

## R v Forbes [2000] – Identification [House of Lords]

Forbes tried to rob the victim of money which he had just withdrawn from an ATM. Forbes had become aggressive and had threatened him. The victim ran away and called the police. The victim got into the police car and they drove around the area looking for the suspect. The victim then saw him and identified him to the officers as the offender. Forbes was arrested protesting his innocence.

Forbes was charged and convicted. He appealed against his conviction claiming there had been a breach of PACE in that identification was the key factor and he had not been offered the opportunity to take part in an identification parade.

### HELD

The relevant part of PACE Codes of Practice D (pre April 2003) stated that whenever a suspect disputes and identification, an identification parade SHALL be held if the suspect consents. There are exceptions to this part of the code, e.g. their unusual appearance, the suspect refuses or other practical alternatives are available. An identification parade may also be held if the OIC considers that it would be useful and the suspect consents.

The court stated that there **HAD** been a breach of the PACE Codes of Practice. This imposes a mandatory obligation on the police to provide an identification parade whenever a suspect disputes the identification.

This appeal effectively overrules Popat (No.2) 1999. There must be an identification parade if requested by the suspect, even if the suspect has been firmly and positively identified.

### Extract

*'It remains to consider whether the recorder's failure to direct the jury on the breach of Code and its consequences infringed the appellant's right to a fair trial or rendered his conviction unsafe. On this question we are of the same opinion as the Court of Appeal which said:*

*'In the present case, however, in our judgment the conviction is not rendered unsafe by the Recorder's exiguous reference to the fact that no parade was held. As we have already said, the evidence of street identification was compelling and untainted. It would be wholly artificial to suppose that a reasonable jury might have taken a different view if they had been told that the appellant had been deprived of the chance that the complainant might not have picked out the appellant on a parade.'*

*Again, we bear in mind that there were in effect two informal identifications. The circumstances of this case do not lead us to regard the appellant's trial as unfair or his conviction as unsafe.* <http://ow.ly/JmIPw>

*The interpretation and comments made within this document are not to be considered as legal advice.  
Reference should always be made to the original case.*