



JUDICIARY OF
ENGLAND AND WALES

R v ASHLEY NEIL MOTE

SOUTHWARK CROWN COURT

SENTENCING REMARKS BY MR JUSTICE STUART-SMITH

13 JULY 2015

Ashley Neil Mote, the jury convicted you on compelling evidence on 15 July 2015 on all 12 counts of this indictment. They listened to you closely for days as you lied, protested, lied and lied again about the monies you had fraudulently claimed as expenses while serving your constituents and your country as an MEP. During the period from 2004 to 2009 you corruptly fiddled over £400,000 in expenses. Your greed and dishonesty were matched only by your hypocrisy, because while this was going on you carried out a high-profile campaign condemning corruption and the improper use of public money in the very institution from which you were leeching it.

You knew perfectly well what the rules were for the claiming of expenses; and you also knew perfectly well that what you were doing had nothing to do with funding whistleblowers and everything to do with funding your bridging loan, your mortgage, your legal expenses that were unrelated to your role as an MEP, and your family. If there had been any truth in your claims that you used these huge sums of money to fund whistleblowers you would have been able to show it without in any way compromising them. But you couldn't. It was plain for all to see that the monies went into your bank accounts or accounts which you controlled, and did not come out except to fund you and your family. You abused your position of trust as an elected representative, and you abused the trust that the European Parliament placed in you, consistently making false statements in the knowledge that the institutions trusted their MEPs to be reliable and honest. Along the way, you deceived people who shared your declared political ideals and even regarded you as something of a political hero. You are, as was said by the trial judge when you were convicted of substantial benefits fraud in 2007, a thoroughly dishonest man.

The consistency of your dishonesty is positively breathtaking. You started within six months of being elected in 2004, dishonestly securing payment of £12,500 on the pretext that it was money that you had agreed to pay to BOOF (Better Off Out Fund) for political services when you knew that no such services had been or would be provided to justify the payment. You then took the money out of the BOOF account and transferred it to one of your own accounts. That is what you stand convicted of under Counts 1 and 1A. You kept going, and obtained payment of another £3500 in 2005, also on the dishonest pretext that it was to be paid to BOOF for the provision of political services, when in fact it was paid out of the BOOF account into your account on 29 June 2005. That is what you stand convicted of under Count 2.

You clearly felt you needed a regular dishonest income, because between October 2004 and June 2009 you dishonestly obtained 54 monthly payments of £1,000 each on the dishonest pretext that you had received political services from DARTT (Direct Action Resistance to Tyranny). There never was a genuine service contract with DARTT, and most of the monies can be seen to have gone from the DARTT account which you controlled into your own bank accounts. You then covered your tracks by submitting false regularisation documents saying that you had been invoiced by Mr Nockels on behalf of DARTT for the amount of the monthly payments, which was untrue. That is what you stand convicted of under Counts 3 and 4.

In order to fund just under £100,000 in order to fund your unrelated legal expenses you made a series of false statements to the effect that the legal services provided by your solicitors were for legal and constitutional advice in relation to your activities as an MEP, which they were not. You pushed very hard, to and beyond the point of being downright insulting, in your attempts to get these monies paid via one route and then, when that was rightly blocked, by another. Those payments were monthly between mid 2005 and mid 2009, only stopping when you ceased to be an MEP. That is what you stand convicted of under Count 5. As you came to the end of your time, you simply claimed the outstanding maximum that would have been available if any of these claims had been honest. That was another £17,000 paid to your solicitors, of which you stand convicted under Count 6.

On Counts 7 and 8 you stand convicted of money laundering. Under Count 7, having dishonestly obtained payment to the bank account that you set up and controlled in Denmark in the name of Information Centrum OS, you transferred £46,636 to the DARTT account from which you funded your HSBC and NatWest accounts; £24,946 to your bridging loan account as you set about purchasing a home for you and your wife; and £157,537 to your mortgage account once that was set up. Your suggestion that the funding of your mortgage and bridging loan to the tune of about £180,000 was in some way balanced by undetectable payments to whistleblowers was one of the most absurd points in your lying defence. Under Count 8 you transferred a further £21,000 to your wife's account and

£6,994 to the account of your son and his girlfriend. Once again, your suggestion that these were balanced out by undetectable payments to whistleblowers was absurd.

You may have had some honest dealings with Mr Poolamets of ICOS in Estonia, but you used them as the pretext to defraud the European Parliament by inflating your claims and paying them into the Danish Bank account and then on for your benefit. As you came towards the end of your time as an MEP, you decided to milk what you saw as your cash cow to the limit. Under Count 9, you dishonestly asserted that you had agreed to pay Estonian ICOS £11,306 per month. In April 2009 you tried to cover your tracks by submitting a false regularising document saying that you had been invoiced in the sum of €83,945 by Estonian ICOS during 2008; and in September to November you submitted another false regularising document saying that you had been invoiced €79,601 by Estonian ICOS during 2009. That is Counts 10 and 11.

Counts 1, 2, 3 and 5 are counts of obtaining a money transfer by deception, each of which carries a maximum sentence of 10 years imprisonment. Count 1A is a count of theft, which carries a maximum sentence of 7 years imprisonment. Counts 4, 10 and 11 are counts of false accounting, each of which carries a maximum sentence of 7 years imprisonment. Counts 6 and 9 are counts of fraud, each of which carries a maximum sentence of 10 years imprisonment. Counts 6 and 7 are money laundering counts, each of which carries a maximum sentence of 14 years imprisonment.

Although the money laundering offences carry a higher maximum sentence, the Crown is right to submit that the essence of your offending was a long-standing fraud which netted you over £425,000 during a period of sustained dishonesty lasting just under five years. It would be open to me to treat each of the four main strands (BOOF, DARTT, Edward Hayes and ICOS) as separate frauds, and it is instructive to compare both approaches.

Whichever approach is adopted, your culpability is very high. You abused your position of power, trust and responsibility; you continued your fraudulent activity over a sustained period of time; and the steps you took to cover your tracks were sophisticated and involved significant planning.

Your offences had a considerable impact on the victim whether your true victim is regarded as the European Parliament or as the tax payers who funded your membership of the Parliament and the expenses you dishonestly drew. On one point you were absolutely correct. Dishonesty on the part of those involved in the European Parliament is disgraceful and damaging to the institution and its democratic credibility. The destruction of public confidence in democratic institutions by expenses scandals both here and in Europe cannot be valued in monetary terms; but it is real and the impact will not dissipate rapidly. While I am prepared to sentence you on the basis that the victim impact in this case is medium, it is towards the top of that category, if not at the very top.

If I were to adopt the approach of treating your dishonesty as having four separate frauds, the BOOF fraud on its own would fall within category 4, with a starting point of 18 months custody; the theft count does not add materially to the overall criminality. The DARTT fraud would fall within category 3, with a starting point of 3 years, while each of the Edward Hayes and ICOS frauds would be category 2 frauds, each having a starting point of 5 years. That would suggest that an overall starting point in excess of 5 years is appropriate, which could be achieved by a mixture of concurrent and consecutive sentences of imprisonment.

Alternatively, treating your offending as one sustained fraud would put it high in category 2, which takes a starting point of 5 years based on £300,000. Adopting this approach would suggest a starting point close to or at the top of the range, namely about 6 years.

Those starting points would be for a person of previous good character. That is not you, because you were convicted of 20 benefit fraud offences in 2007 when you dishonestly recovered about £60,000 in benefits, for which you were sent to prison for 9 months. That is a statutory aggravating factor, accentuated by the fact that you were convicted plum in the middle of your present course of offending and it appears to have had no effect on you at all.

What then can be said in mitigation?

- a) There was evidence at trial, which I accept, that during your time as an MEP you worked hard to discharge your mandate as an anti-EU member and that you took substantial steps to communicate with your constituents better than some of your colleagues. I accept Mr Moloney's submission that your membership of the European Parliament was not simply a cynical campaign to enrich yourself.
- b) You are 79 years old. You were in your late sixties and early seventies when you embarked on this course of conduct. You have a past history of atrial fibrillation and raised blood pressure. You are slower than you were, but there is no medical evidence of a neurodegenerative disorder and nothing in your health that goes to explain your offending. As with any person of your age, prison will be very tough; and I take that fully into account.
- c) You have ruined your family, having first dishonestly enriched them. Your wife of 40 years deserves much better than that. At a personal level this is an utter tragedy for you and for all affected by your conduct.

When all is said and done, what stands out is the consistency of your dishonesty over nearly five years, the financial scale of your fraud, the rank abuse of the trust that was placed in you by your constituents and the European Parliament, and the financial and reputational damage you have done to the democratic institutions you said you were trying to clean up. Leaving on one side your age, application of the guidelines would suggest a sentence of about 7 or even 7 ½ years, primarily because of the scale and duration of your fraud and your previous conviction.

If you were a young man, I would make a modest reduction to 6 years 8 months on grounds of totality. But you are not a young man, and I consider that such a sentence would be a crushing blow which, even if justifiable, should be avoided if possible. For that reason, and that reason only, I have come to the conclusion that I can and should make a further reduction because of your age.

I sentence you to an aggregate sentence of 5 years, essentially treating your offending as one continuous fraud but recognising that the four strands involved ever increasing sums of money. Those five years are made up as follows:

Count 1: Obtaining £12,500 by deception: 18 months.

Count 1A: Theft of £12,500: 6 months

Count 2: Obtaining £3,500 by deception: 18 months

Count 3: Obtaining £54,000 by deception: 3 years

Count 4: False accounting: 3 years

Count 5: Obtaining £97,531 by deception 4 years

Count 6: Fraud 4 years

Count 7: Acquiring criminal property: 5 years

Count 8: Concealing criminal property: 5 years

Count 9: Fraud 5 years

Count 10: False accounting: 5 years

Count 10: False accounting 5 years.

All sentences shall run concurrently.

If the statutory surcharge is applicable in this case you will pay it in the appropriate sum.

You will serve half of the sentence of 5 years before you are released on license. After your release you will be liable to serve the remainder of the period if you commit any further offences.

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