

R v Clare: R v Peach [1995] App Rep 333

Identifying an offender from CCTV

A police officer who studied CCTV footage some 40 times of an incident which was the aftermath of a football match, was deemed to be and qualified to give 'evidence of opinion'. PC Fitzpatrick, GMP, gave evidence and had special knowledge that the court did not possess. His evidence identifying two men engaged in violent disorder was properly admissible.

Clare and Peach were West Bromwich Albion supporters. After the match at Bolton, violence flared up between supporters. The incident was brief and recorded in black and white by three video cameras.

The Crown relied on black and white video recording. The incident was brief and there were many supporters and other members of the public milling about and creating a confused scene; what was actually being done and who was doing it could only be discerned by close study.

PC Fitzpatrick had studied the film closely and analytically. He, together with a colleague, had filmed supporters in good quality colour arriving at the football ground, when they were in the stadium and as they left. PC Fitzpatrick had viewed the recording of the incident about 40 times. He had been able to examine it in slow motion, frame by frame, rewinding and playing as frequently as he needed. By so studying the film he was able to follow the movements of individuals and see what actions they took. By comparing the individuals performing violent acts with the colour pictures, he claimed to be able to identify not only the violent acts in the street but who was committing them.

The Crown sought to adduce his evidence in order to make clear to the jury what could be seen on the footage. Neither appellant gave evidence. The main ground of appeal related to PC Fitzpatrick's evidence. He did not know Clare and Peach before that day.

His Lordship considered R. v. Leaney (1987) 38 CCC 3d 263; R. v. Steele (1992) SLT 847; and R. v. Howe (1983) 1 NZLR 618 and said that the phrase from Howe "expert ad hoc" sought to put witnesses like PC Fitzpatrick into the traditional category of those qualified to give expert opinion evidence. Whether or not the tag was appropriate, their Lordships were clearly of the view that PC Fitzpatrick had, as stated in Leaney "special knowledge that the court did not possess". Accordingly, it was legitimate to allow him to assist the jury. He was open to cross-examination and the jury, after a proper direction and warnings, were free either to accept or reject his assertions. His identifications were, their Lordships agreed with Howe, 'no more secondary evidence than any oral identification made from a photograph'.