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ROYAL MAIL GROUP (POST OFFICE LTD) – CASE REVIEW

R. v NEELAM SHANEZ HUSSAIN

Wolverhampton/Derby Crown Court

Offence

1. On the 6th September 2011 this defendant was sentenced, at Derby Crown Court, to 21 months imprisonment for an offence of Theft. The single charge alleged that between the 1st July 2009 and 13th November 2009 she had stolen £83,000

Case history

2. This case was listed before the West Bromwich Magistrates Court on 18th October 2010 when it was committed to Wolverhampton Crown Court. Both the Defendant and her brother were charged. The PCMH took place where the defendant pleaded not guilty and the case was listed for trial on the 20th June 2011. On the first day of the trial the defendant pleaded guilty to Count 1 on the indictment, theft, and no evidence was offered against her brother on Count 2 and Count three, transferring Criminal property was left on the file as against this defendant. The case was adjourned to the 6th September 2010 when the defendant was dealt with as above, having followed the Judge to Derby Crown Court.

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Prosecution case

3. The defendant, Neelam Shanaz Hussain, was during the relevant period the office manager at West Bromwich Sub Post Office. She had been working as such for 12 months prior to her suspension. She effectively ran the Post Office for the subpostmistress, Baljinder Dhadda and prepared the monthly trading statements which would be sent to the Post Office Limited headquarters in Chesterfield.

4. Auditors attended the branch on 13th November 2009. The auditors soon found that there were unreconciled cash transfers for stock unit GG. This meant that money had been transferred out from other stock units but had not been accepted in by the receiving stock unit GG. GG showed a shortage of £83,000. Stock unit GG was a phantom unit purposely created to conceal a shortage. If money is transferred to such a unit but not accepted then both units would balance.

5. From an event log printed on the day the auditors were able to determine that the unit GG was created on 16th October 2010 by Horizon user NHU004 which is the Horizon ID of Neelam Hussain.

6. The final audit showed losses of £101,617.15.

7. From transaction logs the auditors could show that there were 5 transfers to stock unit GG, 2 from stock unit BB totalling £74,000 and 3 from stock unit BC totalling £9,000. 4 of the 5 transfers were with the user codes of Neelam Hussain. The fifth used the user code of Raheela Mahmoud who was a prosecution witness and denied the transaction. In December 2009 Mrs Mahmoud confronted the defendant on the telephone and the defendant admitted the transaction as she had lost a cheque and the accounts would have shown a shortage. The defendant said that she used everyone's codes.

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8. During the audit a cheque was found in the sum of £85,000 made out to the Post Office with a piece of paper attached and on it was written "chq to put in system – growth bond."

9. During the Audit the defendant asked several people if they could provide a personal or a company cheque to cover the shortage in the accounts.

10. The defendant was arrested following the audit and taken to West Bromwich Police Station.

11. In her interviews, conducted under the provisions of the Police and Criminal Evidence Act 1984 and the relevant Codes of Practice, on the 13th December 2009, the defendant made no comment to the majority of questions put to her. On the 18th December 2009 she was reinterviewed and submitted a prepared statement which read:
    - I Neelam Hussain will say as follows; I strongly deny that I am responsible for any of the money which has allegedly been missing. It is always the practice in our Post Office that members of staff will use each others user name and password. In particular Sarvjit Kaur who had managerial access and I therefore believe may have been responsible for the money which is said to be missing. Recently, before 12th November 2009 she had asked for her user name and password to be changed, her working hours to be reduced and then she had given her notice in to leave. I now realise that this behaviour was unusual and raises suspicion. I confirm that any of the Growth Bond transactions which have dealt with have been legitimate. I hereby wish to say no comment to all questions.
    - She thereafter made no comment.

Defence case

12. In interview the defendant denies responsibility for the theft.

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13. She served a defence statement which denied creating the stock unit GG, denied the transfers to GG and denies telling Raheela Mahmoud that she had.

14. She suggests that her user ID's and passwords were known to other staff and these may have been responsible for the theft.

15. She also suggests that the deficits might be down to accounting errors.

16. She suggests that the other staff might have been trying to set her up as a result of her intention to buy the Post Office.

Discussion

17. This is a case where the defendant pleaded not guilty on the basis that she had nothing to do with the transactions. The majority of this case was dependant on the efficient working of the Horizon system. It is my view that had we been in possession of the Second Sight Interim Report at the relevant stage of these proceedings we would have disclosed it. It would have been obvious that the defence would have been interested in any material that might help them explain transactions for which the defendant denied responsibility.

Safety of Conviction

18. It is not the purpose of this review, nor of the review process overall, to determine whether or not any particular conviction is unsafe: that decision is reserved to the Court of Appeal only. The purpose of this process is to identify those cases where the material contained within the Second Sight Interim report would have met the test for disclosure as provided in the Criminal Procedure and Investigations Act 1996, the Code of Practice enacted thereunder and the Attorney-General's Guidelines on Disclosure, had that material been known to Post Office Ltd. during the currency of the prosecution and accordingly would or ought to have been disclosed to the defence.

19. In this case I have no doubt that, had we known of those matters identified in the Second Sight Interim report, that material should and would have been

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disclosed to the defence in accordance with our disclosure duties as prosecutors. For that reason alone we must inform those who represented the defendant and disclose to them the Second Sight Interim report.

20. I consider it possible, upon receipt of this material, the defendant will seek the leave of the Court of Appeal to appeal his conviction. Where a defendant seeks leave the Court of Appeal will, often before the grant of any leave, invite the prosecution to comment upon the application.

21. I advise that, should we be so invited and/or should the defendant be granted the requisite leave, we oppose his the grant of leave and any substantive appeal, on the basis that the conviction may properly be regarded as safe when one looks at:

- The defendant's plea of guilty.
- The defendant's acceptance through the confiscation hearing that she had taken the money alleged in the indictment and specifically what she had done with it – the latter rather more consistently than the former. The defendant told the author of the pre sentence report that £82,000 of the money stolen had been sent by way of individual cheques to Pakistan to fund medical expenses of her mother in law – she later said it went by money transfer – there is doubt that it went by either!
- The circumstances of the setting up of stock unit GG
- The use of the defendant's user code in the transfers to stock unit GG
- The bizarre behaviour of the defendant during the audit
- The cheque for £85,000 for which a handwriting expert found strong support for the contention that the defendant had written

Conclusion

22. This is a case in which, had we been possessed of the material at the relevant time, we should and would have disclosed to the defence the matters identified in the Second Sight Interim report.

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23. Accordingly our duty is now to place the defence on notice of this fact and to serve on them those documents. I advise that we comply with that duty in this case.

24. Should the defendant be granted leave to appeal against her conviction, we should oppose the appeal.

25. I will draft a letter to the defence for Post Office Ltd.'s approval and, in accordance with your instructions to us, serve that letter and the reports on defence solicitors.

Harry Bowyer **22nd November 2013**
Barrister
Cartwright King Solicitors