



JUDICIARY OF
ENGLAND AND WALES

Southwark Crown Court sitting at the Central Criminal Court

1 February 2013

Sentencing remarks of Mr Justice Fulford

R –v- April Casburn

The first issue that I must address in these remarks is the basis on which the defendant is to be sentenced. It is clear that there are two possible interpretations of the jury's verdict and applying the judgment of the Court of Appeal in *R v Craig Griffin* [2008] 2 Cr. App. R. (S) 61, page 357 at page 361, paragraph 10, [2008] EWCA Crim 119, I am obliged to make up my own mind as to which provides the proper foundation for sentencing. In summary, the competing bases are the prosecution's case, founded on the entirety of the evidence of Mr Wood which notably included the request for money in return for confidential information, on the one hand, and the defendant's account, namely that she was motivated by her strong feelings regarding the issue of the allocation of resources for the telephone hacking enquiry, on the other. She suggested she was really angry that a number of senior officers were diverting resources for the purposes of a "jolly", to use her words. The jury could have convicted on either interpretation of the facts.

On this issue, I have no difficulty. As it seems to me, Mr Wood was a reliable, honest and disinterested witness. He took time and trouble during the telephone call to find out exactly what Ms Casburn was saying, questioning the defendant on the detail of her

account in order to make an accurate note for his superiors at the News of the World, which he wrote up in detail immediately afterwards. He had absolutely no reason to lie and every cause to be cautious given the risk that the newspaper was about to become the victim of a sting. I consider it inconceivable that he misunderstood what she said to him, erroneously misinterpreting her words when he recorded that she was seeking payment for information about a confidential investigation into telephone hacking on the part of the very newspaper she was telephoning and opening a line of communication if the newspaper wished to take up her offer. I repeat, he was an accurate and honest witness.

As it seems to me this is, therefore, a straightforward but troubling case of corruption and, in the absence of any evidence on the point apart from what the defendant said in evidence, I decline to accept that she had significant difficulties working with her male colleagues in the senior ranks of the counter terrorism branch which in part, as she suggested, led her to act as she did. The most that can be said is that she was a relative newcomer to this area of police work and as result she may have felt something of an outsider, whether that belief on her part was justified or not. On the evidence before me, I am not prepared to go further than acting on that assumption in her favour, and, most critically, whatever the defendant may have considered her position to be vis-à-vis her fellow officers, any sense of resentment she may have held cannot begin to excuse the actions of a Detective Chief Inspector who went to the very newspaper which was the subject of a sensitive and confidential investigation by other officers, offering to sell details of the progress of the enquiry and the strategy the officers were intending to follow. Furthermore, although it is credible that the defendant may have disagreed with decisions that had been made as to how the investigation was to be resourced, no police officer can take it upon him- or herself to vent professional frustrations and

disagreements in this way. The same conclusion applies to her alleged but erroneous belief that the investigation had been launched as a result of inappropriate political interference.

In my judgment this offence cannot be described or excused as being wholly or in part an honourable, albeit flawed and inappropriate, expression of indignation and concern on this defendant's part or an understandable instance of whistle-blowing. It was, instead, a corrupt attempt to make money out of sensitive and potentially very damaging information. If the News of the World had accepted her offer, it is clear in my judgment that Ms Casburn would have taken money and as a result she posed a really significant threat to the integrity of this important police investigation. Beyond doubt, in my view, given she provided her mobile telephone number she contemplated the ongoing sale of information if the News of the World took the bait. Although not part of the investigating team, it is likely that given her role she would have learnt confidential details of the progress of this investigation. Internal Chinese walls in this context are all too often porous.

Activity of this kind is deeply damaging to the administration of criminal justice in this country; it corrodes the public's faith in the police force; and it can lead to the acquittal of, or the failure by the authorities to prosecute, individuals who have committed offences, whether they are serious or otherwise. We are entitled to expect the very highest standards of probity from our police officers, particularly those at a senior level, and it is, in my judgment, a very serious matter when men or women who have all the benefits, privileges and responsibilities of public office use their position for corrupt purposes: in this instance the misconduct was the proposed sale of confidential information for money.

Ms Casburn, having worked hard for many years, has lost her good character and will undoubtedly now lose her job. She and her husband are at an advanced stage in the process of adopting a child, and she is undoubtedly placed in a vulnerable position as regards most aspects of her future. I accept that as a police officer prison will be a difficult experience for this defendant. But, that said, this offence is so serious that it can only be marked with a prison sentence. I accept that no money in fact changed hands because the News of the World did not rise to the bait and that during this first telephone call some, but by no means all, of the information given to Mr Wood was already in the public domain. But she revealed the actual intentions of the investigating team, she discussed who would be undertaking the police work and she rehearsed in detail the current thinking on the available charges, a piece of information which could have been of considerable tactical use to suspects who were questioned. That was a truly dire step for a senior police officer to take. The defendant does not have the benefit of the mitigation that would have accompanied a guilty plea.

Without the important complicating factor that I am about to go on to consider, the sentence would have been 3 years imprisonment.

I have been particularly concerned about the position of the child who has now been with the defendant and her partner for over a year during the period leading up to adoption and I requested comprehensive reports when the defendant was convicted. The additional information, filed with the court yesterday, has proved to be very useful. The members of the press are to note that it is critical that the identity of this young person is not revealed and, as a result, I am limited to a very real extent as to what I am able to say on this subject during these sentencing remarks. This vulnerable child has been placed

with the defendant and her partner following a disastrous beginning in life, and a strong and positive bond has developed with both of the proposed adoptive parents. I accept that although it is undoubtedly the position that following the defendant's imprisonment the child will continue to have her partner as a permanent figure during the evenings and at weekends, the absence of the accused will nonetheless be significant and potentially damaging. These consequences will be mitigated, at least to an extent, by the fact that if the defendant had not been arrested, she would have returned to work by this time and accordingly the child would have been dependent in any event on care at a nursery and on friends and members of the respective families. But I do not minimise the critical role played by the defendant to date as, in a real sense, the principal carer.

Particularly in exceptional circumstances such as these, the court must consider the impact on the child and proportionality of any custodial sentence when deciding if the gravity of the offence justifies the imprisonment of the parent, either at all or for a particular period of time. Given the overall seriousness of this offending and the clear indications that this child will remain in the family unit and will be cared for by the adoptive father along with friends and family, and will attend nursery during the day, I have no doubt that the sentence I am about to pass reflects Ms Casburn's criminality whilst also taking into account appropriately the real needs of this young person. I consider the ability of Ms Casburn's husband to look after the child, and the other arrangements I have just referred to, mean that this case is not so exceptional as to make a suspended sentence necessary. I want to stress that the course that I am about to adopt is wholly dependent on the particular and highly unusual circumstances relating to this young child and these sentencing remarks should not be misinterpreted as having relevance to more conventional circumstances when children will be affected by the loss of a parent who is imprisoned.

Bearing in mind all of these factors and circumstances the least sentence I can impose is one of 15 months immediate imprisonment.