

Matthew Ness

YEAR OF CALL: 2021



Matthew practises in all areas of criminal law. He also accepts instructions in asset recovery and confiscation

"Matthew is an exceptional talent"

Client Testimonials

"He demonstrates confidence and maturity beyond his year of call"

Client Testimonials

Overview

Matthew prosecutes and defends in a wide array of criminal cases including large-scale drug trafficking, robbery, fraud, and serious violent and sexual offences. He specialises in general

crime, drawing on his extensive experience in criminal litigation to instil confidence in clients and solicitors alike.

Instructing solicitors have said:

"The results he has obtained evidence that he is listened to by the Courts."

Client Testimonials

"He's always fully prepared with a clear grasp of important issues."

Client Testimonials

"Matthew takes a clearly focussed approach to cases. He works collaboratively and is always on hand to discuss matters in advance of hearings."

Client Testimonials

"Very capable, hardworking and reliable."

Client Testimonials

Recent Criminal instructions include:

R v AL - Snaresbrook Crown Court

Matthew represented a young defendant who fell to be sentenced for possession of a prohibited firearm, namely a converted 9mm blank firing pistol loaded with live ammunition. The prosecution accepted the defendant's basis of plea which stated that she had stored the bag containing the firearm, which was given to her by a friend and which she believed contained cannabis, in her house for a short period.

The offence attracted a statutory minimum sentence of 5 years imprisonment. Matthew successfully argued that the defendant's lack of knowledge, previous good character, and strong personal mitigation amounted to exceptional circumstances in which the statutory

minimum sentence provision need not apply, and that the sentence should be suspended. Matthew's client was sentenced to 38 weeks' custody, suspended for 20 months.

R v KB - Croydon Crown Court

Matthew secured an acquittal for his client, who was charged with failing to provide his smartphone PIN to police pursuant to a notice under section 49 of the Regulation of Investigatory Powers Act 2000. The issue was whether the defendant had forgotten the PIN at the point the notice was served. The Crown relied in part on correspondence between the police and the defendant's solicitors to prove their case, requiring careful marshalling of the evidence to avoid any legally privileged information going before the jury.

The jury returned a unanimous not guilty verdict after less than two hours in retirement.

R v WJ - Court of Appeal Criminal Division

Matthew appeared in the Court of Appeal with leave of the Single Judge on an appeal against sentence from the Crown Court. The case concerned the categorisation of indecent "pseudo-photographs" of a child created by superimposing an image of a child's face onto adult pornography by way of computer software.

The appeal drew to the Court's attention two previous conflicting Court of Appeal authorities, *R v Norval* 2015 EWCA Crim 1964 and *R v Bateman* 2020 EWCA Crim 1333, the latter of which was decided without the Court's attention having been drawn to the former.

R v ES and Others - Chelmsford Crown Court

Matthew received instructions to prosecute a 7-day multi-handed conspiracy to supply cocaine in the Harlow area via the "Henry" branded drugs line. The conspiracy was alleged to have involved the trafficking of multiple kilos of cocaine during its operating period.

R v V - Northampton Crown Court

Matthew was instructed to represent a 20-year old Romanian National charged with an offence of stranger rape involving a vulnerable complainant. The Crown accepted a guilty plea to attempted rape. Taking into consideration the considerable mitigation advanced on the

defendant's behalf, he was sentenced to 4 years' imprisonment with 4 years' extended licence.

R v C - Northampton Crown Court

Matthew represented a 16-year-old youth charged alongside an adult co-defendant for one offence of street robbery. Matthew successfully applied to exclude identification evidence against the defendant which was obtained in breach of the PACE Codes of Practice relating to the requirement for formal identification procedures in cases of disputed identity. The defendant was acquitted.

R v L - Portsmouth Crown Court

Matthew was instructed as led junior (led by Francesca Levett) representing the first defendant in a 7-week trial alleging conspiracy to supply cocaine at a commercial level in the Portsmouth and Southsea area utilising the Encrochat encrypted network. The case involved extensive challenges to the Crown's attribution and cell-site evidence.

R v B-H – Court of Appeal Criminal Division

Matthew represented a defendant charged with conspiracy to supply cocaine at Kingston Crown Court. The defendant pleaded guilty and received a sentence of 42 months' imprisonment. Matthew advised that the sentence should be appealed on grounds it was manifestly excessive. Leave was granted to appeal to the Court of Appeal, where Matthew successfully argued that the sentencing judge had erred in his categorisation of the offence, and failed to give adequate weight to the defendant's mitigation. The sentence was reduced to 35 months.

R v P & others – Southampton Crown Court

Matthew has been instructed as junior counsel representing the first defendant in a multi-handed concern in the supply of cocaine trial at Southampton Crown Court. The case involves class-A drug trafficking on a commercial scale and voluminous evidence extracted from Encrochat devices.

R v L – Inner London Crown Court

Matthew represented a defendant charged with multiple allegations of sexual assault of a child under 13. The case involved the pre-recorded cross-examination of a vulnerable child witness. The defendant absconded prior to the trial and the jury were informed he had voluntarily absented himself. Matthew continued to represent the defendant in his absence and challenged the probity of the prosecution evidence. The jury were unable to reach verdicts and were discharged.

R v G – Isleworth Crown Court

Matthew represented a defendant charged with conspiracy to commit burglary and theft over a ten-month period. The prosecution alleged the defendant was part of an organized criminal gang involved in a large number of sophisticated ram-raids on commercial premises, targeting ATMs and safes using high-value stolen 4x4s and getaway vehicles. The total value of cash and goods stolen exceeded £1.2m and over £1.8m of damage was caused. The defendant was a foreign national with previous convictions. The defendant accepted his involvement on a limited basis. Following Matthew's submissions on categorisation and extensive mitigation, the defendant received a sentence of just three years' imprisonment, less than half that received by his co-defendants.

R v G – Snaresbrook Crown Court

Matthew was instructed for the defence in a week-long trial involving two separate allegations of sexual assault committed in breach of SHPO and on public transport by two independent complainants. Bad character evidence was admitted of the defendant's previous convictions for near-identical conduct. That notwithstanding, Matthew secured an acquittal on one of the counts despite the complainant having positively identified the defendant at a video identification procedure. The case involved forensic scrutiny of the identification evidence and extensive cross-examination of the Officer in the Case in relation to failings under the Police and Criminal Evidence Act 1984 Codes of Practice.

R v J – Isleworth Crown Court

Matthew secured an acquittal for his client who was charged with fraud and possession of articles for use in fraud in respect of counterfeit credit cards that were used to purchase high-value goods from Harrods department store in Knightsbridge. Matthew successfully argued to exclude the principal evidence against the defendant on the basis that it amounted to expert opinion evidence that failed to comply with Part 19 of the Criminal Procedure Rules.

Professional Memberships

Criminal Bar Association (CBA).

Defence Extradition Lawyers Forum (DELF).

Women In Criminal Law (WICL).

Criminal Defence

Matthew has a busy practice in the Crown, Magistrates', and Youth Courts and has represented clients in the Court of Appeal. He has experience over a wide range of cases including robbery, theft and fraud, drugs, road traffic, violent and sexual offences.

Criminal Prosecutions - Private & Public

Matthew accepts instructions to prosecute on behalf of the Crown Prosecution Service in the Crown Court as a Grade 2 prosecutor. He is also available for instruction in private prosecutions.

Asset Forfeiture, Confiscation & Civil Fraud

Matthew accepts instructions in asset forfeiture and confiscation matters. He has experience defending in enforcement proceedings and has received instructions on behalf of the Metropolitan Police in proceedings relating to asset forfeiture.