

ROYAL MAIL GROUP (POST OFFICE LTD) – CASE REVIEW

R. v Jacqueline McDonald

Preston Magistrates Court and Preston Crown Court

This advice is based on the contents of the green investigation file. I have not had sight of the buff prosecution file. The correspondence and papers contained in the green file, whilst incomplete, are, in my view, sufficient for the purposes of this review.

Offence and Case history

1. On 12th April 2010 at Preston Crown Court, this defendant pleaded guilty to six counts of False Accounting, contrary to section 17(1) of the Theft Act 1968. She pleaded guilty to a count of Theft of £94,380.69, contrary to section 1 of the Theft Act 1968, on 8th November 2010, the day that the matter was listed for trial. On 21st January 2010 she was sentenced to 18 months imprisonment on each count to be served concurrently. .
2. Ms McDonald first appeared at Preston Magistrates Court on the 4th April 2009. The case was adjourned to 24th February 2009 and on that date the defendant gave no indication of plea. The case was adjourned to the 15th April 2009 on which date it was committed to Preston Crown Court.
3. The PCMH was listed on the 2nd June 2009 on which date the defendant pleaded not guilty to all counts and the case was fixed for trial on 9th December 2009. On 27th November 2009 the matter was listed by the defence for a “Goodyear” indication. The defence decided not to apply for the “Goodyear” indication but applied for the fixture to be broken which application succeeded and the matter was refixed for 12th April 2010. The defence indicated that they were interested in pleading to false accounting but

not to the count of theft. This was offered in writing by letter dated 30th November 2009. The Crown still wished to pursue the theft allegation. On the 12th November 2010 the defendant pleaded guilty to false accounting and the case was refixed for the defence expert to report. On that date the defendant pleaded to theft, on 21st January 2011 the defendant was sentenced as above.

Prosecution case

4. The defendant, Jacqueline McDonald, was during the relevant period, 4/11/2007 – 01/10/2008, a sub postmaster at Broughton Sub Post Office.
5. On 1st October 2008 a business development manager attended the sub post office to check the overnight cash holdings. The Horizon system indicated that about £100,000 was due to be returned to the cash centre and a collection could be made that day. Ms McDonald was asked to produce the cash. She produced £17,000. She was asked for the rest of it and replied, “What do you mean.”
6. An audit took place at Broughton Sub Post Office the same day...
7. On the date of the audit the auditor found a total shortage of £93,947.93 made up as follows:
 - £85,505.38 (-) identified as a difference in cash figures
 - £1,673.49 (-) identified as a difference in cheque on hand figures
 - £6,524.24 (-) identified as a difference in stock figures
 - £244.82 (-) identified as a difference in foreign currency figures
 - £93,947.93 (-) Total shortage on the day
 - £432.76 (-) Outstanding debt

8. Ms McDonald, in her interviews, conducted under the provisions of the Police and Criminal Evidence Act 1984 and the relevant Codes of Practice on 23rd October 2009, said that:

- She had taken over the sub post office in December 2006. It had closed in July 2007 for refurbishment. The office reopened in November 2007. She had had no problems with balancing until that stage.
- She had an issue ordering Euros where the system said that the office already had a supply.
- She did the balancing along with an assistant, Katie Noblett.
- She physically counted the cash at least three times a week.
- She was happy that she knew how to run the post office correctly. If she didn't she would call the helpline.
- If she was over her balance it would go in the suspense account. She would not take the cash.
- She had a problem with €2000 showing in the suspense file and eventually had to repay the money.
- Her balancing had been disastrous since November the previous year.
- She reported it to the helpline.
- She had not taken any of the money.
- By the time of the audit the cash declarations had been off for a long time.
- She did not think that the money was missing but “I think that what it is it has been sent back and it has been done wrong in the Horizon system.
- She was first aware that the cash was short about 2 months prior to the audit.
- The discrepancy was about £10,000.
- She then said that her problems started in March.
- The stock difference was due to a problem with the lottery scratch cards.
- She may have entered them in twice.
- She does not know where the stamps or the Euros were.
- The last correct cash declaration was in March 2008.

- She had had no support from Horizon about the lottery problems and had had to pay the money back.
- She had no idea of the amount that she would be short when the auditors came.
- She had not stolen the money,
- She knew that it was wrong to falsify accounts.

Defence case

9. In interview the defendant denies taking POL money but admits that she entered false amounts into the Horizon system to cover losses that she could not explain.
10. The defendant raised the reliability of the Horizon system in interview and the defence commissioned an expert to investigate this case
11. The guilty plea to theft was only entered on the day of trial.

Discussion

12. This case was dealt with by way of a guilty plea at the eleventh hour on the day of trial. Until that time the matter looked like an effective trial – at least two trial dates were vacated for an expert to report.
13. In this case there was a direct attack on the figures produced from the audit, a direct challenge to Horizon and criticism made in interview of the help available. These are all issues dealt with in the Second Sight Interim Report and it is my view that had we been possessed of that report during the course of this case we would have made the defence aware of its contents.
14. This defendant may well be hard put to found an appeal against either conviction or sentence in this case as she admitted submitting false figures in interview and by her guilty plea has admitted the theft of £94,380.69. A guilty

plea is deemed to be a complete admission to the facts alleged in the indictment. The sentence is hardly manifestly excessive for this type of case.

15. Nonetheless where a defendant pleads guilty as late in the day as this one, there is sometimes 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 Ms McDonald in order that they can consider and advise upon her 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 Ms McDonald aware of the contents of that Report and they should be written to accordingly.

Harry Bowyer
Barrister
Cartwright King Solicitors

29th April 2014