


COPY

11/11/98

IN THE GRAND COURT OF THE CAYMAN ISLANDS

HOLDEN AT GEORGE TOWN, GRAND CAYMAN

IND. NO. 39 OF 1997



REGINA

- VS -

CAROL MARIE SCOTT

PROCEEDINGS HAD AND TAKEN BEFORE  
THE HONOURABLE MR. JUSTICE DOUGLAS,  
ON THE 22ND DAY OF SEPTEMBER, 1998,  
IN GEORGE TOWN, GRAND CAYMAN.

CHARGES: THEFT  
FALSE ACCOUNTING

APPEARANCES:  
For the CROWN: MISS C. RICHARDS  
For the DEFENDANT: MR. D. MURRAY

1 SENTENCING COMMENCED ON TUESDAY,

2 SEPTEMBER 22, AT 10:11 A.M.:

3

4 (MITIGATION SPOKEN TO)

5

6 THE COURT: I have listened to Mr. Murray's most 11:20 AM

7 moving plea and as a person, I can't say that I am not 11:20 AM

8 moved by his great oratory or by the number of 11:20 AM

9 testimonials he has produced in mitigating the sentence. 11:20 AM

10 However, I have a job to do and I have a 11:21 AM

11 responsibility not only to Mrs. Scott, the defendant, and 11:21 AM

12 to the number of people who support her, but also to the 11:21 AM

13 community at large. In sentencing her, I have to be 11:21 AM

14 guided by certain factors, I have here the words of the 11:21 AM

15 Lord Chief Justice in the Barrick case, the John Barrick 11:21 AM

16 case; a very well-known case as far as sentencing in these 11:21 AM

17 sort of offences is concerned. He said: 11:21 AM

18 "In general a term of immediate 11:21 AM

19 imprisonment is inevitable, save in very

20 exceptional circumstances or where the

21 amount of money obtained is small."

22 Then he goes on to say:

23 "Despite the great punishment that

24 offenders of this sort bring upon

25 themselves, the Court should nevertheless

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1 pass a sufficiently substantial term of  
2 imprisonment to mark publicly the gravity  
3 of the offence."

4 Then he goes on to give us more guidance in passing such  
5 sentences and in considering such sentences. He says:

6 "(i) you have to consider the quality and  
7 degree of trust reposed in the offender  
8 including his rank;"

9 Now, we have here an offender in which great trust 11:22 AM  
10 was placed. She was the person who handled all the money 11:23 AM  
11 for Cayman Insurance Centre. Through her, all the money 11:23 AM  
12 passed and she held a position of great trust in a 11:23 AM  
13 financial centre in this country where our financial 11:23 AM  
14 institutions are so important to the well-being of our 11:23 AM  
15 society. 11:23 AM

16 She was trusted. Everyone trusted her. They did 11:23 AM  
17 not even check on her in the evenings when it came to the 11:23 AM  
18 accounting of the money or the lodging of it and so on and 11:23 AM  
19 on it went. Each one who testified here, each member of 11:23 AM  
20 the company who came and testified, you could see that 11:24 AM  
21 they had placed great trust; they had reposed great trust 11:24 AM  
22 in her. 11:24 AM

23 So that what we have here to start off with is a 11:24 AM  
24 great breach of trust and it is the first element in 11:24 AM  
25 passing sentence and in considering a sentence, a trust 11:24 AM

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1 reposed in the person. 11:24 AM

2 We move on: 11:24 AM

3 "(ii) the period over which the fraud or 11:24 AM  
4 the thefts have been perpetuated." 11:24 AM

5 We are being told by learned counsel for the defence 11:24 AM  
6 about a first offence. We are being told by one of the 11:24 AM

7 gentleman who wrote a testimony and obviously he, too, had 11:25 AM  
8 been misled, a Mr. Danny Scott. She told him and he said 11:25 AM

9 that she made a full disclosure of the incident which her 11:25 AM  
10 previous employer in which a lodgement of 16,000 had gone 11:25 AM

11 missing. This is not at all the case. This is not at all 11:25 AM  
12 the case. For a period of nine months she had been 11:25 AM

13 creaming off the finances of this company on almost a 11:25 AM  
14 daily basis. It took us two weeks to go through each and 11:25 AM

15 every one of these offences. Each night when the money 11:26 AM  
16 was lodged, she took what she wanted and the next day she 11:26 AM

17 made it back up by the cheques that were coming in. The 11:26 AM  
18 English have a term for it, they call it creaming and 11:26 AM  
19 ladling. 11:26 AM

20 So this is a series of offences coming down the line 11:26 AM  
21 almost daily; over 70 different offences. The Crown could 11:26 AM

22 have charged her with false accounting on 70-odd different 11:26 AM  
23 occasions and if they wished, they could have charged her 11:26 AM

24 with 70-odd charges of theft. Instead, they didn't do 11:26 AM  
25 that. They did not even charge her with false accounting 11:26 AM

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1 for all those numerous thefts that she committed. 11:26 AM

2 Where the 16,000 -- or thereabouts -- missing 11:27 AM

3 deposit came in was another bit of fraud because when she 11:27 AM

4 discovered that the end was near, that they had found out 11:27 AM

5 about this 16,000 that was missing over the period of nine 11:27 AM

6 months, then she made up a false lodgement and she accused 11:27 AM

7 the bank of it and said that if the bank didn't get it, it 11:27 AM

8 has gone missing. This is where the second charge comes 11:27 AM

9 in. This false bit of paper, false deposit and accuse the 11:27 AM

10 bank, to misguide them, her employers, and to draw a red 11:27 AM

11 herring across the trail of her guilt; she says it is 11:27 AM

12 missing at the bank. So, really in this case, she has 11:27 AM

13 gone and misled her new employer. So we have the second 11:27 AM

14 element of this thing carrying on, this fraud being 11:27 AM

15 perpetuated over a long period of time. So, again, the 11:28 AM

16 second element has been fulfilled. 11:28 AM

17 The third element put forward by the Lord Chief 11:28 AM

18 Justice was: "The impact of the offences on the public 11:28 AM

19 and public confidence." As I said, this is a financial 11:28 AM

20 institution. In these islands, we depend on our 11:28 AM

21 reputation as a financial centre and when these things 11:28 AM

22 occur, certainly there must be a break-down in confidence. 11:28 AM

23 As it has been said and said before that it usually is -- 11:29 AM

24 women are usually the perpetrators of these offences. 11:29 AM

25 They come up one after the other. So the Court has a 11:29 AM

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1 responsibility to put or attempt to put a stop to this 11:29 AM  
2 because today there may be someone else losing their money 11:29 AM  
3 and another day it is going to be someone else; some other 11:29 AM  
4 company or individuals. 11:29 AM

5 We have been told that this is what we call 11:29 AM  
6 "exceptional", very "exceptional" circumstances and she 11:29 AM  
7 should be treated exceptionally. Well, I have been trying 11:29 AM  
8 to reason and figure out how these exceptional 11:30 AM  
9 circumstances arise. It is true that she has young 11:30 AM  
10 children, but so do a lot of other people. This cannot be 11:30 AM  
11 regarded as very exceptional circumstances -- an 11:30 AM  
12 exceptional circumstance. I wonder if it even comes under 11:30 AM  
13 the heading of "exceptional" circumstance? 11:30 AM

14 We are told about money, she being the bread-winner 11:30 AM  
15 and so in one breath we are told this and in the other 11:30 AM  
16 breath, there is an offer to repay the \$16,000; a 11:30 AM  
17 willingness to do so. So, I cannot for the life of me see 11:31 AM  
18 how this could be considered an "exceptional" circumstance 11:31 AM  
19 or how any exceptional circumstances could be attached to 11:31 AM  
20 this. 11:31 AM

21 So, where are we left? She hasn't even got the 11:31 AM  
22 benefit of a guilty plea. Of course, everyone is entitled 11:31 AM  
23 to have his or her day in court. This is everyone's 11:31 AM  
24 entitlement. But when one does so, one must know and one 11:31 AM  
25 expects that when there is a guilty verdict, they must at 11:31 AM

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1 that time come to the day of reckoning. 11:32 AM

2 This offence was not terminated by any act on the 11:32 AM  
3 part of the defendant. Had the company not decided to 11:32 AM  
4 install new computers, it may have gone on indefinitely; 11:32 AM  
5 thus was the confidence that they had placed in her and 11:32 AM  
6 this daily thing, this daily creaming and laddling would 11:32 AM  
7 have continued. Unfortunately for her and fortunately for 11:32 AM  
8 society they decided to change the computer system. 11:32 AM

9 So this is not a case of one theft, not a case of 11:32 AM  
10 one mistake. It can hardly be called a case of a first 11:32 AM  
11 offence. This is not a case where there is a guilty plea 11:33 AM  
12 and so I am trying to think in my mind of some real 11:33 AM  
13 mitigating factor which can be attached to her. It is 11:33 AM  
14 very difficult to come up with one, notwithstanding all 11:33 AM  
15 these documents and testimonials that I have before me. 11:33 AM  
16 The only thing that I can say is that she seemed to have 11:33 AM  
17 been well-liked and respected by many people in this 11:33 AM  
18 society. People who now she has let down. 11:33 AM

19 But I cannot be guided by this society to whom I owe 11:33 AM  
20 a duty. I cannot be guided by their emotions. I have to 11:33 AM  
21 be guided by the factors leading up to the way in which I 11:34 AM  
22 have to perform my duties. 11:34 AM

23 Now, the first thing I must say is that the Crown 11:34 AM  
24 has asked for compensation and I have given this matter 11:34 AM  
25 very careful consideration. I feel that, on principle -- 11:34 AM

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1 and Mr. Murray has pointed out that every defendant 11:34 AM  
2 deserves their day in court. I, in this circumstance, 11:35 AM  
3 where I feel very strongly that there should have been a 11:35 AM  
4 guilty plea and a guilty plea would have avoided all this 11:35 AM  
5 cost because there was no defence to this action. The 11:35 AM  
6 defence of the missing deposit did not hold water at all 11:35 AM  
7 and so she could have avoided putting the Crown to this 11:35 AM  
8 cost. But, taking all the circumstances into 11:35 AM  
9 consideration, I am not going to allow the Crown \$1000. 11:35 AM  
10 Guided by all the factors placed before me and the 11:35 AM  
11 principles in all the cases -- would you stand for me 11:36 AM  
12 please, Mrs. Scott. On the charge of theft, you will do 11:36 AM  
13 18 months. On the charge of false accounting, you will do 11:36 AM  
14 six months. You will pay compensation in the sum of 11:36 AM  
15 \$16,475.85 or you will serve a further six months. And 11:36 AM  
16 what I am going to do as far as any mitigation is 11:36 AM  
17 concerned and any compassion as they say the Court has to 11:36 AM  
18 mix justice with mercy, I am going to suspend the six 11:36 AM  
19 months for two years; the six months on the false 11:36 AM  
20 accounting. But really and truly, the way in which this 11:36 AM  
21 bit of false accounting was done, my thoughts were to make 11:36 AM  
22 it run consecutive, but I am suspending it for two years. 11:37 AM  
23 Yes, that is the sentence of this Court. 11:37 AM

24 MR. MURRAY: In relation to your order for 11:37 AM  
25 compensation, when is this expected to be paid? 11:37 AM

1 THE COURT: By the time she is ready to come out. 11:37 AM

2 If she can pay it when she comes out, she can pay it. If 11:37 AM

3 not, she stays for another six months. That is fair 11:37 AM

4 enough. I am not putting any interest -- she should be 11:37 AM

5 paying interest on that too. What percent interest is it, 11:37 AM

6 7 percent interest? She has an interest-free loan there. 11:37 AM

7 All right. 11:37 AM

8 11:37 AM

9 (COURT ADJOURNED AT 11:37 A.M.) 11:37 AM

10 =====

11

12 REPORTER'S CERTIFICATE

13

14 I, **DARCIA C. HEWAK**, Official Court Reporter, do

15 hereby certify that the foregoing pages are a

16 true and accurate transcript of the proceedings

17 had in the said Court and reported in machine

18 shorthand by me on the date and place

19 aforementioned.

20

21

22 **DATED THE 11TH DAY OF NOVEMBER, 1998.**

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