

Transcript from the page of <https://youbethejudge.org.uk/>

Facts of the offence

Sentencing hearing: Robert Horton

Magistrate

Mr Horton, at your trial you were found guilty of criminal damage. We will now consider your sentence.

Legal adviser

In magistrates' courts, cases are generally heard by three magistrates, who are members of the community. People like you and me. They oversee the trial and decide the sentence. My job is to advise them about legal matters, including the sentencing guidelines.

But before we go any further, let's find out about the facts of this case...

Four weeks earlier: The trial

Legal adviser

Robert Horton, on the 23rd of March without lawful excuse you damaged three vehicles and a garage door. Do you plead guilty or not guilty?

Defendant

Not guilty.

Witness in the stand

I was woken in the middle of the night by some man shouting at the top of his voice. I looked out of the window and saw him staggering down the street. Then he looked like he was scratching something on the bonnet of a car. After that, he did the next one along.

Prosecution

So what did you do then?

Witness in the stand

He looked like he was heading straight for my car so I opened the window and shouted at him to stop. At that point he ran off. My husband and I went down to inspect the cars and saw scratches on the bonnets. That's when I called the police.

Police officer in the stand

We arrived at the scene at 2:37 am and found the defendant spraying graffiti on a garage door. On searching him we found a key marked with paint. He'd clearly had a considerable amount to drink. We arrested him. The defendant was subsequently identified by the witness in an identity parade. We estimate the cost of the damage at £1,500.

Present day: Sentencing hearing

Legal adviser

Having heard the evidence, the magistrates found Mr Horton guilty of criminal damage. At this hearing, the prosecution and defence solicitors will highlight factors which they think should affect his sentence. The magistrates will need to weigh up all these factors when considering their sentence.

Prosecution

Mr Horton has a previous conviction for damaging property. He's clearly not learned any lessons from this and your worships should take this into account in sentencing for this offence.

Defence

My client's previous conviction was seven years ago and was committed when he was a juvenile. He has not re-offended since. In my submission it is neither recent nor relevant and should not be given any weight in your deliberations.

Aggravating and mitigating factors

Prosecution

I would remind your worships that the fact that Mr Horton was drunk is neither a defence nor a mitigating factor in this case. As you are well aware, the guidelines state that committing an offence while drunk makes it more serious, not less.

Defence

I put it to you that this is not characteristic behaviour. He was drunk on this occasion because of a traumatic break up with his girlfriend. I am not suggesting that Mr Horton being drunk should act in his favour, I am asking you to consider, as a mitigating factor, the personal issues that led him to get drunk in the first place.

Cont.

Defence

Your worships will have seen a letter from Stephen Bryant, Mr Horton's employer, about his good character. Mr Horton has had a steady job as a delivery man for over a year. If he received a prison sentence, he would lose his job, which would do nothing to help his prospects of rehabilitation.

Magistrate

Is there anything you want to say?

Defendant

My girlfriend broke it off that night. I was gutted. I'd been with her nearly two years. I don't know what happened, I just lost it. It definitely won't happen again.

Legal adviser

You've heard the arguments. Now it's time for you to be the judge.

The sentencing guidelines for criminal damage set out three main options: a fine, a prison sentence or a community sentence (which can include things like a curfew or unpaid work to offer payback to the community).

There's another thing that will help you make your sentencing decision. Once a defendant has been found guilty, the magistrates often ask for a Pre-Sentence Report, to be prepared by the probation officer. The report provides background information that will help them decide the most appropriate sentence. The probation officer will have assessed the risk of harm that Robert Horton represents to the public plus the likelihood of him committing crimes in future. The report would generally recommend a sentence. But I don't want to influence your decision...

Legal adviser to defendant

Please stand Mr Horton.

Magistrate to defendant

You have been convicted of criminal damage. We consider this a serious offence. The sentence of this court is...

Sentence explained

Magistrate to offender

For the offence of criminal damage, we can impose a maximum sentence of three months in prison. The sentencing guidelines categorise this offence as 'significant damage up to £5,000' and 'damage caused as part of a spree'. The starting point for that is a medium-level community sentence, and up to a short custodial sentence. Although the damage was deliberate and significant, we don't consider your offence so serious that only a prison sentence is justified.

We do consider your offence serious enough to impose a community sentence. We have taken into account your previous conviction but noted that this was for a single offence and committed some time ago. We took into account that you were drunk, which is no excuse for your actions. However, we have also borne in mind that your behaviour was uncharacteristic and prompted by the break up of your relationship, and that you have shown genuine remorse.

Weighing up these factors, we felt your behaviour would be better tackled by way of a high-level community sentence. It will give you the opportunity to put something back into your community.

Sentence given:

Community sentence: 200 hrs unpaid work + 4 mths curfew + weekly supervision (option 3)

Given that you are employed, we have also added compensation to the victims of your crime to the sentence.

Legal adviser

So how did this compare to your own sentence? The magistrates obviously thought this was a serious crime. Unpaid work is punishment as well as a way to make amends, which is why it's often called community payback. Cleaning up graffiti, for example, will be a good way for Robert to give back to the community.

Robert will have to fit in his 200 hours of unpaid work on top of his day job, so he'll lose his weekends for some time. And for a young person, a 12 hour curfew puts a serious damper on his social life. Finally, having to pay compensation to his victims for the damage he caused will put a big strain on his entertainment budget.

And that concludes this case. I hope we've shed some light on the thinking behind sentencing decisions. As you've seen, it's rarely clear cut!