



SHERIFF APPEAL COURT

**[2017] SAC (Crim) 7
SAC/2017/000050/AP**

Sheriff N C Stewart
Sheriff Principal C A L Scott QC

OPINION OF THE COURT

delivered by SHERIFF PRINCIPAL C A L SCOTT QC

in appeal by

TARIQ CHAUDHRY

Appellant

against

PROCURATOR FISCAL, HAMILTON

Respondent

Appellant: Findlater; John Pryde & Co

Respondent: McFarlane; Crown Agent

29 March 2017

[1] After trial at Hamilton Sheriff Court the appellant was convicted in respect of three charges each libelling contraventions of section 6 of the Criminal Law Consolidation (Scotland) Act 1995, in terms of which he was convicted of using lewd, indecent and libidinous practices towards three separate girls who were young in age. Their specific ages are not referred to in the charges but, at all odds, these girls were all employees of the appellant at the material times and to that extent he was of course, aside from all else, in a position of trust as far as these young girls were concerned.

[2] Upon the conclusion of the evidence and convictions having followed, the sheriff imposed prison sentences of 3 months on each charge and each period was ordered to run consecutively with the others amounting to a 9 month custodial sentence.

[3] This morning, Mr Findlater, on behalf of the appellant, argued in line with the written submissions previously made available to the court that custodial disposals in respect of the appellant's offending were excessive and it was maintained that, instead, the learned sheriff should have imposed a non-custodial disposal in the form of a Community Payback Order. Mr Findlater was understandably unable to say very much about the nature of the offences, however, he pointed out that the appellant still enjoys the support of his family and friends and that, specifically, he, the appellant, continues to offer support to his wife who unfortunately has been the subject of significant illness and has required, and, it seems, may continue to require, hospital treatment.

[4] There appeared to be some reliance upon the *prima facie* reference to the appellant no longer or not posing a risk of similar offending in the future. However, ultimately following the dialogue involving the bench, we think it was recognised that that particular factor in the Criminal Justice Social Work Report was essentially neutral particularly having regard to what the author of that report actually says in the conclusion paragraph at page 9 of the report.

[5] In a case such as this, an appellate court requires either to be satisfied that a particular error on the part of the sentencing sheriff can be demonstrated or that it has been shown that the disposals arrived at were excessive.

[6] In his report dated 13 December of last year, the sheriff records at paragraph 11 on page 5, that the appellant had engaged in a systematic course of what was, in essence, the sexual abuse of young girls who were working for him in their first jobs. It was a course of

criminal conduct deliberately and systematically pursued. It also involved a significant breach of trust. In the following paragraph, paragraph 12, the sheriff noted, having considered the Criminal Justice Social Work Report, that the social work department would have been willing to work with the appellant but the sheriff felt that the serious nature of the offences meant that the custody threshold had been passed and that an alternative to custody would not be sufficiently punitive in all the circumstances of the case. He refers to punishment and deterrence being upper most in his mind and he goes on to record that he considered that disposals of 3 months imprisonment on each charge were appropriate. He adds the rider that the offending in charge 1 may indeed have merited a more significant sentence had that been available to the court.

[7] Whether viewed individually or in *cumulo* we are entirely satisfied that the sheriff, in the circumstances of this case, cannot be faulted for arriving at the disposals which have been the subject of challenge in this appeal and that there is therefore no basis for this court to interfere with those disposals. It has not been demonstrated to us that the sheriff has erred in any way and it has not been demonstrated to us that the disposals can be viewed as excessive having regard particularly to the nature of the offending involved here.

[8] Therefore, for all these reasons we shall refuse this appeal.