

**IN THE CROWN COURT IN NORTHERN IRELAND**

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**THE QUEEN**

**v**

**PATRICK BUCKLEY**

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**HORNER J**

**Sentencing Remarks**

[1] You are 61 years. You have pleaded guilty to 14 counts of Conspiracy to Defraud the Secretary of State by assisting in sham marriages. All the offences relate to your role as a solemniser of unions which primarily took place between women of Portuguese origin and therefore EEA nationals and mostly Bangladeshi males and therefore non EEA citizens. These offences occurred in a period from 28 May 2008 until 2 September 2009.

[2] All these offences were committed after a BBC Spotlight programme was shown outlining the criminal activities of a Mr Success in the North West of Northern Ireland and Donegal in arranging sham marriages. Your plea of guilty has acknowledged that after this date you wilfully ignored the circumstances that must have made it blindingly obvious to you that you were participating in marriages of convenience designed to give non EEA citizens rights of residence in the United Kingdom, in general, and Northern Ireland, in particular.

[3] It has been specifically agreed by the Prosecution and the Defence that in the first series of marriages, which you were involved in before the Spotlight programme, you were foolish as to the role you played but in due course the true nature of the marriages became clear. The financial gain which you received was the same as you would have received for lawful marriages.

[4] Some of the offences were committed before 7 April 2009 and some were committed after 7 April 2009. Some are therefore governed by the Criminal Justice

(Northern Ireland) Order 1996 and some by the Criminal Justice (Northern Ireland) Order 2008.

- [5] There are a number of general points which I wish to make clear at the outset.
- (a) The crimes to which you plead guilty are not victimless crimes. Nor do they constitute technical infringements of the criminal law. Anyone who thinks that they are is seriously misguided. They are serious criminal offences and must be treated as such. If the laws relating to immigration are not enforced, then everyone in society can be affected in a whole host of different ways such as by placing unreasonable pressure on the NHS, social housing, education, the benefits system and in other countless ways. These are actions which have potential serious and harmful consequences for society.
- (b) There can be no doubt that in the UK in general, and in NI in particular, serious breaches of immigration law have become much more prevalent. It is noteworthy that the penalty for breach of Section 25 of the Immigration Act has been increased on two occasions since the seminal case of R v Le & Stark [1999] 1 Cr App Reports 422 when the maximum sentence was 7 years. On 14 February 2000 it was increased to 10 years and 3 years later to 14 years. In respect of conspiracy to defraud the maximum sentence is life imprisonment. There can be no doubt that Parliament regards this type of offending as being very serious.

It was stated in R v Oliviera & Ors [2013] 2 Cr App Reports 25:

“The increases are a clear indication of the significance which Parliament attaches to these offences.”

These breaches of immigration law are difficult offences to detect and to find the evidence necessary to secure a conviction. Everyone suffers if immigration laws are flouted. This is why the Court of Appeal in England and Wales which, for obvious reasons has a much greater opportunity to deal with these types of offences has said (in the Oliviera case):

“Such cases, except for the most minor cases, call for immediate custody”.

And in R v Lacko & Husar (2012) 2 CrAppR(S) 102:

“Stern deterrent sentences are called for in these types of cases.”

- (c) In R v Le & Stark Lord Bingham said:

“There are indeed a number of features which may aggravate the commission of this offence. One aggravating feature plainly is where the offence has been repeated and the defendant comes before the court with a record of violations of this provision. It is also an aggravating feature where the offence has been committed for financial gain, and it is an aggravating feature where the illegal entry has been facilitated for strangers as opposed to a spouse or a close member of the family. In cases of conspiracy it is an aggravating feature where the offence has been committed over a period and, whether or not there is a conspiracy the offence is aggravated by a high degree of planning, organisation and sophistication. Plainly the more prominent the role of the defendant the greater the aggravation of the offence. It is further aggravated if it is committed in relation to a large number of illegal entrants as opposed to one or a very small number.”

- (d) It needs to be made clear to all those who involve themselves in organising or arranging sham marriages that an immediate deterrent custodial sentence should be expected in all but the most exceptional of circumstances. The message to all in Northern Ireland, including the different ethnic communities who are most affected, should be loud and clear, namely that involvement in a sham marriage, and in particular where there is gain involved will mean that if you are caught you will go to prison.

[6] I have considered all the various authorities referred to me including R v Le & Stark, R v Oliveria & Ors, R v Olusanja(2013) 2CrAppR(S) 4, R v Lacko & Husar and R v Shittu [2008] NICC 49. I have been told by the prosecution that the range in terms of imprisonment for your type of offending is 3 years to 6 years. The Defence do not demur. I have considered all the authorities and accept that submission. I consider the starting point for the role that you played in these offences is 4½ years taking into account the principle of totality.

[7] The aggravating factors are:

- (i) Your involvement did not arise out of ties of friendship or kinship. On one view these were commercial transactions for which you were paid your normal fee of £300/£350 plus travel. There is no doubt that on the days where you participated in multiple sham marriages this represented, by any standards, generous remuneration. At the relevant time you were struggling financially and the fees for these sham marriages represented an important financial reward for you. However in fairness to you, I also have no doubt from listening to the evidence at the first trial that you had a genuine affinity

with these illegal immigrants, mostly Bangladeshi males, who existed at the very margins of society. Many of them were exploited because of their illegal status. You saw your actions as a way of assisting these desperate people. So your motivation was mixed, albeit misguided.

- (ii) These participants were brought to you by a solicitor, immigration advisors and important people in these illegal immigrants' ethnic communities. They saw arranging sham marriages as a way of cashing in and making considerable profits at the expense of these poor people who desperately wanted to better their lot in life. As Mr Weir QC fairly put it for the prosecution, you received your usual fee for your work, not a share of the profits. I also accept that these other people who were organising the conspiracies brought these people to you knowing that you would be sympathetic to their clients' predicaments. By acting as you did and solemnising these sham marriages you were undermining the institution of marriage and its very sanctity. This sits uncomfortably with your claims about the importance of marriage to your ministry. I also accept that you were genuinely indignant when you found out how these desperate people were being exploited and the vast sums they had to pay so that they could remain in Northern Ireland. But it is with some disappointment, I must record, not so indignant that you withdrew your services completely or reported them to the police or refused to accept further fees for officiating at these charades in the future. It can be no coincidence that those at the heart of the conspiracy brought the prospective marriage participants to you as you had a history of marrying those who could best be described as society's outsiders both north and south of the border. You treated the participants in these sham marriages in exactly the same way as you treated every other legal marriage you solemnised, including going to the unnecessary length of seeing the bride and groom before the ceremony. I have no doubt that the jury's inability to agree at the first trial was for this very reason.
- (iii) Your actions assisted multiple illegal immigrants in their attempts to hoodwink the immigration authorities over a period of many months.
- (iv) You were an important cog in the wheel of the conspiracy. I accept that you were not essential to it. Both bride and groom had to meet the Registrar of Marriages in the Republic of Ireland in any event and the Registrar could have married them. However it is likely that if multiple marriages had taken place on one particular day the Registrar's suspicions would have been finally aroused. Accordingly your participation in the sham marriages as solemniser allowed them to take place more quickly and with less chance of detection.
- (v) There was a considerable degree of planning which involved exploiting the loophole of the more generous legislation in the Republic of Ireland for solemnising marriages.

[8] The mitigating factors are:

- (i) You come to this court, not just with a clear record, but with a good character. All your life you have sided with the poor and the downtrodden. I have heard from a number of witnesses that you welcomed the poor, the sick and the vulnerable and that your parish door is always open to all especially society's outcasts and outlaws. Regardless of any dispute you may have had with the Roman Catholic Church it cannot be denied that you provided a welcome and solace over the years to many who society had forgotten or wanted to forget. You may have been a turbulent priest, but you have much to be proud of for your works of charity. But what you did in solemnising these marriages for payment was not a technical offence. The plea put forward by your senior counsel was not put forward on that basis. What you did was wrong; you committed a series of serious crimes for which you obtained a financial reward.
- (ii) As a consequence you have now lost your hard won reputation; you are now a convicted criminal. You have lost face and standing in the community. Nothing can disguise the fact that you, as someone who professed to be a man of God, and who should have been setting an example to others of how to behave, let yourself down, let your ministry down and betrayed the trust of all those to whom you should have been providing leadership and guidance. The loss of your reputation is bound to hit you hard.
- (iii) You have had these offences hanging over you for many years. The burden has been a considerable one and it has affected your mental health.
- (iv) You have pleaded guilty. It is true that the plea has been received at a late stage. There had been a long trial and the jury had been unable to agree as to your guilt. There would have had to have been another long trial. There can be no doubt that by your plea you have saved time, costs, expense and upset. It is, as Mr Weir QC conceded of considerable benefit to the prosecution. However there must be some doubt from your reported comments to the press whether you are truly contrite.

[9] As I have said I consider that the appropriate starting point was 4½ years. Taking into account your role in events, the aggravating factors and mitigating factors and the plea of guilty which although made late in the day has been of considerable assistance to the prosecution, I consider that the appropriate sentence is 3½ years. Accordingly, I sentence you to a period of 3½ years on each of the offences, such periods to run concurrently. I need not distinguish between the offences committed under the different Orders

[10] I had been given a bundle of medical reports which relate to various diseases and complaints from which you suffer. I received these reports shortly before you were re-arraigned and the pleas of guilty were entered. I wanted time to consider them. They include reports from a Cardiologist, a Gastroenterologist, a Psychiatrist and a Physician. It is clear you are not a well man. Your previous trial significantly exacerbated some of the symptoms associated with your underlying medical conditions. These include a heart condition, Crohn's Disease and psychiatric upset.

[11] The documents also include a report from an eminent Consultant Physician confirming that you are HIV positive and have been for some years. Your condition is being carefully managed by drug therapy expertly administered at the RVH. There is some concern that this condition has also affected your heart. There is no doubt that because of this condition you are at risk of developing other health complications. It is important that you continue to be treated by your consultant physician at the RVH. Any interruption of your treatment will compound your other health risks and in particular your cardiac problem, your gastroenterology problem and your mental health. I am especially grateful to Dr Trouton, Dr Johnston, Dr McGarry and Dr Quah for their considerable assistance in setting out your medical problems. I do not doubt that making this information available to the court and to the general public will have been a considerable punishment in itself. Although you live in the public eye, you are a private man. No one reading these medical reports can doubt that a further trial and a term of imprisonment will have grave consequences for your health. Having considered all the reports, I am satisfied that even though I had intended to pass an immediate custodial sentence, I should suspend it on the basis of what the prosecution quite frankly accepts could constitute highly exceptional circumstances. I am satisfied that the medical issues raised in these reports do indeed satisfy the principle of exceptionality. Accordingly I suspend the sentence of 3½ years for a period of 3 years. This means that the sentence will not take effect unless during the period of suspension you commit in Northern Ireland another offence punishable with imprisonment. If so, then you will be liable to have the suspended sentence brought into effect.