

ENGLAND AND WALES / JUDGMENT

# R v David Wood

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

Neutral Citation Number: [2026] EWCA Crim 480 IN THE COURT OF APPEAL (CRIMINAL DIVISION) ON APPEAL FROM THE CROWN COURT AT SHEFFIELD HH Judge Roger Thomas KC T20187240 Case No: 202303617 B1 Royal Courts of Justice Strand, London, WC2A 2LL Date: 17/04/2026 Before : LADY JUSTICE ANDREWS MR JUSTICE BENNATHAN and HIS HONOUR JUDGE LICKLEY KC (sitting as a judge of the Court of Appeal (Criminal Division))

- ----- Between : THE KING

- and - DAVID WOOD

- -----

- ----- Catherine Osborne (instructed by Hodge, Jones & Allen solicitors) for the Appellant Jocelyn Ledward KC (instructed by Crown Prosecution Service) for the Respondent Conrad Hallin (instructed by Sheffield City Council) for Sheffield City Council Tom Cockroft (instructed by Government Legal Department) for the National Probation Service Hearing dates: 31 July 2025 and 19 March 2026

- ----- Approved Judgment This judgment was handed down remotely at 10.30am on 17th April 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives. .... For the avoidance of doubt, the appeal having been allowed and no re-trial ordered, the order made pursuant to section 4(2) of the Contempt of Court Act 1981 postponing publication of any report of these proceedings until the conclusion of any re-trial has been discharged. Lady Justice Andrews:

## Introduction

2. The appellant, David Wood, is now 60 years old. On 10 January 2019, in the Crown Court at Sheffield, following a trial before HH Judge Roger Thomas KC and a jury, he was convicted of arson, being reckless as to whether life is endangered, contrary to section 1(2) and (3) of the Criminal Damage Act 1971. On 7 February 2019, having been found to be a dangerous offender, he was sentenced by the judge to an extended sentence of 9 years' imprisonment, comprising a custodial term of 6 years and an extended licence period of 3 years. That sentence was made to run consecutively to a determinate sentence of 11 months' imprisonment for breach of a suspended sentence order of 14 months' imprisonment suspended for 2 years, which had been imposed on him on 7 June 2017. The appellant's application for an extension of time in which to seek leave to appeal against conviction and

sentence was referred to the Full Court by the single judge. We granted the extension of time and leave to appeal against conviction on grounds 2-5 of the Perfected Grounds of Appeal settled by fresh counsel, Ms Osborne, who did not seek to renew ground 1 (for which leave was refused by the single judge). In the event, for reasons that will become apparent, the Court has only needed to consider ground 5, which was added to the Grounds of Appeal pursuant to Crim PD 10.4.5 following receipt of the psychiatric evidence referred to below. 3. We also granted leave pursuant to section 23 of the Criminal Appeal Act 1968, to rely upon fresh evidence comprising: i) ii) iii) iv) Psychiatric reports from Dr Madhani, a consultant forensic psychiatrist and an approved medical practitioner under s.12(2) of the Mental Health Act 1983, dated 9 September 2024, 11 April 2025, and 30 July 2025; A neuropsychological report from Dr Watts, an eminent consultant psychologist and neuropsychologist, dated 27 May 2025, and an addendum report dated 29 July 2025; A psychiatric report dated 22 May 2025 from Dr Shenoy, a consultant forensic psychiatrist and an approved medical practitioner under s.12(2) of the Mental Health Act 1983, and an addendum report dated 29 July 2025; A witness statement from the Appellant's solicitor Ms Laura O'Brien dated 23 February 2024. 4. 5. The Crown did not oppose the extension of time, nor the application for leave to adduce the fresh evidence. In summary, the consensus of the medical experts is that by reason of severe and permanent cognitive impairment caused by a combination of brain damage due to a fall and chronic alcohol dependency, Mr Wood was not fit to stand trial in 2019, but that the conditions from which he suffers are not treatable by means of a hospital order. He does not meet the requirements for detention under the Mental Health Act 1983, and has been assessed as having mental capacity to make decisions about his 6. 7. 8. 9. residence and care. As matters presently stand, therefore, there is no power under the Mental Capacity Act 2005 to deprive him of his liberty. This matter first came before the Court on 31 July 2025. At that hearing, the Court granted the extension of time and the application for leave to adduce the fresh evidence, granted leave to appeal, and proceeded to hear the oral submissions of Ms Osborne and Ms Ledward KC on behalf of the Crown on the substantive issues raised by the Grounds of Appeal. In the light of the way in which matters developed, we considered that the Court would be assisted by obtaining further information concerning the disposals that were available in the event that the Court were to conclude that the appeal should be allowed on the basis that the appellant was unfit to stand trial by reason of a disability, but was satisfied to the criminal standard that he started the fire which formed the actus reus of the offence with which he was charged. Because the experts ruled out a hospital order, the Court had only two options available: to make a supervision order pursuant to s.6 of the Criminal Appeals Act 1968 and Schedule 1A of the Criminal Procedure (Insanity) Act 1964 for a period of up to two years, or to order an absolute discharge. We took the provisional view that the former was likely to be preferable to the latter. We therefore adjourned the appeal and gave directions which led to updated evidence being served from Dr Madhani (a further report dated 30 September 2025) and Dr Shenoy (a further report dated 1 October 2025). In the meantime, a social worker carried out a Care Act assessment of the appellant in prison on 24 September 2025. She considered that the appellant would benefit from supported living accommodation upon his release. A

Mental Capacity assessment was carried out on 25 September

2025. As stated above, this concluded that the appellant has capacity to make decisions about his care and accommodation. Following extensive communications between the appellant's solicitors (and then the Court office) with Sheffield City Council, the relevant local authority responsible for adult social care, and with the National Probation Service, the Court directed that representatives of both entities should attend the adjourned hearing of the appeal, which they did through counsel, Mr Hallin and Mr Cockroft. The Court has also been provided with a pre-appeal report from a Probation Officer, Mr Jim Walkington, dated 19 November 2025, and a witness statement from Mr Tim Gollins, the Assistant Director of Access, Mental Health & Wellbeing at Sheffield City Council, dated 11 March 2026. Mr Walkington and Mr Gollins both attended the resumed hearing of the appeal on 16 March 2026. 10. This case has unusual and challenging features. At the outset we wish to record our thanks to all counsel, solicitors and those within the National Probation Service and the adult social care department of Sheffield City Council for their assistance to the Court in seeking to resolve the challenges which it has presented.

## Background

11. In 1970 the appellant was diagnosed with a disorder of speech and language – dyspraxic speech with subsequent secondary stammer. The clarity and production of his speech is severely impaired; sometimes it is difficult to understand what he has said even after he repeats it. He has often resorted to communication in writing. The appellant appears to have turned to alcohol as a coping mechanism in his early twenties; in 1987 he was diagnosed with alcohol dependence syndrome. Psychiatric assessments have concluded that this has led to a longstanding organic personality change which led to an inability to plan, organise, think about consequences, have flexible responses to different situations and regulate his emotions when feeling frustrated. In 2015, whilst intoxicated, the appellant had a fall which caused a traumatic head injury: a basal skull fracture, frontal subdural and subarachnoid haemorrhage and gliosis in the frontal lobe, leading to cognitive impairment which has further complicated his medical condition. The experts agree that he suffers from dysexecutive syndrome consequential upon the brain injury, which causes difficulties in planning, organising and managing different tasks, mood instability, disinhibition, confabulation, problems with judgment, and deficits in his short-term and long-term memory. Dysexecutive syndrome is a diagnosis which Dr Madhani has explained “is used to denote disorders of mental functioning that are not caused by functional illnesses such as depression or schizophrenia but are caused by brain damage”. The confabulation has included claiming that he has a daughter (he has no children) and describing a female neighbour who has helped him from time to time as his “partner”. Since 2001 the appellant had accrued a number of convictions. Initially these were mainly of a public order nature. However from around 2004 onwards, he began making nuisance calls to the police and emergency services; these appear to have become more prolific after he suffered the head injury. At the time of the incident which gave rise to his conviction, the appellant had been

living for around 2 years in an end of terrace semi-detached bungalow which he rented from Sheffield City Council. Between 21 September 2016 and 3 April 2018 the appellant made 38 nuisance calls to South Yorkshire Fire and Rescue service threatening to set fire to his property, which resulted in a fire engine being sent to his address; there were more calls which were logged in the system, but no fire fighters were sent. On 7 June 2017, the appellant was convicted of attempted arson following an incident on 7 February 2017, when he contacted the police saying that he was going to set fire to his home address and that he intended to set fire to his curtains. Police officers attended the address and found the appellant heavily intoxicated. Whilst the officers were present, he ignited a lighter and held the flame against the living room curtains in an attempt to set them on fire. The officers removed the lighter and arrested the appellant. He pleaded guilty and was sentenced to a Suspended Sentence order of 14 months' imprisonment, suspended for 2 years. There was originally a rehabilitation activity requirement, but that was breached. The probation service brought breach proceedings, and a district judge activated the suspended sentence, but the appellant successfully appealed to the Crown Court. On 2 March 2018 the suspended sentence order was ordered to continue, but the rehabilitation activity requirement was removed. This was the suspended sentence order of which 11 months was activated when the appellant was sentenced for the index offence. 16. On 1 April 2018, fire officers were called out to the appellant's address. One of the officers who attended, Martin Ridge, had been to the address on around 6 previous occasions in response to false reports of fire. His statement was read at the trial. Mr Ridge spoke to the appellant, who opened the back door and let him into the living room. He appeared sober but confused and upset. Within a few minutes the appellant produced a plastic lighter, clicked it to produce a flame and held it to a curtain that was lying across the back of the sofa. Mr Ridge knocked the appellant's hand away from the curtain so that it would not catch fire. The appellant then went straight to the other curtain which was hanging at the side of the window and tried to set light to that. Mr Ridge prevented him from doing so, and persuaded him to sit down, whilst he got some help.

17. When Mr Ridge went outside to speak to the Fire and Rescue service control, the appellant locked the back door and again tried to set fire to the curtains. He could be seen doing so through the window. Mr Ridge shouted at the appellant to stop, and to come and open the door, and when he failed to respond, he and his colleague forced entry. Again Mr Ridge knocked the lighter out of the appellant's hand. The curtain had not caught fire. The fire officers then waited with the appellant until the police arrived. 18. Two days later, on 3 April 2018, passers-by who noticed smoke coming from the building alerted the emergency services to the fact that the appellant's bungalow was on fire. The Fire Brigade attended and assessed that there was someone inside. Firefighters equipped with breathing apparatus forced open the locked front door, and found the appellant unconscious in an armchair in the living room. He was taken to hospital and placed in an induced coma. He received an alcohol detox and was transferred from ITU to another ward for ongoing delirium. As his condition improved, he became verbally and physically aggressive with staff, and was

detained under a deprivation of liberty order.

19. Whilst the appellant was in hospital he was seen by a consultant psychiatrist, Dr Shetty, who recorded on 9 May 2018 that it was “difficult to do a full assessment of his current psychiatric and cognitive state as he has neither the motivation nor the emotional ability to co-operate with long conversations or probing questions”. Dr Shetty noted that he should be treated as someone with a head injury with dysexecutive syndrome and alcohol dependent syndrome. The appellant had no insight into his difficulties. Dr Shetty considered at that time that he had no capacity to make decisions about his discharge destination or his care needs. Various recommendations were made for appropriate agencies to intervene. 20. The appellant was not discharged from hospital until 16 May 2018. He was arrested on the following day and gave a “no comment” interview in the presence of his solicitor and an appropriate adult. He was remanded into custody. Events leading to up to trial and conviction 21. In response to inquiries from Ms Osborne, under the McCook procedure, the solicitor instructed by the appellant at the time of his trial set out a chronology of her dealings with the appellant. She explained that it was not possible to obtain a proof of evidence from the appellant, because he gave conflicting instructions. These began with a denial that there had been a fire at the bungalow, and culminated in the appellant denying that he started the fire, claiming that he was not even present at the time when the fire started, and that he was not the person that the firefighters rescued. 22. 23. 24. 25. A certificate lodged by the defence with the court on 13 September 2018 stating that the case was not trial ready, raised a number of concerns about the appellant’s fitness to participate in a trial, quite apart from his speech difficulties. His solicitor said that he had initially refused to co-operate with a psychiatrist, but then sent her a signed authority dated 10 September 2018 saying that he would do so. A recent assessment by the prison social worker had raised a number of concerns. The solicitor was of the opinion that the appellant was not fit to instruct in any detail, that he would not be able to take part in a trial, and that even if she were able to book two psychiatrists to see him, she was not sure that he would cooperate. She requested that the case be listed for mention. Trial defence counsel confirmed that the case had originally been listed for trial on 17 October 2018. It was listed for mention on 12 October 2018. He shared his instructing solicitor’s concerns about how the case could be progressed, because the appellant had initially refused to see a psychiatrist instructed to assess his fitness to stand trial. Counsel told HH Judge Kelson KC at the “mention” hearing that it would assist the appellant if he had an intermediary at trial. Despite this, no ground rules hearing was directed. The trial date was vacated and re-fixed for 8 January 2019, and a court psychiatric report was ordered. That report was obtained from a psychiatrist, Dr Hayes, who had assessed the appellant on two previous occasions (in 2004 and 2011) when he was accused of making nuisance telephone calls, and who had seen him most recently in June 2018 at the behest of previous defence solicitors. Dr Hayes’ report, dated 20 November 2018, was based on an interview with the Appellant on 31 October 2018. It was sent to Sheffield Crown Court on 22 November 2018 and then released to the parties. Dr Hayes said he had not seen the depositions in the case. Crucially, as it transpired, Dr Hayes had also not seen the appellant’s up to date medical

records, and he was therefore unaware of the serious brain injury which the appellant had suffered in 2015 and of Dr Shetty's relatively recent diagnosis of dysexecutive syndrome consequential upon that injury. Dr Hayes referred to the appellant's acute speech difficulties and his history of alcohol dependency. He noted that prior to his arrest the appellant had been drinking a bottle of vodka a day. When he asked the appellant what was said to have happened he replied "no idea". When asked what had happened on the day in question, he replied "I blacked out, I can't remember anything" and said the last thing he remembered was taking his partner to the bus stop at lunchtime on the day of the fire. He refused to undertake a cognitive assessment. It was possible to communicate with him through a combination of speech and the written word "with patience". Dr Hayes, knowing nothing of the brain injury, concluded that the appellant did not present as having any significant cognitive impairment, "and if any is present it is unlikely to be of such a degree as to have a direct impact on his fitness to plead and stand trial". However, he did have "significant difficulties with communication and in that regard the use of an intermediary may be helpful". It is likely that Dr Hayes' opinion would have been very different if he had seen the appellant's medical records or known about the results of Dr Shetty's examination. 26. Following receipt of Dr Hayes' report, the CPS raised concerns with the court that there was no defence statement, and that the defendant did not appear to be co-operating or communicating effectively with the defence legal team. HH Judge Harrison directed that the defence must file a Defence Case Statement, even if unsigned, by 12 noon on 21 December 2018. Those directions were complied with, but in that statement the defence legal team said this: "The Defendant has had explained to him the warning regarding possible inferences and it is not clear that he understands the warning. A useful Defence Case Statement can therefore not be served due to very limited instructions save to say that the Defendant has stated that he did not cause any fire." 27. The appellant's former solicitor says that the system did not allow the appellant's legal representatives time to get an intermediary for trial and the judge decided that they would have to do without one. At a further "mention" hearing on the day before the trial commenced, defence counsel raised with the trial judge the fact that there was still no intermediary report. His clear recollection is that the appellant was insisting that the trial went ahead and that the judge took the view that the appellant was able to follow proceedings and that with careful judicial handling the trial could take place. 28. Despite this, the jury were plainly concerned: on the first day of trial one of their number sent a note to the judge which reads as follows: "Sir, I hope you do not find this premature or critical, but I have immediate concerns over the mental capacity of the defendant based on his appearance, manner, behaviour in the dock. Is the legal system or the mental health system more appropriate? Perhaps this will be addressed. Sorry if this offends but it is an honest reflection." It is not known how this note was dealt with, but the trial continued. 29. 30. In order to prove that the fire was set intentionally, the Prosecution relied upon reports from two fire safety experts, who both were of the view that the fire had been started deliberately by the ignition of a curtain draped over the sofa, which could have acted as a wick and supplied the sofa with a sustained heat once lit. The skirting board behind the sofa was charred in line with burning material dropping down the back of the sofa. Both experts

discounted the possibility that the fire had been the result of accidental ignition by an electrical fault in a phone charger plugged in to a socket on the wall (which was at the opposite end of the sofa from the curtain which ignited) though there was disagreement between them as to whether the electrical board had tripped out as the fire developed. One of the experts, Clare Duke, gave evidence at the trial and, in cross-examination, explained why she discounted the accidental ignition theory. Her explanation included pointing out that the fire damage to the relevant electrical socket had been caused by fire created from the outside. In terms of the risk that the fire posed to others, Ms Duke postulated two possible outcomes if it had remained undetected. The first was that the fire would have developed and spread to the neighbouring property via the roof, though this was unlikely because the property is situated on a busy road, and she thought the fire would not have gone unnoticed for much longer than it did. The second was that the fire would have burnt itself out because of an oxygen deficiency caused by the fact that all the windows and doors were closed. In that scenario it 31. 32. 33. 34. would not have affected the neighbouring property, but it may have provided an associated risk to the firefighters attending. The prosecution also relied upon bad character evidence, comprising the history of nuisance calls and the incidents on 7 June 2017 and 1 April 2018. The facts of the former incident were incorporated into the Agreed Facts at trial. In order to prove that there was recklessness as to the risk that the fire would endanger others, the prosecution relied on the fact that the appellant's neighbour was a 92 year old female suffering from dementia, who could not easily escape her home, and there was an obvious risk that the fire could spread because the properties were semi-detached. The appellant gave evidence in his own defence. We have listened to the audio recording of that evidence. As Ms Osborne has stated in her Advice and Grounds, there were multiple pauses and inaudible responses, and on two occasions prosecuting counsel said that she did not understand the appellant's responses. He was asked very few questions in chief. He said he could not remember the fire, or being dragged out of his house. He did not set the fire and did not know how it started. He gave a "no comment" interview on legal advice. In cross-examination the appellant said he did not set fire to the curtains on 3 April 2018 and he did not remember being rescued. He had no idea what happened on 3 April. When he woke up in hospital he was told he was concussed. He normally locked his front and back doors, and nobody else had keys to his property. He remembered firefighters coming to his home on 1 April but he did not know why they came. He remembered "a bit" about that incident. He knew nothing about trying to set fire to the curtains in his living room on that occasion. When asked about his previous conviction for arson in 2017, he said he could not remember pleading guilty and he did not know whether he accepted that he had done so. He agreed that his bungalow was a semi-detached property but he said he did not know his next door neighbour. Initially he agreed that he had seen her leaving the house with a walking frame and he knew she had a ramp to her property, but almost immediately afterwards he said he had never seen his neighbour in the two years that he had been living in his bungalow.

35. When he was first asked whether it was obvious that if you set fire to one house which is connected to another house, there is a risk that the fire would spread, he either gave inaudible responses or kept saying that he was concussed. Eventually, when it was put to him that if somebody set fire to a house that was connected to another house, there was an obvious risk that the fire would spread from one house to another, he said: “oh gosh”. When he was asked after this if he accepted that the risk was obvious, he gave an inaudible reply, and then, when the question was repeated, he said “yeah”. The Appeal 36. The appellant was given negative advice by trial counsel on the prospects of appealing against his conviction. Acting in person, he lodged an application for leave to appeal against his conviction out of time, on grounds of his own composition, in December 2019. The application was initially treated as effective, but then was treated as ineffective in 2020. It is unclear whether this information was conveyed to the 37. 38. 39. 40. appellant. Even if it was, he does not appear to have comprehended it. Correspondence held by the Criminal Appeals Office in 2020 and 2021 indicated that the appellant wrongly believed that the application was still ongoing and that he was seeking to clarify his grounds. Once it became apparent that he was suffering from severe cognitive difficulties the Registrar granted him a Representation Order for fresh solicitors and counsel to provide him with assistance on appeal. They submitted Grounds of Appeal on 23 February 2024. On 24 June 2024 the Single Judge referred Grounds 2 to 4 of those Grounds to the Full Court and ordered a psychiatric report. Dr Madhani assessed the appellant in prison on 15 August 2024 and produced his first report on 9 September 2024. It contains a comprehensive assessment, with a detailed commentary on the appellant’s medical records, including mental health assessments carried out since his conviction. Consistent with the views of Dr Shetty in 2018, Dr Kelly, a consultant psychiatrist who examined the appellant in July and September 2019, was of the opinion that his presentation was likely due to a chronic and enduring neuropsychiatric condition related to brain injury (which the doctor described as “severe, enduring and permanent brain syndrome”) and chronic alcoholism. Dr Madhani agreed with that diagnosis. Dr Madhani recommended a neuropsychological assessment. Before that could take place, the appellant was released on licence from his extended sentence on 21 October 2024 and went to live in temporary supported accommodation. Less than a week later, on 27 October 2024 he was arrested for making threats to cause criminal damage, charged with that offence and recalled to prison. It was alleged that he called the police, telling them that he was “fed up” and was going to set fire to his flat. He was recalled to custody, and a trial of that matter was fixed at Sheffield Crown Court for June 2025. Dr Watts’ neuropsychological assessment was delayed for various reasons, including the appellant moving to another prison. On 17 March 2025 Dr Madhani, who had already expressed concerns about whether the appellant had been fit to give evidence in his own defence in 2019, carried out an assessment of the appellant in respect of the new charge. On 11 April 2025 Dr Madhani produced his second report which concluded that the appellant was not fit to stand trial in respect of the new matter. Dr Madhani considered that the deficits from which the appellant suffers were unlikely to be overcome with the assistance of an intermediary or any other type of reasonable adjustment. That view was subsequently endorsed by Dr Shenoy following his assessment of

the appellant on 12 May 2025. In consequence, on 29 May 2025 the Crown informed the defence legal team instructed in respect of that matter that they intended to offer no evidence in respect of the charge of making threats to cause criminal damage. In the interim, Dr Watts finally managed to carry out the cognitive assessment and produced his report on 27 May 2025. He expressed serious concerns about the appellant's ability to adequately follow proceedings and retain details of evidence to properly instruct legal representatives, as well as sharing Dr Madhani's concerns about his ability to give evidence in his own defence. Dr Watts was of the view that the same concerns would have applied in 2019. By the time of the initial hearing of this appeal all three experts had reached a consensus that the appellant was unfit to stand trial at all material times. The Crown decided in those circumstances that it was unnecessary to require the experts to attend to give oral evidence, unless the Court wished to question them (which we did not, as their evidence was clear and consistent). Discussion 41. 42. 43. 44. 45. The primary ground of appeal against conviction (Ground 5) is that due to his speech impediment and neuropsychological disorder, the appellant was medically unfit to stand trial, and that this situation was compounded by the absence of an intermediary during the trial. This overlaps to an extent with Ground 2, which is that the court failed to ensure the appellant's effective participation in the proceedings. Grounds 3 and 4 complain of discrete aspects of the trial judge's summing up, one relating to the appellant's own evidence and the other relating to the bad character direction. The Court is satisfied on the evidence of the three medical experts that the appellant was under a disability which made him unfit to stand trial in 2019. We have considered the Pritchard criteria and the helpful guidance given in *R v M* [2003] EWCA Crim 3452. The appellant may have been able to understand the charge against him and to decide whether to plead guilty or not, but his dysexecutive syndrome meant he was incapable of giving coherent and intelligible instructions to his lawyers, and even more importantly, incapable of giving evidence in his own defence. His communication difficulties made things worse. It is also very doubtful whether he was able to properly follow the proceedings. There is support for the experts' views not only in the contemporaneous concerns expressed by his legal team but also in the manner in which he responded to the questions put to him in cross-examination. The situation was exacerbated by the absence of an intermediary to assist the appellant, although, because of his cognitive impairment, an intermediary would not have overcome the appellant's inability to give evidence in his own defence or to provide his legal team with proper instructions. In consequence, the conviction is unsafe. However, the evidence that the fire on 3 April 2018 was started by the appellant deliberately setting fire to the curtain hanging over the back of the sofa, though circumstantial, is overwhelming. It is true that no lighter or other ignition source was recovered from the scene. It is not known whether a lighter was in the appellant's possession when he was taken to hospital. However, at the time when the fire started, he had locked himself inside the bungalow, he was the only person who had keys to the property, and there was nobody else who could have set light to the curtain whilst he was inside. The expert evidence as to how the fire was started is compelling, and the only way that the curtain could have ignited is if someone deliberately set it on fire. The fire experts

gave sound reasons for rejecting the thesis that the fire was accidentally caused by an electrical fault or by a phone charger overheating, which is what the appellant apparently still insists happened. The conclusion that the appellant started the fire is further supported by the “bad character” evidence. There are some differences between the previous incidents when the appellant set fire or tried to set fire to the curtains, in that on those occasions he waited until a police officer or firefighter was present before he got the lighter out. Yet that method of starting a fire is unusual, and the way in which the fire started on 3 April 2018 is the same as the method he used on those previous occasions. Moreover, on 1 April 2018 he did lock himself into the property after Mr Ridges had twice prevented him from setting fire to the curtains. It was only after the firefighters broke in to the bungalow that they were able to deter the appellant from his further attempt at arson.

46. We are therefore sure, on consideration of all the evidence, that the appellant did the act complained of. Disposal 47. Section 6 (1)(b) of the Criminal Appeal Act 1968 applies where on an appeal against conviction, the Court of Appeal, on the written or oral evidence of two or more registered medical practitioners, at least one of whom is duly approved, are of the opinion that the case is not one where there should have been a verdict of acquittal, but there should have been findings that the accused was under a disability and that he did the act or made the omission charged against him. That is the situation here. In such circumstances, section 6 (2) provides that: “The Court of Appeal shall make in respect of the accused –

- (a) a hospital order (with or without a restriction order);
- (b) a supervision order; or
- (c) an order for an absolute discharge.” 48. 49. 50. A hospital order is not an option in the present case, because the medical professionals do not support it. Whilst alcohol dependency is a recognised mental disorder within the meaning of the Mental Health Act 1983, and qualifies as a mental health condition for the purposes of treatment, it does not qualify as a basis for detention in hospital. Dr Madhani and Dr Shenoy have both expressed concerns that, although the appellant is abstaining from alcohol whilst in the controlled environment of prison, he is likely to relapse into using alcohol once he is released from custody. This would be an additional disinhibitory factor which would increase his impulsivity, and consequently increase the existing risks of his causing serious harm to himself and others through the setting of further fires. The Court is naturally concerned about those risks, which are acknowledged by Mr Walkington in his pre-appeal Report. Unfortunately, it has transpired that the options available to the Court to address them are extremely limited. Dr Madhani considers that any risk reduction intervention would have to have a rehabilitative treatment focus and that ideally the local authority should identify an appropriate residential setting that could manage patients with neuropsychological deficits such as the one from which the appellant suffers, with treatment input from the local Community Mental Health Team. Dr Shenoy broadly agrees with that view, stating that the appellant should reside in a suitable supervised, supported or residential accommodation

identified by the local authority, and engage with supervision from relevant professionals from the Community Mental Health Team or 51. 52. 53. 54. 55. a similar psychiatric service. Dr Shenoy is of the opinion that the appellant would need to be supervised appropriately to ensure he does not cause inadvertent harm to himself or others, having limited access to the community, and no access to alcohol. Section 6 of the Criminal Appeals Act 1968 is in largely identical terms to section 5 of the Criminal Procedure (Insanity) Act 1964, which applies when a defendant is found by the judge at trial to be under a disability and it is also found that they did the act or made the omission charged against them. "Supervision order" is defined by section 6(7) as having the meaning given in Part 1 of Schedule 1A to the 1964 Act. Section 5(3A) of the 1964 Act provides that where the court has the power to make an order for the absolute discharge of the accused, they may do so where they think, having regard to the circumstances, including the nature of the offence charged and the character of the accused, that such an order would be most suitable in all the circumstances of the case. However, that provision is not replicated in section 6 of the 1968 Act. Paragraph 1 of Schedule 1A to the 1964 Act defines a "supervision order" as an order which requires the person in respect of whom it is made to be under the supervision of a social worker, an officer of a local probation board or an officer of a provider of probation services ("the supervising officer") for a period specified in the order of not more than two years. Paragraph 3(1) requires the order to either specify the local social services authority area in which the supervised person resides or will reside, and require him to be under the supervision of a social worker of the local social services authority for that area, or to specify the local justice area in which the person resides or will reside and require him to be under the supervision of an officer of a local probation board appointed for or assigned to that area, or, as the case may be, an officer of a provider of probation services acting in that area. Subsection (2) of paragraph 1 enables a supervision order to include a requirement that the supervised person submits, during the whole or part of that period, to treatment by or under the direction of a registered medical practitioner. The circumstances in which such a requirement may be included, and what sort of treatment may be directed, are specified in paragraph 3 (4) and (5), but a treatment requirement cannot be included in a supervision order unless the court is satisfied that arrangements for the treatment have been put in place. Leaving aside a treatment requirement, and a residence requirement which may be included under paragraph 8 after consideration of the supervised person's "home surroundings", the only matters that the supervised person may be required to do are to keep in touch with the supervising officer in accordance with such instructions as he may be given by that officer from time to time, and to notify the supervising officer of any change of address. Moreover, although it has made detailed provision for the amendment or revocation of supervision orders, Parliament has not specified any sanction for non-compliance. This was deliberate; the supervision order was intended solely to provide a framework for treatment without a finding of fault on the part of the defendant. 56. As both the National Probation Service and Sheffield City Council have pointed out, any requirement in a supervision order for the appellant to undergo treatment for his alcohol dependency would have to be treatment as a non-resident patient at such institution or place as may be

specified in the supervision order (paragraph 4(3) of Schedule 1A), or treatment by or under the direction of a specified medical practitioner. The statute does not permit the court to direct what Dr Shenoy and Dr Madhani had in mind, namely, treatment in a secure residential setting. Whilst paragraph 8 of Schedule 1A permits the court to impose a “requirement as to residence”, we agree that it could not be used to bypass the express limitations on the types of treatment that can be ordered. 57. Critically, paragraph 2(2) states that the court shall not make a supervision order unless it is satisfied that the supervising officer intended to be specified in the order is willing to undertake the supervision. In the present case, prior to the resumed hearing of the appeal, matters had reached an impasse because neither the probation service nor Sheffield City Council was willing to undertake the supervision of the appellant, each suggesting that the other was more suitable.

58. Mr Gollins has explained in his witness statement that the appellant’s social care assessment has found that he does not have social care needs that would justify a secure 24/7 residential placement. The recommendation is for a supported living placement, but this would not be a secure placement, and the appellant could not be prevented from having access to alcohol either as a matter of law or in practice. The only treatment from which the expert psychiatrists consider that the appellant is likely to benefit is excluded from the scope of a supervision order. Moreover, there is no enforceable way within social care legislation for the local authority to impose any reporting requirement upon the appellant. 59. However, Mr Gollins assures the Court that Sheffield City Council will be supporting the appellant in the event of his release from custody in accordance with its statutory duties. The appellant has consented to being placed in a supported living placement, which is a positive step forward, since the Housing Department of Sheffield City Council will not provide him with his own accommodation because of the arson risk, and a refusal by him to accept a supported living placement would raise the spectre of his becoming street homeless.
60. Mr Walkington has pointed out that if he or another probation officer were named as the supervising officer, the Probation Service has no means of managing and responding to non-compliance or an immediate escalation in risk. In his report, Mr Walkington refers to the fact that the appellant’s compliance with the requirements of his licence on previous occasions was poor. He says the Probation Service have significant concerns about potentially managing his case on a supervision order given that previous history, and their inability to enforce compliance.
61. We have been shown published National Guidance on supervision orders, and the annexed answers to “Frequently Asked Questions”, which indicates that if a local authority is reluctant to manage a supervision order due to the risks posed by the individual concerned, and that individual is deemed unfit to plead/stand trial and assessed as posing an imminent risk of serious harm, they should be considered as a Multi-Agency Public Protection Arrangement (MAPPA) category 3 case. Mr Walkington has stated that if they undertook responsibility for supervising the applicant, the responsible local authority (Sheffield City Council) could refer the case to MAPPA and would then have multi-agency wraparound

support through MAPPA arrangements, including support from the Probation Service and South Yorkshire 62. 63. 64. 65. Police. In appropriate cases, these arrangements are said to be able to provide an effective cross-agency response to managing those with complex needs. In response to that suggestion, Mr Gollins says that adult social care would, and does regularly, contribute to MAPPA if this process were begun for the appellant, but that it is not suitable or appropriate for adult social care to run and/or manage criminal risk, as staff and providers are not trained and experienced to do so. Mr Hallin submitted that the MAPPA process could be initiated independently by Probation, and a supervision order would add nothing to it. By the time of the resumed hearing, Mr Hallin was able to tell the Court that there had been positive developments, in that Sheffield City Council had identified an appropriate supported living provider in Sheffield and they had indicated an ability and a willingness to provide the appellant with accommodation, and Probation had agreed to take the necessary steps to trigger the MAPPA process. However the practical arrangements might take a little time to put in place. It was obviously important to ensure that a placement was available for the appellant immediately upon his release from custody, and all the relevant agencies were working together with that aim in mind. We therefore reserved judgment, intending that it be handed down at a time when these arrangements were finalised. Unfortunately, after the hearing, that provider withdrew its offer, but an alternate provider of supported accommodation has been sourced. The Court has been informed that they are aware of all the risks and have no concerns about being able to provide the appellant with support with his mental health and all elements of daily living. The Court is unable to make a supervision order in this case, since neither the Probation Service nor the relevant local authority is willing to provide a supervising officer. We cannot impugn their reasons for declining to do so. In any event, it appears that such an order is unlikely to be effective to protect the public or the appellant himself against the risk that he undoubtedly poses. Such an order cannot bring about the restrictions on his liberty that both the expert psychiatrists consider to be necessary to secure effective treatment for his complex conditions, and in any event there is no means of enforcing any requirements imposed under a supervision order. In those circumstances, the Court has no power to do anything other than to order an absolute discharge. Whilst there are understandable concerns about the risk that the appellant continues to pose to himself and others, we are comforted somewhat by the reassurances given by Mr Gollins, and by the positive steps that are now being taken by Sheffield City Council and the Probation Service to work together to manage that risk.

66. We therefore allow the appeal and quash the conviction, and substitute findings that at the time of his trial the appellant was under a disability, and that he did the act charged against him. We make an order for an absolute discharge, pursuant to section 6(2) of the Criminal Appeals Act 1968. 14

## 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/ewca/crim/2026/480>

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

Prepared on 26 October 2026 · Esheria