Judicial Communications Office

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COURT DISMISSES APPEAL AGAINST CONVICTION

Summary of Judgment

The Court of Appeal today dismissed an appeal against conviction by a former police officer who was found guilty of one count of intending to pervert the course of justice and sentenced to six months imprisonment.

Background

Alfred David Beattie ("the appellant") was a serving police officer. On 25 April 2015 he drank a half bottle of wine and got into his car to drive to his girlfriend's house. Approximately a mile from his home he lost control of his vehicle and swerved into a tree. He left the vehicle and walked home believing he did not need to report the accident to the police as no other people or vehicles had been involved. After returning home he drank more alcohol "to calm himself" and then decided to return to the vehicle to damage it with a screwdriver to make it look as if it had been stolen. He stated that he was very drunk at this stage.

Police officers called at his home the following day in connection with the recovery of the vehicle. The appellant advised them that he had parked the car at the side of his house at 6.30 pm the previous evening and did not go out in it thereafter. He claimed not to own the screwdriver found in the footwell of the driver's seat. On 27 April, the appellant reflected on what he had done and contacted his brother-in-law, who was also a police officer. He accompanied the appellant to Lisburn Police Station where he was arrested and cautioned.

The appellant was transferred to Antrim Custody Suite where he was assessed by the custody sergeant. He told the sergeant that he was frightened of where he stood now and was noted to be upset, shaking and making noises indicative of crying. The custody sergeant noted that on the journey to Antrim in the police car, the appellant had stated that he had handed his firearm into police "to protect himself from himself" (the firearm had in fact been handed over by his brother-in-law). The sergeant considered that the appellant needed to be assessed for fitness for both detention and interview and pending that assessment by the forensic medical officer ("FMO") he directed that the appellant should be subject to 15 minute checks. The FMO examined the appellant and considered he was fit for detention and interview. He had no concerns that the appellant would cause any harm to himself if he was released from custody as he had stated that he loved his parents too much to do any harm to himself. The FMO also recorded that the appellant was to be released into the care of relatives.

The issues in the appeal

The appellant objected at trial to the admission of his interview evidence. He claimed that he should have been treated as a "mentally vulnerable" person under Code C of the Police and

Criminal Evidence (NI) Order 1989 Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers ("Code C"). The trial judge conducted a *voir dire*, hearing evidence from the arresting/interviewing officer, the FMO and Professor Farnan, a FMO called on behalf of the appellant. Professor Farnan, who had never examined the appellant, maintained that he was mentally vulnerable when he was being interviewed noting his past history of depression, his appearance on booking into the police station and his comment that he had given up his firearm. The FMO, however, had the advantage of examining the appellant immediately prior to the interview and the appellant volunteered a clear account of his background. He was satisfied that the appellant was not mentally vulnerable. The arresting/interviewing officer gave evidence that the appellant was clearly upset to find himself in that situation and that he had liaised with the custody sergeant. The custody sergeant, whose responsibility it was to determine whether appellant was mentally vulnerable, was not called as a witness.

The trial judge was satisfied beyond reasonable doubt that the appellant was not mentally vulnerable at the time of the interview and there was no reason to exclude his interview evidence.

Consideration

The case made by the appellant was that that the failure to provide an appropriate adult was contrary to the requirements of Code C. The Court of Appeal noted that the trial judge had no evidence from the custody sergeant and no statement had been taken from him. It commented that it may be onerous to require retired officers to return to give evidence in all cases in which there is some issue concerned with a custody record but that this was a case in which the appellant had given notice through his defence statement of the basis upon which he was going to challenge the admission of the interviews.

The Court said it would have been appropriate for the custody sergeant in this case to have been called to give evidence as the issue was directly concerned with his determination of an important protection under Code C. The Court, however, did not accept that in the absence of the custody sergeant, the trial judge should have adopted an adverse inference about whether he had a suspicion of mental vulnerability:

> "The custody sergeant was careful in light, in particular, of the comments made in the police vehicle on the way to Antrim Custody Suite. His decisions to require assessment by the FMO and to order a 15 minute check on the appellant were indicators of that care. It is clear, however, that [the FMO] was able to deal with the concerns about the appellant's vulnerability and the custody record shows that he communicated this directly to the custody sergeant. The fact that the [FMO] saw the appellant placed him at a considerable advantage. His conclusion was supported by [the arresting/interviewing officer]. It was also supported by the fact that the experienced solicitor attending the appellant did not raise any issue about the need for an appropriate adult. We consider that the drawing of an adverse inference in this case was not supported by that evidence."

The Court of Appeal accepted that the trial judge's conclusion that there was no breach of Code C was unimpeachable and that his charge to the jury had been scrupulously fair. It dismissed the appeal.

NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available on the Judiciary NI website (www.judiciary-ni.gov.uk).

ENDS

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