



JUDICIARY OF
ENGLAND AND WALES

In the Central Criminal Court

R v Mervyn Westfield

Sentencing Remarks of His Honour Judge Anthony Morris QC

17th February 2012

You have pleaded guilty to count 1 of accepting a corrupt payment in September 2009.

You are now 23 years of age. In about 2005, when you were 17 you became a professional cricketer with Essex CCC. It was a condition of your contract that you would always play to the best of your ability. You thereafter played for your county primarily as a fast bowler for the 2nd XI but also on occasions for the 1st XI, and earned about £20,000 a year playing for your county.

It is well known that substantial bets are placed not only on the outcome of cricket matches but also on specific events in the course of matches, eg on how many runs a bowler might concede in a particular over. This form of betting is known as spot betting and is much more available when matches are televised.

According to your basis of plea, in August 2009, you were visiting the home of Danish Kaneria, a senior Essex professional and former Pakistani international, when he introduced you to two of his friends. Kaneria told you of the possibility of your making large amounts of money for conceding a certain number of runs in a particular over bowled by you in a match. I accept that such an approach was made to you by Kaneria. He had been warned in 2008 by the ICC over his connections with a bookmaker, who was involved in illegal betting markets. In addition, he had made similar approaches to other Essex players who had laughed them off as a joke.

At first you ignored Kaneria's approach, but similar approaches were made to you on a number of occasions after that until you felt under some pressure to agree. Finally, shortly before you were due to play in a NatWest Pro40 limited overs match on 5th September 2009 between Essex and Durham, you agreed to concede a minimum number of runs in the first over you bowled in that match in exchange for a payment of £6000.

Although there was little by way of education available to county cricketers in 2009 as to how to deal with corrupt approaches by others, I am satisfied that you would have known from the outset that what was being offered was a corrupt payment and that you could and should have refused it. I am also satisfied that if you had any concerns about the approaches being made to you, you had an opportunity to mention them to the team captain or management, or if you were nervous of doing so, at least to your friends within the team. You chose not to do so.

This match was televised live on Sky TV in this country, by Star Cricket across the Middle East and much of Southern Asia, including India and Pakistan. It must have been clear to you that large bets would be placed on the basis of your conceding these runs.

The nature of the agreed corrupt behaviour in your case is different from that in the recent case of Majeed, Butt, Asif and Amir. In that case, bowlers agreed deliberately to bowl no balls. That is something over which they would have had control. In the present case you were to concede a minimum number of runs in an over. This is to an extent dependent on the skill of the batsmen in scoring runs and of the fielders in preventing them doing so and is therefore more difficult to guarantee.

You conceded 10 runs in your first over in the Durham match and duly received the £6000 you were promised in cash. Your basis of plea makes it clear that you deliberately under-performed, by bowling badly in that match, and received the money for doing so.

Shortly after that, when your friend and colleague Tony Palladino was visiting your home, you went to your wardrobe, removed a plastic bag and tipped the contents onto the bed. The contents were a large amount of £50 notes. You then told Palladino that Kaneria had approached you and told you he had a friend who would pay you money if you conceded more than a certain number of runs in your first over in the Durham match, that you were to receive £6000 and Kaneria £4000 and that you had got the money for doing so. I am satisfied this was the £6000, which you had received.

There appears to be uncertainty as to the minimum number of runs you were to concede. Palladino when first asked about the matter in March 2010, remembered it as 12. Chris Wright another member of the Essex team was told by Palladino that you had told him the number was 10. You maintain the number was 12. It probably does not matter as you accept that you were deliberately underperforming in that first over in order to carry out your side of this corrupt bargain.

No legal domestic betting market appears to have been compromised by your corrupt agreement, and so the inescapable inference is that the person who made the corrupt payment must have taken advantage of this information by seeking to influence a legal overseas market or an illegal market in this country or overseas.

The criminality here is that for financial gain you betrayed the trust placed in you to play honestly and to the best of your ability. You were trusted to do so by other members of your team, your employers, the supporters of Essex CCC and the very many followers of the game throughout the world. If because of corrupt payments it cannot be guaranteed that every player will play to the best of his ability, the reality is that the enjoyment of many millions of people around the world who watch cricket, whether on television or at cricket grounds, will eventually be destroyed.

No doubt out of a misguided sense of loyalty to you, Palladino did not go straight to the Essex authorities, but he did tell other Essex players, including Chris Wright and Adam Wheater and the matter eventually came to the attention of the Essex authorities in about March 2010. They immediately reported it to the England and Wales Cricket Board and the police were informed. You were subsequently interviewed by the police and charged.

I give you credit for your guilty plea, but that plea was entered very late in the day. When you were first asked about the matter by the Essex captain and coach in March 2010, you denied any knowledge of it. You were interviewed by the police on 29th March 2010 and lied to them, saying the approach had not come via Kaneria, you had not agreed to accept the money, and you had not received it or shown it to Palladino. In your defence statement, dated May 2011, you repeated those lies. It was only in mid-December 2011, shortly before this case was fixed for trial on 12th January 2012, that you notified the court that you were prepared to plead guilty to count 1.

However, even to the probation officer who prepared the pre-sentence report dated 9th February 2012, you denied that you had deliberately under-performed in the Durham match and maintained that you had bowled to the best of your ability. Although I accept that pleading guilty has involved a great deal of courage on your part, I have grave doubts whether even now you are really showing the great remorse, which your counsel says you are showing, as you have constantly sought to minimise what you did. In all the circumstances, the credit you are entitled to is significantly reduced and I assess it at 20%.

I take into account your age, your previous good character, the contents of the pre-sentence Report, the many testimonials submitted on your behalf and what has been said so ably on your behalf by your counsel. I also take into account that you were put under some pressure to agree to this corrupt proposal by those who were more sophisticated than you.

In my judgment it is necessary to impose an immediate custodial sentence in this case not only to mark the seriousness of the offence but also to deter others in your position from accepting such corrupt payments. In reaching this conclusion, I take into account the sentences imposed by Cooke J recently in the case of Majeed, Butt, Asif and Amir, and in particular the sentence of 6 months imprisonment on the defendant Amir, which was upheld on appeal. Your counsel has urged me to draw a distinction between your sentence and the sentence imposed on Amir. I accept that there are grounds for making

such a distinction but not such as to justify the imposition of a suspended sentence in your case.

The sentence I impose is one of 4 months imprisonment. Unless you are released earlier under day release you will serve one half of this sentence in custody and then will be released for the remainder of it. Your release will not bring your sentence to an end. If after your release and before the end of the period covered by your sentence you commit any further offence, you may be ordered to return to custody to serve the balance of this sentence outstanding at the date of the further offence, as well as being punished for that new offence.

In addition I am asked to make a confiscation order against you in the agreed sum of £6,000. I determine the benefit you have received in the agreed sum of £6000, determine the recoverable amount to be £6000 and make a confiscation order in the sum of £6000. This is to be paid within 28 days with a sentence of 6 months imprisonment in default to run consecutively to the sentence imposed on Count 1.