

R. v DEAN BONESS AND OTHERS

- 71 The seventh order prohibited the appellant from:
Entering upon any private land adjoining any dwelling premises or commercial premises outside of opening hours of that premises without the express permission of a person in charge of that premises. This includes front gardens, driveways and paths. Except in the course of lawful employment.
- 72 The respondent points out that in *McGrath* the Court of Appeal held that a term which prohibited the appellant from “trespassing on any land belonging to any person whether legal or natural within those counties” was too wide and harsh. If the appellant took a wrong turn on a walk and entered someone’s property, he would be at risk of a five-year prison sentence. In our view this prohibition, albeit less open to criticism than the one in *McGrath* is also too wide and harsh. Although certain pieces of land might easily be identified as being caught by the prohibition (such as a front garden, driveway or path) it might be harder to recognise, say, in more rural areas. The absence of any geographical restriction reinforces our view. Furthermore, there is no practical way that compliance with the order could be enforced, at least outside the appellant’s immediate home area (see para. [47] above).
- 73 The eighth order prohibited the appellant from:
Touching or entering any unattended vehicle without the express permission of the owner.
- 74 The respondent submits:
“The appellant has previous convictions for aggravated vehicle taking and interfering with a motor vehicle and has been reprimanded for theft of a motorcycle. It is submitted that the prohibition is sufficiently clear and precise and is commensurate with the risk it seeks to meet.”
- 75 We agree generally but we would have preferred a geographical limit so as to make it feasible to enforce the order. Local officers, aware of the prohibition, would then have a useful weapon to prevent the appellant committing vehicle crime. They would not have to wait until he had committed a particular crime relating to vehicles.
- 76 The ninth order prohibited the appellant from:
Acting or inciting others to act in an anti-social manner, that is to say, a manner that causes or is likely to cause harassment, alarm or distress to one or more persons not of the same household.
- 77 The respondent submits that this was a proper order to make and is in accordance with the Home Office guidance. We would prefer some geographical limit, in the absence of good reasons for having no such limit.
- 78 The tenth order prohibited the appellant from:
Congregating in groups of people in a manner causing or likely to cause any person to fear for their safety or congregating in groups of more than six persons in an outdoor public place.