

In the Crown Court for the Division of Ards

—
Regina v Kathryne Adair
—

Sentencing remarks.

His Honour Judge Smyth QC

[1] You may remain seated until I ask you to stand up.

[2] You are 46 and have pleaded guilty to 19 offences of false representation contrary to section 2 of the Fraud Act 2006. Miss Boyd appears for the prosecution and Mr Holmes for Miss Adair. I am grateful to both.

[3] In assessing your culpability the court looks at exactly what is proven to have happened. In ordinary language this means looking at what exactly was done, how it was carried out, the impact upon those who were cheated out of their money and the impact of your offending upon the community as a whole. Clearly the court in making this assessment will look, firstly and principally, at the total amount involved in these frauds as well as the total amount outstanding, the number of your victims, the impact upon them and the period over which this occurred.

[4] A prosecution is brought because the criminal law has been broken. It is brought by the State but the impact upon the individuals who have lost is always going to be a major concern of the court when it determines sentence. The reasons why you acted as you did, which in this case still remain obscure, are considerations that the court has regard to but that can only be after it has assessed the hardship and loss caused. In this case your offending behaviour was over a period from early 2009 to August 2011. The charges are largely specimen and the overall amount was £225,190 of which £63,203 has been repaid. The balance is £161,997. Some 18 of your victims were present in court. The charges are specimen and indeed I am told that it is believed that there are some individuals who have lost money as a result of your actions but who have not made complaints formally against you. Indeed one of these individuals who had employed you for very many years gave character evidence on your behalf.

[5] I am not going to recount here, more than briefly, the losses incurred by individuals. Miss Boyd on Wednesday, at my request, described, person by person, those who had lost as a result of these offences and in what way they had been

affected. I have also had the opportunity to read a number of victim impact statements which have detailed not just individual financial loss but the impact of your crimes upon them. There was a discernible pattern over these 2 years 6 months. Many of those who lost were approached on a number of occasions. The sums involved were not small. It is impossible not to conclude that once you detected what clearly was regarded by you as a weakness, namely someone who was persuaded to give you a short term loan, you returned within days to request more. Others might regard this as human kindness.

[6] Hardship varies but one individual was so convinced by your fraud she realised an ISA and savings. She will never see that money again and it is clear to me that she could ill afford to lose that money. It also must have been clear to you.

[7] I take one individual who was a neighbour of yours for 13 years. The initial request you made was for £4,400 which you got in 2009. On 10th September 2009 you returned and got from him £2,100 to pay legal bills. It seems almost incredible but in the following year on 8th July and 14th October 2010 this gentleman was approached and gave you more money losing a total of £20,450. As part of this deception he spoke to a person whose existence is confirmed by police but who never has been charged. This individual confirmed to him that an off-shore account existed. It did not. This, or something similar, was central to many of your frauds; the existence of an off-shore account or an inheritance from your mother who had died, or of a bank employee who was stealing from your account. These stories were inventions but the people you targeted believed what they were told. They accepted, in most cases, without question, what you told them because they trusted you and what they knew of your family. They were not making any profit. On some occasions when you offered interest they declined. In some cases they rounded up the figures. Their reward for their misplaced trust that these were short term loans was that you tapped them again.

[8] I now come to the reason why you acted as you did over these two years and six months. You have given evidence which I reject. I accept that a fraudster, whom I call Mr A, existed. I also accept that you have nothing to show for the figure you received, which is over £220,000. I feel I must accept that he was the architect of this deception and was also the beneficiary in large part of these sums of money. You were however a willing accomplice. It was not Mr A who convinced the victims that you urgently need short term loans, that there was fraud at the Bank, that there was an inheritance, or that there was an off-shore account and that (in all these scenarios) you urgently need cash. Even if these ideas were designed by someone else you were the point of contact and these were entirely fictitious stories made up to defraud. It was you who convinced so many people. You also must have selected them. One was your cousin and that commenced the offending, in early 2009. She has since been reimbursed by your brother. The figure involved was £47,000. There were also elderly friends of your mother, neighbours, friends of yours, small business men who trusted you because they knew you and the shop you worked in at Newton Park in Newtownbreda.

[9] In the view of this court you have not been honest about the role played by Mr A. You told the court that it was only when the police investigation had started that you realised A was dishonest. This is entirely false. It is not possible that over this period of time you either were deluded or deluded yourself. You are not suffering from any mental disorder or from kleptomania. Dr Bunn's report makes that clear. I do not accept Dr Bunn's conclusions as to why you acted in the way you did. You knew exactly what you were doing. You entered into this with enthusiasm and contributed the knowledge that only you had of your friends and neighbours. You also have not been honest with the court. I however do accept that, as time went on, you may have become increasingly desperate. You realised that this investigation would be brought, that your friends and neighbours would realise their faith in you had been sadly abused and that you would pay the penalty. Despite that you continued.

[10] Your final victim was the barber who had known you for 15 years. On 2nd August 2011 he was asked in his shop for £2,000. He trusted you to the extent that he did not ask why it was needed. You asked for cash. He got £2,100 together and handed it over to you at a grocery store near Ballynahinch. It is a relatively small amount and this happened when the net was closing in upon you but it still shows how blatant your frauds were. The one matter that cannot be answered is where this money went. I am afraid that the court, whilst it accepts there was another person involved and that his practised deceits may have been motivating you, cannot regard this as mitigation except to the extent that this person may have given you encouragement.

[11] The court has a wealth of character references. A former head master has given character evidence on your behalf. He left the witness box in tears. You have lost your parents at a relatively young age and both Dr Bunn and the probation officer speak highly of you. You accepted yourself that you might have achieved better. You went to preparatory school and must have had the support of caring parents. At grammar school you got three A levels and you also got a degree in Art at University. You have worked in the local newsagents and Mace for many years and been trusted with money until your dismissal in 2011. You have pleaded guilty and a proportion of the money has been restored. This is not a "breach of trust" case in the sense that there was an employer/employee relationship or a fiduciary relationship. You were quite simply taking advantage of human kindness, exploiting decency and betraying the confidence placed in you.

[12] Miss Boyd has helpfully outlined the English and Welsh sentencing guidelines. There are no similar guidelines here but the principles are the same.

[13] Would you stand up please?

[14] If a jury had convicted you I would be imposing a sentence of 5 years.

[15] I impose a sentence of 3 years and 4 months. I have to specify how much of that sentence is to be served.

[16] I have given careful consideration to this. You have talent and you may well have ruined your life from the point of most of those talents. I feel you will need help and guidance which you will get from your family and your remaining friends. I feel that the contents of the probation report suggest that the custodial period to be served can be mitigated and that period will be 18 months. The effect of this is therefore on all charges there will be concurrent sentences of 3 years and 4 months of which one year and 6 months has to be served.