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IN THE COURT OF APPEAL
CRIMINAL DIVISION



NCN: [2023] EWCA Crim 1125

CASE NO 202301476/A5

Royal Courts of Justice
Strand
London
WC2A 2LL

Tuesday, 19 September 2023

Before:

LORD JUSTICE WILLIAM DAVIS
MR JUSTICE JACOBS
MR JUSTICE GRIFFITHS

REX
V
PABLO JESUS BELSEY

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NON-COUNSEL APPLICATION

J U D G M E N T

MR JUSTICE JACOBS:

1. On 29 March 2023 in the Crown Court at Wood Green, the applicant was convicted in his absence of two offences of fraud by abuse of position, contrary to sections 1 and 4 of the Fraud Act 2006. On 17 April 2023 the applicant, who was then aged 59, was sentenced in his absence by the trial judge, District Judge Dodd, to a total of seven years' imprisonment. On count 1 the sentence was seven years, and on count 2 there was a concurrent sentence of three years. Although absent from the trial and sentence, the applicant was represented by counsel, who subsequently drafted grounds of appeal against sentence. The application for leave to appeal was refused by the single judge and the applicant now renews the application for leave and applies for a short extension of three days to make the renewal application.
2. The facts are that the applicant was the sole director of a company called Spanish Property Lawyers Limited which offered legal advice and conveyancing services for customers wanting to purchase property in Spain. He was the sole signatory of an HSBC business account in the company's name. He also had a personal HSBC account.
3. Count 1 concerned fraud committed in his capacity as co-executor of a widow named Mrs Marie Louise Wright. The other co-executor was Mrs Wright's granddaughter, Marie Hood. She was jointly responsible with the applicant for administering Mrs Wright's estate and distributing it to beneficiaries in accordance with the terms of her will.
4. In total some £569,000 was realised from the assets of Mrs Wright's estate. The money should have been paid into the executors' account which had been opened jointly by the applicant and Marie Hood. The applicant distributed some of the monies in accordance with the terms of the will. Six individual payments of £20,000 were made to family members from the applicant's personal bank account. Other beneficiaries received nothing. Marie Hood discovered that none of the £569,000 had been paid into the joint account; it had all been paid into the applicant's personal account. The majority of it had been spent by the applicant on flights, massage parlours and other matters, although a restraining order which was obtained by the family froze some £220,000.
5. Count 2 involved a different family. Nadeem Amin and his mother transferred just over £20,000 to the applicant's business in order to secure conveyancing services to assist with the purchase of a property in Spain. No conveyancing services were provided. The money was withdrawn and spent by the applicant.
6. Following his arrest the applicant falsified certain documents purporting to account for his actions. In the case of Mrs Wright's estate, he created a false invoice in the sum of £208,000 for work supposedly undertaken administering the estate. In the case of Mr Amin and his mother, the applicant created a false suspicious activity report after his police interview.
7. The applicant did not have any previous convictions in the United Kingdom. He did, however, have relevant convictions in Spain. In 1999 he was convicted of unlawful appropriation and sentenced to two years' imprisonment. The applicant had acted as a

professional advisor in relation to the purchase of properties in Spain but failed to carry out any of the "entrusted steps" required of him. In February 2016 he was convicted of a further unlawful appropriation committed in 2004. The facts here were that, whilst acting as a lawyer, he was paid monies by clients to purchase a property but the money was not used for its intended purpose. The applicant received a sentence of one year four months' imprisonment, suspended for three years.

8. The judge in the Crown Court in this case sentenced the applicant without a report and we do not consider that one was or is now necessary. The judge did, however, have the benefit of a number of victim personal statements from members of the family of Mrs Wright and Marie Hood, including Mrs Hood herself. They demonstrated the severe impact that the appellant's crimes have had on members of the family. The family members have suffered physically, mentally and emotionally, particularly the children of Mrs Hood who have seen how much distress the events have caused her. The judge also read statements from Mr Amin describing the resulting breakdown of his relationship with his mother, following the disastrous attempt to purchase the Spanish property.
9. In relation to count 1 the judge sentenced on the basis that the total loss in the case was £400,000. This comprised the original monies which had been realised from the estate, less the £120,000 which was paid over to a number of beneficiaries. It was common ground below that, applying the relevant guideline, the offences fell into culpability A. It was also common ground that the case was Category 2 for harm, because the loss or intended loss was between £100,000 and £500,000. The starting point for Category 2 is five years, based on a loss or intended loss of £300,000, with a range of three to six years. The judge considered that this was a case at the very top of that category, because of the amount of the loss. He also decided, having read the victim impact statements, that it was appropriate to move up a category and thereby to place count 1 in Category 1 of the relevant guideline. The relevant guideline provides that moving up a category is appropriate where there is serious detrimental effect on the victim, whether financial or otherwise.
10. The single judge when considering the application for leave, considered that there was nothing wrong with the approach of the trial judge and that it was well within the exercise of his sentencing discretion. We agree with the approach of both the sentencing judge and single judge. This was a case where the entirety of a sum in excess of £500,000 was paid into a personal account of the applicant. Some £120,000 was distributed to beneficiaries but the balance of over £400,000 was not, with a substantial amount of that money being taken by the applicant personally and without any agreement of his co-executor. The applicant then went to ground and disappeared, and it was only because of the restraining order that any money was recovered at all. There was no error in the judge proceeding on the basis of an actual or intended loss of £400,000, but in any event, in the light of the victim impact statements, the judge was fully entitled to move up to Category 1 under the Fraud guideline where the starting point is seven years, which is where the judge finally placed the case.
11. The single judge also said, correctly in our view, that an overall seven year sentence was also fully justified when count 2 was taken into account. The starting point for count 2,

which involved entirely separate offending and could have given rise to a consecutive sentence, was three years taken on its own. Even if the judge had therefore taken a lower starting point for count 1, he would have been entitled to increase the sentence on count 1 in order to reflect the separate criminality on count 2. In our view it is not arguable that an overall sentence of seven years is manifestly excessive.

12. In explaining the reasons for the delay in submitting the renewed application, the applicant has advanced a number of further arguments. He says, without citing any authority, that no criminal complaint should have been made without a complaint being made to the Law Society in the first instance. We are unaware of any such principle. He also repeats an argument that the loss on count 1 should have been regarded as less, because he carried out 813 hours of work which should be charged at £250 per hour. There is no substance in that point either. If work had indeed been carried out, then the appropriate course was for properly itemised bills to be drawn up and the agreement of the co-executor sought for payment of the amounts claimed. None of that happened. That proper course cannot be circumvented by an executor simply putting the entirety of the estate into a personal bank account without the knowledge of his co-executor and then treating the money as his own, which is what happened in the present case.
13. Accordingly the renewed application is refused and, because the proposed appeal has no merit, we also refuse the short application for an extension of time.

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

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