

The respondent points out that in McGrath the Court of Appeal held that a term which prohibited the appellant from “trespassing on any land belonging to any person whether legal or natural within those counties” was too wide and harsh. If the appellant looks a wrong turn on a walk and entered someone’s property, he would be at risk of a five-year prison sentence. In our view this prohibition, albeit less open to criticism than the one in McGrath is also too wide and harsh. Although certain pieces of land might easily be identified as being caught by the prohibition (such as a front garden, driveway, or path) it might be harder to recognise, say, in more rural areas. The absence of any geographical restriction reinforces our view. Furthermore, there is no practical way that compliance with the order could be enforced, at least outside the appellant’s immediate home area (see para.[47] above).

The eighth order prohibited the appellant, from:

Touching or entering any unattended vehicle without the express permission of the owner.

The respondent submits:

“The appellant has previous convictions for aggravated vehicle taking and interfering with a motor vehicle and has been reprimanded for theft of a motorcycle. It is submitted that the prohibition is sufficiently clear and precise and is commensurate with the risk it seeks to meet.”

We agree generally but we would have preferred a geographical limit so as to make it feasible to enforce the order. Local officers, aware of the prohibition, would then have a useful weapon to prevent the appellant committing vehicle crime. They would not have to wait until he had committed a particular crime relating to vehicles,

The ninth order prohibited the appellant from:

Acting or inciting others to act in an anti-social manner, that is to say, a manner that causes or is likely to cause harassment, alarm, or distress to one or more persons not of the same household.

The respondent submits that this was a proper order to make and is in accordance with the Home Office guidance. We would prefer some geographical limit, in the absence of good reasons for having no such limit.

The tenth order prohibited the appellant from:

Congregating in groups of people in a manner causing or likely to cause any person to fear for their safety or congregating in groups of more than six persons in an outdoor public place.

PART 5 © SWEET & MAXWELL

76.

Simon Cordell’s Skeleton Argument (2) Pdf

Page: 36

R. v DEAN BONES AND OTHERS

Given the appellant’s previous history the first part of the prohibition can be justified as necessary. As the respondent points out, the final clause would appear to prohibit the appellant from attending sporting or other outdoor events. Such a prohibition is, in our view, disproportionate. Although, as the respondent points out, the appellant would be able to argue that he had a reasonable excuse for attending the event, this is, in our view, an insufficient safeguard.

The eleventh order prohibited the appellant from:

Doing anything which may cause damage.

The respondent submits that this prohibition, even if justified (which is far from clear), is far too wide. In the words of the respondent: “Is the appellant prohibited from scuffing his shoes?” We agree.

The twelfth order prohibited the appellant from: