



JUDICIARY OF
ENGLAND AND WALES

R v Howard Hill, Richard Forrest and Lee Stewart
Southwark Crown Court
20 December 2013
Sentencing Remarks of Judge McCreath

1. General observations

1.1 Our privacy is, for good reason, important to all of us.

1.2 What a person has in his or her bank account, what a person chooses to write and to whom, what telephone calls a person chooses to make and to whom and other matters of that kind are, save in exceptional circumstances, the business of the individual and of nobody else.

1.3 The law recognises that right and protects it.

1.4 The law permits intrusion into what would otherwise be private information only in very limited circumstances – for the detection or prevention of crime, for example – and only then under strict judicial control.

1.5 Those whose privacy is unlawfully intruded upon feel and are entitled to feel a sense of violation. It is clear that in ways to which I will return that in this case a number of people were subjected to intrusion and were greatly affected by it, emotionally, for some financially and for others in terms of reputational damage.

2. The charges and the available penalties

2.1 You have all pleaded guilty to offences under s.55 of the Data Protection Act 1998.

2.2 The only punishment available to me for such offences is a fine.

2.3 I must perform the difficult function of, on the one hand, imposing fines which mark the gravity of your offending while, on the other hand, not imposing fines which you are unable to pay, with the result that you would have to serve prison terms in default of payment. To do that would be effectively to impose custodial sentences for offences which Parliament has deemed to be worthy of a fine and no more.

3. The offences and their effect

3.1 You, Howard Hill, were employed to gather intelligence and information about a number of other people. Your object was to find ways of discrediting them and of levelling allegations of dishonest conduct against them.

3.2 As events have shown, there was no basis for such allegations.

3.3 Some of the information which you sought to gather was in the public domain. A great deal of it, however, was not. It was your intention from the outset to gain information by means which you knew to be unlawful.

3.4 You had full control over this project.

3.5 You engaged others to do your dirty work for you.

3.6 You did this for financial gain.

3.7 You, Richard Forrest and Lee Stewart, were the agents through whom this information was obtained. You variously invaded the privacy of 10 individuals. If I deal with you together, it is to paint an overall picture. But I recognise that you do not accept acting in concert together and that you plead guilty on particular bases. I do not lose sight of that and will sentence each of you on that basis.

3.8 By various devious strategies, you accessed emails, phone records, bank records and in one case details of where the child of one your victims went to school. The birth certificate of that child was obtained. Surveillance was carried out. Credit reports were obtained. It hardly needs stating that you had no right to any of this information.

3.9 I have seen victim impact statements from a number of victims.

3.10 One of them says this:

3.10.1 "It is a horrible feeling that an unauthorised person has been through my phone records and looked at who I had phoned and who I had sent messages to. It feels like you have been intruded and very personal information was looked at by people who had no right to do so..."

3.11 Others echo this in different words, speaking of stress and anxiety, of feelings of insecurity and vulnerability.

3.12 In short, what you did caused and continues to cause real harm to a significant number of people.

3.13 You did these things for reward. You carried out your acts with considerable persistence and practising considerable deceit.

4. The involvement of the defendants

4.1 You, Howard Hill, were the guiding hand over these activities.

4.2 You, Richard Forrest and Lee Stewart, acted on his instructions. Whilst your precise involvement varied, in each of your cases it was significant. I sentence you, Lee Stewart, on the basis which you have put forward – that your involvement was limited to two of the victims.

5. Approach to sentence

5.1 I intend to adopt this approach to sentence.

5.2 First, I will decide in the case of each defendant what fine would be appropriate, taking account of the degree of involvement of individual defendants, the overall gravity of the offence and all relevant mitigating factors, including the time these proceedings have been hanging over the defendants.

5.3 I bear in mind in respect of each defendant the references which I have read, the previous good character of two of the defendants and, in the case of Lee Stewart, the time which has elapsed since his last conviction. I also bear in mind all the other matters drawn to my attention.

5.4 Secondly, I will reduce that figure by one third to reflect the pleas of guilty entered on the first occasion that these counts appeared on the indictment.

5.5 Thirdly, I will reflect on what income and capital is available to you. If it equates to or exceeds the notional fine, then that fine must be paid. If it does not, then you must pay so much of that as you can reasonably be expected to afford.

5.6 All counsel agree that this is an approach which is both logical and fair.

5.7 It will also, I recognise, produce a result which might appear disproportionate as between defendants, in that a defendant who has means will pay a greater fine than one who does not.

6. The appropriate fines

6.1 I must set the fines without any guidance from the Sentencing Council or the Court of Appeal. The fines must punish and equally must deter. They must also take account of the gain made by each defendant from his misconduct.

6.2 In the case of Howard Hill, given his central role in this enterprise and the profit he made from it, the harm caused by him and his culpability in causing that harm, both of which are high, a fine of £150,000 would have been appropriate. Reduced by 1/3rd, the notional fine would be £100,000.

6.3 In the case of Richard Forrest, his role was lesser and the harm and culpability correspondingly lower. His gain was limited to £6,600. In his case a fine of £25,000 would have been appropriate. The notional fine, reduced as I have indicated, would be £17,500

6.4 In the case of Lee Stewart, whose involvement is limited in the way I have set out already and whose gain was a little over £6000, a slightly lower fine of £20,000 would have been appropriate, reduced to £13,250

7. The means of the defendants

7.1 Howard Hill:

7.2 In your case, you have income available to pay a fine in the sum of £450 per month. But you also have an interest in your home which appears to amount to about £150,000.

7.3 In those circumstances, you must pay a fine of £100,000

7.4 Richard Forrest:

7.5 You have a low income and a high level of debt.

7.6 I am satisfied that you at least have some means of raising money from selling such assets as you have – at least one BMW car

7.7 You also have income and the potential to earn.

7.8 Doing the best I can to make a robust but fair assessment, I am satisfied that, given time to pay, you can reasonably be expected to afford £10,000 and that is the sum which I fine you.

7.9 Lee Stewart:

7.10 In your case, there is no doubt that you have the means to pay the sum I have set as the appropriate fine in your case.

7.11 You must, therefore, pay a fine of £13,250

7.12 The surcharge provisions apply in each case.