

IN THE SUPREME COURT OF THE UNITED KINGDOM

R v. Renard

Molly Renard is an animal lover with a particular fondness for foxes. At a meeting of an animal welfare group, of which she is an active member, Molly heard that a local farmer, Mr Oak, had been complaining that the ban on hunting with hounds had led to his land being overrun with foxes. It was rumoured that Mr Oak had purchased some traps which he planned to set on his land in order to reduce the number of foxes. Molly was appalled to hear this and immediately planned to go onto Mr Oak's land to disable the traps. She purchased some bolt cutters and set off in the early hours of the morning to the wooded area of Mr Oak's farm where she believed that the traps had been set. After some investigation, Molly discovered that Mr Oak was using cage traps which were baited with meat. This meant that the foxes were lured into a cage which then closed shut behind them. Molly assumed that the captured foxes were shot the following day by Mr Oak or his gamekeeper. Molly used the bolt cutters to open two of the traps which contained foxes. She then used them to disable the remaining three traps so that they would not spring shut when a fox went into them. As she was leaving Mr Oak's land, Molly was spotted by the police and she was charged with criminal damage to the traps contrary to section 1(1) of the Criminal Damage Act 1971.

At her trial, Molly sought to rely on lawful excuse under section 5(2)(b) of the Criminal Damage Act 1971 on the basis that her actions were undertaken in order to protect property, namely the foxes. The trial judge directed the jury that Molly could not rely on section 5(2)(b) because the foxes were not in immediate need of protection as they were not actually due to be shot but were being relocated to a different area of Britain where there was a dwindling fox population. Molly appealed against her conviction on the basis that the trial judge had erred in law as section 5(3) of the Criminal Damage Act 1971 stipulated that lawful excuse should be based upon the subjective beliefs of the defendant even if these beliefs were mistaken. The Court of Appeal rejected this argument and ruled that *R v. Hunt* (1978) 66 Cr App R 105 and *R v. Hill and Hall* (1989) 89 Cr App R 74 had clearly established that it was appropriate to make an objective evaluation of the defendant's beliefs in order to determine whether a lawful excuse under section 5(2)(b) was established. Furthermore, the Court of Appeal held that even if this had not been the case, Molly was not able to rely upon lawful excuse based upon the protection of property as a fox was a wild animal thus was not within the meaning of property as defined by section 10(1) of the Criminal Damage Act 1971. Molly appeals to the Supreme Court on the following grounds:

1. The foxes were property for the purposes of section 10(1) of the Criminal Damage Act 1971 as setting traps to catch the animals meant that they were 'in the process of being reduced to possession'.
2. Taken in conjunction, section 5(2)(b) and section 5(3) of the Criminal Damage Act 1971 establish a purely subjective test that permits no objective evaluation of the reasonableness or accuracy of the defendant's beliefs and that case law that introduced an objective element was wrongly decided.