

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

Delivered: 21/12/07

**IN THE CROWN COURT SITTING IN NORTHERN IRELAND
NEWRY CROWN COURT SITTING IN BELFAST**

THE QUEEN

-v-

WILLIAM DAVID JOHN McCracken

TREACY J

[1] William John McCracken you have pleaded guilty to 15 counts of making a false instrument contrary to Section 1 of the Forgery and Counterfeiting Act 1981. These counts are - (1), (3), (5), (7), (9), (11), (13), (15), (17), (19), (39), (52), (53), (54) and (55).

[2] These offences are all of a similar nature involving falsification of prescribed documents required for EU (and domestic) compliant export of pigs.

[3] The first 11 counts involved forging the identity of the owner of the pig consignments in the animal export health certificates. These offences occurred in 2001.

[4] The final 4 counts involved similar forgeries in respect of a number of Movement Permits. In these instances the names of a further four farmers were wrongly used. These offences occurred in 2003.

[5] The forging of prescribed documents required for the lawful and controlled export of pigs is an extremely grave matter. Those responsible for investigating and successfully prosecuting this defendant are to be commended for their vigilance and diligence. It demonstrates to others how vigorously the relevant public authorities continue to police the enforcement of procedures for export of livestock in the public interest.

[6] Daniel Gray, an enforcement officer with the Department of Agriculture and Regional Development (DARD) responsible for the enforcement of animal health and welfare legislation became aware in September 2001 of alleged illegal exports of pigs by the defendant to a meat plant in Drumlish, County Longford. Checks were carried out with the farmers named on the accompanying certificates as the owner of the pigs. These checks established that none of the sows had been exported from any of the identified premises to Green Pasture Meats in Drumlish. (“the meat plant”).

[7] The system for export required the pigs to be examined for health by veterinary inspectors on both sides of the border – at the point of departure in Northern Ireland, and again at the meat plant both ante-mortem and post-mortem. It is of singular importance in this case that the public authorities concerned accept that the pigs in question were examined by vets here in Northern Ireland and again at the meat plant and that because they were in fact examined and passed as fit for slaughter and consumption there is absolutely nothing to suggest that the pigs, the subject of these particular transactions, were anything other than healthy.

[8] However the real danger in the present case relates to the fact that the prescribed procedures were not followed thus creating a risk to the pig industry in Northern Ireland. Mr Mateer QC informed the court that he had checked with DARD who indicated that in 2001 Northern Ireland livestock and products output was worth £965 million of which finished pigs were worth £62 million. As an example of risk arising from disease within the livestock sector the foot and mouth outbreak that began in February 2001 cost Northern Ireland pig producers £1.1 million and DARD £24.2 million.

[9] As part of the procedure at the meat plant the inspecting vet recorded the farm of origin as notified to them by the documentation accompanying the consignment. The certifying vet in Northern Ireland was also obliged to return confirmation of the export to the DARD who in turn would notify the southern authorities by means of an ANIMO notification – which contained the details of the name and address of the owner of the consignment.

[10] The fact that the farm of origin was wrongly recorded meant that *should* there have been disease detected in any of the pigs the authorities would have been misled as to the origin of the pigs and therefore to the likely source of the disease. This could have led to stringent quarantine measures being imposed on the wrong farm – in this case the farmers whose details were falsely relied upon. They would have been subject to restriction on their livelihood until the true state of affairs became known. Further as long as efforts remained focused on the wrong location the true source of any disease would continue unrestricted – with potential further unrestricted movements going on and the risk associated with that.

[11] Even though it is acknowledged in this case that it was probable that Mr McCracken would have been traced as having been involved in the event of disease being detected the chances of **quickly** tracking down the true source of the outbreak would have been greatly hampered.

[12] The forged documents involved significant quantities of pigs on each occasion in respect of the various counts. In interview the accused denied making the forgeries or writing the signatures. However there was evidence to link the signatures apparently written by farmers Abraham, Bullick, Hunter, Jackson and Smyth with that of the defendant William John McCracken.

[13] I have already indicated that the real danger created by the accused's activities in this case related to the risk he created to the pig industry through refusing to comply with the appropriate procedures. In addition to that his activities also struck at the credibility of the Department's practices and procedures in regard to management of the pig industry in Northern Ireland. Since membership of the EU it is no longer permitted for Member States to impose trade barriers on imports. It is therefore all the more important to the pig industry that the only permissible barrier – namely a ban on import due to a disease outbreak – is minimised as much as possible. Receiving Member States depend on the consigning country to devise and implement a stringent system to ensure freedom from disease and promotion of public health. The defendant's activities struck at the integrity of that system. That said however this case happily demonstrates the vigour and success with which the relevant public authorities secured the integrity of its systems.

[14] Accordingly, even with a clear record, someone who systematically flouts the established procedures will inevitably face a significant custodial sentence not only to punish but also to deter others from engaging in such potentially very damaging conduct. Those avoiding compliance or tempted to avoid compliance with export procedures established in the public interest are now explicitly on notice of the consequences of non compliance.

[15] Mr Laurence McCrudden QC on behalf of the defendant made a very eloquent and effective plea on his client's behalf as a result of which I have been persuaded that in the exceptional circumstances of this case it is appropriate to depart from the immediate sentence of custody which would ordinarily follow for such charges.

[16] Undoubtedly in a complicated case of this nature which would have taken a very considerable period of time the plea of guilty, even if very belated, cannot be entirely ignored. However I remind myself of the comments of the Court of Appeal in Attorney General's Reference (No 1 of

2006) McDonald and Others (2006) NIC4 and in particular paragraph 19 thereof in respect of belated pleas.

[17] The defendant is 42, he has a clear record and is obviously held in high esteem judging by the content and number of the many testimonials handed into court. He lives alone, is in a modest way of going with no savings or property apart from the 2 ½ acre farm and homestead in which he has lived all his life. The court was also informed that following a most rigorous inspection his holding has been given Approved Assembly Centre status and that Counsel believed that his farm was the first EU approved Assembly Centre which, the court was told without demur, amounted to an effective export licence for pigs. It therefore appears that one beneficial effect of the present proceedings is that the defendant has reorganised himself in a manner which should ensure future compliance.

[19] It is of particular significance in this case that there has already been a judicial determination that by reason of the delay there has been a breach of the reasonable time guarantee enshrined in Article 6 of the European Convention. This did not lead to a stay of the proceedings but it is common case that is a matter that the court is entitled to take into account in mitigation of sentence.

[20] As I have earlier indicated I consider that a sentence of imprisonment is warranted in a case of this nature and that it should be 2 years. However having regard to the various factors identified above I consider that it is appropriate to suspend the sentence for 3 years.