

68/76

COURT OF APPEAL (ENGLAND)

WORLEY v BENTLEY

Lord Widgery LCJ, Kilner Brown and Watkins JJ

13 February 1976 — [1976] 2 All ER 449; 62 Cr App R 239

PRACTICE AND PROCEDURE – REFRESHING MEMORY – POLICE WITNESS SHOWN WITNESS' STATEMENT BEFORE THE TRIAL – DEFENDANT NOT INFORMED OF THIS – FINDING BY COURT THAT IT WAS OBVIOUSLY ESSENTIAL FOR DEFENCE TO BE INFORMED – CHARGE DISMISSED – WHETHER COURT IN ERROR.

B. was charged with occasioning actual bodily harm to W. After giving her evidence-in-chief at the hearing before the justices, W. said in cross-examination that she had been shown before the trial a written statement which she had previously made. B's counsel submitted that it was 'obviously essential' to inform the defence of what had been done because it might be relevant to the weight which could properly be attached to the evidence. The justices considered that there had been a grave procedural error and dismissed the charge. The prosecutor appealed.

HELD: It was 'obviously desirable' but not 'obviously essential' that the defence should be informed of what had been done.

***R v Richardson* (1971) 2 All ER 773, considered.**

It was held (QBD (Div Ct): Lord Widgery LCJ, Kilner Brown and Watkins JJ: 1 March 1976) that the appeal would be allowed and the case would be remitted to the justices. The argument of B's counsel could not be accepted. It was 'obviously desirable' but not 'obviously essential' that the defence should be informed of what had been done. (*R v Richardson* 1971 2 All ER 773, considered).

N.B. This case note has been taken directly from the New Law Journal (Eng.) April 15, 1976 p392.