

Neutral Citation Number: [2015] EWCA Crim 845

No: 201500524/A1

IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
Strand
London, WC2A 2LL

Tuesday, 21st April 2015

B e f o r e:
LORD JUSTICE TREACY
MR JUSTICE KING
MR JUSTICE KNOWLES

R E G I N A

v

CLAIRE ANNE DAVIS

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Ms C Reese appeared on behalf of the **Appellant**

J U D G M E N T
(Approved)
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1. MR JUSTICE KNOWLES: Claire Davis was sentenced on 27th January 2015 by His Honour Judge Williams sitting in the Crown Court at Cardiff. Terms of 16 months immediate imprisonment on each of two counts of conspiracy to defraud were imposed. The sentences were ordered to be concurrent. Ms Davis appeals against sentence with the leave of the single judge.
2. The sentences followed pleas of guilty at the first opportunity. Ms Davis was sentenced alongside others who had also pleaded guilty to conspiracy to defraud. Yet others were sentenced on other dates including after conviction.
3. The offending involved fraud on motor insurance companies through dishonest claims; organised fraud that has come to be colloquially termed "crash for cash". A 74 count indictment was laid against more than 20 defendants, covering 28 fraudulent claims over a 25 month period. Counts 50 and 58 are relevant to Ms Davis. The dishonesty caused loss of some £82,037.12 to the insurers. Ms Davis received £2,820 in total, £1,100 for the alleged write off value of a vehicle which she claimed to be driving on one occasion and £1,720 for the alleged personal injuries she claimed to have suffered as a passenger on another occasion.
4. His Honour Judge Williams rightly observed that this type of offending is all too prevalent, that it is not a victimless crime and that in sentencing the courts should have particular regard to deterrence.
5. Other defendants sentenced on 27th January received sentences ranging from 30 months, after full credit for plea, to 8 months suspended for 18 months and coupled with an unpaid work requirement. The range reflected in particular the level of participation of each and the number of occasions in which each was involved. As mentioned, yet further defendants were sentenced on other days.
6. On Ms Davis' behalf it is conceded that her case passes the custody threshold. The appeal really centres on the question of whether the sentence of imprisonment should be adjusted in light of circumstances. In particular, argument has been advanced to us that the sentence should have been suspended. Reference is made to the guilty plea tendered by Ms Davis, to her previous good character and to personal mitigation.
7. The sentencing judge arrived initially at a sentence of 2 years after taking account of good character. This is not arguably wrong. By reference to the guidelines, that length of sentence reflected offending at the higher end of the range for category 3 harm with culpability level B. The culpability level was not challenged. The harm in monetary value was appreciably above the figure of £50,000 on which the starting point sentence for category 3 harm, culpability level B is based.
8. It is argued that the guilty plea deserves particular credit in Ms Davis' case because of perceived pressure not to admit guilt when some others with greater level of alleged participation were insisting on a trial. The sentencing judge reduced the sentence by a full one-third to 16 months to reflect the guilty plea. That is not arguably wrong.
9. This leaves personal mitigation.

10. First and foremost, Ms Davis has a 14-year-old son with disabilities who is undergoing behavioural assessments. I shall not extend this judgment by elaborating unduly. Suffice it to say that the position is serious, that it is very current, and that it is involving a great deal of intervention. His social worker has written that the family fear the son being taken into local authority care because of the currently reduced level of support whilst Ms Davis is not present, she having been his primary source of care. Ms Davis' current partner, now her husband, has written to bring home to the court how difficult it is to meet the needs of this child without Ms Davis presence, even allowing for help that grandparents, who have their own health problems and commitments, strive to bring. One grandparent has written to describe graphically how great the pressure is. As emphasised by counsel for Ms Davies, the presence of Ms Davies is of considerable importance to this child, at this stage of his life.
11. Second, Ms Davis is also responsible for the care of a 5-year-old child by a former partner. That former partner has committed suicide with inevitable consequences for the child.
12. Third, Ms Davis herself. She is 38 years old. When her pre-sentence report was being prepared in August 2014, she referred to physical and mental abuse at the hands of the former partner. She attributes her decision to commit the offences to her involvement with him. She was described in pre-sentence report as in "mental turmoil". She was received into custody on 27th January, the day of sentence. A recent report dated 8th April, by an offender supervisor, based at the prison, indicates that she has been serving well as a prisoner with a number of activities to her credit. Both the pre-sentence report and the offender supervisor report assessed Ms Davis at a low risk of harm and a low risk of re-offending.
13. The task for the sentencing judge and for us is not easy. It is made harder because the materials that we have used to summarise the position above are not as detailed as ideally they would be. More importantly still, not all were before the sentencing judge. Indeed, the sentencing judge was largely left, apart from the pre-sentence report, which did not make reference to all of the matters to which we have referred, with the submissions of counsel. He was entitled to more and it is unfortunate that more was not available to him. Further, in the present case, some of the difficulties have emerged since the point at which the judge was in passing sentence.
14. The matters we have summarised clearly call for careful consideration. So too does the offending. This is the type of offending that must be stopped. It is the type of offending which depends on recruits and towards which people may be tempted unless it is made very clear that the consequences will be as serious as they could be. The judge sent a strong signal by imposing an immediate custodial sentence.
15. The situation in the present case, however, driven by the particular circumstances of personal mitigation, is such as to allow us to form the view that the sentence for this defendant should be adjusted on appeal. We do not do this by suspending the sentence as invited, but instead by reducing its length.

16. In all the individual circumstances of this particular case, and on the particular personal mitigation in the case, the sentence will be one of 9 months and to that extent the appeal is allowed.