

No: 200302786/A1

Neutral Citation Number: [2003] EWCA Crim 3348
IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
Strand
London, WC2

Monday, 27th October 2003

B E F O R E:

MR JUSTICE CRESSWELL

MR JUSTICE JACK

R E G I N A

-v-

KAREN MONFRIES

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MR M WORSLEY appeared on behalf of the APPELLANT

J U D G M E N T
(As Approved by the Court)

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1. MR JUSTICE CRESSWELL: The appellant, who is now aged 37, appeals against sentence by leave of the Single Judge.
2. On 26th February 2003 in the Crown Court at Bristol before Mr Recorder Derbyshire the appellant was convicted of conspiracy to assist another to retain proceeds of drug trafficking. On 11th April, in the same Crown Court, she was sentenced to 2 years' imprisonment.
3. The facts were as follows. On 7th August 2002 the appellant was arrested on suspicion of money laundering in connection with approximately £30,000. She was involved in several transactions between Jamaica and England. The money was transferred via Jamaica Connect agencies which were established within the premises of travel agents and newsagents. The appellant sent money on behalf of a man who was known to her. The man had asked her to send money on his behalf and she agreed to do it as a favour. She said that she did not question its provenance. The money that was transferred was the proceeds of drug trafficking or other criminal conduct.
4. When passing sentence the Recorder said this:

"I give you credit for the following matters: first of all, you are 37 years old now; you have no substantive previous convictions. The fact, of course, that you have two teenage children is something that weighs heavily on my mind, and the position that you hold in the St Pauls community, as testified by the testimonies that I have received today and... the witnesses who gave evidence on your behalf at the trial."

He added:

"You were convicted by a jury... of conspiracy to pass to Jamaica several sums of money, which together totalled approximately £30,000, which were the proceeds either of drug trafficking or some other major crime. That £30,000 sent through Jamaica Connect was for a man called John. Even today we do not know the truth about the provenance of this money. It might be drugs money. There is circumstantial evidence of this from your close friendship to others who have been implicated in drugs offences, but there is no proof and you yourself have given no explanation to the court, apart from the one that the jury rejected.

Whether you did it for profit or whether you did it because you were put under pressure from someone else and out of fear, we shall never know.

However, it is often the case that those who are behind serious crime are unscrupulous and they believe that by using people of standing in the community to pass money abroad they will avoid detection for themselves and be better able to profit from their crime... a message needs to go out to others who might be tempted to follow your example that money laundering will result in prison."

5. The appellant has two previous convictions for possession of a controlled drug in 1991 and 1994. We have seen a pre-sentence report dated 12th March 2003, character references and a letter from Dr Fleming, dated 24th February, the contents of which we regard as particularly significant.

6. Mr Worsley, for the appellant, submitted that the learned judge erred in imposing a custodial sentence of 2 years in the light of the following mitigation: the absence of any suggestion that the appellant had been involved directly in drug trafficking or other criminal conduct; the absence of any suggestion that the appellant knew the provenance of the money as opposed to turning a blind eye; the absence of any suggestion that the appellant received any gain from her conduct; the amount sent; the appellant's standing in the community; the age of her two children (both under 17); and the medical evidence from Dr Fleming.
7. The relevant considerations that apply in cases of this type include the following:
 - (i) The circumstances of assisting another to retain the benefit of drug trafficking and/or criminal conduct vary so widely that this Court has not to date provided detailed guidelines.
 - (ii) There is not necessarily a direct relationship between the sentence for the laundering offence and the original antecedent offence. Where, however, the particular antecedent offence can be identified, some regard will be had to the appropriate sentence for that offence, when considering the appropriate sentence for the laundering offence.
 - (iii) The criminality in laundering is the assistance, support and encouragement it provides to criminal conduct.
 - (iv) Regard should be had to the extent of the launderer's knowledge of the antecedent offence.
 - (v) The amount of money laundered is a relevant factor.
8. We have considered the authorities, including the recent authority of Gonzalez [2003] 2 Cr App R(S) 9. In the present case the appellant did not know the details of the antecedent offence.
9. Having regard to all the circumstances of the present case, including the significant personal mitigation available, we consider that the appropriate sentence was 15 months' imprisonment. Accordingly, we quash the sentence of 2 years' imprisonment and substitute a sentence of 15 months. To that extent this appeal is allowed.