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ROYAL MAIL GROUP (POST OFFICE LTD) – CASE REVIEW

R. v Alison Henderson

Norwich Magistrates' Court and Norwich Crown Court

Offence and Case history

1. On 15th December 2010 at Norwich Crown Court, this defendant pleaded guilty, on a basis, to one count of False Accounting, contrary to section 17(1)(a) of the Theft Act 1968 and was sentenced to a 12 month community order with a 200 hour unpaid work requirement. The prosecution offered no evidence on the theft count and a not guilty verdict was entered.

2. Ms Henderson first appeared at Norwich Magistrates' Court on the 12th August 2010. The case was adjourned to 7th October 2010 when it was committed to Norwich Crown Court after a not guilty plea had been indicated. The PCMH before the Norwich Crown Court was listed on the 3rd November 2010. This was subsequently changed to 3rd November 2010.

3. At the PCMH the defendant pleaded not guilty to both counts on the indictment, Theft and False Accounting, and the case was warned for trial in the week of 29th November 2010.

4. A defence statement was served on the 5th November 2010 where the defendant said that she had no explanation for the discrepancy, did not understand how it had occurred and denied stealing the £11,957.78 of the discrepancy.

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5. An amended defence statement was served on the 16th November 2010 specifically pointed to a malfunction of the Horizon system as being a possible cause of the deficit.

6. The defence indicated in conversations with POL by telephone that the defendant was likely to plead to Count 2, False Accounting, and accepted that she was contractually bound to pay back the deficit.

7. On the 1st December 2010 the case was listed, seemingly for a Goodyear indication, at Norwich Crown Court and the Judge, whilst not giving a Goodyear indication, adjourned the matter to 15th December 2010 so that the defendant could repay the money.

8. A cheque arrived at POL for the full amount and on the 15th December 2010 the Judge proceeded to sentence as per paragraph 1 above, remarking that "I take it that your plea was based on muddle and confusion."

Prosecution case

9. The defendant, Alison Henderson, was during the relevant period, 1/1/1997 – 11/02/2010the sub postmaster at Worsted Sub Post Office.

10. On 10th February 2010 an audit took place at Worsted, Sub Post Office to verify financial assets due to POL and confirm compliance with a range of business processes, procedures and business requirements.

11. On the date of the audit, 10th February 2010 the auditor found a total shortage of £11,957.78 made up as follows:

    - £11,963.15 (-) identified as a difference in cash figures
    - £19.48 (-) identified as a difference in stock figures
    - £24.85 (+) identified as a difference in foreign currency figures

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12. Mrs Henderson, in her interviews, conducted under the provisions of the Police and Criminal Evidence Act 1984 and the relevant Codes of Practice, on the 11th March 2010 said that:
    - The result of the audit was a complete shock
    - .She had had no shortage before that point
    - There had been no problems with balancing before.
    - The cash on hand in the last branch trading statement was the amount that she actually counted
    - She denied stealing any cash

Defence case

13. In interview the defendant denies taking POL money and was completely shocked by the audit figures. In her defence statement she firmly raised the issue of a potential malfunction of the Horizon system.

Discussion

The Second Sight Interim Report

14. This case was dealt with by way of a guilty plea to False Accounting at a very late stage. That guilty plea was indicated telephone conversations with the defence legal team.

15. This case differs from the run of the mill case of this type where the defendant admits false accounting but denies theft. At no stage in interview or in the defence statement did the defendant concede any false accounting by her or, indeed, any dishonesty at all. The plea, when it eventually came, was only after a Goodyear indication where the Judge indicated that on a guilty plea there

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would be no custodial sentence. In a case such as this it would be difficult to rule out a pragmatic decision to avoid an immediate custodial sentence as opposed to an admission of guilt when the defendant entered her guilty plea. Nonetheless a plea of guilty is taken to amount to an admission of guilt of the offence pleaded to. This defendant was legally advised throughout the process and should have been advised as to the consequences of her plea. I would doubt that any appeal will succeed in this case but it is my view that had we been in possession of the Second Sight Interim Report we would have disclosed the matters raised within it when we were in possession of the defence statement.

Conclusion

16. This is a case where we should disclose the issues raised in the Second Sight Interim report and those instructed by Ms Henderson should be written to accordingly.

Harry Bowyer **2nd September 2014**
Barrister
Cartwright King Solicitors