



Neutral Citation No. [2026] EWHC 2224 (SCCO)

Case No: T20247014

SCCO Reference: SC-2026-CRI-000010

IN THE HIGH COURT OF JUSTICE
SENIOR COURTS COSTS OFFICE

Thomas More Building
Royal Courts of Justice
London, WC2A 2LL

Date: 25 August 2026

Before:

COSTS JUDGE LEONARD

R

v

FARRELL

**Judgment on Appeal under Regulation 29 of the Criminal Legal Aid (Remuneration)
Regulations 2013**

Appellant: **Lloyds PR Solicitors**

This Appeal has been dismissed for the reasons set out below.

COSTS JUDGE LEONARD

1. 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 trial fee or the fee appropriate to a guilty plea. 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 Regulations) took place.
2. The relevant Representation Order was made on 27 July 2024. The 2013 Regulations apply as in force at 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...

Case Law

3. 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.
4. The 2013 Regulations expressly apply the principles of *R v Robert John Newton*. It follows (and this is not in issue) that, despite their reference to evidence, live evidence need not be heard for a hearing to qualify as a Newton hearing. The essential point is rather that there must be a fact-finding exercise for the judge to conduct.
5. The Appellant says that in this case, there was, and accordingly claims a trial fee. The Respondent says that there was not, and that the Legal Aid Agency’s Determining Officer was right to find that only a guilty plea fee was due.

Background

6. The Appellant represented Kieran Farrell (“the Defendant”) before the Crown Court at Winchester. The Defendant was charged with four counts of conspiracy to evade the prohibition on importation of controlled drugs of Class A, of conspiracy to supply Class A drugs, of possession of criminal property and (two counts, on 6 and 13 July 2024) of driving whilst disqualified.
7. The Defendant was one of ten defendants on a 9-count indictment concerning the importation into Southampton by boat, unloading, and distribution inland of 889 kilos of cocaine on 8 July 2024. The drugs had been smuggled in a freighter in international waters and brought to shore in a rigid inflatable boat.
8. On 9 August 2025 the Defendant pleaded guilty to three of the four charges against him, the money laundering charge being left to lie on file. A sentencing hearing was listed for 11 and 12 September 2025.
9. In relation to the conspiracy charges the Defendant submitted a basis of plea to the effect that owing to drug addiction he had incurred personal debts, and any payment

received for involvement in the drug smuggling enterprise would go towards paying down the debt, so that he anticipated minimal personal financial advantage. His role was limited to being that of a support driver and he acted upon instructions, with no awareness of the detail or scale of the wider criminal enterprise.

10. The Defendant (albeit disqualified) had in fact originally been intended to be a driver assisting in the distribution of the drugs, but another driver was brought in at the last minute, so the Defendant's role changed to backup driver and lookout. He was present with a vehicle as the cocaine was being landed, but he did not in fact take any of it away.
11. None of this was in issue. Nor was it in issue that in connection with the conspiracy, the Defendant had driven a vehicle with false plates from the Midlands to Southampton and back, that his movements to, from and around Southampton had been connected with those of his co-conspirators and that he had stayed in a hotel with three of his co-conspirators between 6 and 9 July 2024. He had been arrested on 26 July 2024 at Manchester Airport, attempting to board a one-way flight to Thailand whilst in possession of £15,000 in cash.
12. The Crown argued that the Defendant should be sentenced on the basis that he had played a significant role. One of the matters relied upon by the Crown in support was that whilst the Defendant had participated to a limited extent in the importation operation, he must have been aware of the "big picture", citing the fact that he had stayed with three co-conspirators in a hotel at the time of the drug smuggling operation.
13. The Defence sentencing note argued that there was no evidence that the Defendant had more than a minimal awareness and understanding of the scale of the operation (or that he had any connection with the organised crime groups behind it). He had an expectation of limited financial advantage only, in that he became involved in order to clear a drug debt that he accrued.
14. At the sentencing hearing, counsel for the Defendant accepted that all persons involved in a conspiracy have at least some awareness of the scale of an operation, but argued that the Defendant was essentially waiting for instructions. Had he been called upon to move some part of the drugs, he might have gained a greater understanding of the scale of the operation, but his awareness would, in the circumstances, have been more limited than that of others.
15. Counsel argued, accordingly, for sentencing on the basis of a lesser role, or "that grey area between the lower end of significant and the top end of lesser..." whilst accepting that "... the result may well be the same ultimately..."
16. The sentencing Judge, His Honour Judge Feest KC, observed in his sentencing remarks that, given the Defendant's role in the conspiracy, "it must have been patently obvious to you the seriousness of the enterprise you were getting into." He nonetheless sentenced the Defendant on the basis of a lesser role, adjusted to reflect his overall involvement, including the driving matters and an expectation of significant financial advantage.

17. The Defendant was sentenced to 12 years' imprisonment with a six-year extended driving disqualification.

Conclusions

18. I have been referred to a number of decisions by Costs Judges on whether, on the particular facts of given cases, a Newton hearing had taken place. All of them being necessarily fact-specific (and non-binding), I do not think that it is necessary to refer to them in any detail. I will however refer to some relevant principles.
19. A Newton hearing was not listed in this case, but it does not follow that no such hearing actually took place. I and other Costs Judges have encountered cases where it is clear that a Newton hearing, as defined in the 2013 Regulations, did take place where (as here) only a sentencing hearing had been listed.
20. Even where evidence before the court is undisputed, there may be a significant dispute and extensive submissions about the factual conclusions to be drawn from that evidence, which may have a material effect upon sentencing. That may be sufficient to justify the conclusion that the judge did undertake a fact-finding exercise on submissions, so that a Newton hearing did take place. *R v Williams* [2024] EWHC 3159 (SCCO) was one such case.
21. Everything, however, turns on the facts of the particular case, and I do not accept that a Newton hearing took place in this particular case. If anything this appeal illustrates how the logic of *R v Williams* can be overextended. I say that for these reasons.
22. As is common in conspiracy cases of this kind the question was whether, in the light of undisputed factual evidence, it was right to sentence the Defendant on the basis that he played a significant or lesser role in the drug importation operation.
23. In support of a lesser role, the Defence sentence note argued that there was no evidence that the Defendant had more than a minimal awareness of the scale of the drug smuggling operation. It is clear from the transcript of the hearing that HHJ Feest KC did not regard that as a viable proposition, because (as he observed in the course of submissions) everyone involved in the importation of cocaine from a vessel in international waters would have been aware that they were participating in a major undertaking. In submissions, Counsel for the Defendant had accepted as much.
24. In other words, HHJ Feest drew the obvious inference from the established facts and immediately dismissed as incredible the Defendant's assertion as to his limited knowledge of the scale of a sophisticated, large-scale operation in which he had admitted substantial involvement over a period of several days. That cannot properly be described as a fact-finding exercise that could convert an otherwise unremarkable sentencing hearing into a Newton Hearing.
25. Nor does the issue appear to have had any significant bearing upon sentencing. HHJ Feest did sentence the Defendant on the basis of a lesser role, albeit made more serious by the degree of his participation and his expectation of material financial advantage.

26. No more viable was the contention that because the Defendant hoped to use the proceeds of his involvement in the operation to pay off debts, he was not anticipating any significant financial advantage from participating in the operation. Receiving money so as to pay off debts self-evidently confers a financial advantage. HHJ Feest KC, unsurprisingly, took that financial advantage into account when sentencing. The point was that the Defendant expected to receive a substantial sum of money for his part in the operation, not how he proposed to use it.
27. In short, it was not necessary for HHJ Feest KC to embark upon a fact-finding exercise. He merely dismissed as unarguable two unviable interpretations of the undisputed facts.
28. I am, accordingly, satisfied that a Newton hearing did not take place on 11 and 12 July 2025 and that this appeal must be dismissed.