



SHERIFF APPEAL COURT

[2016] SAC (Crim) 10
SAC/2015/000150/AP
SAC/2015/000151/AP

Sheriff M M Stephen QC
Sheriff M O Grady QC

OPINION OF THE COURT

delivered by SHERIFF M O'GRADY QC

in

APPEALS AGAINST SENTENCE

by

MONIQUE JACKSON

Appellant:

against

PROCURATOR FISCAL, KIRKCALDY

Respondent:

Appellant: Mackintosh; John Pryde & Co
Respondent: Hughes AD; Crown Agent

10 February 2016

[1] The appellant appeared at Kirkcaldy Sheriff Court on 18 November 2015 on two summary complaints. In respect of the first complaint the appellant appeared by way of warrant, having previously failed to appear at a trial diet. That complaint, broadly put, labelled a fraudulent scheme involving the fraudulent obtaining of £18,000 and an attempt

by fraud to obtain a further £11,000. To this the appellant pled guilty as libelled and was sentenced to 15 months imprisonment discounted from 18 months.

[2] So far as the second complaint is concerned, in respect of this complaint the appellant appeared by way of deferred sentence having pled guilty as libelled at her first appearance. Again broadly put, this offence libelled a shop lifting committed while on bail and the appellant in that event was sentenced to 6 months imprisonment, discounted once again.

[3] Sentences were ordered to be served consecutively and of course it is against these sentences that the present appeals are taken. It appears to be conceded that the appellant was bound to be sentenced to custody and what is at issue is, of course, the length of that sentence and, in particular, the cumulative effect.

[4] We do not rehearse all the details before the sheriff, but in relation to the fraudulent scheme we are advised that on each of the occasions libelled the appellant had entered the bank, advised staff that she was the named account holder and had lost her bank card and, in the event, on three occasions she successfully obtained sums to a total of £18,000. On two other occasions, for reasons unexplained, she was unsuccessful in obtaining £11,000. No funds were recovered and therefore there is a dramatic and considerable loss.

[5] In relation to the second complaint we are told that the appellant was released from a court on the day in question and was seen to enter the locus, select a quantity of cosmetics to the value of £448 before leaving the store without paying for them and there was no recovery.

[6] So far as mitigation is concerned, we were told, again without rehearsing all the details, that so far as the fraud was concerned the appellant's son had a significant drug debt to a gang, threats of violence had been made to her and her son and she was prevailed upon to act in this escapade to reduce or eliminate that debt. She told the police she was acting on

behalf of others but refused to give any details. The learned sheriff was urged to consider her as a low level operator in the fraud.

[7] In respect of the shop lifting complaint the sheriff was advised that the appellant had been released from custody that day and was without funds to travel home and stole the items to sell for cash. The sheriff has rightly noted that this was a sophisticated fraud involving identity theft. It involved very considerable sums of money, a great deal of which was not, as we have already noted, recovered. So far as the gravity of the matter was concerned, he certainly took the view that it was at the higher end of the scale as he was bound to do.

[8] In relation to the appellant's actions, we agree that this was a premeditated, carefully planned and sophisticated matter. Her involvement, by whatever it may have been prompted, was sustained and determined. The sums involved were considerable as were the sums unrecovered. It was committed while she was on bail. She has a significant record for dishonesty. She has had 27 appearances in court - 25 of these have involved dishonesty, 9 have been committed while on bail. The nature, number and distribution of previous convictions would suggest, as the sheriff rightly says, that she is a professional thief. No doubt she was chosen to engage in this matter at least in part because of her previous experience and however she might be described as low-level it is glaringly apparent that her participation was utterly crucial to the enterprise. We have considered the submissions made on her behalf and we are entirely satisfied that having regard to all the features which I have noted and her record that the sheriff cannot be said to have erred in the imposition of each of the sentences or in his decision to make them consecutive and accordingly the appeals are refused.