

local supermarket who said that on a number of occasions between April and November 1999 she had been abused, threatened, harassed, and alarmed by all three defendants. The fourth said that he and his customers had been abused by all three defendants between April and September 1999 and that the defendants had sought to intimidate them. Three police officers also gave evidence. One said that on one occasion the oldest defendant caused alarm and physical danger to others by driving a vehicle recklessly. Another said that, on another occasion the same defendant was party to the theft of a bag from a car. A third gave direct evidence of threats and abuse by two of the defendants of a householder by banging on the door and interfering with the electrics of the property. This incident was also the subject of anonymous hearsay evidence. Anonymous hearsay evidence was also given by the police of four other incidents. One was burglary of domestic premises by two of the defendants. The second was damage to a motor vehicle by the same two defendants. The third was the throwing of items into the street from scaffolding which they had climbed. The fourth was the abuse by one of them of market stall holders. There was also a hearsay witness statement of the abuse by two of the defendants of firefighters.

The overall picture which was painted by the evidence was of a prolonged course of behaviour which caused or was likely to cause harassment, alarm, or distress to many people in the local government area during this six-month period. The contribution which was made to the picture by the hearsay evidence, while not perhaps crucial, was certainly significant.

**125.**

**Simon Cordell's Skeleton Argument (2) Pdf**

[2003] 1 AC

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**R (McCann) v Manchester Crown Ct (HL(E))**

Lord Hope of Craighead

***Classification in domestic law***

I agree with Lord Steyn, for all the reasons that he has given, that proceedings leading to the imposition of an anti-social behaviour order under section 1 of the Crime and Disorder Act 1998 are civil proceedings in domestic law. I should like to add only a few observations to what he has said.

Section 19 of the Crime and Disorder Act 1998 provides for the imposition of anti-social behaviour orders in Scotland. There are some differences of detail in the scheme which this section lays down from that which section 1 lays down for use in England and Wales. But the broad aim

is the same. It is designed to deal with persons who have acted in an antisocial manner or have pursued a course of anti-social conduct that caused or was likely to cause alarm or distress. A conviction for breach of an antisocial behaviour order in Scotland carries with it the same penalties under section 22(1) as those prescribed for England and Wales by section 1(10). The important point for present purposes lies in the choice which Parliament has made as to the proceedings which are to be used for making these applications in Scotland. Section 19(2) provides that an application for an anti-social behaviour order shall be made by summary application to the sheriff within whose sheriffdom the alarm or distress was alleged to have been caused or was likely to have been caused.

3 The question whether a summary application to a sheriff is a civil proceeding in Scots domestic law is quite straightforward in comparison with the equivalent and more complex question under English law. This is because the Scottish system has always maintained a firm distinction at levels between criminal and civil procedure. The civil nature of the procedure for the imposition of anti-social behaviour order is indicated at the outset by the fact that section 19(1) of the Crime and Disorder Act 1998 provides that an application for an anti-