

IN THE CROWN COURT IN NORTHERN IRELAND

THE QUEEN

v

MARY ELIZABETH MILLEN

MORGAN J

[1] The accused was arraigned on 18 January 2006 on 23 counts of stealing credits belonging to the Ulster Bank. She pleaded not guilty. Her counsel advised me at an early stage that there was an issue between the prosecution and the defence over the extent of loss suffered by the Bank but that the accused accepted her culpability. She was re-arraigned on 30 May 2006 and pleaded guilty to all counts. I consider that I should approach this case on the basis that she has pleaded guilty at an early stage.

[2] The accused is a 51 year old woman with 2 daughters, the youngest aged 14. She joined the Bank after leaving school and had been promoted to Team Leader, a position which gave her considerable responsibility in respect of the internal accounts of the Bank. In or about August 2000 she began to manipulate accounts under her control in order to deal with her own financial responsibilities. Although she intended to repay on the first occasion she repeated the offence and there was soon no prospect of repayment. She utilised accounts in the name of relatives in order to cover her offending. As a result of this she has become estranged from some members of her birth family.

[3] There are a number of aggravating factors:

- (a) The accused was in a position of trust.
- (b) The offending was persistent, lasting for a period of 2 years.
- (c) The accused covered her tracks in a calculated way but I accept the defence submission that the offending was always likely to be detected.

I must take into account, however, that there was an element of careful planning and premeditation.

(d) The amount stolen was considerable amounting to £326412.01

[4] The accused has a clear record. It appears that she has had difficulties in her marriage and that her offending was an attempt to relieve some of the stresses within the marriage by providing materially for the family. She herself appears to have benefited to a limited extent. I accept that she is now remorseful and the disclosure of these offences has caused her to be treated with antidepressant medication. Prison is likely to cause deterioration in her mental mood. The disclosure of the offences has led to her being estranged from members of her birth family. I accept that she is unlikely to re-offend and that she has shown application to her situation by obtaining employment in a call centre.

[5] I have been provided with a prosecutor's statement in respect of a confiscation and compensation application. This demonstrates that the realisable assets exceed the amount stolen. The defendant has provided a sum of £10,000 to her solicitor and the Bank should in the end be compensated for its loss. I take into account in the accused's favour that she has made realistic efforts to achieve that compensation.

[6] In addition to the medical circumstances of the accused I also have to take into account the impact that a prison sentence would have on the accused's 14 year old child. I have medical evidence which demonstrates the potential for self harm in such a situation.

[7] Having considered the prosecutor's statement I am satisfied that the applicant benefited from her criminal conduct to the extent of £326412.01 and declare her benefit to have been that amount. I consider on the material before me that the amount that might be realised is £326412.01 and make a confiscation order in that amount. A substantial sum has already been frozen and I consider that I should allow 12 months for the satisfaction of the order and impose a period of 2 years imprisonment in default. I further order that there should be a compensation order in favour of the Ulster Bank in the sum of £326412.01 and that the proceeds of the confiscation order should be made available to satisfy that order. The period for the compensation order should be the same as that for the confiscation order.

[8] The Court of Appeal in England has produced guidelines for this sort of case in *Barrack* (1985) 7 Cr.App.R.(S) and *Clark* [1998] 2 Cr.App.R.(S). The guidelines in *Barrack* have been approved in this jurisdiction and those in *Clark* are an appropriate revision. I have to bear in mind that these are only guidelines and I should depart from them if the circumstances are exceptional. I consider, however, that the circumstances disclosed in this case are those that often are present in these difficult cases. The imposition of

custodial sentences in these cases serves the public purpose of deterring those in a position of trust even where their personal circumstances or difficulties are considerable. I do not consider that the matters raised on behalf of the accused in this case make this a non custodial case but I consider that I should reflect those circumstances by adopting a starting point of 4 years imprisonment as the appropriate sentence on a contest. Having regard to her early plea and admissions at interview I reduce the commensurate sentence to one of 2 years and 8 months imprisonment. The pre-sentence report supports the imposition of a period of probation supervision as part of that sentence and with her consent I am prepared to impose a sentence of 1 year and 8 months imprisonment followed by 12 months probation supervision.