

Judicial Communications Office

17 December 2018

STEPHEN PHILPOTT SENTENCED FOR FRAUD

Summary of Judgment

His Honour Judge Gordon Kerr QC imposed a sentence of nine months' imprisonment suspended for two years on Stephen Philpott, former Chief Executive of the USPCA, for fraud.

Stephen Philpott ("the defendant") was employed by and became the Chief Executive of the Ulster Society for the Prevention of Cruelty to Animals ("USPCA") for over 25 years. The court heard that he was a high profile leader who attracted considerable publicity to the charity for highly visible animal welfare operations and placed himself at risk of reprisal for his activities to stop activities such as dog fighting, badger baiting and other illegal animal sports.

The USPCA owned a property in Bessbrook which was let out at a rent of approximately £400 per month paid either directly to the defendant or left in an envelope marked for him and the USPCA's office. The court heard that in the period from January 2007 to November 2014 the rent amounted to just over £40,000 which was not accounted for in the charity's books. The defendant initially maintained that he used the money solely for the purpose of the USPCA's day to day expenses including payments for intelligence to assist in legitimate investigations. Judge Kerr said the available records did not support this contention and by his plea of guilty the defendant has "with a degree of reluctance" accepted that he was fraudulent.

STARTING POINT

The starting point represents what the sentence would have been on a conviction following a plea of not guilty for an adult offender with a clear record. Judge Kerr referred to the NI Court of Appeal's decision in Gault [1989] NI 232 which set out the guidelines for sentences in cases involving a breach of trust. He also considered the principles and sentencing guidelines in E&W.

Judge Kerr said the main aggravating factor in this case was that the abuse of position was twofold: firstly the defendant was a Chief Executive; secondly he was taking money from a charity. In addition the activity took place over an extended period of seven years. The judge said that in his view the custodial threshold had been reached in this case as the degree of culpability was the highest and the amount involved placed the case in the category of between £10,000 to £100,000: "In my view the proper starting point is 18 months imprisonment".

MITIGATION

The defendant pleaded guilty and as such is entitled to a discount for his plea. Judge Kerr commented, however, that the plea came late in the day and even following the plea the pre-sentence report made it clear the plea was reluctant in that the defendant maintained the money was used in the court of employment and the plea is an acknowledgement of bad accounting. The judge considered a discount of 20% was therefore appropriate.

The judge commented that the defendant is a person of previous good character and is entitled to credit for this. His previous good character was emphasised by references provided to the court.

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The court was also referred to a reference and counselling report from a person who helped the defendant for the “stress and trauma occasioned by the loss of his position and lifetime’s work”.

Judge Kerr referred to three factors relating to the offending: the amount, although large, was accrued over seven years at a “relatively modest” rate of £400 per month; the evidence shows the offence was conducted openly and not clandestinely; and the offending ended some four years ago. The pre-sentence report said there were no addictive factors which led to the offence but noted that there was a clear degree of reluctance on the part of the defendant to accept full responsibility for his offending: “Whilst Mr Philpott considers he is taking full responsibility for his offending he is only accepting that there were procedural issues which he had not adhered to”. The report assessed the defendant as being a medium risk of re-offending as a result of this reluctance. It noted that the defendant is endeavouring to make restitution and suggested the Court may wish to consider suspending any custodial sentence. Judge Kerr adjourned sentencing to see if restitution could be made and it was confirmed in advance of today’s hearing that it had been done so the USPCA can now use the money for their proper activities.

The Court heard that the defendant now suffers from ill health which will require imminent surgical intervention. It received a report from his doctor setting out his general degeneration in health and specific serious condition but this was not discussed in open court.

SENTENCING

Judge Kerr imposed a sentence of nine months’ imprisonment. He considered that it was proper to suspend the sentence in light of the fact that the USPCA has now received full recovery and are not at a loss coupled with some of the personal and offence related features in the case. He imposed a sentence of nine months’ imprisonment suspended for two years.

NOTES TO EDITORS

This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available on the Judiciary NI website (<https://judiciaryni.uk>).

ENDS

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