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ROYAL MAIL GROUP (POST OFFICE LTD) – CASE REVIEW

R. v Daljit Singh Benning

Cambridge Magistrates Court and Cambridge Crown Court

Offence and Case history

1. On 12th April 2010 at Cambridge 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. On 21st May 2010 the defendant was sentenced to 8 months imprisonment suspended for 18 months with a 200 hour unpaid work requirement.

2. Mr Benning first appeared at Cambridge Magistrates Court on the 16th July 2009. The case was adjourned to 30th July 2009. On that date, upon the defendant indicating a not guilty plea, the case was adjourned to 10th September 2009 for committal. The case was committed to Cambridge Crown Court and the PCMH was listed on the 16th October 2009, on which date the defendant pleaded not guilty. The case was adjourned for a further PCMH on the 6th November 2009 for the defence to have a further conference. On 6th November the Not Guilty plea was maintained and the case was fixed for trial on 12th April 2010. On the 15th March 2010 the defendant sent in a draft basis of plea, on which basis the plea was entered on the 12th April 2010. On 21st May 2010 the defendant was sentenced as above.

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Prosecution case

3. The defendant, Daljit Singh Benning, was during the relevant period, 10/07/2006 – 30/04/2009, a sub post office manager at Harston Sub Post Office.

4. On 11th December 2008 an audit took place at Harston Sub Post Office.

5. On the date of the audit the auditor found a total shortage of £22,084.99 made up as follows:

   - £2,688.90 (-) identified as a difference in cash figures
   - £17,876.96 (-) identified as a difference in stock figures
   - £920.33 (-) identified as a difference in postage stamp figures
   - £598.80 (-) identified as a difference in foreign currency figures
   - £22,084.90 (-) TOTAL

6. Mr Benning, in his interviews, conducted under the provisions of the Police and Criminal Evidence Act 1984 and the relevant Codes of Practice, on the 23rd December 2008 said that:
   - He was the manager of the sub post office and worked for his brother in law, Amarjit Boora, who was the sub post master
   - Mr Boora does not work in the post office.
   - When the shortages were put to him he said that he could not understand them.
   - He had been told of several transactional corrections in relation to his scratch card sales and had settled one for £7000 with a cheque from his mother and cash from the shop.
   - He did not check everything when he did a balance, "I just skim through everything and just do the stamps and the cash."
   - He never took POL money for his own use

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7. Following the interview further enquiries were conducted. Which showed that there were six lottery transaction correction notices served on the post office totalling £5,066.47. This put the shortage to £27,151.46.

8. Mr Benning was further interviewed, again conducted under the provisions of the Police and Criminal Evidence Act 1984 and the relevant Codes of Practice, on the 27th April 2009. He said that:
   - He did not understand why some packs of scratch cards had been booked in properly when others had not.
   - He did not know why the balance wasn't in credit when cards had been activated and sold but not booked in.
   - Nothing untoward had been going on.
   - He admits falsifying two of his trading statements.
   - He does not know where the money has gone.

Defence case

9. In interview the defendant denies taking POL money but admits entering false figures into Horizon on two occasions.

10. Despite these admissions a not guilty plea was entered but no defence statement was served.

11. The defendant served a basis of plea which admitted "temporarily" adjusting the accounts at Harston Sub Post Office to identify a smaller figure than the actual figure.

12. The Judge sentenced on the basis that the defendant was "covering a loss, not stealing."

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Discussion

13. This case was dealt with by way of a guilty plea at the eleventh hour before the trial. Whilst no defence statement was served there are a number of letters on file that ask for further clarification on the way that the figures were arrived at and details about the helpline

14. Whilst there is no direct attack on Horizon I have little doubt that in a case such as this, where the defendant was professing almost to the door of the trial not to know how the shortages had occurred, we would have disclosed the issues referred to in the Second Sight Interim Report.

15. It is my view that this defendant would be hard put to found an appeal against either conviction or sentence in this case as he admitted submitting false figures on two occasions in interview, pleaded guilty on a basis that must have been on instruction and was sentenced on the basis that he had not stolen the money but was covering a loss. Nonetheless where a defendant pleads guilty as late in the day as this one has there is always a concern that the plea was tendered in a spirit of pragmatism rather than an acceptance of guilt and such a plea might not have been tendered in this case had the defence had material upon which they could have mounted an attack on the Prosecution's figures. It is my view that we should disclose the Second Sight Interim Report to those who were acting for Mr Benning in order that they can consider and advise upon his options.

Conclusion

16. This is a case in which, had we been possessed of the material at the relevant time, we would have disclosed to the defence the matters identified in the Second Sight Interim Report during the trial process. It is my view that we are still under a duty to make those instructed by Mr Benning aware of the contents of that Report and they should be written to accordingly.

Harry Bowyer — **9th April 2014**
Barrister
Cartwright King Solicitors