



Criminal Law

Case Law Review 2015

The Incorporated Council of Law
Reporting for England & Wales

Introduction to the Review

The purpose of this Review is to pull together the most significant criminal cases decided in 2015 into one place and to provide a short “snippet” on each that encapsulates the principle of law for which they stand as authority.

There are many superior alternatives to this sort of “updater” available and by no means does this Review purport to be exhaustive or definitive. On the other hand, this Review is made available free of charge and seeks to draw on reliable and considered content that is also made freely available online.

The cases included in the Review are drawn from the pool of criminal cases selected for full reporting by The Incorporated Council of Law Reporting for England & Wales over the past twelve months. That is to say that the cases in this Review introduce new principles of law, modify existing principles or settle questions upon which the law has been doubtful or unclear.

The selected cases have been grouped under broad headings, such as “Substantive law”, “Evidence” and “Practice and Procedure”. Within each broad group, further subgrouping has been applied where necessary, e.g. “Substantive law – Firearms”.

Each entry consists of the following information:

- The case name (e.g. R v GH)
- Where the case has been reported (at the time this Review was compiled) (e.g. [\[2015\] UKSC 24](#); [\[2015\] 1 WLR 2126](#); [\[2015\] WLR \(D\) 178, SC\(E\)](#))
- The date of judgment
- A “snippet” setting out the relevant proposition of law derived from the original WLR (D) case summary
- Additional resources (where available)

Every attempt has been made to link to free online materials where they are available:

- Click on the neutral citation (e.g. [\[2015\] UKSC 24](#)) to view the raw transcript of the judgment on BAILII.
- Click on the case summary link (e.g. [\[2015\] WLR \(D\) 178](#)) to read the free case summary on ICLR's website, iclr.co.uk
- Click on The Law Reports/The Weekly Law Reports link (e.g. [\[2015\] 1 WLR 2126](#)) to read the report on ICLR Online (note this requires a subscription to ICLR Online).

In the case of judgments of the Supreme Court and the Privy Council, links have been added to the corresponding resources page on the court website. From here, you will be able to view the original judgment and press release along video recordings of the hearings.

Where available, references to the relevant sections of *Archbold* have also been included.

I hope this modest attempt to pull the key criminal authorities from 2015 together proves to be of use in your work or study in 2016!

Daniel Hoadley, Barrister
The Incorporated Council of Law Reporting for England and Wales

5 January 2016

Substantive law

Arrangement facilitating acquisition, etc. of criminal property

R v GH

[2015] UKSC 24; [2015] 1 WLR 2126; [2015] WLR (D) 178, SC(E)

22 Apr 2015

A person who opened bank accounts which he knew or suspected would then be used by a fraudster to deposit money which the latter hoped to obtain from victims could be charged with entering into an arrangement to facilitate the retention of criminal property, contrary to section 328(1) of the Proceeds of Crime Act 2002, even though there was no criminal property until after victims' money had been paid into the accounts.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, paras 26-11 to 26-19

United Kingdom Supreme Court – [Case Details](#)

Assisting unlawful immigration

R v Ali (Nazakat)

[2015] EWCA Crim 43; [2015] WLR (D) 46, Court of Appeal (Criminal Division)

3 Feb 2015

A solicitor who had been instrumental in finding brides for non-European Union clients and advising the clients to make false applications for certificates of approval, which he submitted to the to the UK Border Agency, had facilitated a breach of immigration law by his clients.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, para 25-286

Converting criminal property

R v Kuchhadia

[2015] EWCA Crim 1252; [2015] 1 WLR 4895; [2015] WLR (D) 317, Court of Appeal (Criminal Division)

14 Jul 2015

Where a defendant was charged with converting criminal property, the prosecution could rely upon alternative or several allegations of different criminal conduct provided that they could prove at least one to the criminal standard to the satisfaction of the jury.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, para 26-11

Escape from custody

R v Wilkins (Steven)

[2015] WLR (D) 260, Court of Appeal (Criminal Division)

16 Jun 2015

In the case of a prisoner serving a sentence in an open or closed prison, an intention to escape from lawful custody meant the intention of going beyond the boundaries, knowing he was not allowed to be there.

Firearms

R v Goldsborough

[2015] EWCA Crim 1278; [2015] 1 WLR 4921; [2015] WLR (D) 324, Court of Appeal (Criminal Division)

23 Jun 2015

Failure to obtain a firearm certificate for an air pistol which had become prohibited was an offence under section 1 of the Firearms Act 1968 rather than section 5(1)(af).

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, para 24-25

R v Law

[2015] EWCA Crim 5; [2015] WLR (D) 404, Court of Appeal (Criminal Division)

22 Jan 2015

The definition of “air weapon” in section 1(3)(b) of the Firearms Act 1968 excluded two different kinds of air rifle, air gun or air pistol from being an air weapon for the purposes of the 1968 Act, namely (a) those specifically prohibited under section 5(1) of the Act and (b) those which had been declared to be specially dangerous.

Homicide – loss of control

R v Gurpinar

[2015] EWCA Crim 178; [2015] 1 WLR 3442; [2015] WLR (D) 80, Court of Appeal (Criminal Division)

20 Feb 2015

Where a defendant was charged with murder and the issue arose as to whether the partial defence of loss of self-control should be left to the jury the trial judge had to undertake a much more rigorous evaluation of the evidence before that defence could be left to the jury than had been required under the former law of provocation.

Malicious administration of a poison

Criminal Injuries Compensation Authority v First-tier Tribunal (Social Entitlement Chamber)

[2014] EWCA Civ 1554; [2015] QB 459; [2015] 2 WLR 463; [2015] 1 Cr App R 246; [2014] WLR (D) 520, Court of Appeal (Criminal Division)

04 Dec 2014

A mother who drank alcohol to excess while she was pregnant, resulting in her child being born with permanent damage from foetal alcohol spectrum disorder, was not criminally liable for administering poison to “any other person” so as to inflict grievous bodily harm contrary to section 23 of the Offences Against the Person Act 1861. Because a foetus was not “any other person” for the purposes of section 23, and the harm had been inflicted on the child while she was in the womb, the child was not entitled to criminal injuries compensation.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, para 19-285a

Misconduct in public office

R v Chapman (Scott Derek)

[2015] EWCA Crim 539; [2015] 3 WLR 726; [2015] 2 Cr App Rep 161; [2015] Crim LR 633; [2015] WLR (D) 146, Court of Appeal (Criminal Division)

26 Mar 2015

In a prosecution for misconduct in public office it was necessary for the judge to make clear that the necessary conduct was not simply a breach of duty or a breach of trust and that the level was one where the conduct was calculated to injure the public interest so as to call for condemnation and punishment, the threshold of conduct being so serious that it amounted to an abuse of the public's trust in the office holder, and being a high threshold. In relation to aiding and abetting the offence it was not necessary to establish that the office holder intended to cross the threshold: means of knowledge available to the defendant to make the necessary assessment of the seriousness of the principal's conduct was sufficient. In relation to conspiracy to commit the offence it was not necessary that a defendant knew or intended that the misconduct concerned would meet the requisite threshold of seriousness.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, para 25-403

Public order

Comr of the Police of the Metropolis v Thorpe

[2015] EWHC 3339 (Admin); [2015] WLR (D) 471, QBD (Edis J)

18 Nov 2015

A football banning order, if made, prevented the subject from attending any regulated football match and there was no power to make a football banning order under section 14B(4) of the Football Spectators Act 1989, as amended, that was limited to matches played between certain named football clubs.

James v Director of Public Prosecutions
[\[2015\] EWHC 3296 \(Admin\)](#); [\[2015\] WLR \(D\) 458](#), Divisional Court

13 Nov 2015

The proportionality, for the purposes of articles 10 or 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, of a decision to prosecute under the Public Order Act 1986, was not an issue for the court trying the charge to deal with.

Sexual offences

Indecent assault

R v FNC
[\[2015\] EWCA Crim 1732](#); [\[2015\] WLR \(D\) 440](#), Court of Appeal (Criminal Division)

04 Nov 2015

There might be a case to answer even where the prosecution relied on DNA evidence alone.

Trafficking for sexual exploitation

R v Ali (Yasir)
[\[2015\] EWCA Crim 1279](#); [\[2015\] WLR \(D\) 327](#), Court of Appeal (Criminal Division)

17 Jul 2015

A car journey of a few miles constituted “travel”, within section 58(1) of the Sexual Offences Act 2003, for the purposes of the offence of trafficking within the United Kingdom for sexual exploitation.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, paras 19-439, 20-10, 20-182

Terrorism – power to question at port or border

Beghal v Director of Public Prosecutions

[2015] UKSC 49; [2015] 3 WLR 344; [2015] WLR (D) 330, SC(E)

22 Jul 2015

The provisions in Schedule 7 to the Terrorism Act 2000 conferring powers to stop, question, and detain a person at a port or border for up to nine hours— without any requirement for prior “reasonable suspicion”— for the purpose of determining whether he appeared to be a person concerned in the commission, preparation or instigation of acts of terrorism were not incompatible with articles 5, 6 or 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, paras 16-36, 16-54, 25-123

United Kingdom Supreme Court – [Case Details](#)

Costs

R (Chaudhary) v Crown Court at Bristol (No 2)
[\[2015\] EWHC 723 \(Admin\)](#); [\[2015\] WLR \(D\) 131](#), Divisional Court

18 Mar 2015

CRIME — Costs — Power to award

The legislative changes effected by the introduction of the Criminal Procedure Rules revoked the Crown Court Rules 1982 in so far as they related to an award of costs in criminal cases in the Crown Court. Accordingly, there was no power under rule 12 of the Crown Court Rules enabling the Crown Court to make an order for costs in relation to an application under section 59 of the Criminal Justice and Police Act 2001 for the return of items seized pursuant to a search warrant.

Criminal Injuries Compensation Authority

Applications

R (Colefax) v First-tier Tribunal (Social Entitlement Chamber)
[\[2014\] EWCA Civ 945](#); [\[2015\] 1 WLR 35](#); [\[2015\] 1 All 523](#); [\[2014\] WLR \(D\) 296](#),
Court of Appeal (Criminal Division)

08 Jul 2014

The ordinary meaning of paragraph 18(b) of the Criminal Injuries Compensation Scheme 2008, which provided that a claims officer could waive the two-year time limit, from the date of the relevant incident, for the making of an application for compensation in respect of a criminal injury where, in the particular circumstances of the case, it would not have been reasonable to expect the applicant to have made an application within the two-year period, required the late applicant to show that it was not reasonable to expect him to make any application for compensation within time thereby placing the burden on the late applicant to show that he did not fail to comply with a reasonable expectation that he would pursue his compensation rights in a timely manner.

Assessment of compensation

R (LHS) v First-Tier Tribunal (Criminal Injuries and Compensation)
[\[2015\] EWHC 1077 \(Admin\)](#); [\[2015\] WLR \(D\) 181](#), QBD (Jay J)

21 Apr 2015

The discount rate determined by the Lord Chancellor under section 1(1) of the Damages Act 1996 was applicable to the quantification of future loss under the Criminal Injuries Compensation Scheme 1990.

Evidence

Admissibility

R v Bhatti

[2015] EWCA Crim 1305; [2015] WLR (D) 346, Court of Appeal (Criminal Division)

30 Jul 2015

Where the police obtained financial information from a credit ratings agency in reliance on section 29(1) of the Data Protection Act 1998, such information having been obtained by the agency from customers who had expressly agreed in their credit applications and agreements that their data might be shared for the purpose of crime detection, prevention and prosecution, the procedural requirements of Schedule 1 to the Police and Criminal Evidence Act 1984 were not bypassed and the information was lawfully obtained, so that it was not precluded from admissibility in criminal proceedings.

R v McGeough

[2015] UKSC 62; [2015] 1 WLR 4612; [2015] WLR (D) 424, SC(NI)

21 Oct 2015

Information which was provided by a person to Swedish authorities in the course of an unsuccessful application for asylum could subsequently be used in evidence in criminal proceedings against that person in the United Kingdom.

Additional Resources

United Kingdom Supreme Court – [Case Details](#)

Myers v The Queen

[2015] UKPC 40; [2015] 3 WLR 1145; [2015] WLR (D) 401, PC

06 Oct 2015

A police officer who was part of a unit which targeted criminal gangs could give evidence at a criminal trial as to the culture in which such gangs operated— including the practice of shooting a random member of a rival gang in response to an insult or attack on one of its own members— and as to the defendant's and victim's membership of rival gangs, to show motive for the crime with which

the defendant was charged, providing the officer had sufficiently demonstrated both his own expertise and the basis for his observations.

Additional Resources

Judicial Committee of the Privy Council – [Case Details](#)

Character

R v Hunter (Nigel)

[2015] EWCA Crim 631; [2015] WLR (D) 176, Court of Appeal (Criminal Division)

16 Apr 2015

Only defendants with a good character or deemed to be of effective good character were entitled to a good character direction. Where a defendant had a bad character, a judge was not obliged to give a good character direction; he or she had a discretion.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, para 7-55

DNA

R v Bryon

[2015] EWCA Crim 997; [2015] WLR (D) 180, Court of Appeal (Criminal Division)

22 Apr 2015

While DNA evidence taken from a moveable object was on its own insufficient for a prosecution case to go to a jury, DNA evidence combined with admissible evidence of a previous conviction for a similar offence was a sufficient basis.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, para 14-81

Extradition

Appeal time limit

Szegfu v Court of Pecs, Hungary
[\[2015\] EWHC 1764 \(Admin\)](#); [\[2015\] WLR \(D\) 273](#), Divisional Court

24 Jun 2015

Guidance on the application of section 26(5) of the Extradition Act 2003 relaxing the application of the strict time limit for bringing an extradition appeal in section 26(4).

Bar to extradition

Kandola v Generalstaatsanwaltschaft Frankfurt, Germany
[\[2015\] EWHC 619 \(Admin\)](#); [\[2015\] 1 WLR 5097](#); [\[2015\] WLR \(D\) 126](#), Divisional Court

13 Mar 2015

In the context of an extradition appeal the court set out the approach to be taken in applying section 12A of the Extradition Act 2003.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, para 3-52a

Miscarriage of justice

Statutory compensation

R (Sneddon) v Secretary of State for Justice
[\[2015\] EWHC 3190 \(Admin\)](#); [\[2015\] WLR \(D\) 455](#), Divisional Court

06 Nov 2015

Section 175 of the Anti-social Behaviour, Crime and Policing Act 2014 meant that if the Secretary of State had not finally determined the right to compensation under section 133 of the Criminal Justice Act 1988 until after the new provision, section 133(1ZA) of the 1988 Act, had come into effect, that new provision governed the application.

Police

Stop and search

R (Roberts) v Comr of Police of the Metropolis
[\[2015\] UKSC 79](#); [\[2015\] WLR \(D\) 536](#), Supreme Court

17 Dec 2015

Section 60 of the Criminal Justice and Public Order Act 1994, which in specified circumstances permitted a police officer to stop and search any person for offensive weapons whether or not he had any grounds for suspecting that the person was carrying such a weapon, was compatible with the right to privacy under article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Practice and procedure

Access to the European Court of Human Rights

Regina (Yam) v Central Criminal Court
[\[2015\] UKSC 76](#); [\[2015\] WLR \(D\) 526](#), Supreme Court

16 Dec 2015

A trial judge had a discretionary power to prohibit an applicant, who complained that his trial on criminal charges had been unfair, disclosing to the European Court of Human Rights evidence which had been deployed in camera at his trial.

Abuse of process

R v Salt
[\[2015\] EWCA Crim 662](#); [\[2015\] 1 WLR 4905](#); [\[2015\] WLR \(D\) 281](#), Court of Appeal (Criminal Division)

21 Apr 2015

Where a court was considering whether to stay criminal proceedings as an abuse of process on the basis of the prosecution's failure to make proper disclosure of evidence or unused material, the factors to be taken into account included the gravity of the charges, the denial of justice to the complainants, the necessity for proper attention to be paid to disclosure, the nature and materiality of the failures, the waste of court resources and the effect on the jury and the availability of other sanctions.

Case Management

R v Boardman
[\[2015\] EWCA Crim 175](#); [\[2015\] 1 Cr App R 504](#); [\[2015\] WLR \(D\) 92](#), Court of Appeal (Criminal Division)

26 Feb 2015

A judge was fully entitled to refuse to allow the prosecution to adduce evidence of telephone data records where they had failed to progress the case properly or in accordance with the Criminal Procedure Rules or other direction even

though such refusal effectively brought the prosecution to an end. The Court of Appeal would support trial judges in the exercise of their discretion in discharging their case management responsibilities.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, para 4-100a, 12-73

R v Quillan

[\[2015\] EWCA Crim 538](#); [\[2015\] 1 WLR 4673](#); [\[2015\] WLR \(D\) 144](#), Court of Appeal (Criminal Division)

25 Mar 2015

If it was likely that a judge would need to make a ruling on a question of law relating to a criminal trial, it would usually be better to order a preparatory hearing before the start of the trial rather than having to make such a ruling after the jury had been sworn and the trial commenced, when any appeal against such a ruling by the Crown would require an undertaking that the defendant was entitled to be acquitted if the appeal failed.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, para 4-144, 7-265

Fitness to plead

R v Wells (Marc)

[\[2015\] EWCA Crim 2](#); [\[2015\] 1 WLR 2797](#); [\[2015\] WLR \(D\) 25](#), Court of Appeal (Criminal Division)

20 Jan 2015

Where a defendant's disability impacted on his ability to take part in a trial but he was not otherwise affected by a psychiatric condition such as rendered what was said in interview unreliable, there was no reason why the jury should not hear such evidence albeit with an appropriate warning. When considering the extent to which evidence of the interview should be admitted, it remained relevant to consider all the circumstances.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, para 4-237-238, 20-39

Jurisdiction

R v Yasain

[2015] EWCA Crim 1277; [2015] 3 WLR 1571; [2015] WLR (D) 315, Court of Appeal (Criminal Division)

16 Jul 2015

The Court of Appeal, Criminal Division, has a general implicit power similar to that of the Court of Appeal, Civil Division, in relation to the principles applicable to the jurisdiction of an appellate court to rehear an appeal where there has been a real injustice, although it was necessary to distinguish between the implied jurisdiction of the court and the way in which that jurisdiction was exercised and it would not necessarily be exercised in the same way by each division.

Additional Resources

Archbold's Criminal Pleading, Evidence and Practice, 2016 ed, para 7-222

Legal professional privilege

R v Brown (Edward)

[2015] EWCA Crim 1328; [2015] WLR (D) 344, Court of Appeal (Criminal Division)

29 Jul 2015

By way of an additional common law qualification or exception to the inviolable nature of legal professional privilege, and in what was likely to be an extremely narrow band of cases, it was appropriate to impose a requirement that particular individuals could be present at discussions between an individual and his lawyers if there was a real possibility that the meeting would be misused for a purpose, or in a manner, that involved impropriety amounting to an abuse of the privilege that justified interference.

Prosecution of offences

S v Crown Prosecution Service

[\[2015\] EWHC 2868 \(Admin\)](#); [\[2015\] WLR \(D\) 423](#), Divisional Court

13 Oct 2015

The provision in the Guidance on a Victims' Right to Review, issued by the Director of Public Prosecutions on 5 June 2013 ("the guidance"), that a suspect was not to be made aware of an alleged victim's request for a review of a decision not to prosecute during the review process, was entirely lawful.

Retrial

R v Akhtar (Itzaz)

[\[2015\] EWCA Crim 176](#); [\[2015\] 1 WLR 3046](#); [\[2015\] 2 Cr App R 81](#); [\[2015\] WLR \(D\) 91](#), Court of Appeal (Criminal Division)

26 Feb 2015

Where a jury brought in a guilty verdict on one count but were unable to agree on another count, a retrial on that other count was not an abuse of process unless the two counts were true alternatives in that they were mutually exclusive alternatives.

Sexual offences – notification requirements

R (NE) v Birmingham Magistrates' Court

[\[2015\] EWHC 688 \(Admin\)](#); [\[2015\] 1 WLR 4771](#); [\[2015\] WLR \(D\) 135](#), Divisional Court

20 Mar 2015

An appeal by way of case stated to the High Court pursuant to section 111 of the Magistrates' Courts Act 1980, rather than a challenge by way of judicial review, was generally the appropriate way in which to challenge a decision of a magistrates' court dismissing an appeal under section 91E of the Sexual Offences Act 2003 against an unsuccessful review of an order requiring a sexual offender to comply with the notification requirements under the Act indefinitely.

Proceeds of crime

Recovery of assets

Sanam v National Crime Agency

[\[2015\] EWCA Civ 1234](#); [\[2015\] WLR \(D\) 495](#), Court of Appeal (Criminal Division)

02 Dec 2015

There was no basis for concluding that a civil recovery order obtained by the National Crime Agency pursuant to Part 5 of the Proceeds of Crime Act 2002 in respect of property derived from unlawful conduct would violate the rights of an innocent former wife of the criminal under article 1 of the First Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, even though she would be left without any assets if a recovery order was made.

Search warrant

Application under Criminal Justice and Police Act 2001, s 59

R (HS) v South Cheshire Magistrates' Court
[\[2015\] EWHC 3415 \(Admin\)](#); [\[2015\] WLR \(D\) 500](#), Divisional Court

30 Nov 2015

There was no general rule that there could be no application to the Crown Court under section 59 of the Criminal Justice and Police Act 2001 until every issue raised in a judicial review claim had been resolved by a decision of the High Court.

Sentencing

Confiscation order

R v Davenport

[\[2015\] EWCA Crim 1731](#); [\[2015\] WLR \(D\) 447](#), Court of Appeal (Criminal Division)

03 Nov 2015

The Court of Appeal, Criminal Division, gave guidance for Crown Court judges in cases where the Crown sought both compensation and confiscation orders, under section 6(6) of the Proceeds of Crime Act 2002, in circumstances where section 13(5) and (6) were inapplicable.

R v Doran

[\[2015\] EWCA Crim 384](#); [\[2015\] WLR \(D\) 129](#), Court of Appeal (Criminal Division)

17 Mar 2015

A surveillance operation mounted by Revenue and Customs because they suspected that a consignment of cigarettes were being imported with the purpose of evading the duty payable did not result in a disconnection between the goods and the importers. Revenue and Customs were thereby monitoring the import, not controlling it, so that a judge was entitled to find that the importers were “holding” the goods within the meaning of regulation 13(1) of the Tobacco Products Regulations 2001 and, by that means, were retaining their connection with the goods at the excise duty point.

R v Kakkad

[\[2015\] EWCA Crim 385](#); [\[2015\] 1 WLR 4162](#); [\[2015\] WLR \(D\) 130](#), Court of Appeal (Criminal Division)

17 Mar 2015

In confiscation proceedings, in relation to the benefit to be assessed, the market value of cocaine, to the extent that it was matched by an available cutting agent, was that which would have been obtained by cutting it with that available agent. However, the value of cocaine which was not matched by an equivalent amount of cutting agent in the defendant’s control could not properly be valued on any basis other than its undiluted wholesale form.

R v McDowell

[\[2015\] EWCA Crim 173](#); [\[2015\] WLR \(D\) 84](#), Court of Appeal (Criminal Division)

19 Feb 2015

Where trading receipts were obtained as a result of lawful trading activity rather than a failure to register particulars with the local authority under the Scrap Metal Dealers Act 1964 before carrying on business as a scrap metal dealer, the trading activity was not criminal conduct from which benefit accrued, and the trading receipts were excluded from the criminal lifestyle provisions under section 75(2) of the Proceeds of Crime Act 2002.

R v Parkinson

[\[2015\] WLR \(D\) 302](#), Court of Appeal (Criminal Division)

10 Jul 2015

There was no principle that a compensation order under section 13 of the Proceeds of Crime Act 2002, which required the family home to be sold, was inappropriate in confiscation proceedings, but a spouse or partner with a remaining share in the home could raise an argument against the sale under article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms or wider equitable principles, particularly where it was a home to children.

Corporations

R v Thames Water Utilities Ltd

[\[2015\] EWCA Crim 960](#); [\[2015\] 1 WLR 4411](#); [\[2015\] WLR \(D\) 244](#), Court of Appeal (Criminal Division)

03 Jun 2015

When sentencing a very large commercial organisation for committing an environmental offence, even if the organisation had a hitherto impeccable record, the fine had to be large enough to ensure that the directors and shareholders of the organisation took effective measures properly to reform themselves and to ensure that they fulfilled their environmental obligations. In the case of organisations with turnovers measured in billions of pounds, that might result in fines measured in millions of pounds.

Criminal behaviour order

Director of Public Prosecutions v Bulmer

[\[2015\] EWHC 2323 \(Admin\)](#); [\[2015\] 1 WLR 5159](#); [\[2015\] WLR \(D\) 355](#), Divisional Court

31 Jul 2015

Section 22 of the Anti-social Behaviour, Crime and Policing Act 2014 did not oblige a criminal behaviour order to contain a positive requirement which addressed the underlying cause of the offending behaviour; it simply enabled it to do so.

R v Simsek

[\[2015\] WLR \(D\) 252](#), Court of Appeal (Criminal Division)

04 Jun 2015

The transitional provisions of the Anti-social Behaviour, Crime and Policing Act 2014 provided that courts had power to continue to impose an anti-social behaviour order after the Act's commencement where criminal proceedings had started before that date, but it had no power to impose a criminal behaviour order in such circumstances.

Forfeiture order

R v Hamlett

[\[2015\] WLR \(D\) 248](#), Court of Appeal (Criminal Division)

10 Jun 2015

CRIME — Sentence — Forfeiture order

When making a deprivation order under section 143 of the Powers of Criminal Courts (Sentencing) Act 2000, the judge had to have before him the value of the property and the likely financial and other effects on the offender of the making of the order, taken together with other orders the court was making.

General principles

Credit

R v Thorsby

[\[2015\] EWCA Crim 1](#); [\[2015\] 1 WLR 2901](#); [\[2015\] WLR \(D\) 30](#), Court of Appeal (Criminal Division)

20 Jan 2015

Where the sentencing judge fails to perform his duty under section 240A of the Criminal Justice Act 2003 to give a defendant credit for half the time spent by him on qualifying curfew before sentence, and the defendant bears no responsibility for the failure, the Court of Appeal is likely to take steps to correct the error, even when a significant extension of time to appeal is required to achieve it.

Offences committed many years previously

R v Bell

[\[2015\] EWCA Crim 1426](#); [\[2015\] WLR \(D\) 371](#), Court of Appeal (Criminal Division)

27 Aug 2015

Where a defendant was convicted and sentenced to life imprisonment for an offence of manslaughter on grounds of diminished responsibility which had taken place 14 years earlier (and before the coming into force of the Criminal Justice Act 2003), article 7.1 of the Convention on Human Rights and Fundamental Freedoms did not prohibit the minimum term imposed from being a heavier penalty than the one that was applicable at the time the criminal offence was committed.

Offender suffering from mental disorder

R v Balogh (Attorney General's Reference (No 117 of 2014))

[\[2015\] EWCA Crim 44](#); [\[2015\] 1 WLR 3201](#); [\[2015\] WLR \(D\) 49](#), Court of Appeal (Criminal Division)

04 Feb 2015

A court's obligation to follow any relevant sentencing guidelines unless satisfied that it would be contrary to the interests of justice to do so continued to apply where the offender was suffering from a mental disorder.

Time spent in custody prior to trial

Gomes v Republic of Trinidad and Tobago
[\[2015\] UKPC 8](#); [\[2015\] 1 WLR 963](#); [\[2015\] WLR \(D\) 108](#), PC

25 Feb 2015

Where a defendant had strenuously, but unsuccessfully, resisted extradition to Trinidad to stand trial for outstanding offences of which he had subsequently been convicted, the trial judge was entitled, in the exercise of her discretion, to impose sentences which gave no credit for the period when he had been detained abroad during his extradition proceedings.

Hospital order

R v Vowles (Lucinda)
[\[2015\] EWCA Crim 45](#); [\[2015\] 1 WLR 5131](#); [\[2015\] WLR \(D\) 52](#), Court of Appeal (Criminal Division)

05 Feb 2015

The Court of Appeal, Criminal Division, gave guidance on the approach to be adopted by a sentencing judge who had to consider passing an indeterminate sentence (either imprisonment for public protection or a life sentence) where there was a psychiatric issue which gave rise to the consideration of a hospital order under the Mental Health Act 1983.

Prevention order

R (Richards) v Teeside Magistrates' Court
[\[2015\] EWCA Civ 7](#); [\[2015\] 1 WLR 1695](#); [\[2015\] WLR \(D\) 13](#), Court of Appeal (Criminal Division)

16 Jan 2015

Varying a sexual offences prevention order to require the wearing of a location monitoring device or electronic tag while away from the home address of the person subject to it came within the powers conferred by the Sexual Offences

Act 2003, and the interference with that person's private life under article 8 of the Convention for the Protection of Human Rights and Fundamental Rights was "in accordance with the law".

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