



[2021] JMSC Crim. 3

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE CIRCUIT COURT FOR THE PARISH OF ST. JAMES

HOLDEN AT MONTEGO BAY

INFORMATION NO. ST. J32/2018 (1)

BETWEEN

REGINA

CROWN

AND

RANDY BECKFORD AND KIDANI REID

DEFENDANT

Mrs. Kimberley Dell-Williams, Mrs. Kemiesha Johnson-O'Connor and Mr. Hodine Williams instructed by the Director of Public Prosecutions for the Crown

Mr. Charles Sinclair for the Defendant Randy Beckford

Ms. Hyman for the Defendant Kidani Reid

HEARD: March 11, 2021

**Sentencing after trial- Offence of Knowingly Possessing Identity Information-
Section 10(1) of the Law Reform (Fraudulent Transactions) (Special Provisions)
Act, 2013**

STEPHANE JACKSON-HAISLEY, J

BACKGROUND

[1] The accused men Randy Beckford and Kidani Reid were convicted before me for the Offence of Knowingly Possessing Identity Information contrary to section

10(1) of the Law Reform (Fraudulent Transactions) (Special Provisions) Act, 2013 (the Act).

[2] The particulars of the offence were that:

“Randy Beckford and Kidani Reid on the 11th day April 2015 in the parish of St. James knowingly possessed identity information of persons in circumstances which give rise to a reasonable inference that the information has been used or is intended to be used to commit an offence.”

[3] Their convictions followed upon a trial in the Saint James Circuit Court which commenced on September 23, 2020 and ended on December 17, 2020. Their sentencing took place on March 11, 2021.

FACTS

[4] On April 11, 2015 police officers armed with search warrants went to a house in Headley Quarters, St James. On arrival they spoke to the owner of the house, a female known as Antoinette. They thereafter proceeded to search the premises. The accused Randy Beckford was seen on a bed and underneath the mattress attached thereto was found thirty-three lead sheets together with a ‘Cash Wiz’ receipt in the name of the accused Randy Beckford. They also took from Mr. Beckford a phone which when later examined was found to contain identity information.

[5] Kidani Reid was seen in another room and his phone was seized. When examined his phone was found to contain identity information.

SENTENCING

[6] The Sentencing Guidelines for use by Judges of the Supreme Court of Jamaica and the Parish Courts of 2018 (the Sentencing Guidelines) provide the Court with a guide as to how to approach the task of sentencing. A useful starting point is to look at the penalty associated with section 10(1) of the Act. The Act by virtue of

Item 8 of its Schedule lists the offences and the penalties. The penalty for a breach of the relevant section is stated as such:

“Fine or imprisonment not exceeding fifteen years or both such fine and imprisonment”. A person convicted under section 10(1) of the Act shall be liable to pay a fine or to imprisonment for a term not exceeding fifteen year or to both such fine and imprisonment.”

RANDY BECKFORD

- [7]** The Social Enquiry Report and the Antecedent Report portrayed Mr. Beckford as someone who was always gainfully employed. He started out his adult life washing motor vehicles and then later obtained employment with the Jamaica Union of Travellers Association as a luggage handler at the Sangster International Airport, earning eighteen thousand dollars (\$18,000.00) fortnightly.
- [8]** The accused indicated that at the time the police raided the house, he was there with Antoinette and her family members. He indicated that Kidani Reid and another accused were visitors to the house and were merely there to attend a party. He expressed that he has never scammed and the scammer must have been Antoinette. He added that he had lent his phone to the other co-accused and was not aware that he had used it to dial certain numbers.
- [9]** Community members described Mr. Beckford as jovial and humble and as someone who gets along well with community members. They expressed that he was disadvantaged by his step-mother but was assisted by community members. He left the community where he grew up and went to stay with the house owner Antoinette. They believed he was in the wrong place at the wrong time.
- [10]** The assessment of his character is a positive one. He has been categorized as a low risk offender who may benefit from intervention that seeks to address his substance misuse, accommodation and negative peer association.
- [11]** He is the father of a 5-year-old son. He has no previous conviction recorded against him.

PLEA IN MITIGATION FOR RANDY BECKFORD

[12] Counsel urged the Court to consider the age of the accused, he being 27 years old. Up to the time of this hearing he had no previous conviction. He highlighted that the reports reflect a young man who, in spite of the challenges he has had, sought to engage in meaningful work. He participated in a program at the Flanker Resources Centre for unattached young men and so was able to gain employment at Sangster International Airport where he worked up until his conviction. Further, that the community does not see him as a wrong doer. He is not a threat to society. This conviction cannot be expunged and so he will face challenges for the rest of his life.

[13] He asked the Court not to impose a custodial sentence. He has been in custody since December of last year (2020) and this has shocked him. The confinement has affected him in relation to the free type of spirit he has. Going forward he would not find himself in this type of situation. Counsel highlighted the wide range of sentencing options which allow for the imposition of a non-custodial sentence and that he would benefit from rehabilitation. He suggested that it is open to the Court to impose a suspended sentence that will hang over his head for a sufficient period of time. He asked the Court to give the accused the opportunity to prove himself to his community.

SENTENCING REMARKS

[14] I am guided by the Sentencing Guidelines which suggests that the normal range for this type of offence is between one and five years. The usual starting point is three years. In the case of Randy Beckford, considering all that has been said about him and the circumstances of the offence, I find it appropriate to start at the three years.

[15] The main aggravating factor is the type of offence. It is a serious offence because of the implications that "lotto scamming" has on the society and in particular in the parish of St. James. This is an offence which is far too prevalent

in this part of the island and is in fact common among young persons of similar age to the accused. This kind of offence has wreaked havoc on our society as a whole.

[16] This case followed a conviction after a trial which lasted some weeks. Among the evidence unearthed is the fact that he was lying on a mattress under which lead sheets were found. In addition, a 'Cash Wiz' receipt was found with his name as a recipient. Identity information was also found on his phone. In addition, there were images of the accused on the phone which suggest his involvement with some amount of cash. The accused was taken from a location where there were other persons present who were alleged to be involved in this kind of activity as well. Under these circumstances the Court came to the view that he possessed the lead sheets with the intention of committing an offence.

[17] I take into account all that his attorney has said on his behalf in terms of mitigating factors. These include that the accused has no previous conviction recorded against him. At the time of the offence he was just 21 years of years of age. He has always been gainfully employed. He was a part of the Citizen Security and Justice Programme for unattached youth and was able to secure employment at the Sangster International Airport and this is commendable. The community report is a positive one. He is viewed as a hardworking individual who according them, was in the wrong place at the wrong time. He is not beyond redemption and has the capacity for reform. He is the father of a young child.

[18] Taking into account the starting point of three years, the aggravating factors would increase the term of years above the three years but when I consider the mitigating factors it brings it back down. When I balance these factors I am of the view that the aggravating factors and the mitigating factors balance equally. I find that a term of three years would be appropriate in all the circumstances. He been in custody since his conviction in December 2020. In light of that, I will reduce his sentence by six months to take into account the time spent in custody. He is sentenced to two years and six months' imprisonment at hard labour.

KIDANI REID

- [19] The Social Enquiry Report and the Antecedent Report portray Kidani Reid in a positive way. After leaving school he started selling clothing which he did between Kingston and Montego Bay. At the time of his arrest he was earning some seven thousand dollars (\$7,000.00) weekly supplemented by work as a labourer from which he earned an additional two thousand dollars (\$2,000.00) weekly. He also worked as an apprentice barber and at one point was employed as a labourer with China Harbour.
- [20] He is the father of one child which he fathered whilst still in school. Although he hails from St Andrew, he said he was in St James as he had been invited there by a female, Antoinette, with whom he shared a sexual relationship. He said whilst at the house he did not observe any illegal activities there. He has maintained his innocence and indicated that he did not even own a phone at the time.
- [21] The community views him positively. The community report from his original home described him as someone who associates with persons from a mixed background. He is described as helpful and jovial and he has never been known to be linked to criminal behavior or fraudulent activities. Residents in Headley described him as a fun loving, “vibezy girls man” who took advantage of common labourer activities and is not known as someone involved in “lotto scamming” activities.
- [22] He has no previous conviction recorded against him.

THE PLEA IN MITIGATION FOR KIDANI REID

- [23] Counsel pointed out that the reports are among the better reports submitted to this Court. He was gainfully at the time of his arrest. He has a son who is dependent on him for support. She stressed that the community does not view

him as someone linked to criminal behavior or fraudulent activities. He is jovial and hardworking. Counsel has known him personally for the better part of his life and does not believe he is someone who is easily led. He was 17 years old at the time of the offence and has no previous conviction. She urged that a non-custodial sentence be imposed on him as he is no danger to society and is a productive member of society and someone who can behave himself. She urged the Court to exercise leniency.

SENTENCING REMARKS

- [24]** The normal range for this offence is between one and five years. The usual starting point is three years. In the case of Kidani Reid, considering all that has been said about him and the circumstances of the offence, I find it appropriate to start at three years.
- [25]** The Court takes into account both the aggravating factors and the mitigating factors. The main aggravating factor is the nature of the offence and its prevalence in this part of the country. In particular, this offence is prevalent among young people similar in age to the accused. It is necessary therefore that a strong message be sent regarding this type of offence. The accused man's phone revealed identity information as well as other information and images that were concerning which caused me to form the view that he knew exactly what he was doing and was suggestive of his involvement in "lotto scamming". This is a matter that went to trial which is also to be taken into account.
- [26]** Among the significant mitigating factors was the fact that the accused was a minor at the time, he being 17 years of age. He has no previous conviction recorded against him. He has always been gainfully employed, plying his trade and that is commendable. He has been described in a positive way by community members. He has the capacity for reform and is a good candidate for rehabilitation.

[27] When all these factors are weighed, the mitigating factors outweigh the aggravating factors, with the main mitigating factor being that the accused was still a child at the time of the commission of the offence. I have considered the fact of imposing a non-custodial sentence because of his age but when I look at the other factors, in particular that this type of offence is common in persons of that age group and the part he played in the commission of the offence, I find that in the circumstances a custodial sentence is appropriate.

[28] Taking into account a starting point of three years, the mitigating factors outweigh the aggravating factors to the extent that I am of the view that he should receive a fifty percent reduction of the three years I had started at. I find an appropriate term to be eighteen months. He had been in custody a little before his conviction, since December 2020 and prior to that, had been remanded for a few days. Taking all of that into account, I am prepared to reduce the sentence by a further six months. The sentence of the court is twelve months' imprisonment at hard labour.