

R v BEVENS [2009] EWCA Crim 2554

SOCPA 'Assisting Offender'

On the 5th March 2007 at Newcastle Crown Court, Steven BEVENS pleaded guilty to the 'execution' of David 'Noddy' RICE and also to conspiring to supply controlled drugs. He was sentenced to life imprisonment and a minimum term was specified at 26 years. A term of 7 years for the drug offences was to run concurrently.

Steven BEVENS had listened to the evidence of an 'assisting offender' Derek BLACKBURN who had entered into a statutory agreement pursuant to Section 74 Serious Organised Crime & Police Act 2005. The full circumstances are outlined in R v P: R v Blackburn [2008] 2 CAR (S) 5.

BLACKBURN had been used as a driver by BEVENS and Allan FOSTER and was to pick them both up after the execution in a car park in South Shields. David RICE was shot eight or nine times and despite efforts to escape, FOSTER walked around his vehicle and shot him in the head at close range. RICE was known to BEVENS & FOSTER and was employed in the conspiracy to supply the drugs. There had been a disagreement between them.

Before his trial for the murder of Rice, BEVENS indicated his preparedness to enter into a statutory agreement assisting the prosecution in relation to Foster's involvement in the murder. However, prior to proceedings he withdrew his agreement citing he was in fear for his own and his family's safety. However, he indicated that he would be willing to provide intelligence about a corrupt police officer, Detective Constable Jones, who was involved in a corrupt relationship with Foster. Bevens provided a written statement of witness which formed the basis of his evidence at the trial of Jones. Jones was convicted of providing information to Foster about police activities and intelligence but acquitted of receiving any remuneration. Despite this, the evidence of Bevens was deemed to be 'truthful'. Under the statutory agreement under SOCPA, his term of imprisonment was reduced by 5 years.

The differences between a criminal giving evidence against a corrupt police officer and giving evidence against a murderer are obvious. Also the risks faced by the criminal in the latter circumstance, a 'gangland execution', as is the case of Blackburn, are significantly greater than those by giving evidence against a corrupt police officer. Yet Bevens submission was that in proportionate terms the discount should be similar.

The essential question is whether the 5 year discount was sufficient. On behalf of Bevens, Ms Joanna Greenberg QC, relied upon a paragraph of the judgement in R v Blackburn,

'It is only in the most exceptional case that the appropriate level of reduction would exceed three quarters of the total sentence which would otherwise be passed, and the normal level will continue, as before to be a reduction of somewhere between one half and two thirds of that sentence'

She argued that the discount given to Bevens was plainly nowhere near one half to two thirds.

It is true that Bevens complied with the SOCPA agreement and his evidence assisted in the successful prosecution of a corrupt police officer. However, Bevens was a career criminal who chose to refuse to enter into an agreement in relation to assisting the prosecution of the man who was with him when he murdered 'Noddy' Rice. If he had agreed to give evidence against FOSTER, as Blackburn did, then his discount would have been much greater. However, he balanced the risks he was prepared to take and his level of cooperation was completely calculated.

The discount of 5 years (equivalent to a 10 year reduction) was deemed sufficient.

Accordingly his appeal was dismissed.