

In the Crown Court for the Division of Ards.

Regina v John Stephen Glenn

Sentencing remarks

His Honour Judge Smyth QC

[1] You may sit until I ask you to stand.

[2] There are three charges: Theft of £2,500 from Mr Swan on a day between November 2006 and September 2008, the theft of £20,000 from Mr and Mrs Cully within the same approximate period and, finally, the forgery of a cheque signature in early 2007. The cheque was drawn on Mr Glenn's wife's account and he was not authorised to forge his wife's signature. I have received and read the victim impact reports.

[3] The papers are voluminous but the facts upon which sentence is based are relatively simple. Mr Glenn is a person who has some facility with designing computer models. He attracted investors to join a business scheme and who lost money. This was when he designed a model for making money on variations in the currency market. The details are not relevant to sentence except that the court must accept that losses were incurred as a result of the failure of that venture. The prosecution has accepted that the required gravamen for proving criminal offences does not exist in relation to some losses. These remaining two charges of theft were however of monies received for the purpose of investment and not invested but stolen. Monies lost in pursuit of a business venture are completely discounted.

[4] In relation to the two remaining counts of theft there is no answer. At the stage that the monies were received from Mr and Mrs Cully and Mr Swan, they believed these sums were to be invested. They never were. They were paid into an unauthorised bank account and used to defray the expenses that Mr Glenn and his wife were incurring. Since they had been provided expressly for investment and never were used for that purpose but used for an entirely unauthorised purpose these sums were stolen.

[5] The situation in relation to the forgery is also very straight forward. This signature should not have been forged. Mrs Glenn would not have authorised it. It may be that Mr Glenn wrongly believed he was entitled to take the monies but in the

view of the court that, in all these circumstances, is not mitigation in relation to the theft offences. There is therefore a loss of over £30,000. The court is aware of an acrimonious split in Mr Glenn's marriage but that does not seem to be of anything more than of peripheral relevance to this case. It did not motivate Mr Glenn to fail to invest monies given to him and the amounts and overall circumstances of this case, including the loss to Mr Swan and the McCully's, put this over the threshold for custody (£22,000). Miss Boyd has helpfully stated the sentencing guidelines from England and Wales. Mr McAleer appears for Mr Glenn. The court is grateful to them both.

[6] There is not a direct fiduciary relationship in the sense of a financial accountant/client, a solicitor/client, employee or financial advisor. There is no previous record. Mr Glenn is 44. The probation report indicates that he has had a productive background and is a man of some ability. There was a degree of confidence placed in Mr Glenn because of that very background. This must however be regarded as a significant theft and the approach of the court has to take into account the confidence placed in Mr Glenn by entirely respectable (but also financially reasonably astute) individuals.

[7] In mitigation: Mr Glenn has both a clear record and has pleaded guilty. In any case of this nature that plea is of value. The alteration in charges makes it clear that this is so. He is also not a financial advisor nor is he a person entrusted to invest savings on behalf of vulnerable people. He may have been faced with losses and fell into temptation to steal. He lost money of his own.

[8] Some suggestion was made that if the court allowed further time then restitution could or would be made. There was mention of another asset but this is apparently not completely within Mr Glenn's control. The court is of the view that further adjournment of this would be unlikely to result in successful restitution. I also accept that his plea has had consequences. There is his record and the effect of this upon his future. I also accept he now feels shame in relation to the Cully's and Mr Swann. He has betrayed himself but grievously misled others.

[9] Would you stand up please?

[10] If a jury had convicted you I would be passing a sentence of 2 years. I allow a discount of a third.

[11] The sentence is 16 months of which half is to be served. This will mean a period in actual custody of 8 months. In my view and given the contents of the probation report it is unlikely you will be in court again.

[12] I do not suspend the operation of this sentence. The facts are such that there is a greater public interest in discouraging such behaviour as yours and this is one of the rare situations where a short custodial sentence is required for a first offender.