

FIREARMS – POSSESSION WITH INTENT EXAMPLES**Possession with intent to endanger life (section 16 – life maximum)**Boyd

Two counts of possession with intent to endanger life, one for ammunition and one for the handgun. There were at least two handguns and ammunition involved. The victim was surrounded by a group of 5 men including B, as he got out of his car at a restaurant. They were near other people in a party-type situation. B shot at the victim at close range. The evidence was inconclusive as to whether an unknown male had also shot at the victim with another handgun. The victim was wounded in the leg – the tibia and fibula fractured and required surgery. The injuries were serious but not life-threatening. (B was acquitted of attempted murder – the judge considered it would have been a level 1 attempted murder case at top end of second category, i.e. starting point of 20 years.)

Final sentence (no guilty plea): 16 years' custody (concurrent on both counts)

Harwozinski

H purchased more than 80 blank firing handguns, at least 19 of which were fully automatic, and over 1800 rounds of blank ammunition from the Czech Republic. G then modified the handguns to enable them to fire live ammunition. The weapons and ammunition were supplied to criminals in various urban centres. The weapons had been discharged in public on a number of occasions in circumstances where the lives of members of the public were or could have been endangered. At least once a gun was used to cause injury, said to amount to something approaching attempted murder. The weapons had been found closely linked to the supply of large quantities of class A drugs. H had imported the guns/ammunition, sourced the lathe and was responsible for the onward transfer of the weapons. H was also charged with importation of firearms and ammunition, conspiracy to convert, and conspiracy to manufacture. A 30 year determinate sentence would have been appropriate after trial.

Sentence after guilty plea: Life with 11 year 8 month minimum term

Smith

Prohibited firearms were loaded and used on a number of occasions in order to enforce the supply of controlled drugs. The offending was in the context of gang activity. In this case, three firearms and related ammunition were recovered, which were lethal weapons ready for use, but there was evidence of two further firearms which were not recovered - one revolver and one machine pistol. There were four shooting incidents. In three, four people were seriously injured and in the fourth, there were life changing injuries to victim. In three cases the shootings were in residential areas, one with shots going into a house, narrowly missing the occupants, and in some cases at a time when people including children were on the street. Innocent members of the public were traumatised. Other charges of drug supply.

Sentences ranging from: 6 years 6 months' custody (no plea) – life with minimum term of 12 years, mainly depending on role in shooting incidents and plea

Possession with intent to cause fear of violence (section 16A – 10 year maximum)Tray

T had been drinking at a party at his house. Fighting broke out amongst the friends. He collected an imitation rifle from his room, which had been left there by somebody else as part of a fancy dress outfit. He walked back into group and started waving the weapon around, with the intent of stopping the fight that was in progress.

Sentence after guilty plea: Community order with 200 hours' UPW

Forrest

At 1.10am F heard a noise outside his house. He believed his neighbour's vehicle was being damaged, and decided to do something. He went out on the street with his air rifle (imitation firearm), with a torch and sights attached to it. The weapon was such that it was not easy to see straightaway that it was an air rifle and not a proper firearm. Anyone seeing it would have been put in fear, which was his intention. It was loaded although it was not fired and was not put to use aside from F taking it into the street.

Sentence after guilty plea: 10 months' SSO (suspended for 2 years) with 20 days' RAR

Wisniewski

W was driving on the motorway with his nephew in passenger seat, running late. The victim's vehicle was driving in the outside/passing lane. W flashed his headlights. The victim was moving into the slow lane, when W also pulled into the inner lane intending to undertake. W then went back into the overtaking lane. W slowed his speed deliberately so the cars were alongside. The lighting was getting towards dark. W was angry and turned on the vehicle's interior light. He reached for the gun (an air pistol in shape of handgun) and held it at right angles to the victim – the gun was not pointed at the victim but it was made clear to the victim that W had a gun. W deliberately wanted to frighten/intimidate the victim. The judge found no provocation in the victim's earlier driving behaviour.

Sentence after guilty plea with dispute as to basis of plea: 6 months' custody

Evans

There was a history of bad blood between J and E. They were arguing on doorstep and began to trade insults and threats. E followed J down the road trying to goad him into a fight. There were aggressive movements and gestures. E attacked J and punched him. J went to his house and got a knife. He stabbed E with a knife - 3 wounds. E demanded his son get E's BB gun from the house. The son tried to calm the situation and E beat/punched him to make him get the gun, which he eventually did. E then searched for J, brandishing the firearm at anyone in his path, including at a heavily pregnant woman. The offence was committed in front of children (his own and neighbours) and other people in the street.

Sentence (no guilty plea): 2 years 6 months' custody (plus 12 months consecutive for affray, to a total of 3 years 6 months)

Neza

A group of defendants were in a vehicle which was observed jumping red lights in pursuit of a van. One defendant was seen to be occupied with an item in his lap. The defendants had armed themselves with a Luger 9mm handgun with a magazine loaded with live ammunition. Their purpose was to follow the occupants of the van with hostile intention for a prolonged period of time and over a substantial distance on motorway. In pursuit they jumped red lights and drove at high speed in a dangerous manner. The driving was part of the intention to cause fear of violence. Police moved to stop the car. The car slowed to enable one person to exit the car and take the weapon. That person was not detained but police recovered the firearm. The firearm had been fired from the car. One defendant additionally charged with dangerous driving

Sentence (no guilty plea): 6 years 9 months' custody (plus 12 months concurrent for one defendant with driving charge)

Belete

In early hours B took himself to hospital with gunshot wound to his upper thigh. A spent cartridge and a live round were found in his trousers. Police found a BMW with blood soaked seats and a firearm (a Baikal, a Russian-made pistol with a silencer) with a number of rounds of ammunition. Three rounds had been fired into the door of MH, who was in some form of relationship with B. The sentencing judge considered this case to be at or near the maximum seriousness for this offence, before discount for the guilty plea. Other charges of

Sentence after guilty plea: 6 years 8 months' custody

Use of firearm to resist arrest (section 17(1) – life maximum)

Hodge

A police officer tried to arrest H at his home. H resisted the arrest, threatening with a taser which is a non-lethal weapon. He was unable to work out how to operate it. Although over a relatively short timeframe, and not calculated or premeditated, this was an incident of persistent and aggressive resistance to the arrest. H used and threatened violence towards the police officer, both when he was standing and when he was on the floor. Bystanders who witnessed the incident would have been upset. Captor spray had to be deployed and others nearby would have been caught by it. A firearms officer was deployed with a Glock pistol, which could have been fired leading to H's injury or death.

Sentence after guilty plea: 2 years 4 months

Gerrard

G's girlfriend told the police that had left carrying a gun, saying if he was stopped there would be a stand-off. Police pursued G's car and he drove erratically. A police officer went to the driver's door. G got out of car, stood side-on to the officer and stepped on the sill of the car to gain height. He took a silver handgun (imitation) from his waistband and pointed it at the officer's face. The officer thought he was about to be shot in face. G held it at his face to make him believe he would be shot. Another officer arrived. G pointed the gun at that officer, again in the vicinity of his face. That officer heard a clicking sound - he thought an attempt to pull trigger. G was ratcheting the gun at one stage. Other officers arrived and G brandished the gun in a way which would have put them in fear for their lives as well. G then ran off, carrying the gun. He tried to scale a gate and was pulled back. Again he pointed the gun at officers. G was taken to the ground and disarmed. G then called out that it was not a real gun. His intention was to use the gun to frighten the officers.

Sentence after guilty plea: 5 years (plus 16 month consecutive sentence for separate AOABH and driving offence)

Possession while committing a Schedule 1 offence (section 17(2) – life maximum)

Boyd

B was arrested for attempted aggravated burglary with another person. He was never prosecuted for the burglary. He had a rucksack with him containing an imitation firearm which could fire blanks. It is not suggested, in fact, that they were committing a burglary. The firearm was inside the rucksack. There was no suggestion B had removed it from the rucksack to use it and no suggestion he had it with him for any criminal purpose.

Sentence after guilty plea: 12 months' community order with 140 hours UPW

Mohammed

M was armed with a revolver that has not been recovered - taken to be an imitation revolver. M robbed the victim of £10,000 and his phone and took his car and damaged it. M threatened the victim and three other people with violence. The background to the offence was unclear – there was some suggestion of planning but this was not sentenced on basis that it was a significantly planned attack. M said he questioned who was ‘on his area’ in such a car and had a gun with him to deal with people on his area. Other charges of robbery and a driving offence.

Sentence (no guilty plea): 7 years’ custody (concurrent 7 years for robbery, 18 months for driving offence)

Carry firearm with criminal intent (section 18(1) – life maximum)

Brent

B pleaded guilty to possession of an imitation firearm with intent to commit affray. B looked out of his window and saw youths urinating near his garden boundaries. Previously there had been pestering by youths from a nearby traveller's site. B had purchased a BB cylinder powered air pistol that looked exactly like a real firearm, for the purpose of protecting himself by brandishing it if necessary at the youths. He intended to see the youths off. The court considered B had made a mistake under provocation from the youths.

Sentence after guilty plea: 12 months’ community order with 60 hours UPW

Heath

Two defendants went to a shop early in the morning when the victim was at work at a small newsagents. H had an imitation firearm. The victim was approached and was threatened with a gun. The gun was held above her head while she was threatened, shouted at, sworn at, and asked for the keys to the safe. She did not have them or did not hand them over. P had a bottle, which the victim thought she was going to be hit by. H hit her with the gun. She was hit about the face and lower jaw, sustaining injury, and bruising to breast area and a hand injury. She also experienced psychological suffering and anxiety. The defendants left in a nearby car. An imitation firearm was recovered including other items such as balaclavas. Also one charge of attempted robbery.

Sentence after guilty plea: 6 years’ custody (concurrent with extended sentence for attempted robbery of 6 years’ custody, plus 2 years licence)

Hussain

There was a short pursuit of defendants in a vehicle one evening. Two firearms were found in the vehicle, both loaded with ammunition. The sawn off smooth shotgun (automatic) had a cartridge jammed in the mechanism. It was wrapped in bags, in the footwell behind the front seats. The handgun had five bullets in the magazine; it was found under the passenger seat. The jury had concluded the purpose of weapons was to commit an indictable offence e.g. robbery, but the exact offence was uncertain. Two counts of possession with intent to commit an indictable offence. Other charges of possession of prohibited firearm and possession of ammunition without firearms certificate.

Sentence (no guilty plea): 12 years concurrent on each count (8 years concurrent for other possession offences)