

Not being anywhere but your home address as listed on this order between 2330 hours and 0700 hours or at an alternative address as agreed in advance with the prolific and priority offender officer or anti-social behaviour coordinator at Basingstoke Police Station. Although curfews can properly be included in an ASBO, we doubt, as does the respondent, that such an order was necessary in this case. Although the offences of interfering with a motor vehicle and attempted burglary (for which the appellant was sentenced on 16/5/02) were both committed between 10pm and midnight on the same evening, there is no suggestion that other offences have been committed at night. Moreover, the author of the pre-sentence report states that the appellant's offending behaviour did not fit a pattern which could be controlled by the use of a curfew order.

We would go further than the respondent. Even if an ASBO was justified a 5-year curfew to follow release is not, in our view, proportionate.

The thirteenth order prohibited the appellant from:

Being carried on any vehicle other than a vehicle in lawful use.

The respondent submits this prohibition is sufficiently clear and proportionate. We are not convinced. We do not find the expression "lawful use" to be free from difficulty. If "the carrying" is likely to constitute a specific criminal offence (e.g. one of the family of taking without consent offences), what does this order add? We would also have preferred some geographical limit.

The final order prohibited the appellant from:

Being in the company of Jason Arnold, Richard Ashman, Corrine Barlow, Mark Bicknell, Joseph (Joe) Burford, Sean Condon, Alan Dawkins, Simon Lee, Daniel (Danny) Malcolm, Michael March, or Nathan Threshie.

The respondent submits:

"This prohibition seems to be based on the assertion in PC Woods' document that the appellant is associating with other criminals who were also nominated as persistent prolific offenders. The appellant admitted that the

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offending spree which recently brought him before the court was the result of being contacted by an old friend. It is submitted that care has been taken to identify the individuals with whom the appellant is not to associate."

The respondent, however, has doubts whether a prohibition that prevents the appellant from associating with any of the named individuals for five years after his release, even in a private residence where one or more resides, is disproportionate to the risk of anti-social behaviour it is designed to prevent. We share those doubts.

Bebbington and others—the ASBOs

We have no doubt that in respect of all the appellants, other than Schofield and Bruce, it was not "necessary" to make any ASBO, given their antecedent history, reports, and references.

Counsel on behalf of Schofield attacked the judge's findings of fact. The judge conducted the trial and was in the best position to decide upon Schofield's role.

For Scofield and Bruce, given their history and the judge's findings, an order could properly have been made to prevent a repetition of the disgraceful conduct of that night. The judge was entitled, absent any special circumstances, to make only one of the orders, namely:

On any day that Chester City AFC play at a regulated football match at the Deva Stadium during the period commencing three hours prior to kick off and ending six hours after kick-off, enter any area inside the shaded boundary as defined in the attached map.