When the courts must try again

MICHAEL ZANDER on a case of pressure

WHEN IS a guilty plea not a guilty plea? According to the Bradford Crown Court in a landmark decision this week, when it is induced by pressure from the court.

The case arose out of the Bradford riots over the weekend of July 11. The appellant, Mr Tarlochan Gat-Aura, aged 25, of Middle Lane, Bradford, was arrested on the night of Saturday, July 11 and was held in police custody until the Monday morning when he appeared in the magistrates court.

The crown court judge, Judge Raymond Dean, sitting with two magistrates, heard evidence from Mr Gat-Aura that the experience of being in custody over the weekend had been "quite horrific." Both he and his solicitor, Mr Colin Chapman, said that he had intended to plead not guilty to the charge of threatening behaviour but he changed his plea to guilty when he realised that he would otherwise be remanded in custody.

On the Monday morning the magistrates had had 29 cases in the list. Mr Gat-Aura gathered that defendants who pleaded guilty were being fined and released whilst those who were pleading not guilty were all remanded in custody. Bail had been refused in another case in spite of very strong arguments in favour of release and Mr Chapman advised him that his chances of bail were negligible. On that basis he changed his plea.

Giving judgment on Monday, Judge Dean said he was satisfied that the circumstances created pressure on the mind of the defendant such as to render his plea null. He sent the case back to the magistrates with a direction that they should start all over again with a not guilty plea.

The case breaks new ground in defining the circumstances under which a guilty plea can later be challenged. It has always been accepted that a guilty plea can be set aside as "equivocal" if it can be shown that it was made under some misunderstanding—for instance as to what constitutes guilt. Someone who pleads guilty to shoplifting might, for instance, challenge the conviction by showing he did not realise that it was a defence to forget to pay absentmindedly.

The Court of Appeal has also held in several cases that a plea of guilty can be challenged if it is induced by the pressure of a belief that a not guilty plea will result in a heavier sentence. In the Inns case in 1975, for example, the court ordered a new trial after it had been proved that the judge told defence counsel that on a not guilty plea his client would be given detention, but that is he pleaded guilty "a more lenient course might be taken."

In the Jordan case this February the Divisional Court of the Queen's and Bench Division ordered a fresh trial where the appellant argued that the offence of shoplifting had been committed under the threat of physical violence from her husband and that he had also threatened her with violence unless she pleaded guilty.

Now, in the new case, the doctrine of pleading guilty under duress has been extended to cover threats communicated indirectly or implicitly. The defendant was not told by the court that he would be remanded in custody if he chose to plead not guilty, but he understood that this was the position. The judge said he sympathised with the magistrates in their dilemma of dealing with a large number of cases resulting from the riots. But the blanket policy adopted by the court was in defiance of the principle that every application for bail must be treated on its individual merits.

The decision of the Bradford Crown Court obviously does not have the same authority as one from the Divisional Court or the Court of Appeal. But it is probable that it would be upheld by the higher courts.

The case could have important repercussions. Any defendant who can show that he pleaded guilty because of the pressure created by the court's apparent attitude would be entitled to claim a retrial.

Of course, it may not be easy to satisfy the Appeal Court that the plea was influenced by such pressure. In the Bradford case the defendant had the evidence of his own solicitor and of the way in which the magistrates dealt with the long list of riot cases. But if the facts can be proved it seems as if a retrial would have to be ordered.

For the future magistrates and their clerks will be warned that even in the aftermath of a riot they must deal with each case on its own merits.