

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT CHRISTOPHER & NEVIS

SAINT CHRISTOPHER CIRCUIT

CASE SKBHCR 2021/0015

REX

V

LISA FRANCIS

APPEARANCES

DPP (ag) Greatess Gordon Hazel, Mr Tessaun Vasquez, and Mr Bervis Burke for the Crown.

Ms Natasha Grey and Mr Hasani McDonald for the Defendant.

2023: APRIL 24

SENTENCE

For perverting, when an immigration officer helping her son on bail escape St Kitts

- 1 **Morley J:** On 24.01.23, Lisa Francis, now 56 (dob 17.02.67), was convicted by the jury following trial during 12-24.01.23 of doing an act tending and intended to pervert the course of public justice, while an immigration officer, by helping her son Xavier Cory Francis who was on bail for firearms offences to escape St Kitts to Anguilla on 28.07.17 through the Robert L Bradshaw airport (RLB).
- 2 Broadly the facts at trial were these.
 - a. On 28.07.16, Cory was charged with possession of a firearm and ammunition, following allegation he had assaulted a female.

- b. On 12.05.17 he was granted bail, where inter alia, being ordered he must come back to court as required, he was to reside with his mother Lisa under curfew 19.00-06.00, and to put up two sureties each of \$10000ec through his mother and aunt Jaycinth Francis.
- c. Lisa has been an immigration officer from 2015, in 2017 working at RLB.
- d. On 12.02.18, Cory was required at court but did not appear, though Lisa did, saying she did not know where he was but was not on island, and brought with her the \$20000ec surety to pay to the court.
- e. Investigation followed, which established Cory had left for Anguilla on 28.07.17 on Trans Anguilla Airways TAA452, and had subsequently travelled to Antigua and Canada, and back to Antigua on 12.03.18, where he was arrested and brought to St Kitts on 30.03.18.
- f. Gathering Cory's passport and other paperwork concerning TAA and the computerised border management system (BMS), the following was established:
 - i. On 27.07.17 at 6.04pm, Lisa bought a ticket from TAA for Cory to travel to Anguilla on TAA452, leaving at 09.30 next day, paying US\$278.46 cash.
 - ii. On 28.07.17, Cory checked in at RLB to TAA452, received a boarding pass, and went on the manifest of 7 passengers leaving from St Kitts.
 - iii. Being on bail, there was a stop-order in place with immigration prohibiting his departure, so that he would not have been able to pass the booths of immigration officers to enter the departure lounge.
 - iv. To get Cory past the immigration stop, Lisa used her access to the BMS to pretend her younger son Naje Berridge was travelling on TAA452, scanning in his passport at 09.30, there being no stop order for him, and input at 09.45 he would be exiting the flight at St Eustacius, though the flight was not stopping there (while TAA did for other flights). In tandem, no departure card for either Cory or Naje was presented. The effect of scanning Naje onto the flight was to make up the 7 departing passengers to fit the manifest. With access to departures, Lisa helped Cory through. Then, the irregularity in the name of Naje being input by immigration, and the name of Cory being on the TAA manifest, was not spotted at the departure gate by the TAA staff, as they would be monitoring their manifest, mentioning Cory had checked in, so that Cory boarded.
- g. Cory's passport was then stamped he arrived onto Anguilla on 28.07.17, though notably his arrival card did not record his flight number nor port of embarkation, so that the record did not show where he had come from or how.

- h. However, within the BMS, it recorded Naje had travelled to St Eustacius, which was not true, so that Lisa had to 'roll back' Naje out of the system as not having travelled. She did this on 30.07.17 at 13.54, by getting access to the BMS under the name of a supervisor, Lestin Wiltshire, who would allow such access to junior officers if they asked, though his evidence was she had not asked, with the implication she had surreptitiously gained access to his BMS account while it was still open on-screen.
 - i. Further examination showed Cory's passport had a stamp in it with the unidentifiable signature of an immigration officer, suggesting he had left St Kitts through RLB on 27.07.17, but the trial established the supposed exit date was deliberately misleading, as the stamp was not used in 2017; the inference being Lisa had dishonestly used it to stamp an exit in Cory's passport, while fudging the signature, and date, so it could not be traced. The stamp had the effect of Anguilla seeing what appeared to be a lawful though misdated exit from St Kitts, which, unknown to Anguilla, had otherwise not been input into the St Kitts BMS.
 - j. Interviewed by the police on 17.04.18, Lisa said she had coincidentally scanned Naje's passport merely as a test of the scanner, which had nothing to do with helping Cory escape.
- 3 This was a clever fraud on the BMS designed to get around the stop order. It was carefully thought through, with multiple acts of dishonesty to achieve its aim:
- a. There was the false exit stamp dated 27.07.17;
 - b. There was the misleading scan of Naje's passport on 28.07.17;
 - c. There was the calculated absence of a departure card in the name of Cory or Naje;
 - d. There was the misleading input Naje would exit at St Eustacius;
 - e. There was the calculated absence from the Anguilla arrival card of the flight number and port of embarkation;
 - f. There was the surreptitious rollback of Naje on 30.07.17; and
 - g. There was a prepared script for the police Naje's scan had merely been a coincidental test.
- 4 The social inquiry report of Probation Officer Stephan Joseph dated 20.02.23 runs to 7 pages, reporting Lisa was one of 12 siblings, and herself had 10 children, where Cory was eighth. She has no previous convictions, being a reliable person in her family and work, having in the past inter alia been a stewardess with Liat and working in the Marriott and

Royal St Kitts hotels. She does not accept the verdict. There is no remorse. The strong impression is this offence is wholly out of character, and I am satisfied she was selflessly motivated to help her son.

- 5 Concerning Cory, it is of note he did not come to court to assist her case, is currently on remand for firearms offences exchanging shots in public, and the original case from 2016 was eventually discontinued, notwithstanding his escape to Anguilla. The strong impression is he is wayward, and as his loving mother she wanted to protect him in 2017 from what she believed was an untrue allegation, which it turned out was dropped.
- 6 However, at the heart of this case is corruption. Lisa used her public office to break the rules and to do the very opposite of what was entrusted to her, namely to guard the borders of St Kitts and uphold the law. As such, the approach of this court will be to rely on the ECSC sentencing guideline for corruption, published in November 2021.
- 7 This approach will supersede what has been previously the practice of garnering earlier examples of sentences for perverting, which prosecution and defence counsel have both helpfully done, in written submissions offered to the court. Previously, pre-guidelines, counsel are agreed the sentence regionally may have been in the region of two years. However, the guidelines have had the anticipated effect of increasing sentences on different islands in some categories of offence, as here for corruption, as will be seen from the analysis which will follow. It is important to remember the offence remains on St Kitts at common law, with the maximum at large, rather than captured by legislation as elsewhere with a lesser maximum, reflecting the seriousness of corruption on St Kitts, and therefore that longer sentences are to be expected.
- 8 Sentence has been delayed, originally due on 02.03.23, but the present judge had to leave the jurisdiction to attend his father's funeral, and thereafter was the designated judge on Montserrat to Easter. Mitigation was heard when next on St Kitts from 17.04.23, being listed for 21.04.23, with adjournment over the weekend for remarks to be in writing, to today 24.04.23.
- 9 Concerning step 1 of sentencing practice, consideration of the offence, I find its consequence had limited detrimental impact on the community and government, as it was assisting one escape, not many, and so falls within category 3. As to its seriousness there is a tension

between level A, where there has been an abuse of a position of significant responsibility with significant planning, and level C, where the offence was not motivated by personal gain. As such, I will take the median line, meaning I will treat the categories as cancelling each other, to place the offence in the intermediate group, being category B. The starting point for 3B is 20% of the maximum. The maximum on St Kitts for perverting is at large, meaning it is life imprisonment, as it remains a common law offence, where life is treated under the guidelines as a notional 30 years, meaning 20% is 6 years.

- 10 Concerning adjustment within the range, I find the offence hugely mitigated by the motivation being a mother's love for her son, so that I will reduce the sentence by a third, being two years, to 4 years. There being no remorse, though not aggravating, I cannot reduce further.
- 11 Concerning step 2, consideration of the offender, Lisa, now 56, is of good character, and she has lost her job and whatever pension benefits may have been accruing to her for working within the public service. However, I consider this mitigation muted by the fact she was a public officer, expected to be of good character, so that it was a feature of the very position she abused, knowing the consequence must be her employment would be terminated. Weighing it, I consider her character reduces the sentence a further six months, to 3.5 years, or 42 months.
- 12 There is no credit for plea. Time on remand shall count and she will be eligible for remission of one third of her sentence if of good behaviour, meaning after she has served 28 months.
- 13 There was some discussion whether a sentence might be suspended. To be considered for suspension under St Kitts legislation, it would have to be 3 years or less, which does not arise here. However, obiter, I can add that suspension would not have been appropriate in any event, where here there is no remorse, and in tandem there is a need for deterrence, namely the public expects, and public officers should know, the highest standards are demanded of exercising law enforcement powers, holding the trust of the community to do right.
- 14 In principle, given the persisting need for deterrence, suspension for corruption should be only in the very rarest cases with the most compelling reasons.

- 15 *Lisa Francis, please stand up.* For the offence of doing an act tending and intended to pervert the course of public justice, in cleverly helping your son Cory flee St Kitts through RLB airport while on bail for firearms offences, while you were an immigration officer, tasked with policing the borders of St Kitts, doing therefore the very thing you were entrusted not to do, there having been a trial, will be 3.5 years, or 42 months imprisonment. Time on remand will count and you shall be eligible for remission of one-third of your sentence if of good behaviour.

The Hon. Mr. Justice IC Morley KC

High Court Judge

24 April 2023