

Assault occasioning actual bodily harm law general essay

Law



**ASSIGN
BUSTER**

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COURT REPORT

accordingly, the courts of the United Kingdom are aimed in delivering justice.

Whether convicting someone for unlawful act or resolving civil matters, the

English legal system gives a variety of courts in its role of law. Example, the

Magistrates courts which is the lowest in rank of Criminal Court in England

and Wales, it has a significant civil jurisdiction. About 95 percent of criminal

cases are handled and completed by these courts. Thus it have the

jurisdiction to attempt minor matters because more serious offences such as

rape, murder ect, are handled by the crown court.[1]The crown court hears

all cases involving on indictment and hears appeals from those convicted

summarily offences in the magistrates' courts. The crown court is basically

the only court which has jurisdiction to hear criminal trials on indictment and

also exercise the appellate and other jurisdiction which had been exercise

prior to its establishment in 1971, by quarter sessions. It is a unitary court

but currently sites in around 92 centres throughout England and Wales.

[2]Furthermore on appeal hearing, the crown court has the authority to

confirm or reverse any part of the decision under appeal (s48 (2) of the

Supreme Court Act 1981).[3]Basically there are also appellate courts, which

includes the Supreme Court and the court of Appeal; the Supreme Court was

formally known as the House of Lords. The Court of Appeal basically sits at

the Royal Courts of Justice, which consists of the Civil and Criminal Division.

Usually there are three judges who sit to hear an appeal, although for very

important cases five may sit. The Court of Appeal is the highest court within

the Supreme Court of Judicature. The Criminal Division listens to appeals mainly from the Crown Court, and cases are commonly heard by a 'bench' of three Judges, usually or Lady Justice and a Lord and two High Court Judges.[4] In order for me to improve on the how the English legal system works, I visited the Crown courts in Swansea. Court room activities can be witnessed from public. This is aimed at making the legal development open and clear to the entire public. Thus this is a clear advantage of the English legal system and should create greater conviction between the population and the legal environment under which we live. But most Courts are closed to the public example the youth court which the court proceedings are held in camera.[5] However, there is an exception to the open court for the public principle, in particular when it comes to Family or Youth courts; this implies that most trials are held in private.[6] During the trial, they were both journalists and others family members present at public galleries listening and witnessing the court proceedings. The journalist who were responsible for taking note in the trial, were restricted from taking photos. In the UK, It is against the contempt of the court to take photograph of any person being a juror, a judge or even a witness. Talking about the Court staffs, they play an important role in the court. They are responsible for the running of civil, criminal, family courts, and tribunals in England and Wales. Their roles are different, and range from organizing court lists to providing legal advice for the judge.[7] On arriving the crown court, I was properly checked by security men outside the gate. The checks are done to ensure the safety of the court environment. The security also takes control of the gate and doors to make ensure that only authorised people are allowed into the court. On entering

inside the court, a list of cases being heard on that particular day was shown to me. During the court session, I was able to witness cases from the commencement of the trial but I was not allowed to record or to take down notes as part of court proceedings. The usher was present, he is the first person you will meet before entering into the courtroom always at the door, he or she is responsible for preparing the courtroom, checking that the defendants, witnesses and lawyers are present, also calling the witnesses and defendants into the court and administering oaths. In the other hand inside the court room, the Clerk was sitting at the front of the court that is before the judge and takes responsibilities of all the documents that are needed during the trial. By doing this, she assists the judge and manages the courtroom and ensuring that the court runs smoothly to the satisfaction of everybody.[8] Basically, a contested trial in the crown court is a trial before the judge and the jury, so before the court proceedings start; the jury has to be empanelled. Thus in my case, no jury was present in the trial but if they were present, their responsibilities would have been just to listen to all the witnesses and then make a decision at the end of the trial as to whether the defendant is guilty or not. Thus Lets bear it in mind that judge and the jury plays different roles in a conduct of a trial in the sense that, a judge may refuse to admit certain evidence likely to be more prejudicial than probative. The judge may instruct the jury to ignore things said in the witness box if such things are not relevant to the evidence of guilt of the defendant. Why, because the jury members not having expertise in legal field, need help in discrimination between those facts which are relevant to prove guilt and those which are not. Moreover there have been criticisms about the jury; one

of the criticisms is that it leads to an unrepresentative collection which might count against the defendant.[9]The prosecution lawyer was present in the court; He tries to show that the defendant has acted against the law. He did this by presenting evidence of printed photograph and asking the witness questions about what they saw, heard or what happened.[10]In the other hand the defence barrister who was sitting beside the persecutor lawyer, his duty was to explain the case to the judge and the court and question the witness.[11]Accordingly, on the 1st of March 2013 a criminal trial at the crown court in Swansea before his honourable chief justice Keith Thomas and the defendant, Mcginn Patrick who was convicted and charged on a single count of assault occasioning grievous bodily harm which was contrary to section 18 of the offences against the person Act 1861[12](an indictable only offence). An indictable only offence is a serious offence that is always tried in the crown court before the jury and judge.[13]He has also faced an allegation of affray which was contrary to s. 3 public order Act 1986[14], (either way offence). An either way offence can either be trial in the magistrate or the crown court depending on the fact of the case. both incidents arise out of a brawl in Swansea city. The case started and ended in the crown court which makes it to be the court of first instance. A court of first instance is a court where legal proceeding first head. Although the fact of the case was unusual but then it involve two young men aged unknown who had a disagreement after party in a public street of Swansea, over an unknown issues. They decided to straighten out their disagreement with a fight. One removed his shoes and the other removed his sweater before instigation. The defendant was holding a bottle and he swam the bottle at

the complainer but the complainer grab the bottle and throws it behind him. Shortly after, the defendant left the room but he seems to be violent, he was found with a blade but the complainer which was with a knife threaten him by saying “do you want me to injure you”. Thus, due to the photograph that was presented by the doctor, the complainer initially performs a substantial touch to defence as part of recap, which affected the injury and affect cross part of the injury. Thus with the picture presented, it seems the complainer was well wounded on his right hand. Furthermore section 18 creates in effect, two offences namely, wounding and causing grievous bodily harm.

[15]However the mens rea for the attempt was an intention to kill. Although the intention to cause grievous bodily harm was said to be sufficient but was not sufficient for murder.[16]The learned chief judge gave a verdict ruling in favour of the complainer. The defendant pleaded guilty under the ground that he had culpability in committing that offence had faced an allegation of affray before. The defendant conviction was contrary to assault occasioning actual bodily harm (AMB), (s) 18 of the offences against the person Act 1861. A sentence of 32 months imprisonment was upheld on the appeal.

Accordingly the maximum penalty for the aggravated form of grievous harm is 7 years and a fine.[17]THE ADVANTAGE AND DISADVANTAGE OF THE COURT SYSTEMOne of the advantages of the crown court is that, juries seems to be more prepared to give a ruling of whether a party is guilty or not than the magistrates. The crown court have much powers of sentencing in terms of punishment example, an offence that carries six months imprisonment in the magistrate’s court might even carry thirty-six months at the crown court. The proceedings of the crown court are flexible in the sense

that matters are quickly dealt with. Basically if the crown court discharge you from an offence and the Crown Prosecution Services (CPS) decide to make an appeal, to the court of appeal and wins on a relevant question of law, your discharge will still remain as the way it was[18]. A question of law is the process of how the judge interprets the law. This means if the crown court says that the facts surrounding your case are right, then no appeal can overturn your freedom. On the other hand, the verdict made by the magistrate court and appealed by the CPS at the high court may be overturned. The crown court is control over by a judge who has the qualification and expertise in law. This is more beneficial in the fact that the judge is in a better position to understand the application in law and make decisions than of the magistrate. Thus magistrate do not usually have any qualification or vast knowledge in law even though they decide over court cases, they always seek for a legal advice from the court clerks in issues on law. On the other hand to be realistic one of the main disadvantage of the crown court are the delays which it comes upon due to the seriousness of cases being handled by the court; the method may be too long. This can basically affect the firsthand witness accounts, because of the long process which it took, I eventually forgot some of the events which I have witnessed in a crime scene.[19]In terms of punishment the crown court handles the highest sentence and fines in any matter it handles. With inferior power, the magistrate court can impose minimum custody of six to twelve months in the other hand the crown court can sentence an offender a year or more. This is should be a great disadvantage to the offender who basically decides that,

his case should be heard in the crown court instead of the magistrate court.

[20]

IN SUMMARY

This court report is written base on an interim to identify some legal and apply the application of law where necessary. Thus Under the view of the case taken, I have shown clear understanding base on what was witness in the criminal trial of R v McGinn Patrick who was convicted on a single count of assault occasioning actual bodily harm which was contrary to section 18 of the offences against the person Act 1861. the major assumption behind accessorial liability is that of derivative liability. It is though right to punish a person who has committed a crime as if they committed that crime.