

POST OFFICE LTD – CASE REVIEW

R -v- WILLIAM GILES

Southampton Crown Court

PRE-HORIZON ON-LINE CASE

Offence Case History

1. On the 19th March 2009 at the Southampton Crown Court, this defendant was sentenced to 27 months imprisonment. On the 8th October 2010 a confiscation order under the Proceeds of Crime Act was made in the sum of £50 000, with 6 months to pay. A default period of imprisonment of 16 months has been endorsed on prosecution counsel's brief. However, this does not appear on the compensation order in the papers. The defendant was originally charged with Theft of £186,971.82 belonging to Post Office Ltd between 1st September 2006 and 13th December 2007. However, the figure was amended to £164,152.95.
2. The defendant was born on the GRO and was aged 57 at the time of his arrest. He was arrested for Theft on the 14th December 2007 and appeared at New Forest Magistrates Court on 28th March 2008. The magistrates refused jurisdiction and committal took place on 6th June 2008 to the Southampton Crown Court for a plea and case management hearing.
3. There is a letter from the defence solicitors dated 30th June 2008 asking for an adjournment of the PCMH but indicating that the defendant had made admissions in interview and therefore the main issue was the amount of loss. However, at the adjourned PCMH on 3rd November 2008 the defendant pleaded not guilty and his trial was originally fixed for 9th February 2009. Directions were made for the service of any expert report by 6th January 2009. However, on the 24th January 2009 before HHJ Hope

the indictment was amended to the lower figure of £164,152.95 and the defendant changed his plea to guilty.

Prosecution case

4. The defendant had been postmaster of Sway Sub Post Office for a year and 5 months. On 13th December 2007 auditors attended Sway prior to its opening to perform an audit. They waited for the defendant to arrive which he did at around 0850 hours. The defendant handed the safe and door keys to the auditors and informed them he was going home at 1000 hours.
5. The auditors obtained a snapshot from the HORIZON system which showed a figure of £148,691.77 against the cheques, a very high figure. The officers asked the defendant about this and he confirmed that the cheques were not on hand. The audit resulted in an overall deficit of £186,971.82. This was made up as follows:
 - Cash deficit of £31,628.31
 - Stock deficit of £5,706.33
 - Foreign currency deficit of £945.41 (1310 Euros)
 - Cheque deficit of £148,691.77.
6. The previous postmaster of Sway was one IAN JOHNSTONE KIRK. The sub post office forms part of a newsagents and general stores with an adjoining private residence. At the time KIRK still owned the property and ran the newsagents. Following a jury trial, he was convicted of Theft and False accounting during his time at the Post Office. On the 19th January 2008 he was sentenced to 18 months imprisonment. The dates of his charges and the accounting periods are between 4th November 2003 and 28th June 2006.

7. The defendant had also been associated with Micheldever Sub Post Office and there had been irregularities there in the past. His wife Gail had been the postmaster of this branch and it was thought that he resided there. Further enquiries established that he had an address in Fareham, Hampshire. The officers contacted the police with a view to arresting him there. However, on 14th December 2007 while preparations were being made to attend the address in Fareham, the defendant reported to the front desk at Lyndhurst Police Station and was arrested. He is said to have made a comment while being put in a cell "Whatever the Post Office computer says that's down to me. I created the figure to balance the books".
8. A search was then made of the defendant's car and home address and it was apparent that he had financial problems.
9. The defendant was interviewed under caution on 14th December 2008. He said as follows:
 - He admitted stealing Post Office money from around September 2006;
 - His mortgage had increased considerably since he moved to his address in Fareham;
 - He had fallen behind with mortgage payments and was threatened with repossession;
 - He used Post Office money to pay the arrears and took up to £2000 at a time;
 - He used the money for mortgage payments and to purchase stock for the Micheldever Stores;
 - He referred to the £20,000 positive adjustment on 12th December 2007 and said he did not take £20,000 in one go but this related to how much cash was taken during the trading period;
 - He was owed about £15,000 for lottery tickets by IAN KIRK.

Defence case

10. As stated above, prior to the adjourned plea and case management hearing all parties were working on this as a potential guilty plea. I have seen e-mail correspondence from the officer in the case, Graham Brander, agreeing to compromise the loss figure to £164,152.95. His e-mail dated 7th October explains how he has amended the original figure. I have not seen a defence case statement in the papers but I have seen a letter from defence solicitors dated 26th November 2008 stating that they proposed to instruct a forensic accountant to study the HORIZON accounts system to ascertain

- How the HORIZON system worked on a day to day basis and what information was recorded;
- How the HORIZON data had been extracted;
- What the various fields of data provided meant;
- How the various schedules attached to the investigating officers' report were downloaded/prepared.

11. However, no expert report was served and the defendant changed his plea on 24th January 2009 to the compromised amount.

12. The confiscation proceedings took a period of time to conclude and correspondence between defence solicitors and the Post Office indicates that as of 20th January 2011 the defendant was given another 6 months to pay the £50 000 ordered to be confiscated. I do not know if the amount has since been paid.

13. Again, the defence sought to instruct a forensic accountant to assist the defence in answering the issue as to hidden assets. No report was served from the papers I have seen. Instead, the defendant swore an affidavit dated the 29th September 2010 where he sought to account for £128,820.11 of the benefit figure of £164,152.95.

Discussion

14. The defendant ultimately had made full admissions in his interview to stealing money from the Post Office over a period of time. The only issue he has always had is with the amount of loss and whether or not he can be said to have appropriated the full amount, which, as mentioned above, was reduced from its original figure. His sworn affidavit provided an explanation for £128 820.11 of the money, which one can infer was accepted in part, as the confiscation order was made in the sum of £50,000.

Conclusion

15. In light of the defendant's admissions to theft from his first dealings with the police and subsequently in interview it is difficult to see how the issues canvassed in the Second Sight Interim Report could assist this defendant in any Appeal Against Conviction or Sentence. This case deals with the pre Horizon on Line System which is the system that is dealt with in this review and the Second Sight Interim Report. There is no further disclosure necessary in this case.

Harry Bowyer

BARRISTER

CARTWRIGHT KING SOLICITORS

3rd September 2014