



**In The Supreme Court of Bermuda**  
**Appellate Jurisdiction**  
**2011 No. 53**

**BETWEEN:**

**STEPHEN COSHAM**  
**(Police Inspector)**

**Appellant**

**-and-**

**JAHMEEKAH IFARAR WILSON**

**Respondent**

Date of Hearing: 31<sup>st</sup> January 2012

Cindy Clarke for the Appellant;  
Mark Daniels for the Respondent.

**REASONS FOR JUDGMENT**

1. This is a prosecutor's appeal against sentence. I heard this matter on 31<sup>st</sup> January 2012, when I allowed the appeal, quashed the fines imposed by the learned acting Magistrate, and substituted a sentence of immediate imprisonment, being 6 months on Count 1 and 12 months on Count 2, to run concurrent. I promised to give written reasons, which I now do.

2. The respondent was employed by the Bermuda Police Service as a civilian data entry clerk, and she was assigned to the Magistrates Court where she was responsible for entering traffic tickets onto the Court's computer system. That meant that she had access to the database, and could manipulate it. In particular, she could withdraw parking tickets. The prosecution's case was that the respondent had withdrawn 79 parking tickets, 9 of which related to a vehicle registered to her sister.

3. She was charged on an Information with 5 Counts. Originally she was jointly charged with her boyfriend on counts 1 and 2, but he pled Guilty at an early stage. She entered pleas of Not Guilty, and the matter proceeded to trial, which commenced on 21<sup>st</sup> September 2011. However, during the course of the proceedings she changed her plea to Guilty on Counts 1 and 3, and that was accepted by the prosecutor and the Court. Those Counts were as follows:

“1. Between the 1<sup>st</sup> day of April 2010 and the 8<sup>th</sup> day of October 2010, in the Islands of Bermuda, conspired together and with each other, by fraudulent means to defraud the Government of Bermuda, by preventing the collection of revenue due to the Government of Bermuda.

3. Between the 1<sup>st</sup> day of April 2010 and the 8<sup>th</sup> day of October 2010, in the Islands of Bermuda,, being employed in the public service, did corruptly attempt to obtain a benefit on account of anything already done or afterwards to be done by you in the discharge of your duties of your office; namely by entering false information into the Criminal Justice Information System in respect of parking tickets.”

4. The evidence as to corrupt intent was strong, and included email exchanges and SMS text messages recovered from her cell-phone, including the following exchange with her boyfriend, Hill, on 18<sup>th</sup> June 2010:

“Hill: Dutty needs a speedn ticket pulled  
Wilson: OK  
Hill: He got cash  
Wilson: OK . . . get it from him  
Hill: Ya”

And the following on 24<sup>th</sup> June 2010:

Hill: Got more tickets can u do those too  
Hill: Speed due care n failn stop  
Wilson: ya . . . I can. But they gotta pay me.”

5. In imposing sentence the learned acting magistrate said –

“These are a series of serious offences. I have to impose a sentence which is not trifling to deter others. I accept Ms. Wilson’s remorse: I note there was a guilty plea in face of overwhelming evidence after a trial this week. I accept the Crown’s evidence I heard. The plea came after much waste of the Court’s time; therefore, no significant discount in sentence may be given. This case involves no significant mitigating factors in my view apart from age and previous good character. . . . as a public servant the defendant abused her position by pulling the tickets concerned and or attempting to facilitate such. The evidence in the aborted trial for the Crown was overwhelming and I accept that evidence. This behavior of abuse of her privilege when working in such a sensitive area of the police is a scandalous and appalling breach of trust (position). Your offences occurred over a period of time which makes them more egregious.”

6. Notwithstanding those remarks, the magistrate decided that it was appropriate to impose fines for each offence, as follows:

Count 1 – \$1,350 to be paid forthwith with 3 months imprisonment in default  
Count 3 – \$6,750 to be paid on or before 30<sup>th</sup> November, with 2 years  
imprisonment in default

7. Apparently the magistrate did this without any consideration of the respondent’s means to pay any such fines: that at least is the prosecution’s account of events, and it is supported by the absence of any note in the record of such an inquiry. Except perhaps in the most routine traffic cases it is incumbent upon any court to conduct such an inquiry before imposing a fine. Had that been done in this case it would have been apparent that she did not have the means to pay the substantial fines imposed, and that has been borne out by events, as I am told that she has only paid to date something in the region of \$5,000 on the fines. However, that is not the basis on which I interfere with his decision. I have set aside the fines for the reasons explained below, and the money already paid will now have to be returned to her.

8. The reason that I set aside the fines is that even such substantial sums were a manifestly inadequate penalty for these offences. In that regard I accept the submissions of the Crown that fines fall outside the range of sentence which a magistrate, properly applying his mind to all the relevant factors, could reasonably consider appropriate in such a case. I accept the argument that such a means of dealing with these offences was not proportionate to the gravity of the respondent's acts and that the aggravating circumstances were not adequately accounted for.

9. When properly considered, these were very serious offences. This young lady was put in a position of trust. She was employed by the police service working in a court environment and she must have understood what that involved and required of her. She was given access to sensitive information and the ability to change it. She did that. The evidence was plain that she was doing it for money, as is demonstrated by the SMS text messages of 18<sup>th</sup> and 24<sup>th</sup> June set out above. It is clear from that that she was dishonestly soliciting money for interfering with these records and deleting these tickets. The nine parking tickets that were withdrawn for her sister may not have involved money, but there she was doing a favour for her family member and that alone would be serious enough. And then there are the other instances, set out in the statement of facts, of interference with warrants and so on for her sister and Mr. Hill. All of that was corrupt.

10. People who are put in positions of responsibility and trust like this have to understand that if they breach that trust it is not just a matter of a fine. You cannot buy your way out of these things. Nor is it an excuse to say, as she did, that it was just part of the culture. I do not in fact accept that, but even if it were, if you are offered the opportunity at this level and if you see that those around you are corrupt, then you should stand up to that, and the law will encourage people to stand up for what is right and honest by penalizing them if they do something that is wrong and dishonest. The Magistrate should have understood that. He was quite wrong to impose fines. I understand that they were substantial fines but they could not meet the vice that was present here. Corrupt offences like this require sentences of immediate imprisonment and that is what the court should always impose bar really exceptional circumstances. Family

circumstances, even young children, are not really exceptional circumstances, and an immediate sentence of imprisonment should have been imposed here.

11. Had it been me sentencing at the time I would have thought that the appropriate sentence was 18 months immediate imprisonment , being six months on Count 1 and twelve months on Count 3 to run consecutively. As it is, given the intervening period and as an act of mercy, I reduced that to an overall total of twelve months, by making the sentences concurrent.

Dated this 29<sup>th</sup> day of February 2012

Richard Ground.  
Chief Justice