

317.3a Assaults in prison

R v Lodi 2014 EWCA Crim 904 D pleaded guilty early to section 18. D was in detention for immigration matters. V, an inmate at a YOI, was playing pool when he was attacked by D with a pool cue. V was hit three or four times around the face and knocked to the floor. There, D kicked V several times until he was restrained by officers. V had lacerations around his eye, a suggested fracture to his eyeball sockets, bleeding in the front of one eye, bruising of the retina and reduced vision in his right eye. D's basis of plea claimed there were several verbal insults and abuse immediately prior to the incident. V, who by then serving a 14-year sentence for GBH with intent and robbery, refused to cooperate with a *Newton* hearing. Following a witness summons being served on a member of staff, the defence found support for the suggestions of prior abuse. The *Newton* hearing was abandoned. Held. D was entitled to full credit. Starting at 12 years, the aggravating factors (D's convictions (robbery and possession of a knife) and the prison location) warranted an increase. The mitigation (including the provocation) reduced the sentence to 11 years. With the plea, **7 years 4 months**.

317.4 Conveying articles into prison

R v Melim 2014 EWCA Crim 1915 D pleaded (25% credit) to conveying a listed article into prison contrary to [Prison Act 1952 s 40B](#). D has sent two letters, marked as legal privilege letters, to two prisoners. One contained 33 grams of cannabis resin, the other, 18 grams. D was aged 48 at sentence and had no relevant or recent convictions. The Judge bore in mind the drugs guidelines, but did not follow them. Held. The amount of drugs involved in the instant case would result in category 4. Three principles in cases such as the presents emerge from the case law: a) reflecting culpability in the drugs guidelines, the role is normally said to be at least significant, b) where the quantity would otherwise fall within Category 4 and the supply is by a non-prison employee, then that is the level of harm to be applied, and c) the fact that the offending comprises supply of drugs within or into prison is to be regarded as a highly aggravating feature, normally placing the level of sentence at the top end of the appropriate range as described in the guidelines. 4 ½ months consecutive, making **9 months** not 3 years concurrent.

317.4a Possessing transmitting/receiving devices etc. in prison

[Prison Act 1952 s 40D\(3A\)](#)¹ (possession transmitting/receiving device etc. in prison)

Modes of trial Triable either way

Maximum sentence On indictment maximum 2 years. Summary maximum 6 months

R v Saliuka 2014 EWCA Crim 1907 D was convicted of possessing class A and B drugs with intent to supply and of possessing a phone and SIM card inside a prison. In D's shared cell, prison officers found a large amount of heroin, several wraps of cannabis and the phone and SIM card. D was aged 24 with an appalling record. He was on recall. The Judge found that D organised the smuggling of the drugs and had done so on several occasions, inferred from the wide range in purity. Held. The unlawful possession of mobile phones is much prized in prison since it gives unlimited and unmonitored access to others outside the prison, by which means harassment, intimidation and interference with the course of justice may be carried out and escapes and other criminal enterprises planned and, in cases of modern i-Phones, also unlimited access to the internet and communication by unmonitored emails giving rise to all manner of

¹ Inserted by [Crime Security Act 2010 s 45](#) In force 26/3/12.

dangers. Many decisions of this Court emphasise the need to punish such cases severely. **18 months** on each concurrent, consecutive to a 5 **1/2** years for the drugs offences upheld.

For the drugs part of the case see the **SUPPLY** update.