

A debtor can remove right of implied access by displaying a notice at the entrance. This was endorsed by Lord Justice Donaldson in the case of Lambert v Roberts [1981] 72 Cr App R 223 - and placing such a notice is akin to a closed door but it also prevents a bailiff entering the garden or driveway, Knox v Anderton [1983] Crim LR 115 or R. v Leroy Roberts [2003] EWCA Crim 2753

Debtors can also remove implied right of access to property by telling him to leave: Davis v Lisle [1936] 2 KB 434 similarly, McArdle v Wallace [1964] 108 Sol Jo 483

A person having been told to leave is now under a duty to withdraw from the property with all due reasonable speed and failure to do so he is not thereafter acting in the execution of his duty and becomes a trespasser with any subsequent levy made being invalid and attracts a liability under a claim for damages, Morris v Beardmore [1980] 71 Cr App 256.

Bailiffs cannot force their way into a private dwelling, Grove v Eastern Gas [1952] 1 KB 77

Otherwise a door left open is an implied license for a bailiff to enter, Faulkner v Willetts [1982] Crim LR 453 likewise a person standing back to allow the bailiff to walk through but the bailiff must not abuse this license by entering by improper means or by unusual routes, Ancaster v Milling [1823] 2 D&R 714 or Rogers v Spence [1846] M&W 571

Ringling a doorbell is not causing a disturbance, Grant v Moser [1843] 5 M&G 123 or R. v Bright 4 C&P 387 nor is refusing to leave a property causes a disturbance, Green v Bartram [1830] 4 C&P 308 or Jordan v Gibbon [1863] 8 LT 391

Permission for a bailiff to enter may be refused provided the words used are not capable of being mistaken for swear words, Bailey v Wilson [1968] Crim LR 618.

If the entry is peaceful but without permission then a request to leave should always be made first. Tullay v Reed [1823] 1 C&P 6 or an employee or other person can also request the bailiff to leave, Hall v Davis [1825] 2 C&P 33

Excessive force must be avoided, Gregory v Hall [1799] 8 TR 299 or Oakes v

Wood [1837] 2 M&W 791

A debtor can use an equal amount of force to resist a bailiff from gaining entry, Weaver v Bush [1795] 8TR, Simpson v Morris [1813] 4 Taunt 821, Polkinhorne v Wright [1845] 8QB 197. Another occupier of the premises or an employee may also take these steps: Hall v Davis [1825] 2 C&P 33.

Also wrongful would be an attempt at forcible entry despite resistance, Ingle v Bell [1836] 1 M&W 516

Bailiffs cannot apply force to a door to gain entry, and if he does so he is not in the execution of his duty, Broughton v Wilkerson [1880] 44 JP 781

A Bailiff may not encourage a third party to allow the bailiff access to a property (ie workmen inside a house), access by this means renders the entry unlawful, Nash v Lucas [1867] 2 QB 590

The debtor's home and all buildings within the boundary of the premises are protected against forced entry, Munroe & Munroe v Woodspring District Council [1979] Weston-Super-Mare County Court

Contrast: A bailiff may climb over a wall or a fence or walk across a garden or yard provided that no damage occurs, Long v Clarke & another [1894] 1 QB 119

It is not contempt to assault a bailiff trying to climb over a locked gate after being refused entry, Lewis v Owen [1893] The Times November 6 p.36b (QBD)

If a bailiff enters by force he is there unlawfully and you can treat him as a trespasser. Curlew v Laurie [1848] or Vaughan v McKenzie [1969] 1 QB 557

A debtor cannot be sued if a person enters a property uninvited and injures himself because he had no legal right to enter, Great Central Railway Co v Bates [1921] 3 KB 578

If a bailiff jams his boot into a debtors door to stop him closing, any levy that is subsequently made is not valid: Rai & Rai v Birmingham City Council [1993] or Vaughan v McKenzie [1969] 1 QB 557 or Broughton v Wilkerson [1880] 44 JP 781

If a bailiff refuses to leave the property after being requested to do so or starts trying to force entry then he is causing a disturbance, *Howell v Jackson* [1834] 6 C&P 723 - but it is unreasonable for a police officer to arrest the bailiff unless he makes a threat, *Bibby v Constable of Essex* [2000] Court of Appeal April 2000.

Vaughan v McKenzie [1969] 1 QB 557 if the debtor strikes the bailiff over the head with a full milk bottle after making a forced entry, the debtor is not guilty of assault because the bailiff was there illegally, likewise *R. v Tucker at Hove Trial Centre Crown Court*, December 2012 if the debtor gives the bailiff a good slap.

If a person strikes a trespasser who has refused to leave is not guilty of an offence: *Davis v Lisle* [1936] 2 KB 434

License to enter must be refused BEFORE the process of levy starts, *Kay v Hibbert* [1977] Crim LR 226 or *Matthews v Dwan* [1949] NZLR 1037

A bailiff rendered a trespasser is liable for penalties in tort and the entry may be in breach of Article 8 of the European Convention on Human Rights if entry is not made in accordance with the law, *Jokinen v Finland* [2009] 37233/07

ONE CAN REMOVE A POLICE OFFICER TOO!

(R. = Regina, or the Queen)

R. v Robert White [2022]

“The Police Sergeant had unlawfully entered the defendant’s home, and was essentially a ‘trespasser and unwelcome intruder’... It did not matter the sergeant was a police officer, the defendant was entitled to remove him with reasonable force.”

Green v Bartram [1830]

“If a police officer arrests a debtor after throwing a bailiff off the premises who had refused a request to leave, the officer is guilty of false arrest because no offence was committed and the bailiff was there illegally.”

R. v Howell (Error) [1982]

“A police officer must arrest a bailiff for breach of the peace if he places a debtor in fear of violence or harm if that offence is made in the presence of that officer.”

Police in Attendance

- This is a Civil Matter not a Criminal one – Police have no jurisdiction.
- Police helping utility companies is an abuse of position by a police constable causing another to suffer a loss for the benefit of a third party.
- Section 26 Criminal Justice and Courts Act 2015 -
It carries a sentence of 14 years in prison.