

Criminal Damage

There are two directions in this file – criminal damage and racially aggravated criminal damage.

Criminal Damage

There are three elements of this offence

- without lawful excuse. You do not have to consider this. It is not part of the defence case that the defendant had a lawful excuse.
- damaged a ***. There is no doubt that the *** was scratched. We have seen the photos of the damage – our exhibit *. However, D** denies that he caused this damage. If he played no part in causing the damage, he is not guilty.
- intending to destroy or damage such property or being reckless as to whether such property would be destroyed or damaged.
These are ordinary English words with no special legal meaning. If any damage was purely accidental, D** is not guilty.

So, in relation to Count *, there are two key questions for you to answer, having regard to all the evidence and the directions which I give you.

Did D** cause the damage?

Did he intend to cause the damage or was he reckless as to whether it was damaged?

If you are sure that the answer to both questions is “yes”, he is guilty of Count *. If the answer to either question may be “no”, he is not guilty.

Racially Aggravated Criminal Damage

D** accepts that he is guilty of an offence of criminal damage. He has pleaded guilty to such an offence.

The prosecution though say that he is guilty of racially aggravated criminal damage. They say that immediately before damaging the ***, he demonstrated towards C*** hostility based on his membership or presumed membership of a particular racial group. They say that he did this by saying, “****” The defendant denies this.

So the key question for you to answer, having regard to all the evidence and the directions which I give you is

Did D** immediately before **** demonstrate hostility towards C** based on his membership of a particular racial group, namely the ** community?

If you are sure that the answer is “yes”, the defendant is guilty of racially aggravated criminal damage. If the answer may “no”, he is not guilty.