



SENIOR COURTS
COSTS OFFICE

SCCO Ref: 179/18
Dated: 6 January 2020

**ON APPEAL FROM REDETERMINATION
REGINA v REDSHAW**

TEESSIDE CROWN COURT

REGULATION 29 OF THE CRIMINAL LEGAL AID (REMUNERATION)
REGULATIONS 2013

CASE NO: T20177404

LEGAL AID AGENCY CASE

DATE OF REASONS: 30 AUGUST 2018

DATE OF NOTICE OF APPEAL: 19 SEPTEMBER 2018

APPLICANT: MR PAUL CLEASBY	COUNSEL	
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The appeal has been dismissed for the reasons set out below.

**COLUM LEONARD
COSTS JUDGE**

REASONS FOR DECISION

1. This appeal was received at the SCCO on 20 September 2018. On 10 October 2018 I directed that it should be referred back to me after 26 October 2018, to allow the LAA time to make submissions should it choose to do so. I did not see the file again until after (I believe) an email reminder was received by the SCCO on 6 September 2019. That is a wholly unacceptable delay for which the Appellant is due an apology.

The Offence

2. On 23 November 2017 Callan Redshaw (“the Defendant”) was indicted on two counts of theft and attempted theft from shops in Hartlepool and one count of robbery, contrary to section 8 (1) of the Theft Act 1968, from Burn Valley Wines, also in Hartlepool.
3. Section 8(1) provides:

“A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.”
4. The prosecution case in relation to the robbery was that the Defendant had been a lookout whilst the robbery was committed by an unknown co-defendant who entered the shop wearing what witnesses described as a “skeleton mask” and carrying a 2.5 foot length of metal chain with large metal links. The robber was said to have said, in a north-eastern accent, “Howay lasses let’s have it” indicating toward the till. A witness who ran from into the stockroom confirmed that she was frightened for her safety and shaken by the incident, especially because the robber had been carrying a large metal chain.

Categorisation

5. The Defendant’s Representation Order was made on 25 November 2017, and the Criminal Legal Aid (Remuneration) Regulations 2013 “the Regulations”) apply as in force at that date.
6. The Appellant argues that, for the purposes of categorising the Defendant’s offence for the purposes of paragraphs 1(7) and 3 and Part 7 of Schedule 1 to the Regulations this should be treated as a case of armed robbery, and that in consequence the Appellant should be remunerated for a class B offence. The Determining Officer has taken the view that it is not appropriate to describe the offence as armed robbery, and that it should be classed as a class C offence.

7. The Appellant relies upon the decision of Master Rogers in *R v Stables* (SCCO 102/99, 26 July 1999). In that case, governed by similar provisions in the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989, the offenders had purchased a broom with the specific intention of using the handle in the course of robbing a Building Society. They entered the Building Society, in which the working area was enclosed behind a wall of toughened glass. They battered the broom handle against that glass, and against a door to the working area, with a view to frightening the employees behind it, before fleeing without taking any money.
8. Master Rogers took the view that, from the point of view of those on the working side of the glass partition, the persons threatening them were armed, even if the “arm” was only a broom handle. He concluded that the offence should have been classified as armed robbery.
9. The Determining Officer has referred to the decisions of Master Gordon-Saker in *R v Kendrick* (SCCO 259/10, 5 January 2011), *R v Abdi* (SCCO 212/14, 15 December 2014) and *R v Bunting-Barley* (SCCO 214/14, 16 December 2014) and of Master Simons in *R v Vincent* (SCCO 74/15, 14 July 2015).
10. In *R v Kendrick* the defendant had threatened to strike his victim with a bottle if he did not hand over his possessions. The determining officer did not consider that the case was one of armed robbery. The defendant’s representatives appealed.
11. Master Gordon-Saker, dismissing the appeal, observed that there is no specific statutory offence of armed robbery, which he described as a term more relevant to sentencing, but that there is a statutory definition of armed robbery in subparagraph 5(1) of Schedule 1 to the Serious Crime Act 2007:

‘...An offence under section 8(1) of the Theft Act 1968 (c. 60) (robbery) where the use or threat of force involves a firearm, an imitation firearm or an offensive weapon...

...“offensive weapon” means any weapon to which section 141 of the Criminal Justice Act 1988 (c. 33) (offensive weapons) applies..’
12. Section 141 provides (with specified exceptions, not relevant to this case) for “offensive weapons” to be identified by statutory instrument. The relevant statutory instrument is the Criminal Justice Act 1988 (Offensive Weapons) Order 1988, which lists a number of items, all specifically designed as weapons.
13. The Master accepted that a bottle could be an offensive weapon if intended, by the person in possession of it, for use in causing injury. That, he concluded, might be an aggravating factor for the purposes of sentencing, but did not make the offence one of armed robbery. He took the view that it would accord with common sense and usage to conclude, by reference to the statutory definitions to which he had referred, that robbery with a weapon which is not a firearm, an imitation firearm or an offensive weapon as defined in the 1988 Order is not

armed robbery for the purposes of remuneration under the Graduated Fee scheme.

14. In *R v Abdi* and *R v Bunting-Barley* (SCCO 214/14, 16 December 2014) Master Gordon-Saker took the same approach. In *R v Vincent* Master Simons agreed with him.

Conclusions

15. When *R v Stables* was decided, the statutory definition of armed robbery referred to by Master Gordon-Saker did not exist. Master Gordon-Saker's approach was to apply a statutory definition of "armed robbery" to achieve a sensible outcome. I find his logic to be forceful and persuasive, and like Master Simons I agree with him.
16. For those reasons, the appeal fails.

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