

ENGLAND AND WALES / JUDGMENT

# R v Joyce

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

[2026] EWHC 753 (SCCO) Case No: 01MP1271223 SCCO Reference: SC-2025-CRI-000111 Thomas More Building Royal Courts of Justice London, WC2A 2LL Date: 27 March 2026 Before: COSTS JUDGE LEONARD R v JOYCE Judgment on Appeal under Regulation 29 of the Criminal Legal Aid (Remuneration) Regulations 2013 Appellant: (Carson Kaye Solicitors) This Appeal has been dismissed for the reasons set out below. COSTS JUDGE LEONARD 1. 2. 3. This appeal concerns whether, under the Graduated Fee provisions of Schedule 2 to The Criminal Legal Aid (Remuneration) Regulations 2013, the Appellant is due a guilty plea fee or a trial fee. The issue turns upon whether, for the purposes of the 2013 Regulations, a “Newton Hearing” (a fact-finding hearing for sentencing purposes, which is treated as a trial under the 2013 Regulations) took place. The Representation Order was made on 15 February 2024, and the 2013 Regulations apply as in force on that date. Schedule 2 at paragraph 1 provides the following definition: “Newton Hearing” means a hearing at which evidence is heard for the purpose of determining the sentence of a convicted person in accordance with the principles of R v Newton (1982) 77 Cr App R 13...”

## Background

4. 5. 6. 7. 8. 9. The Appellant represented Connor Joyce (“the Defendant”) before the Crown Court at Southwark. The Defendant faced trial on two separate indictments. The first featured three counts of conspiracy to supply cocaine, ketamine, and cannabis, and a fourth count of conspiracy to facilitate the acquisition, retention use or control of criminal property. The period covered by the indictment was 26 March 2020 to 13 June 2020. The Defendant pleaded guilty to all four counts on 27 March 2024. The Defendant, with co-defendant Nicholas Hyland, also faced trial on two separate counts of conspiracy, between 7th February 2023 and 18th June 2023, to supply cocaine and conspiracy to facilitate the acquisition, retention, use or control of criminal property. These counts featured on an amended, 6-count consolidated indictment. The Defendant attended court and pleaded guilty to those counts on 12 December 2024. The court originally scheduled sentencing to take place in April 2025. That was moved to June, and then to 7 July 2025, when the Defendant and Hyland both appeared before HHJ Bartle KC for sentencing. In the run up to the hearing, the Prosecution served a sentencing note in respect of both defendants. It would appear that a Newton hearing had been scheduled for 24 April 2025 for Hyland, but at an earlier hearing, on 7 April 2025, matters of contention were aired and agreement reached

that no Newton was required in respect of Hyland. There never appears to have been any proposal for a Newton hearing in relation to the Defendant. At the conclusion of the 7 July 2025 hearing, the Defendant was sentenced to a term of imprisonment of 9 years and 8 months. The question to be determined on this appeal is whether the hearing of 7 July 2025 was a Newton hearing, rather than a sentencing hearing. It is not in issue that it was not listed as a Newton hearing, though that is not in itself decisive: the question is whether, by reference to the 2013 Regulations, it meets the definition of a Newton hearing. The Principles 10. 11. 12. In *R v Robert John Newton* (1983) 77 Cr. App. R. 13, the Court of Appeal identified the three forms of what is now known as a “Newton Hearing”. The disputed facts may be put before the jury for a decision; the judge may hear evidence and then come to a conclusion; or the judge may hear no live evidence but instead listen to submissions from counsel and then come to a conclusion. Given the express reference in the definition at Schedule 2 paragraph 1 to *R v Newton*, live evidence need not be heard for a hearing to qualify as a Newton hearing for the purposes of the 2013 Regulations. The essential point remains however that there must be a fact-finding exercise for the judge to conduct. The Evidential Issue 13. 14. 15. 16. 17. In relation to the March to June 2023 conspiracy, the case against the Defendant was evidenced by Encrochat messaging. The prosecution had all of the Defendant’s Encrochat messages, which extended beyond the period covered by the indictment. The Appellant relies upon the fact that the prosecution sought to persuade the court to sentence the Defendant by reference to drug transactions evidenced by the entirety of the Encrochat evidence, regardless of whether they fell outside the period of the indictment. The Defence argued that the Defendant should be sentenced on the basis only of deals completed within the period of the indictment. The judge agreed, and sentenced the Defendant accordingly. This is characterised by the Appellant as a finding of fact with a material effect upon sentencing, given that the quantity of drugs to be attributed to the Defendant for sentencing purposes turned upon whether HHJ Bartle KC accepted the Prosecution or the Defence position. The Respondent submits that there is a clear distinction, in disputes before any court or tribunal, between the giving of factual evidence and the presentation of technical or legal argument, and the issue relied upon by the Appellant falls within the latter category. Were this not the case, then a Newton hearing could be said to have taken place at almost any sentencing hearing where differing approaches are urged upon the court by the parties, and differing perspectives presented. It could result in Newton hearings becoming, in effect, the rule for sentencing hearings as opposed to the exception to it. I am quite satisfied that HHJ Bartle KC was not called upon to make any finding of fact on 7 July 2025. The content and attribution of the Encrochat evidence was undisputed, as was the quantity of drugs referred to in that evidence. The scope of the evidence properly to be considered for sentencing purposes was a matter of law and practice, not a factual issue. 18. For that reason this appeal fails, and must be dismissed.

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