

POST OFFICE LTD – CASE REVIEW

R –v- VALERY ROSE JAMES

Crown Court sitting at Kingston-upon-Thames

PRE-HORIZON ON-LINE CASE

Offence and Case History

1. On the 20th October 2009 at the Kingston-upon-Thames Crown Court before HHJ Dodgson, this defendant was sentenced to 9 months imprisonment suspended for 24 months. She also received a supervision requirement of 12 months. She was charged with Theft of £90,418.90 belonging to Post Office Ltd between the 22nd May 2007 and the 10th July 2008.
2. On 19th February 2010 Recorder H de Silva QC made an agreed confiscation order in favour of Post Office Limited in the sum of £49,206.20, with 6 months to pay and 18 months imprisonment in default of payment.
3. The defendant was born on the 8th April 1953 and was aged 55. She was arrested and charged with Theft between the above dates of £48,211.90 (this amount appears only to have been amended to £90,418.90 shortly before or on the date of trial) and appeared at South Western Magistrates Court on 22nd January 2009. A judge had made a restraint order on 24th July 2008. The magistrates refused jurisdiction and committal took place on 18th March 2009.
4. She pleaded not guilty at her Plea and Case Management Hearing on 29th April 2009 and the case was put in a warned list for the 14th September 2009. It was listed for trial on the 15th September and on that date the defendant pleaded guilty to an amended indictment of Theft of

£90,418.90. She submitted a basis of plea which was not accepted by the prosecution.

5. In that basis she accepted taking more than £90,000 and entered false figures into HORIZON to cover this. She admitted putting the money into her personal locker but did not accept taking any money out of the premises. She did not know how considerably less than £90,000 was found in her locker, but accepted that her benefit for confiscation was £48,111.90. The confiscation figure of £49,206.80 was arrived at as the Financial Investigation Officer took into account the RPI increase in the value of money of £1,201.80.

Prosecution case

6. The defendant had been employed by the Post Office since 1992, initially at Eltham, and then at Houndsditch Crown Office where she was employed as a post office assistant. Houndsditch was an open plan office with each person having a roller cash dispenser (a secure till which releases cash through a number of slots on a timed basis). There is also a small drop safe where large amounts of cash can be securely stored during business hours. On 9th July 2008 the Branch Manager was contacted and informed that the cash holdings were too high. He looked at individual stock units and found that whilst the majority of the clerks were holding between £2 – 5,000 the defendant was holding in excess of £90,000.
7. The defendant was approached and she admitted that not all the cash would be present and that a quantity was in her personal locker. A post office carrier bag was found there in which a black plastic sack containing about £42,300 was found, bundled up in £1,000 and £500 bundles. This still left a cash deficit in her till of over £48,000. Due to the amount the police were notified and she was arrested on 9th July.

8. The defendant was interviewed under caution on 9th July 2008 and 1st September 2008. She said as follows:

- She had been declaring inflated cash on hand figures on her counter till balance for about a year.
- She had put the cash in her personal locker as she did not have enough storage room in her till and she did not like transferring cash to the Branch Manager in an open plan office;
- She denied stealing any money.

Defence case

9. The defendant pleaded not guilty at her plea and case management hearing and submitted a defence case statement. She said in the statement that she had asked for redundancy as she has a disabled adult son and wanted to be made redundant so that she could claim benefits for his care. This was refused and she found the job stressful. She said she had little training provided. She said that she stored the cash and did not balance the accounts in the hope that she could be discovered and dismissed. She was living in penury.

10. When the case was listed for trial on the 15th September 2009 she changed her plea to guilty of Theft of £90,418.90 but submitted a basis of plea as outlined in paragraph 2 above. She accepted by her plea of guilty stealing in excess of £90,000. She accepted the benefit derived from criminal conduct to be £48,111.90.

Discussion

11. The defendant had always accepted that she had transferred money to her personal locker, although she claimed that she did not know it was as high as in excess of £90,000. Her home address, living circumstances and financial investigations do not show any prima facie evidence of living above her means. Examination of her bank accounts were done and there is no indication on the papers that cash was entering or leaving that account. Her house was mortgaged and the mortgagees had applied for a charging order of £11,302.62 on 8th December 2009. In real terms if there was ever any dispute as to the audit printout from the HORIZON system this would have been flagged up at an early stage and certainly prior to trial. However, in this case I have seen the following:

- (1) When the case was being prepared for trial defence solicitors and counsel visited the post office merely to take sketches and photographs of the layout of the premises, and did not raise any questions about the workings of the accounting system;
- (2) A letter from Nelson Guest and Partners, the defendant's solicitors, dated 1st May 2009 in which they state "We do not require Christine Stevens to attend to give evidence and you may therefore accept that we do not propose that the amount of money should be subject to audit";
- (3) The basis of plea in which the defendant accepts taking in excess of £90,000;
- (4) A further letter from Nelson Guest dated 10th February 2010 in relation to the confiscation proceedings in which they state "We don't understand the letter. We don't dispute this confiscation, we don't dispute the loss What is there not to agree? Please explain".

Conclusion

12. This defendant pleaded guilty to theft on a written basis that specifically admitted taking more than £90,000. As she was given a suspended sentence it is plain that the Judge was faithful to that basis. It is difficult to see how any disclosure of the issues contained in the Second Sight Interim Report could possibly found any realistic appeal against conviction or sentence. No further disclosure required.

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HARRY BOWYER

BARRISTER

CARTWRIGHT KING SOLICITORS

3rd September 2014