not 9 years for B and 10 years for W. With full credit, for B, **5 years 4 months' detention**, not 6 years, and for W, **5 years' 4 months' YOI** not 6 years 8 months.

Att-Gen's Ref No 30 of 2014 2014 EWCA Crim 1248 D1 and D2 pleaded to aggravated burglary. On 8 May 2012, they entered a public house at about 2.30 am, above which the licensees V1 and V2 lived. D1 was armed with a claw hammer and D2 with a knife or screwdriver. They entered the victims' separate bedrooms, woke them and demanded access to the safe. D1 while holding the claw hammer threatened V2 "Get a fucking move on or I'll smash your skull in". The safe was opened and more than £6,300 was taken. They sped away on a motorbike. D1 had 18 previous appearances for 32 offences (including four dwelling burglaries) and D2 had 21 appearances for 58 offences (including four burglaries two of which were dwellings). In 2004, D2 pleaded guilty to GBH with intent and having a firearm with intent. He and four others broke into a home with a firearm and other weapons in the early hours and used violence. D2 received 7 years. They had both been released from prison in March 2012 and were both in breach of their licence before the offence. Held. These were grievous offences committed as a pair and while armed, intruding upon the sense of safety of two licensees. Practically every statutory aggravating feature was present. We start at 11 years for both, so for D1, with full credit, **7 years 4 months** not 4. For D2, with 10% credit, **9 years 9 months** not 5.

R v Wilcock 2014 EWCA Crim 1890 D pleaded (25% credit) to aggravated burglary, burglary and to handling stolen goods (x4). C pleaded to burglary and one handling offence, receiving 3 years. D and C smashed their way into a house opposite their own, knowing the occupier was absent. Following an untidy search of the house, C was seen by police carrying a large TV which was dropped. She wore dark clothing and gloves. D was caught after a short chase and denied any involvement. A month later, whilst on bail, D entered another house, with the door having been left on the latch. The occupants returned after 10 minutes to see D in their living room. V1 confronted D at the threshold who was carrying a handbag filled with belongings, including a laptop and camera. D had also carrying a 10" knife, found in the house.

V1 told D to drop the goods and get out and then tried to grab the handbag. After a struggle, D ran off past V2 dropping most of the goods but still wielding the knife. The knife and a purse were later recovered. The four handling offences related to local burglaries where items were stolen and then pawned or sold soon after. D was aged 32 on appeal with convictions for 11 burglaries and nine for handling stolen goods. He was also on licence following his last handling conviction when he committed the aggravated burglary. D's complaint regarded totality. Held. These were serious offences committed by a serial burglar and handler. Aggravated burglary is always a serious offence and D went equipped for the first burglary. D found the knife in the second burglary at the property but made no overt threats with it. **5 years** for the aggravated one and a total of **9 years**, not 10 **1/2** years.

See also: *R v Grimshaw* 2014 EWCA Crim 1348 (Plea to aggravated burglary and carrying a firearm with criminal intent (a taser pen). Under pressure from criminal associate. Entered jeweller's house by a trick and used taser on victim's neck. Fled when man arrived with a knife. Over in 25 seconds. It was Category 1 but **6 years** not 8.)