



IN THE CROWN COURT AT SOUTHWARK

T20220112

REX
-v-
JIAN WEN

SENTENCING REMARKS
24 May 2024

The Facts

1. On 18 May 2024 you were convicted by the jury of entering into or becoming concerned in a money laundering arrangement, contrary to section 328(1) of the Proceeds of Crime Act 2002 [Count 3].
2. The arrangement in question concerned a wallet reconstructed from seed words found in a notebook seized from your home address on 5 August 2020. Despite a number of searches of different locations, no physical device for the wallet has ever been found. I shall refer to it as the 'JDR' wallet.
3. The JDR wallet was active from 22 June 2019 until 2 June 2020. It received three credits of 50 Bitcoin on 22 June 2019, 16 October 2019 and 11 November 2019. In evidence you said these credits came from wallets controlled by Yadi Zhang, and that one of the credits was intended for '*daily household expenses*'. You accepted you had custody and control of the JDR wallet and had made transfers from it. You said it was kept on a USB device, which you wrongly claimed had been seized by the police. You denied knowing or suspecting that any of the Bitcoin held in the wallet represented criminal property; a denial the jury rejected.

4. Of the 150 Bitcoin credited to the JDR wallet you converted 22.6 Bitcoin into cash, sent 5 Bitcoin to Igor Mineev, and laundered 89 Bitcoin through Michael Burke related entities in Switzerland and Dubai. The balance of 33.89 Bitcoin was seized by police in May 2021.
5. The cash exchanges, involving in some instances Bitcoin worth £20,000 to £50,000, were arranged by telephone, and transacted at street level with unidentified third parties. The payment to Igor Mineev was in part for the payment of your son's school fees of £12,800. Bitcoin exchanged through Michael Burke related entities was used to purchase two properties in Dubai, and loaded onto charge cards for use by you and Yadi Zhang. Both properties in Dubai have since been sold, the whereabouts of the proceeds currently unknown. Also unknown is what funds if any are still held by Michael Burke.
6. I make it clear that I sentence you only in respect of Bitcoin held on the JDR wallet, and on the basis that you neither knew nor suspected that your involvement in any of the earlier arrangements concerned the proceeds of crime. But I do not agree with your counsel's submission that this means I am constrained to assess your culpability only from the date of the first transaction on the JDR wallet in June 2019.
7. On your account you first met Ms Zhang in September 2017. Within weeks of that meeting you were living with her in a multi-million pound property in northwest London. You made your bank accounts available to her. You obtained false documentation so she could open her own bank account. You travelled extensively, here and abroad, together and alone. You were given the funds to purchase a Mercedes car registered in your name. You arranged for your son to live with you and attend a local private school. I am in no doubt that you came to enjoy the better things in life paid for by Ms Zhang. The evidence showed that you, and to some extent members of your family, were generously rewarded for your services.
8. By June 2019 you had been involved in Ms Zhang's personal and financial affairs for almost two years and were a trusted companion. You had conducted

cryptocurrency exchanges here and abroad. You were involved in the unsuccessful attempts to purchase property in the UK. You tried to resolve matters when Ms Zhang was denied entry to Dublin in September 2018. You were informed of the Freezing Order in respect of monies held by Mishcon de Reya on 10 October 2018. You were present when police carried out their first search of Mansion House on 31 October 2018, and by 4 November 2018 knew they had raided the safety deposit box. Your first interview under caution took place in April 2019, approximately two months before you made the first transaction on the JDR wallet.

9. It is in this context that you were introduced to Michael Burke on 28 September 2018, and met him in person in Zurich on 8 October 2018. You opened accounts with his Geneva and Dubai based companies later that month. It is clear from the correspondence that from the outset the purpose of your relationship with Mr Burke was to explore ways of exchanging cryptocurrency, but that nothing then happened following the unexpected involvement of police at the end of October 2018.
10. You resumed contact with Mr Burke in April 2019, shortly before you were interviewed under caution on suspicion of money laundering. In Mr Burke you had identified someone who could offer the solutions you were actively looking for; someone who would not ask too many questions about where the Bitcoin came from. You first made contact with 'Yinka', a party to peer-to-peer transactions from the JDR wallet, in May 2019. That same month you flew to St Kitts and Nevis, apparently engaged in a scoping exercise for investment opportunities. Against this background I am in no doubt that by 22 June 2019 you knew, rather than merely suspected, that you were dealing in the proceeds of crime.
11. Further interviews took place in May, June and July 2021 and January 2022. Aside from a prepared statement and a few brief answers on 30 April 2019 you made no comment. You have been in custody since your arrest in March 2022.

Application of Sentencing Guidelines

12. In any sentencing exercise the court is required to assess the culpability of the offender and the harm occasioned by the offence. For this offence there is an offence specific sentencing guideline which I must have regard to. I have also been assisted by sentencing notes from both parties, albeit they disagree on the application of the guideline to the facts of this case. I remind myself that the maximum sentence is 14 years.
13. It is submitted on your behalf that your culpability falls into the medium category. I do not agree.
14. This was an offence which was sophisticated and involved significant planning. The mechanics of a cryptocurrency transfer may well be as straightforward as an online banking transaction, but that does not mean that the arrangement with which you were concerned lacked sophistication or planning.
15. Peer to peer transactions involved exchanges of messages to arrange the time and place of the meeting, and carefully timed Bitcoin transfers to coincide with receipt of the cash. The transfers to Michael Burke were preceded months earlier by the opening of accounts with his business entities in Geneva and Dubai, on each occasion requiring you to complete KYC forms asking for information about the source of wealth. Bitcoin transferred to Mr Burke was used to purchase two properties in Dubai; an arrangement which amongst other things, required the opening of a local bank account, and execution of Powers of Attorney. Transfers to top-up pre-paid cards were made on your instructions. The fact that Mr Burke or one of his employees carried out the transfers, or arranged the paperwork said to substantiate them, does not detract from the sophistication of the arrangement or the planning that went into it.
16. The offence was conducted over a sustained period of time. The groundwork for these exchanges started in October 2018. You transacted the first exchange on this wallet on 20 June 2019 and the last on 2 June 2020. Even on the most generous view your involvement in this wallet continued for almost a year.

17. I accept that even at this stage of your relationship you still regarded yourself, to some extent, as answerable to Yadi Zhang. But I do not accept that in respect of this wallet you did no more than perform a limited role under direction, or that you still had only a limited awareness or understanding of the extent of her criminal activity. This was a wallet that you held. You made the transfers. You made the trips to Dubai. You conducted all the communication with third parties. The properties were purchased in your name, you gave the Powers of Attorney. In respect of this wallet you exercised a degree of autonomy and acted for your own benefit. By this stage you were well aware of the vast quantity of Bitcoin in Ms Zhang's possession.
18. Nor do I agree that you were involved in this offence through any element of exploitation. Whatever your personal circumstances were in September 2017 I am satisfied that you were under no such disadvantage by June 2019. Having presided over your second trial and seen you give evidence, I do not agree with your counsel's characterisation of you as a victim.
19. For all these reasons your culpability falls into the highest category.
20. I turn then to my assessment of harm. In financial crime monetary value is one of the benchmarks by which the court assesses harm; harm that was caused, intended or might foreseeably have been caused.
21. The volatility of Bitcoin means that determination of value is not a straight-forward exercise. It is agreed that a fair value of the 116.601 Bitcoin transacted by you is £809,832.54. What is not agreed is whether the value of the balance of 33.898 Bitcoin should also be taken into account, and if so, how it should be valued. Your counsel contend that it should be the value as of 2 June 2019, calculated to be £263,499.49. The prosecution say it should be the value at the time it was seized in May 2021, calculated to be £932,257.29. The total thus advanced on your behalf is £1,077,332.03 and by the prosecution over £1.7 million. I am bound to observe that in adopting the approaches that they do both parties alight on a valuation that suits their interest. If valued today the figure would be much higher.

22. I do not agree with your counsel that value should be assessed only by reference to the Bitcoin transferred out of the wallet. The JDR wallet held 150 Bitcoin and you held the wallet. The fact you did not exchange all of it seems to me to be irrelevant for the purpose of assessing harm, which includes that which might reasonably be foreseeable.
23. In due course the Court will likely have to grapple with how best to calculate the value of the Bitcoin at a given time. However, I have concluded that this is not something I need to resolve today, because both approaches arrive at a total figure that falls within Category 3; a category range between £500,000 and £2 million with an assumed starting point of £1 million. Given that monetary value is only one relevant sentencing factor, and adopting the most favourable approach to you that I can, I will adopt the Category 3 starting point of £1 million.
24. To complete the assessment of harm, the Court must consider the level of harm associated with the underlying offence to determine whether it warrants an upward adjustment of the starting point within or outside the range.
25. The underlying offence was a massive investment fraud carried out in China between 2014 and 2017. Over 40 billion Renminbi (approximately £4.6 billion) was invested into the fraudulent scheme by over 128,000 investors. Some of the proceeds of this fraud were exchanged for Bitcoin, loaded onto a cryptocurrency wallet and smuggled out of China on a laptop.
26. As a matter of common sense and experience it is a reasonable to conclude that many individual investors suffered economic hardship and loss. Money launderers, such as you, provide a vital role in realising the proceeds of fraud without which the predicate offending would have little or no value. They make it more difficult to investigate the predicate crime, more difficult to trace the proceeds of that crime, and reduce the likelihood of victims receiving any recompense. On the Guidelines the sentence for a fraud of this nature would fall into and above the highest category which has a starting point of 7 years.

27. Any money launderer concerned in laundering the proceeds of crime must take their chances as to where it comes from. If it transpires that the underlying offence has occasioned more serious harm than that will be reflected in the punishment. However, there is no suggestion that you were involved in this fraud, or that you knew anything about it. I also bear in mind the passage of time between the commission of the fraud and the offence of which you have been convicted, and the fact you have been convicted of laundering (in the context of this massive fraud) a relatively modest part of the proceeds. Having regard to these factors I have concluded that an uplift under Harm B is not appropriate.
28. Application of the Guidelines on the basis I have indicated provides for a starting point of 7 years imprisonment with a range of 5 to 8 years. I adopt a 7 year starting point.
29. This is not the end of the matter because there are in your case a number of aggravating factors.
30. Your offence is aggravated because it was committed across borders. Having been unsuccessful in purchasing property in the UK you turned your attention abroad. Crossing borders is an aggravating factor because it makes the proceeds of crime harder to trace and puts recovery beyond the reach of the UK authorities.
31. It is aggravated because you committed the offence despite numerous warnings. Ignoring the earlier warnings might be excused on the basis that at the time you received them you neither knew nor suspected you were dealing with the proceeds of crime, but the cumulative effect cannot be excused, nor that the warnings continued during the period you dealt Mr Burke and the JDR wallet, not least the fact you were interviewed under caution just two months before conducting the first peer to peer exchange in June 2019.
32. I recognise that the JDR wallet would not be active until June 2019, but I do not accept this means I must ignore what you did to conceal and destroy evidence in October 2018. On 31 October 2018, during the first police search, you

deliberately deleted communication and banking Apps from your phone. I am in no doubt that you did so to frustrate the police investigation and to destroy evidence of your early communications with Yadi Zhang. It was behaviour you were to repeat in August 2020 when you lied to police about Ms Zhang's whereabouts and the recent contact you had had with her.

33. Other matters advanced by the prosecution recite evidence of you drafting false documentation or planning to do so, lying in Particulars of Claim lodged in the High Court, and contraventions of a Worldwide Restraint Order. Unattractive as these things are, they do not directly relate to the offence of which you have been convicted and I do not regard them as aggravating factors.
34. Against the aggravating factors I weigh in your favour all of the matters advanced on your behalf in mitigation.
35. You are 42 years old (d.o.b. 25/12/1981). You have no previous convictions. You have endured the anxiety of two trials.
36. You were born in China, you said you had a normal childhood and that you were loved. Your surviving parent remains in China and your conviction for this offence may mean that you do not see her again. You studied law in China before coming to the UK on a spousal visa in August 2007, you were pregnant at the time. The marriage was not a success, your husband was violent towards you and you separated. 'Women's Aid' helped you find accommodation and secure custody of your son. I accept that during this period life for you was hard.
37. It is a measure of your character and intellect that, despite these personal difficulties, you returned to your studies and obtained a Diploma in Law and a degree in Economics for Business. An accomplishment for anyone, but particularly for a single mother studying in a second language. You had other relationships which were not successful and in 2016/2017 felt that it would be better for your son to return to China which he did. He returned while you were living at Mansion House with Ms Zhang and you remained his sole carer until your remand in custody, when he returned to the care of his father. He is now 16

years old. You have not seen him in the last 26 months and are unlikely to do so while you remain in custody. I accept that this has been highly distressing for you, and no doubt also for him.

38. Throughout your time in custody you have been a Category A prisoner which brings with it a greater degree of restriction. It is to your credit that you have used this time in a productive way, attending courses and obtaining further qualifications. You have enhanced prisoner status, and I have seen the many positive commendations you have received for the help you have given to staff and other inmates. You are described as polite, helpful to others, and hard working. I am prepared to ignore the only two negative reports for the reasons I have been given.
39. I accept that while others fled you remained, and did so in very reduced circumstances. It is said that you bitterly regret ever becoming involved with Yadi Zhang. I do not doubt that to be the case, but that is not the same as an expression of remorse. I make it clear that I do not increase your punishment because of this, but nor does it afford you any credit.

Sentence

40. By their verdict the jury were satisfied that you laundered Bitcoin which represented the proceeds of crime. They had only to be sure that you suspected this to be the case. I am in no doubt that you knew this was what you were dealing with.
41. Only a custodial sentence is appropriate. I sentence you to the least possible sentence that I can, having regard to the starting point and category range for which the sentencing guideline applies, and to the aggravating and mitigating factors to which I have referred. The sentence will be one of 80 months imprisonment.
42. You will be released no later than halfway through the sentence, namely after 40 months, and the remainder of the sentence will be served on license in the community. You must comply with all the conditions of your license, failing which you will be at risk of recall to prison to serve the remainder of the term in custody.

The time that you have spent on remand will be calculated and deducted from the time due to be served.

43. In light of the postponed confiscation proceedings no financial orders (including the surcharge) are appropriate.

HHJ Sally-Ann Hales KC