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IN THE COURT OF APPEAL  
CRIMINAL DIVISION



No. 201803126 C2

Neutral Citation Number: [2019] EWCA Crim 1946

Royal Courts of Justice

Tuesday, 22 October 2019

Before:

LORD JUSTICE SIMON  
MR JUSTICE GOOSE  
MRS JUSTICE COCKERILL DBE

REGINA

V

JASON LEE CHURCHILL

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Non-counsel application

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**J U D G M E N T**

MRS JUSTICE COCKERILL:

- 1 On 24 November 2014 the applicant was convicted in the Crown Court at Sheffield before his Honour Judge Robinson of three counts of fraud. On 15 January 2015 before the same Judge he was sentenced to four years' imprisonment. The facts of this case are summarised in some detail in the Criminal Appeal Office note and need not be repeated here.
- 2 In essence, the applicant's convictions arose from transactions which date back to 2009 when the applicant, a property developer, had an interest in two companies, known as APL and BPL, the former of which had a tax liability of around £450,000. It was alleged, and the jury accepted, that the applicant obtained money from a company called Hartlepool Renaissance Limited and two individuals, Tony Storey and Paul Adler, based on representations that he would use that money for the purposes of deals with them through BPL, whereas in fact he used the funds to discharge APL's tax liability.
- 3 The applicant has served his prison sentence and been released. By an application dated 24 July 2018 he has applied for an extension of time and for leave to appeal his conviction and implicitly for leave to introduce fresh evidence. The extension of time sought is 1,311 days. The grounds for that extension are the lack of support of his legal teams and the need to re-establish his business on his release from prison.
- 4 As to the application for leave, the grounds focus on the conduct of his defence at trial. The applicant contends that his legal representatives failed to secure the attendance of a key witness, one Paul Farmer; the legal representatives failed to obtain a statement from him. In addition, they failed to place before the jury statements from Paul Farmer's brother-in-law or statements from Neil Oliver, Richard Byrne or Roger Groves. In the light of the nature of the allegations the legal representatives who were employed at trial have been asked to comment and have done so.

- 5 We have read the grounds and the supporting material, as well as the waiver of privilege material and the respondent's notice and have considered them all carefully. However, ultimately, we find ourselves in full agreement with the notably detailed and careful decision of the single judge, whose reasons can scarcely be improved upon and need not be repeated here.
- 6 We would only add the following: firstly, there are strict time limits for applications for leave to appeal. It is incumbent upon the applicant either to comply with those or to produce good reasons why they were not able to do so. The longer the delay the more the compelling will need to be the reasons to persuade the court that the indulgence of an extension of time should be granted. Nothing beginning to approach a good reason for a delay of this length has been provided here. In those circumstances, the application for the extension of time would fall to be refused.
- 7 In any event, we are not persuaded that the conviction is arguably unsafe for the reasons given by the single judge, and we add that this appears to be a case of considerable hindsight and erroneous recollection being used as a basis for an application. The single judge has carefully explained the reasons why the appeal was unarguable. The applicant appears to have had diligent and competent advice. His own proof of evidence apparently noted that if Mr Farmer were to hold back or not tell the truth his evidence would substantially undermine the defendant. The judge's summing-up characterises Mr Farmer on the evidence before the court as a man that neither the applicant nor Mr Sanders would trust. Calling Mr Farmer, an unwilling witness, would have been in the circumstances an extremely inadvisable course. As a defence witness there would be no right to cross-examine him. Even if he did defraud the applicant, it does not mean the applicant's

conviction for defrauding others - which was based on evidence as to the applicant's own actions vis-a-vis the complainants - is arguably unsafe.

8 As for Mr Sanders, this appears to be an example of misrecollection in that he was called and he was cross-examined on the applicant's instructions. Another example of misrecollection is the position as to Mr Byrne, who was not in fact the person with the conduct of the trial and who could not therefore have given the relevant evidence. As for Mr Groves, he has indicated in his statement that his evidence could not help the applicant and he says that he is "*at a loss as to why Mr Churchill feels I should have been a key witness at his trial*". Mr Oliver seems to be in a similar position, and he could not, as the applicant was rightly advised, have been called without Mr Farmer's consent; and with Mr Farmer being unwilling to assist, that consent was always unlikely to have been given.

9 A careful reading of the single judge's decision should explain clearly why his appeal is unarguable and why the applicant should cease to dwell on it. Accordingly, the application for leave is dismissed.

10 As we have noted earlier, the applicant was released from prison and the question of a Loss of Time Order therefore does not arise. An order is therefore made under section 18(6) of the Prosecution of Offences Act 1985 for the applicant to pay £481.44, those being the reasonable costs of the transcript of the judge's summing-up in this case.

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**CERTIFICATE**

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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This transcript is subject to the Judge's approval.