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IN THE COURT OF APPEAL
CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT NORWICH
HIS HONOUR JUDGE ANDREW SHAW T20240021

CASE NO: 2024 01596 A1

[2024] EWCA Crim 1335

Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday 24 October 2024

Before:
LORD JUSTICE COULSON
MR JUSTICE JOHNSON
HIS HONOUR JUDGE FLEWITT KC

REGINA
v
SUSAN GOOSE

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MR A. OLIVER appeared on behalf of the Appellant

J U D G M E N T

LORD JUSTICE COULSON:

Introduction

1. The appellant is now 64. On 18 March 2024, in the Crown Court at Norwich, she pleaded guilty to five offences of fraud and asked for two others to be taken into consideration. On 26 April 2024, at the same court, the appellant was sentenced by His Honour Judge Andrew Shaw ("the judge") to 6 years' imprisonment. She appeals against that sentence with leave of the Single Judge.

The Facts of the Offending

2. The offending was similar in each case. The appellant told her victims that she needed money for various bogus reasons, playing on their sympathy and manipulating their good nature. She persuaded them to part with large sums of money. It is unnecessary to identify the similar offending in respect of each of the five counts; two examples demonstrate the scale and the shamelessness of the appellant's conduct.
3. In relation to count 1, the appellant told Frederick Scarle that she needed money to pay legal fees to secure money relating to a will, and that she was due to inherit a significant amount of money. She showed Mr Scarle various emails in an attempt to assure him that she was telling the truth. In fact this was all a lie and the emails were false. In consequence of this, Frederick Scarle paid the appellant a total of £123,265.
4. In relation to count 2, Jennifer Esler was told by the appellant that she was owed a large sum of money and now needed to pay legal fees to secure that money. That was a lie. Ms Esler was persuaded to make 484 separate transactions to the appellant over a period of years, beginning in March 2017. The total loss to Jennifer Esler was £149,624. These losses

subsequently contributed to the breakdown of Ms Esler's marriage and the loss of her family home.

5. Other counts involved the appellant seeking money in order, she said, to pursue the family of a driver who had killed her daughter in a road accident, or money to buy her mother's council flat. Again, those were false reasons; she did not require the money for those purposes.
6. The minimum total amount which the appellant defrauded from these sympathetic victims was put by the judge at £426,769. At the outset of the submissions this morning, Mr Oliver pointed to a lower figure - some £370,000 - which he said was the right amount. It seems clear from the figures that the £426,000 was the total amount that was defrauded, and therefore the relevant figure for the purpose of the sentencing guidelines; the lower figure took into account the modest amounts that the appellant had paid back to her victims. In any event, the total amount taken/defrauded from the victims is a lesser consideration here than in many cases, given the appalling impact of the appellant's offending on these particular victims.

The Sentencing Exercise

7. The judge indicated that he had read both the pre-sentence report and the letter from Norfolk and Suffolk NHS Trust concerning the appellant's mental health. He had also read the detailed and often harrowing statements from the appellant's victims. The judge accepted the various tragedies in the appellant's life, such as the loss of her daughter in a car accident, her husband turning to drink and her son becoming addicted to drugs. There was also a reference to her gambling habit. The Judge noted that many of these self-same tragedies had been used by the appellant to obtain monies fraudulently from her victims. The Judge said:

"One does not wish to be unkind but it is difficult to regard any of that as anything but empty self-pity in the context of this offending when you have caused such terrible financial loss and such psychological and emotional harm to so many people.

I particularly bear in mind that a key feature of much of this fraudulent activity was you praying in aid the tragic loss of your daughter in order to persuade people to give up huge sums of money that they simply didn't have.

Not to put too fine a point on it, you have no notion of shame and the extent of your exploitative and manipulative behaviour included relying on the death of your daughter and the frailty of your elderly mother."

8. The Judge doubted the remorse said to have been demonstrated by the appellant, noting that on more than one occasion when the victim personal statements were being read out, the appellant could be seen shaking her head. The judge said of those statements:

"You have torn the lives of your victims asunder. Adjectives that I've heard today like 'calculated', 'cruel', 'wicked' and 'evil' are all insufficient to describe the depths of the sophisticated deception to which you plummeted for your own selfish financial gain. So far as I am concerned the only mitigation here is your guilty plea. There is nothing else to reduce the sentence."

9. As to the relative sentencing guidelines, it was agreed that this was a culpability A case. As to harm, the judge said that the total figure placed it squarely within category 2, but that the impact on the victims took the harm up to category 1. Category A1 has a starting point of 7 years and a category range of 5-8 years. Taking all the offences together, the judge identified a starting point of 8 years and then reduced that by 25 per cent to reflect the guilty plea.

The Issues on Appeal

10. It is accepted that the case fell within culpability A, and it is accepted that the judge was entitled to elevate the case into category 1 harm because of the impact of the offences on the victims. So there are only two issues on appeal. First, it is said that the judge should not have elevated the starting point from 7 to 8 years, given that the starting point was itself based on losses of £1 million. Secondly, it is said that the judge failed to make any reduction for the appellant's personal mitigation. It is submitted that the judge should have

taken into account the fact that the appellant was of good character; that she had expressed remorse and that it was wrong to penalise her for shaking her head; that she had repaid some of the victims; and that she had a gambling addiction. There were also the other elements of personal mitigation to which we have already referred.

Issue 1 - The Correct Starting Point

11. In our view the starting point of 8 years' imprisonment was neither wrong in principle nor manifestly excessive. Our reasons are as follows.
12. First, it is agreed that this was category A1, with a starting point of 7 years. Culpability could not have been higher and the impact on the victims was devastating.
13. Secondly, there are numerous reasons to justify the modest uplift to a starting point of 8 years: the offending took place over a very long period of time - from early 2017 to early 2024; even after some modest repayment, the total net loss was substantial; and there were two other offences to be taken into account.
14. Thirdly, there is the sheer number of the offences to which the appellant pleaded guilty. Counts 1 and 2 on their own might each have attracted starting points of 4 years' custody since they fall between categories A2 and A3 in the sentencing guidelines. Indeed the Judge himself said at one point in his sentencing remarks that he contemplated imposing consecutive sentences "in order to pass what the public might regard as something approaching a just sentence". In the end he decided not to do so, and instead identified one sentence to cover the whole of the offending. We think that was the right course, but it may have obscured (not least from the appellant herself) the sheer range and nature of her offending.
15. For all those reasons, therefore, we consider that the Judge could easily have taken a higher

starting point than the 8 years that he identified. That is an important first conclusion in this appeal because of the subsequent arguments about mitigation.

Issue 2 - Mitigation

16. We deal first with the judge's comments about the appellant's lack of remorse. We endorse the judge's comments about the appellant shaking her head during the reading out of the victim impact statements. Judges up and down the country know that nothing is more revealing of a defendant's unwillingness or inability to accept the consequences of their actions than the vigorous head-shaking which so often accompanies the prosecution opening or, in particular, the reading of the victim impact statements. It is a telling insight into a defendant's inability to see anything except from their own point of view. We consider the judge was entitled to draw the inference in this case that the appellant lacked remorse. Remorse is *not* just saying 'sorry' to the probation service for the purposes of the pre-sentence report.
17. Other matters raised by way of mitigation concern the appellant's personal circumstances: the various tragedies which she has suffered in her life, and their consequences. We readily accept that in another case they might have made some difference to the sentence. But it is impossible to give them any weight here since they are precisely the same matters which the appellant relied on in defrauding her victims in the first place. We have already said that the appellant expressly used, for example, the tragic death of her daughter and her mother's frailty in order to defraud her victims. They can hardly now be regarded as legitimate reasons to reduce her sentence for those offences.
18. At one point in his oral submissions, Mr Oliver accepted that these elements of the appellant's personal circumstances were aggravating factors, but he argued that they were also mitigating factors too. Of course, even if that was right, they simply cancel each other out: they do not operate to reduce the term of the sentence.

19. Another factor prayed in aid by Mr Oliver was the appellant's lack of previous convictions.

The problem with that is that it is outweighed by the period of 7 years during which these frauds were being perpetrated. That is a long time for a defendant to carry on frauds of this kind, and, in our view, it renders the fact that she had no previous convictions of very little, if any, weight. She was just not caught for a long time.

20. There is one final point concerned with mitigation. We note that the Single Judge, who was persuaded that the Grounds of Appeal were "just arguable" (he granted leave "with considerable hesitation"), pinpointed one of the other difficulties in relation to these grounds of mitigation; that is to say, the absence of any hard evidence to support them. So the Single Judge said this:

"The applicant's counsel should endeavour to substantiate the main planks of the suggested mitigation about which there may be doubt, particularly as regards the extent of the applicant's suggested gambling addiction, her subsidy of her son's drug debt and the extent of any continuing health problems. If there are additional materials to be placed before the full Court in compliance with this direction, they are to be provided well in advance of the appeal hearing, and no later than 28 days before the date when the case is listed. Given the applicant's substantial dishonesty in perpetrating these offences, she should not anticipate that unsupported assertions as to her history are necessarily going to be accepted by the full Court."

21. No further material in relation to any of those matters was provided within the period indicated by the Single Judge. On Monday of this week, a note from the NHS indicated, as Mr Oliver reminded us this morning, that the applicant has been diagnosed with cancer in her left breast and is due to have a mastectomy. On Tuesday of this week, a one-page note from Mr Oliver indicated that the existing records showed that:

- (a) the appellant had spent about £130,000 on betting;
- (b) the repayments to her victims were estimated at about £41,000;
- (c) she had made a number of low-value payments to her son of between £10 and £100, and it is said that that was *consistent* with somebody with a drug problem.

22. In our view, this material does not take us any further forward. The subsequent diagnosis is of course a great sadness to the appellant, but it does not make any difference to the sentence. There is no independent evidence that the appellant had a gambling addiction. Moreover, we note that she spent on gambling less than a third of the amount she defrauded from her victims. The £41,000-odd repayment was identified by the judge and is not a new figure. Again, it was a fraction of the amount which the appellant defrauded. The modest payments to her son do not indicate that they supported his drug habit, much less that that was in some way a mitigating factor.
23. So we are of the view that, on the particular facts of this case, none of those matters can make any difference to the sentence. To the extent that they might have made some difference, they are outweighed by the volume and gravity of the offending and the relatively generous line that the Judge took in taking a starting point of 8 years.
24. Accordingly, since it is agreed that 25 per cent was the right discount for the guilty plea, the sentence of 6 years was neither wrong in principle nor manifestly excessive. Thus this appeal against sentence is dismissed.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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