

ENGLAND AND WALES / JUDGMENT

R v Batley

Source: caselaw.nationalarchives.gov.uk · Research copy typeset by Esheria. Not court-issued or certified.

IN THE HIGH COURT OF JUSTICE SENIOR COURTS COSTS OFFICE Neutral Citation No.

[2026] EWHC 1153 (SCCO) Case No: 12NY0560023 SCCO Reference: SC-2026-CRI-000009 Thomas More Building Royal Courts of Justice London, WC2A 2LL Date: 14 May 2026 Before: SENIOR COSTS JUDGE ROWLEY R v BATLEY Judgment on Appeal under Regulation 29 of the Criminal Legal Aid (Remuneration) Regulations 2013 Appellant: John Delaney & Co (Solicitors) The appeal has been dismissed for the reasons set out below. SENIOR COSTS JUDGE ROWLEY SENIOR COSTS JUDGE ROWLEY Approved Judgment Senior Costs Judge Rowley: R v Batley 1. This is an appeal by John Delaney and Co solicitors against the decision of the determining officer to calculate the graduated fee on the basis of a guilty plea rather than a trial fee under the Criminal Legal Aid (Remuneration) Regulations 2013, as amended. More specifically, this appeal concerns whether or not a “Newton hearing” took place on 14 August 2025. 2. In schedule 2 of the 2013 Regulations, a “Newton Hearing” is said to mean: “a hearing at which evidence is heard for the purposes of determining the sentence of a convicted person in accordance with the principles of R v Newton (1982) 77 Cr App R 13...” 3. 4. 5. According to the case of R v Robert John Newton itself, the purpose of the hearing is to resolve a factual dispute or disputes so that the judge is able to pass sentence appropriately. In Newton, three procedural possibilities were described: i) ii) iii) the disputed facts could be put before the jury for their decision the judge could hear evidence and then come to a conclusion; or the judge could hear no live evidence, but instead listen to submissions from counsel and then come to a conclusion The crucial aspect of a Newton hearing is that it is one where there must be an issue of substance which needs to be resolved by the judge in order for them to sentence the defendant appropriately. Sometimes that issue of substance appears without the case having been formally listed for a Newton hearing, but it is the substance of the hearing, rather than its appellation that matters. In this case, it was indeed listed for a Newton hearing and came before the court just before lunch. The prosecution and defence counsel addressed HHJ Hickey following confirmation by the judge that he had seen the defendants basis of plea. The Crown’s counsel, said: “My learned friend and I have had some discussions as to the extent to which the differences between the prosecution and the defence make a material difference in terms of sentencing. There is a pre-sentence report prepared on behalf of the defendant and some medical records – two separate documents – in the sentence section which relates to her significant medical problems. The position I think we find ourselves in is that the defendant’s primary concern is, essentially, not receiving an immediate prison sentence. She has a two-year-old child who is present in court today.

She is a single parent and, for obvious reasons, that is her most significant concern, and always has been in these proceedings. I haven't broached the question of a formal Goodyear indication with the defendant yet. I certainly could do that, but we, I think, both seek your Honour's guidance as to SENIOR COSTS JUDGE ROWLEY Approved Judgment R v Batley whether the issues between us in relation to the basis of plea are such that, firstly, you would feel a Newton hearing is necessary or if your Honour is able to say whether that would make a significant difference to the type of sentence imposed." 6. The judge responded by stating that she he wished to know exactly where both sides stood, particularly in relation to where each side said this case would fit within the sentencing guidelines and why. It was established that, on the Crown's case, the starting point would be 18 months' imprisonment. On the defence case, it would be six months. In any event, the sentence would be reduced by a quarter as credit for an early guilty plea. The judge commented that a suspended sentence would be possible where the starting point was 18 months' imprisonment and that with the further reduction by a quarter, the sentence was "well within suspended sentence territory." In response, the defendant's counsel, said: "It is and, as I say, that's the defendant's primary concern. If I were to take instructions and ask for a formal Goodyear indication, would your Honour feel able to give one? 7. The judge replied: "I'll give one, as long as it's not argued against the Crown's culpability. I've seen the text messages and I think they're very difficult to argue with." 8. 9. 10. The case was then adjourned until the afternoon in order for instructions to be taken from the defendant. In the afternoon, an indication of the maximum sentence the defendant could expect to receive was requested, were she not to pursue a Newton hearing. Based on the Crown's case, i.e. an 18 month starting point, the judge indicated that the defendant would not receive any more than that sentence and the appropriate discount would be given for the guilty plea. Based upon the transcript from which these quotations are taken, the determining officer considered that, although a Newton hearing was listed, it was ultimately not needed and so the defendant was sentenced without the judge having to make any ruling on disputed facts. Of the numerous Costs Judge decisions regarding whether or not a Newton hearing had taken place, the determining officer considered the case of R v Palmer [ref] was strikingly similar factually in that a Goodyear indication was given with the defendant withdrawing the disputed basis of plea and there being no submission on the disputed issues of fact prior to the judge passing sentence. Colin Wells of counsel, who appeared on behalf of the appellant at the hearing of this appeal, set out the defendant's basis of plea and the prosecution's response to it. The case involved the defendant receiving monies from criminal activities conducted by her ex-partner and forwarding those proceeds onto others. The prosecution accepted that the defendant was unaware of the money being sent to her account until such time as it arrived. However, it did not accept that she then acted under duress and not for her own benefit, or that she was in fear of her ex-partner. 11. The prosecution's stance arose from messages between the defendant and her ex- partner. They are the messages referred to by the judge at paragraph 7 above as being SENIOR COSTS JUDGE ROWLEY Approved Judgment R v Batley difficult to argue with. The judge also described their meaning as being "plain as a

pikestaff". (They appear to show the defendant haggling with her ex-partner in respect of the percentage of the monies she would receive, amongst other things.) For this reason, the judge said that any Goodyear indication would be based upon the Crown's case.

12. Mr Wells submitted that the exchanges between the prosecution and defence counsel and the judge fell squarely within the third limb of the possibilities for a Newton hearing i.e. submissions from the advocates followed by a ruling by the judge. The consequence of that decision was that the starting point for the sentence was 18 months' imprisonment rather than six months, which was plainly a material difference. Consequently, the appellant should be entitled to a trial fee calculation for the graduated fee based upon the 2013 Regulations where a Newton hearing is expressly described as being sufficient to justify a trial fee being paid. 13. 14. 15. 16. Francesca Weisman for the Legal Aid Agency described the exchanges between bar and bench as being simply assertions on both sides and not submissions. The text messages clearly shown participation by the defendant and they were already available to the court before the hearing. There had been no facts demonstrated through evidence at the hearing on which to make a decision, but simply assertions. There was no sign that the judge had required there to be any investigation into the facts and the defendant's counsel's submissions were simply mitigation. There had been no ruling given by the judge, nor had he been invited to do so. The only invitation was to give a Goodyear indication. Ms Weisman supported the determining officer's view that this case was factually similar to the case of Palmer. As such, this matter fell short of a Newton hearing. It seems to me that this case plainly has some elements of a Newton hearing in that there was a distinct difference between the positions taken by the defence in the basis of plea and the prosecution's reply. If the defendant had been called to give evidence about, for example, the text messages, then it would undoubtedly have been a Newton hearing since the judge would have had to make a decision that would have a material effect on the sentence that he then imposed. As is regularly said, there does not have to be evidence given, but if that is not the case, then it seems to me that there have to be substantial submissions on the disputed issue and the facts that are relevant from material before the court in order for the judge then to give a ruling either on a stand-alone basis or as part of their sentencing remarks. It does not seem to me that this case falls into either the second or third limb of R v Newton. No live evidence was given, and there were no submissions of any substance regarding the disputed facts. The judge merely made a comment about the text messages and, no doubt entirely properly, the defence counsel did not push matters any further. Those exchanges cannot, in my view, be described as the sort of submissions required to categorise events as a Newton hearing. 17. Accordingly, this appeal is dismissed.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://caselaw.nationalarchives.gov.uk/ewhc/scco/2026/1153>

CASE PAGE <https://chat.esheria.ai/case-law/england-and-wales/r-v-batley-2026>

Prepared on 24 October 2026 · Esheria