

IN THE BIRMINGHAM CROWN COURT

BETWEEN:

THE QUEEN

v

TAHIR MAHMOOD

ADVICE ON EVIDENCE

Overview of Evidence

1. I have considered the prosecution evidence in this case. Essentially, an audit of the post office took place on 30 April 2005 and shortages of £33,437.39 were revealed. Mr Mahmood informed officers as the audit was taking place that the shortages were likely to exist and be in the region of £25,000. In interview, Mr Mahmood accepted falsifying the horizon accounts by inflating the cash on hand figures and by not actually counting the cash he had at the post office. He accepted that his gain had been the fact that he had kept his job and not had to pay back the losses. He told officers that he had been falsifying the accounts, virtually on a weekly basis, since March 2003, when an earlier audit took place, and losses had been identified. It was put to the Defendant in interview, on the basis of the schedules produced by Mr Price, that the inflation of the cash figure had only been a recent occurrence. This was denied by Mr Mahmood.

Issues relating to Evidence and Further Evidence

2. A number of issues arise. I would be grateful if my instructing solicitor/Mr Price could assist me.
 - a. I am unable to properly read DAE/01 – the audit report. I am unable to identify how the shortage figure of £33,000 is computed. This needs to be addressed in a further statement from Deborah Edwards. I consider it is something the Defence will raise, notwithstanding the fact that Mr Mahmood agreed the shortage figure at the time of the audit.
 - b. In relation to the March 2003 Audit, it is unclear from the papers whether the £40,000 was stolen in the armed robbery? If the loss was as a result of Mr Mahmood's accounting practices, why wasn't he prosecuted at that stage?
 - c. Mr Price produces a helpful schedule of the balances declared by Mr Mahmood at the end of each accounting week. As I understand the position, it is these balances which have been inflated. Is there any way in which the horizon system can be interrogated to provide us with the actual balances for those weeks? Having read Mr Price's report, I understand this is unlikely but could this be confirmed.
 - d. Where does Mr Price source the figures in his schedule from? In previous cases for the Royal Mail, the horizon printouts have been exhibited and Mr Price has completed a schedule using the original information. Is it possible to exhibit the source material which allowed Mr Price to draw up his schedule? Is this the documentation referred to in the unused schedule?

- e. Mr Mahmood says in interview (page 31 of the bundle) that a suspense account was in operation after the audit in March 2003. Can this be explained to me please.
- f. Can the term “rems” be explained in a statement from a witness?
- g. Does the lack of error notices imply that Mr Mahmood was a careful postmaster who would not have been incurring these shortages (for example by overpaying customers), without appropriating the cash for himself? Does the same principle apply in relation to the surpluses declared by Mr Mahmood and scheduled by Mr Price?
- h. Have the officers analysed the Defendant’s bank accounts, given his permission for access? If large amounts of unexplained monies entered his account over the index period, a charge of theft might be substantiated. I appreciate that the money could have been given to the head of the household, as was explained in interview.
- i. Why is the start of the indictment period 13 August 2003? Why does Mr Price’s schedule commence on that date? Is there a specific reason or was a period a few months beyond the last audit chosen?
- j. I presume the entry Mr Mahmood made was on the computer, rather than in his own hand. In those circumstances there does not appear to be a need to refer to “a document” in the Indictment.

The Indictment

- 3. My instructing solicitor has formed the view that the indictment should include counts of false accounting, rather than theft. Given the evidence, I agree. I am not able to say that there would be a reasonable prospect of conviction in relation to a charge of theft over the period. There is no substantive evidence to suggest that Mr Mahmood was appropriating the

money that was found missing at the audit. We have no evidence from his bank accounts. To some extent, the Crown is reliant on the Defendant's admissions in interview. Mr Mahmood accepts in interview that he falsified the accounts, and that his gain was his not being detected and not having to pay back the losses, as he was contractually obliged to do. My Instructing Solicitor will be well aware of the dicta in R –v- Eden 55 Cr App R 193 where a gain could constitute “putting off the evil day of having to sort out the muddle and pay up ...” He appears to admit his guilt as regards false accounting. Further, he is adamant that he falsified the accounts during the whole of the indictment period. Whilst Mr Price is cynical about this assertion (he feels that there were a few bulk withdrawals) the explanation given by Mr Mahmood is said to be possible. I have no substantive evidence to the contrary. In the circumstances, I consider that the indictment should remain as it is, save the inclusion of the words “for an accounting purpose” – see attached indictment. Could my instructing solicitor lodge a copy at court please? It will be made clear at the PCMH that the indictment includes specimen counts and that the loss is £33,000.

Conclusions

4. My Instructing Solicitor will realise that the prosecution has to prove dishonesty on the part of the Defendant – R –v- Eden. There is a chance that a jury form the view that he was “muddled” or “confused” and not dishonest, notwithstanding his acceptance in interview that he falsified the account and apparent agreement with the officers that he had been dishonest.

5. I would be grateful if these queries could be addressed prior to the PCMH.
I would be happy to discuss the case with my instructing solicitor. If Mr Price is due to attend on 17 November, I look forward to seeing him. A short conference can be held on that day prior to the hearing.
6. If those instructing me wish to raise any matters regarding this case, they must not hesitate to contact me in Chambers.

Richard Anthony Cole

GRO

8 November 2005

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ADVICE ON EVIDENCE

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