

Neutral Citation Number: [2015] EWCA Crim 268

No: 201404986/A3

IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
Strand
London, WC2A 2LL

Friday, 30th January 2015

B e f o r e:
MR JUSTICE WYN WILLIAMS
MRS JUSTICE McCOWAN DBE
R E G I N A

v

SUSAN SIRACUSA

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Mr J Fitzgerald appeared on behalf of the **Appellant**

Miss M Jacobson appeared on behalf of the Crown

J U D G M E N T
(Approved)
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1. MRS JUSTICE McGOWAN: On 18th September 2014 in the Crown Court sitting in Canterbury this appellant changed her plea to guilty to the two counts on the indictment. She was sentenced on 10th October 2014 to a term of 18 months' imprisonment on each of those two terms concurrent. She appeals by leave of the single judge.
2. Both these offences are characterised by the term "benefit offences" although the facts of this case are somewhat unusual. The appellant started claiming benefit by way of Income Support in 1995. She claimed on the basis that she was a single person who had to spend her time as a carer and had no other form of income or any capital above the cutoff point at which benefits are affected. That was a perfectly proper and honest claim. Her position would be regularly reviewed, as is the case with any recipient of benefit. She was under an obligation to declare to the authorities the receipt of substantial sums of money and certainly anything over £16,000.
3. In due course when council tax became a liability, because of her entitlement to Income Support she was automatically entitled to relief in respect of council tax benefit and that claim also began legitimately in 2002 and proceeded accordingly.
4. In due course it became apparent that this appellant had inherited two substantial sums of money and an investigation of her account showed that over a period of years very significant sums of money had passed through her bank account.
5. She was interviewed by the authorities in July 2013. It became apparent that an uncle had died in 2009 and had left her £60,000. That money had been used to buy property and when asked why she had not declared it to the authorities, her fairly unsatisfactory explanation was she did not have the money in her possession very long because she had used it to buy these properties.
6. It then turned out that in fact there was another deposit into her account in March 2010 in the sum of £213,000. She explained that that was the entirety of the money left under her mother's will, for which she was an executor, but she herself had personally been a beneficiary in the sum of £95,000. When asked why she had not declared that money she repeated a similar explanation, which was that it had not been in her possession for long because it had gone into an investment account, one which incidentally she would not have access to for a period of 6 years.
7. She understood that she was under an obligation to inform the authorities of receipts of benefit in these sorts of sums. She thought the figure was £20,000. Whether that was right or wrong does not really matter because in any event it was clear she understood she should have informed the authorities of her receipt of these monies. It transpired on investigation that the total overpayment combination of both forms of benefit was £33,500 over a period of 4 years.
8. The learned Recorder found that her level of dishonesty was "extraordinary". He said there was no excuse for continuing to claim benefits having come into receipt of these

sorts of sums in the space of a little under 2 years and therefore an immediate custodial sentence was appropriate. With that part of his reasoning this court entirely agrees.

9. He then turned to the sentencing bracket. The guidelines in summary would put this case into category 4, with a culpability within the range described by category B and so, as Mr Fitzgerald quite rightly submits to us today, the starting point would have been 36 weeks custody; in other words 9 months.
10. The learned Recorder was right to take account, as he did, of the fact that there were actually two separate instances here and accordingly that would raise his starting point in considering sentence. Set against that we find that the personal mitigation relating to this appellant does move this case somewhat out of the ordinary bracket. She at the time of sentence not working, she was the main carer for her 21-year-old daughter who has cerebral palsy and requires help with almost every daily function. she needs to be fed and assisted in bathing in dressing and driven to and from college. This is a lady who is currently 58 years of age and on any view presents a remarkably low risk of re-offending.
11. We have reviewed the observations of the learned Recorder and take very much into account the careful exercise which he undertook. But we accept the submission that the sentence passed in this case was manifestly excessive. Adjusting the starting point as we have against the appellant's interest to take account of the fact that there are were two separate instances then readjusting it in her favour to take account of her guilty pleas and the significant and substantial personal mitigation advanced on her behalf we have reached the conclusion the appropriate sentence in this case is one of 6 months on each of two counts to run concurrently. To that extent this appeal is allowed.
12. MR JUSTICE WYN WILLIAMS: That should have the effect of meaning she will be released immediately.
13. MR FITZGERALD: My Lord yes. I am much obliged.