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**IN THE CROWN COURT AT SOUTHWARK**

A20200057

1 English Grounds  
(off Battlebridge Lane)  
London  
SE1 2HU

Friday, 11 December 2020

**Before:**  
**HER HONOUR JUDGE TAYLOR**

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**R E G I N A**  
**-v-**  
**CHRISTOPHER TROUSDALE**  
**&**  
**OTHERS**

**MR BAKER and MS CAREY** appeared on behalf of the Prosecution

**MR TIMOTHY JOHN MOLONEY and MS KATE O'RAGHALLAIGH** appeared on behalf of the Defendant

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**PROCEEDINGS**  
(10.34 am to 11.12 am)

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Telephone: 020 7404 1400 Email: crown@epiqglobal.co.uk  
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(10.35 am)

JUDGE TAYLOR: May I first apologise for the slight delay. I have sent the jury out in another case and unfortunately the van did not arrive, the prison van did not arrive which is the reason for it.

MR BAKER: My Lady, may I start by making introductions.

JUDGE TAYLOR: Yes.

MR BAKER: I appear on behalf of the respondent to these proceedings together with my learned friend Ms Carey. The Appellants, Mr Patel, Ms Rudkin and Mr Trousdale are represented by Mr Moloney and Ms O'Raghallaigh who sits behind him and the Appellants Ms Ashraf and Ms Barang appear represented by Mr Patel of Queens Counsel and Mr Smith. Of those five appellants all are present in court except for Ms Rudkin who is not here.

JUDGE TAYLOR: Yes.

MR BAKER: The sixth appellant is Ms Clife.

JUDGE TAYLOR: Yes.

MR BAKER: Who is unrepresented and does not appear today. She was written, as I understand, to by the court on 7 December in terms indicating that the matter will be heard but she did not need to attend.

JUDGE TAYLOR: Yes.

MR BAKER: But there would be CVP available should she wish to avail herself of it.

JUDGE TAYLOR: Thank you.

MR BAKER: She has also been provided by those who instruct me with a copy of the note which I hope that my Lady and my colleagues have seen in relation today and so she is aware of the stance taken in relation to her appeal and the matters arising.

A JUDGE TAYLOR: Yes.

MR BAKER: Although, of course, she was also aware of the stance of the respondents since 2 October when she was written to.

B JUDGE TAYLOR: Yes.

MR BAKER: And so her absence need not prevent proceedings from continuing in her case subject to my Lady's better judgment.

JUDGE TAYLOR: Yes, there is absolutely no detriment to her.

C MR BAKER: Thank you. My Lady, the first matter to set out, and perhaps I ought to bearing in mind the interest in the case, simply identify what these appeals relate to.

D JUDGE TAYLOR: Yes, thank you.

MR BAKER: The convictions of the six appellants and I shall deal with them in chronological order are as follows. Mr Ashraf entered a plea of guilty to an offence of theft on 8 January 2004 before the South Western Magistrates' Court. He was committed for sentence to the Kingston Crown Court where he received a sentence of nine months' imprisonment and made subject to a confiscation order in the sum of £25,000.

F Mr Trousdale pleaded guilty to three charges of false accounting on 8 March 2004 before the Scarborough Justices and was sentenced to a community punishment order with attached condition of probation and a fine.

G Ms Rudkin pleaded guilty at the Burton-on-Trent Magistrates' Court on 23 March to an offence of theft. She was committed for sentence to the Stafford Crown Court where she was sentenced to 12 months' imprisonment suspended for two years with conditions attached of 300 hours of unpaid work and an electronically monitored curfew for six months, and additionally in her case, a H confiscation order was made in the sum of £43,894.15 payable within six months

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and with a default term of 15 months' imprisonment attached.

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Ms Clife pleaded guilty to an offence of fraud on 26 October 2010 before the Basingstoke Magistrates' Court. She was committed to the Winchester Crown Court for sentence where she received a sentence of 100 hours of community service.

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Mr Patel pleaded guilty to an offence of fraud on 6 June 2011 before the Oxford Justices. He was sentenced to 18 weeks imprisonment suspended for 12 months with a condition of curfew for two months.

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Ms Barang pleaded guilty to an offence of fraud on 3 September 2012 between the Luton Justices and she was sentenced to four weeks imprisonment suspended for 12 months with a supervision order as an attached condition.

Those, my Lady are the six appellants that now appear before the court.

JUDGE TAYLOR: Yes.

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MR BAKER: As my Lady and your colleagues know between March 2015 and indeed March 2020 the Criminal Cases Review Commission received applications from a total of 61 individuals, including the six appellants, all formerly sub-post masters or other Post Office workers. They had all been either convicted or pleaded guilty to theft, fraud or false accounting in respect of Post Office monies. The basis for those applications to the CCRC in general terms related to the Horizon computer system and the suggestion that there were faults with that system that could have caused shortfalls in branch accounts for which they had then been prosecuted.

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Separately to that, group litigation was conducted before the High Court.

The group litigation had some 589 claimants. Those claimants --

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JUDGE TAYLOR: Just a moment, Mr Baker, I don't think my colleagues have a copy of the note. Is there a spare copy?

MR BAKER: We have spares.

A JUDGE TAYLOR: Thank you. Yes.

MR BAKER: I do apologise.

JUDGE TAYLOR: Thank you. Yes.

B MR BAKER: That group litigation came effectively to a head last year in two  
judgments from Mr Justice Fraser. The common issued judgment in March and  
the Horizon issued judgment in December. Within those judgments and  
particularly the Horizon issue judgment, findings of fact were made that there  
C were a number of bugs, errors or defects which had the potential to cause  
discrepancies and unexplained shortfalls within branch accounts. And I  
understand in fact that today is the one-year anniversary of the High Court claims  
being settled following those judgments.  
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JUDGE TAYLOR: Thank you. And you are moving on now to paragraph 7?

MR BAKER: We are and I am grateful, my Lady.

E JUDGE TAYLOR: In June and July of this year, the CCRC referred 41 of the  
applicants to the Court of Appeal Criminal Division by way of statements of  
reasons and in respondents notices by the Post Office it was indicated that with  
the exception of three of those, those appeals were not opposed and the opposed  
F appeals and indeed the unopposed appeals will be dealt with in March 2021 by the  
Court of Appeal.

In July of this year, on 13 July, these six appellants were referred by the  
Criminal Cases Review Commission to this court under section 11 of the Criminal  
G Appeal Act of 1995 and the statement of reasons for each of those referrals  
identified that in view of the findings of fact by Mr Justice Fraser in the group  
litigation that there was a real possibility that the Crown Court would set aside  
H their pleas of guilty and stay further proceedings an abuse of process.

So, my Lady, that is how these matters come before the court.

A JUDGE TAYLOR: Yes.

MR BAKER: As my Lady has I hope seen from the note there is a short point of  
procedure to be addressed, because it is the common view of the bar for the  
reasons set out in my note, and I can address you in more detail should you wish  
to hear it, that the operation of section 11 sub-section 2 of the 1995 Act has the  
effect of vacating the guilty pleas and by virtue of section 79 of what is now the  
Senior Courts Act of 1981 as with any other appeal to the Magistrates' Court to  
the Crown Court proceedings followed as hearing to **(inaudible)**

JUDGE TAYLOR: Yes, well, I have looked at that point and I am satisfied that that is  
the correct approach.

MR BAKER: I am extremely grateful, my Lady and in that case we proceed straight to  
what I know the appellants have been looking to for some time which is that in  
respect of each of those six appellants the respondent offers no evidence.

JUDGE TAYLOR: Thank you.

MR BAKER: My Lady, given the public interest in this matter, I don't know whether  
the court would wish to hear a short explanation as to how those decisions were  
reached for the record, and if so, Ms Carey is in a position to provide a short  
explanation to the court.

JUDGE TAYLOR: Yes, thank you. I bear in mind, of course, that there are still some  
matters outstanding in the Court of Appeal Criminal Division. I am sure that  
Ms Carey is aware of that and that anything that will be explained will not be in  
contravention of any guidance that has been given by the Court of Appeal.

MR BAKER: My Lady, no, thank you.

JUDGE TAYLOR: Yes, Ms Carey.

MS CAREY: My Lady, nothing I will say will trespass on those matters before the  
Court of Appeal, but can I indicate this that in addition to writing to the court on

A 2 October 2020, the Post Office wrote to the individual appellants to explain that  
not only that they would not be contesting the appeal but to set out a short  
B explanation for why Post Office had come to that decision. And in those letters  
Post Office stated that as a consequence of the High Court judgements it  
considered that the High Court findings in general terms did in fact establish that  
C Post Office did not routinely investigate or disclose the possibility that evidence  
of the Horizon system may be unreliable.

Turning to each appellant individually. In Mr Ashraf's case in 2003 in his  
D interview he admitted that he took money to pay staff wages and bills and  
thereafter pleaded guilty. In the group litigation he gave a different account and  
said that he had taken monies to repay the retail side of his business which had  
been lending money to the Post Office account to cover unexplained shortfalls.

E In his particular case in order to fairly resolve any appeal, including  
whether there may be any abuse of process issues raised by CCRC, it will be  
necessary to determine which of those two explanations were correct, but as my  
Lady may appreciate given the time that has elapsed since the investigation into  
F Mr Ashraf, the data retention policies of both Post Office and Fujitsu, who  
developed and managed the Horizon system, Post Office no longer has access to  
all of the relevant evidence in his case. He is unable to access the transaction data  
from Horizon to check whether there was in fact any Horizon generated shortfall  
or not, and so bearing all of those matter in mind, Post Office has come to the  
G view that there is no in his case a realistic prospect of conviction.

H Mrs Barang was interviewed in May 2012. She stated that she had  
accepted transaction corrections which are essentially the Post Office way of  
correcting a discrepancy which resulted in cash shortages and she had taken  
money to cover those unexplained losses in her branch. She made reference in

A her interview to problems with Horizon and accepted inflating the cash figures to  
balance the branch account. It is clear therefore that the reliability of Horizon was  
essential to her criminal case.

B Mrs Clife's branch was audited in June 2010. In her subsequent interview  
she stated there had been discrepancies in the branch accounts such that she had  
inflated the cash on hand figures, i.e. the amount of money immediately available  
in any trading period in order to balance those accounts.

C During mitigation in her proceedings and her sentence the court was told  
that the problems with the accounts had worsened after Horizon had been  
installed, and indeed during the group litigation Mrs Clife explained that she was  
unaware that there could be other explanation, namely the bug, errors and defects  
D for the alleged shortfall. So, again in her case, the reliability of Horizon was  
therefore essential.

E Mr Patel in 2010 and 2011 accepted falsifying branch trading statements to  
cover up for the fact that he had used Post Office money to pay bills and keep his  
business afloat. At that stage he did not appear to suggest that problems with  
Horizon were the reason for his conduct. However, the CCRC statement of  
F reasons makes reference to Mr Patel encountering what pronounced shortages  
from 2008 onwards such that the reliability of Horizon is likely to be an issue in  
his case.

G In relation to Mr Patel Post Office has paid particular attention to parts  
with a code for Crown prosecutors which enables the prosecution in certain  
circumstances to consider whether the public interest requires there to be a  
prosecution. I can take my Lady to the particular paragraphs if you need me to,  
H but Post Office have considered those public interest factors in relation to the  
particular facts of his case and Post Office has determined that the public interest



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test is not met.

May I say publicly for the record for those who don't understand there is of course a two-stage test where there is an evidential sufficiency and a realistic prospect of conviction thereby and a public interest test. Both those tests need to be met in order for a prosecution to be brought and given that the Post Office do not consider that the public interest test is met, that is the reason for the offering of no evidence in his case.

JUDGE TAYLOR: Yes, thank you.

MS CAREY: Turning to Mrs Rudkin in 2008 in her interview, she stated that the branch had been experiencing losses which she has initially tried to make good with her own money. That had left her unable to pay her business and household bills. She explained that she then used Post Office money to pay those bills intending to repay the sums taken, and she accepted inflating the cash figures in the branch accounts in order to conceal those losses.

There are a number of calls from her branch to the helpdesk relating to Horizon and balancing issues and so the reliability of Horizon in her case was therefore essential.

And finally, Mr Trousdale who was interviewed back in 2003. He stated that he had been experiencing unexplained shortages of cash and so had falsified the branch accounts to cover up those shortages. He told the interviewers that he had received a large number of error notices. They were the forerunners of transaction corrections, again used by Post Office to correct discrepancies in the accounts. He found those error notices confusing as he thought he had been following proper procedures. The reliability of Horizon therefore in his case was also essential.

And my Lady, those are the reasons in short for why Post Office has taken

A the decision to offer no evidence in relation to these six appellants.

JUDGE TAYLOR: Yes, thank you, Ms Carey. Yes, Mr Moloney.

MR MOLONEY: Yes, thank you, my Lady. I represent Mr Patel, Mr Trousdale and  
Mrs Rudkin.

B JUDGE TAYLOR: Yes.

MR MOLONEY: We are grateful to the court for the course that has been taken today  
and we have only one application and that is for the defendant's cost order on  
C behalf of Mr Trousdale. I have a receipt for £130 for return train fare from  
Whitby to London today.

JUDGE TAYLOR: Yes, thank you.

MR MOLONEY: Thank you, my Lady.

D JUDGE TAYLOR: Mr Patel.

MR PATEL: Yes, my I please, my Lady. May I just mention one matter as I know that  
Mr Ashraf wants this to be mentioned. It is in relation to the prosecution  
E characterisation which has given two different explanations. He wants it to be  
known, less it to be reported, that that is what happened. He disputes that. I have  
explained to him that it matters not for present purposes but he just wanted me to  
F mention that and I know the court will not mind that I had.

JUDGE TAYLOR: Yes, thank you.

MR PATEL: I am very grateful. Otherwise I would only ask **(inaudible)** similarly for  
**(inaudible)**

G **(Some disturbance with microphones in court room)**

MR BAKER: I think it may be Mrs Rudkin and I would ask that they mute their  
microphones.

H JUDGE TAYLOR: Yes, could all those on CVP mute your microphones please. Yes,  
if you can leave the camera on and mute the microphone. **(Pause)** What I am

A going to ask you to do is just to mute Mrs Rudkin for a moment whilst Mr Patel finishes because I think we may have to go back through some of this for her and it maybe best just to mute her at the moment and try again. Yes, all right, thank you. Yes, Mr Patel.

B MR PATEL: Thank you, my Lady, I will be as quickly as possible. May I apply for two defendant's costs orders. Firstly, Mr Jasmine De Barang. I have produced a schedule of costs together with receipts. Shall I leave those with my Lady's clerk.

C JUDGE TAYLOR: Yes, thank you.

D MR PATEL: All right. The total amount is £1,697.90 and that comprises legal representation in the proceedings before and also travel costs. And in respect of Mr Ashraf, can we ask for 14 days to submit his application because we are still waiting on some receipts.

JUDGE TAYLOR: Yes, thank you.

MR PATEL: Thank you very much.

E JUDGE TAYLOR: What I think I am going to do, I have just had a word with the Magistrates about the cost for Mr Trousdale. So, we will make a defendant's cost order for £130 in the case of Mr Trousdale and as far as the other two defendants are concerned, appellants are concerned, if you submit the costs schedule the court will make an order appropriately.

F MR PATEL: I am grateful, my Lady.

JUDGE TAYLOR: Thank you. Yes.

G MS CAREY: I don't know if my Lady wishes to try and resume with Mrs Rudkin so that she can hear the explanation that I gave a moment or two ago. I am entirely in the technical hands, I suspect, of both her and indeed the court.

H JUDGE TAYLOR: Yes, I don't know whether the court has a telephone number for her.

A MS CAREY: It maybe that the solicitors may have.

JUDGE TAYLOR: Yes. What I am going to ask him to do is ring her while she is still  
on mute within the court and see whether she can -- I think she has now  
disappeared again. And whether she can join us with her microphone muted but  
B with her audio on and he screen on.

MR BAKER: My Lady, I have to say I have received during the course of this hearing  
a message from Mr Vamos from Peters and Peters who is also attempting to  
C follow and certainly the sound quality via the CVP is a difficulty for him as well.  
I wonder if in Ms Rudkin's case is whether the solution may be that the telephone  
link can be used for her and the link left on speaker so that she can hear through  
D the telephone link what is being said.

JUDGE TAYLOR: If I think if it is possible. It may simple be that what the court finds  
generally is that sometimes the people go out of the CVP and come back in again  
and for some reason it is better. So, if she can try and reconnect we will see  
E whether she can do that, otherwise we may have to resort to a spider phone or  
something similar.

MR PATEL: May I also perhaps suggest that a further enquiry of Mrs Rudkin which is  
F that given that Mr Baker and Ms Carey were kind enough to set out their reasons  
in writing for the course that they have taken, whether or not if we were  
unsuccessful in seeking either create a video or audio link she would be content to  
proceed in any event.

G JUDGE TAYLOR: Yes, thank you. And so I am going to ask if you wouldn't mind,  
solicitor, just trying another go, thank you. Mr Baker, I don't know whether  
Mr Vamos would like to do the same as in go out and come back in again and see  
H whether that works better.

MR BAKER: We will pass that message on.

A JUDGE TAYLOR: Thank you. So, Mrs Rudkin appears to be back but no camera at  
present. Perhaps the best thing is just to rise for a few moments whilst this is  
being sorted out. I think it is preferable if she is able to attend as with all of the  
appellants, thank you.

B

**(11.02 am)**

**(A short adjournment)**

**(11.10 am)**

C JUDGE TAYLOR: This is the cost schedule in relation to Ms Barang, isn't it that has  
just been passed up. Yes, thank you. Well, in relation to all of these appeals we  
allow the appeals and enter not guilty verdicts in relation to all appeals. We also  
grant the costs order in relation to Jasmine Barang. That is the sum of £1,697.90.

D

May I just say that I am sure that all of the appellants are grateful for the  
approach that the Post Office has taken finally to this matter and that it can be put  
to rest for them.

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MS CAREY: I am grateful, thank you.

JUDGE TAYLOR: Thank you.

**(11.12 am)**

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**(Court adjourned)**

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Lower Ground, 18-22 Furnival Street, London EC4A 1JS

Telephone: 020 7404 1400

B Email: [crown@epiqglobal.co.uk](mailto:crown@epiqglobal.co.uk)

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