



JUDICIARY OF
ENGLAND AND WALES

R v Anthony France

Central Criminal Court

Sentencing Remarks of HHJ Pontius

29th May 2015

It was, and apparently remains, journalistic practice at the Sun newspaper (and, I dare say, at many others) to pay members of the public for their stories. That practice is promoted, supported and encouraged by the paper at all levels within the internal structure, as reflected in the message, “We pay cash for your stories”, which appears in each edition. It is a practice which is certainly not improper, still less is it to be condemned, least of all by me, as long as it does not involve - as it did in this case - encouragement by a journalist to anyone holding public office to abuse their trusted position, for payment, by providing confidential information obtained in the course of their work in order that it might be used to feed the public’s appetite for news which sometimes amounts to no more than titillating gossip.

Of course, the fact that the public, generally speaking, is ready to read such material is no more than an unsurprising reflection of the curiosity of human nature which we all share and does not in any way diminish the importance of the high degree of trust which that same public places, and rightly expects confidently to be able to place, in

those who serve it. When that trust is seriously betrayed, for significant sums of money, to the grave extent that TIMOTHY EDWARDS repeatedly betrayed the public's trust in him as a constable serving in the Metropolitan Police Counter Terrorism Command, offenders must expect to be punished severely - the public deserves no less if others in similar positions of trust are effectively to be deterred from such behaviour and thus the highest standards maintained.

This defendant's encouragement of EDWARDS's misconduct carried on for well over two years, during which EDWARDS was paid more than £22,000. I accept that at the beginning of their relationship the defendant was unaware of what EDWARDS did for a living but that soon changed - at the latest by the end of 2008 - nor could it sensibly have been otherwise, given the nature of the information the defendant received from EDWARDS.

I do not doubt - and I accept the defendant's evidence on the point - that some of the articles he wrote, using the details supplied by EDWARDS, were upon subjects very much in the public interest, not surprisingly so given his experience in, and pursuit of, responsible investigative journalism. Obvious specific examples are those stories which concerned airline safety, such as drunken pilots and the smuggling by crews of drugs, the importation from the United States of vicious "X-men" style weapons and the movement in and out of this country of British Islamic extremists.

Others, however, were plainly chosen and published for their obviously salacious subject-matter, sometimes at the wholly unjustified expense of personal privacy. The Heathrow "Body Scanner" story is an example, intended to titillate and published regardless of the private life of the woman concerned - herself already the victim of disgraceful behaviour by a colleague - to the inexcusable extent of revealing her name and printing her picture. The apology, a couple of centimetres square and tucked away

at the bottom of a page deep inside the paper, regrettably did not appear until about eighteen months after the original article.

It was, similarly, unjustifiable to print the name, address and photo of the British Airways engineer, who was never charged with any offence, and the more so to reveal his wife's name and other family details.

Those two examples are the worst of a kind which, when the overall picture is considered, appears fortunately to have been in a minority amongst the articles written and submitted for publication by this defendant.

It is important that I should bear in mind that there was clearly a recognised procedure at the Sun so far as payment for stories was concerned. The defendant was required - once an article had been submitted for, and had received, editorial approval and legal vetting - to present a request for payment to his editor. It follows first, that payment of a fee, and determination of the appropriate sum, were matters for editorial discretion and not for the defendant and, secondly, there was no handing over of a grubby envelope, produced from the defendant's pocket in a dark corner of a pub. The defendant, holding a fairly junior post at the Sun, was therefore following an accepted procedure that doubtless had existed for some time, and doing so in relation to a source of information - TIMOTHY EDWARDS - he had not recruited himself but one he had inherited from a colleague and to whom payments had previously been made for information. The fact that it was acceptable within the organisation, however, does not of course for a moment make it acceptable as a practice if such payments were knowingly made to those who had revealed confidential information obtained in the course, and in flagrant breach, of a public duty. I emphasise that I heard no evidence at all during the course of this trial that has led me to suspect that any editor or in-house lawyer at the Sun was ever made aware by this defendant, or anyone else, of the occupation of the source of the information on which these articles were based. That said, the colleague from whom this defendant inherited EDWARDS as a supplier of

confidential information is likely to have known, but I accept the defendant's evidence that he was not told by that colleague what EDWARDS did for a living at the time he took him over as a source.

Any abuse of the public's trust, especially by a person holding public office who has access to confidential material which he knowingly supplies without authority, in return for substantial sums of money, will be treated by the court as deserving of a sentence which not only punishes the offender with appropriate severity but which - more importantly, perhaps - establishes a very clear deterrent message to other potential offenders. That much is beyond question.

In those circumstances, it is unsurprising that TIMOTHY EDWARDS received a sentence of two years' immediate imprisonment, having pleaded guilty at the first opportunity. On the assumption that his plea, in consequence, attracted and received full credit it follows that if he had contested the charge and been convicted by a jury the appropriate sentence would have been three years.

A public servant who abuses his office and the trust of the public so gravely as did P.C. EDWARDS, doing so out of pure greed, can in my view justifiably be considered more blameworthy and thus in a significantly more serious position than a journalist who encourages that misconduct, albeit that encouragement takes place over a period of many months.

In expressing that view I do not ignore the obvious fact that without the offer, by a journalist, of money for confidential information it might well be that a public official would not be tempted to abuse the trust reposed in him but nevertheless in my judgment a distinction ought properly to be made between their different roles, particularly where - as in this case - the defendant did not seek out his source and offer money for information; rather, he was presented with a 'ready-made' source.

Sentences in a succession of cases of this type which have come before the courts over recent months reflect the same realistic, common sense approach as I have expressed and I have had an opportunity to study the schedule of such cases helpfully provided by the prosecution after this defendant's conviction.

All things being equal a journalist in the position that this defendant now finds himself, in my considered view, deserves and ought to receive a sentence of roughly half that imposed upon the public official.

Having said that, it is my responsibility in this particular case, faced with this particular defendant, convicted by an obviously fair-minded and conscientious jury after a trial in which the cases for both prosecution and defence were presented and examined with meticulous and thorough professional care, to determine whether the public interest demands, and expects, the imposition of a sentence of immediate imprisonment upon an experienced journalist of hitherto entirely unblemished character who, I am satisfied, is - this aberrant course of conduct excepted - essentially a decent man of solid integrity and social responsibility.

I have reached that view not only having had the opportunity to observe and listen to him at length, in the witness box, an incalculable advantage in itself, but upon the written evidence provided during the trial by his two character witnesses - both, themselves, men of impressive and unquestionable integrity and strength of character - to whom the defendant has repeatedly shown a high degree of kindness, understanding and valuable practical assistance, as he plainly has to those witnesses who have provided written character references today. In particular, the defendant's work for charities such as the Damilola Taylor Trust and the Spirit of London Awards is itself impressive testament to a man they all hold in the highest regard.

In my firm view, therefore, the entries on the credit side of the page of account for this defendant significantly outweigh those on the debit side to the extent that when I ask

myself whether those mitigating circumstances allow me, consistently with my public duty and the interests of Justice, to suspend the prison sentence that undeniably must be imposed in this case the answer is undoubtedly 'yes'. The experience of arrest, then a trial following a very lengthy delay and the loss of his good character and perhaps his livelihood will, I have no doubt, have had a profound and salutary effect on the defendant and I am sure that a suspended sentence will serve effectively to ensure that the behaviour which has brought him before this court will never be repeated.

ANTHONY FRANCE, for the reasons I have explained I am entirely satisfied first, that the appropriate sentence upon you is one of eighteen months' imprisonment and, secondly, that the circumstances justify the suspension of that sentence for a period of two years. It follows that you will only have to serve that sentence if you are foolish enough to commit any other offence during the next two years. I have seen and heard enough about you during the trial to make me confident that it is unlikely, in the extreme, that you will do so.

Further, it is essential that the sentence should contain a meaningful punitive element and I therefore attach to the suspended prison sentence a requirement that you carry out 200 hours of unpaid work, community service in other words, which will I hope not only be rigorous and demanding on your time (and rightly so, being a punishment) but also be fulfilling and rewarding, because you will be doing something worthwhile and constructive for those less fortunate than yourself. That is something from which, with your experience in working for the benefit of others, I have no doubt you will derive considerable satisfaction. You must attend to carry out the work whenever and wherever your work supervisor directs. Failure to do so, or to carry out the work to a satisfactory standard, is likely to lead to your being returned to the court on breach proceedings with a request to me to reconsider the sentence.

In addition, there is no good reason why the taxpayer should foot the whole of the prosecution's bill for bringing you before the court. I shall therefore make an order

that you pay the full prosecution costs but I do so on the assumption that, having had the cost of your representation by leading and junior counsel and solicitors paid by News International, they will also pay my costs order. If that turns out not to be the case then the matter can be relisted so that I can vary the order to a sum more fairly adjusted to your personal circumstances.

Finally, if it applies to this case you must pay the statutory victim surcharge in the appropriate amount.

-ENDS-