



Michael Joseph Peter Doyle v. The Law Officers of the Crown
Court of Appeal
7th December 2015

JUDGMENT
56/2015

Appeal against sentence re Counts (1) to (4) - money laundering. (5) conducting a registered business without being licenced and (6) perverting the course of justice

IN THE COURT OF APPEAL OF GUERNSEY

CRIMINAL DIVISION – APPEAL NO. 471

7 December 2015

Before:

James McNeill QC
Jonathan Crow QC
William Bailhache, Bailiff of Jersey

Between:

Michael Joseph Peter Doyle

(the Appellant)

-and-

The Law Officers of the Crown

(the Respondent)

Advocate C Tee appeared for the Appellant
Advocate W Giles for the Respondent

JUDGMENT OF THE COURT

McNeill JA

Introduction

1. The Appellant was convicted with his wife before the Royal Court on 1st July 2015 on an indictment containing five counts involving money laundering and the conduct of registered business without being licensed, following not guilty pleas and a four week trial. A sixth count on the indictment was that of perverting the course of justice, and both defendants had pleaded guilty to that count shortly after being charged with it on 8th May 2013. The defendants were sentenced as follows.
 - i. Count 1 (the Appellant only) – entering into or becoming concerned with a money laundering arrangement between 22nd February 2007 and 31st December 2008 by providing corporate services to one Jonathan Curshen or his companies, knowing or suspecting that Curshen was a person who had been engaged in or had benefitted

from criminal conduct, contrary to section 39(1) of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, as amended – seven years imprisonment.

- ii. Count 2 (the Appellant only) – entering into or becoming concerned with a money laundering arrangement between 24th September 2008 and 15th December 2011 by agreeing to the transfer and subsequent control of 215,000 Euros and 49,992.91 US Dollars from a company controlled by Jonathan Curshen into an Hong Kong banking account in the name of Professional Directors Limited, a company owned by the Defendants, knowing or suspecting that Curshen was a person who had been engaged in or had benefitted from criminal conduct, contrary to section 39(1) of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, as amended – three years imprisonment concurrent.
 - iii. Count 3 (both defendants) – acquiring, possessing and using £23,419.79 knowing that it represented the proceeds of criminal conduct of Jonathan Curshen between 9th and 14th January 2012 contrary to section 40(1) of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, as amended – three years imprisonment (concurrent for appellant).
 - iv. Count 4 (both defendants) – by three separate transactions between 28th February 2012 and 3rd March 2012 converting £13,000 knowing or suspecting the same to be the proceeds of criminal conduct of Jonathan Curshen, contrary to section 38(1) of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, as amended – three years imprisonment concurrent.
 - v. Count 5 (both defendants) – conducting regulated business activities in or from within the Bailiwick of Guernsey without the requisite fiduciary licence between 1st January 2010 and 18th November 2012 – 18 months imprisonment concurrent.
 - vi. Count 6 (both defendants) – doing an act tending or intended to pervert the course of justice between 19th and 23rd November 2012 – six months imprisonment consecutive.
2. The Royal Court also made forfeiture and destruction orders in respect of some electronic items, namely a BlackBerry mobile phone, an HP Notebook PC and two Apple Mac laptops, and adjourned the issue of a confiscation order to another date.
3. On 7th September, the Royal Court (Judge Finch presiding with nine Jurats) sentenced the defendants as set out above. The Appellant entered a notice of appeal on 9th September and leave was given by the Bailiff, Sir Richard Collas, Kt, sitting as a single judge of the Court of Appeal on 8th October. The notice of appeal indicates the grounds of appeal to be that the sentence was manifestly excessive but in the perfected grounds of appeal, filed subsequently, eight different grounds are advanced:-
- i. The Royal Court erred in attributing high culpability to the Appellant in respect of the money laundering counts instead of medium or lesser culpability.
 - ii. The Royal Court erred in categorising the money laundering counts as serious whilst at the same time failing to quantify the sums involved.
 - iii. The Royal Court erred in sentencing on the basis that the Kent office was a sham when this was not the prosecution case or supported by the evidence.
 - iv. The Royal Court erred in adopting a sentencing starting point of nine years imprisonment in respect of counts 1 – 5 when the appropriate starting point should have been much lower.

- v. The Royal Court unjustly attached too much weight to the Appellant’s historic offending record.
 - vi. The Royal Court unjustly sentenced the Appellant to six months imprisonment in respect of count 6.
 - vii. The Royal Court erred or acted unjustly in failing to order or specify that the Appellant’s sentence in respect of count 6 was to be served as from the commencement of his remand period; and
 - viii. The Royal Court’s sentence was not just and proportionate having regard to the totality principle.
4. The sentencing court comprised Judge Finch and all the Jurats who had sat on the trial, with the exception of one Jurat. Judge Finch recorded that as everyone was present throughout the trial, nothing more than the basic formalities from the Crown were needed before the Court heard from the advocate in mitigation.

The facts

5. The Appellant and his wife had applied in or about 2001 for a licence to practice within the Bailiwick of Guernsey in the provision of corporate services, including in particular the provision of nominee shareholders and company directors, such a licence being necessary pursuant to the introduction of the Regulation of Fiduciaries, Administration Businesses and Company Directors etc. (Bailiwick of Guernsey) Law 2000 as amended (“the Fiduciaries Law”). The Guernsey authorities had refused that licence, we are told, firstly because there was a perceived lack of anti-money laundering measures and control within the existing business, and secondly because the Sri Lankan Regulatory Authorities had made an enquiry of the Appellant in 2002 which had resulted in him providing them with false information concerning the beneficial ownership of a company he had incorporated in August of that year. The Appellant then established, as a result of the refusal, a new business in Sevenoaks, Kent called Professional Directors Limited trading under the name of JP Office Services. The office was staffed locally with the Appellant and his wife providing the direction and control. Sometime during 2006, following the birth of their son, the Appellant and his wife returned to live in Guernsey. The specific findings of fact of the Royal Court in relation to the fifth count are that the business in Sevenoaks was controlled and/or directed by both defendants from the start of 2010 until the date of their arrest in November 2012.
6. The first and most serious count against the Appellant is general in nature and reflects an agreement on his part to supply a Jonathan Curshen, through the latter’s main business entity Red Sea Management, not only with nominee directors and shareholders, but with apparent beneficial owners of brokerage accounts and associated bank accounts, all of which helped Curshen facilitate a large scale US based securities fraud by disguising the true ownership behind the entities. Curshen was a US citizen based in Costa Rica, who was subsequently convicted of a number of offences, the most serious of which was a substantial securities fraud which targeted private speculators to purchase low value shares, which were the subject of false press releases and other dishonest tactics. This formed what is known colloquially as a ‘*pump and dump scheme*’. The Royal Court noted that the money laundering offences were principally tied into the activities of Curshen’s large scale fraud and that Curshen was serving twenty years in a federal prison in the United States as a result. His unlawful gains were put in the region of US\$90 million, with US\$7 million netted from the dumping of worthless stocks sold to defrauded investors. By any standards, this was a substantial fraudulent enterprise. The Royal Court noted that the evidence given by the United States FBI investigator, Agent Lo Stracco, was impressive. Part of that evidence included reference to an e-mail from the Appellant to Curshen on 9th March 2007 concerning an anticipated enquiry by the US National Association of Security

Dealers (referred to as NASD), a self-regulatory private organisation that regulates anything that is connected in the securities industry and would make references to the Securities and Exchange Commission (“SEC”) and either directly or through the SEC to the FBI for criminal investigation. Agent Lo Stracco’s evidence was that the NASD was interested in the involvement of a man called Christopher Blythe, allegedly 100% owner and controller of Twin Oaks Capital Management Ltd, a company used for investing in securities worldwide. The e-mail of 9th March 2007 evidences that the Appellant accepted Curshen’s suggestion, that the NASD be informed that Mr Blythe was travelling and he would get back to them as soon as possible, with the further suggestion that Mr Blythe would make the call once the Appellant, with others, had had the opportunity of briefing him fully. It was said that this showed that the Appellant was closely involved in the fraud, the covering up of which included perpetuating the story that Mr Blythe was the true beneficial owner of a particular account, rather than admitting that it was Curshen’s company Red Sea which actually controlled it.

7. Count 2 involved a separate agreement to handle some of Curshen’s criminal proceeds through a Hong Kong bank account controlled by the Appellant in the name of Professional Directors Hong Kong at a time when Curshen was under investigation and prosecution by the US authorities. The amounts involved were €215,000 and \$50,000. The funds came from a Curshen company and the source of those funds was shown to be linked to Curshen’s criminality or to other criminal frauds which were unconnected with Curshen.
8. The third and fourth counts were said to be opportunistic crimes committed at a time when Curshen was facing trial in Miami. They involved using and converting the residue of two business accounts in the name of Flash Price Ventures and Bottom Line Associates which were directly connected to the original securities fraud behind count one. In relation to count 4, this involved the transfer of £13,000 into the Appellant’s account from his wife’s bank account in Sark following an incoming transfer to that account from the bank account of Bottom Line Associates.
9. The finding of fact in relation to count 5 was said to be based upon ample evidence that the Sevenoaks business, though it employed a number of people, was subject to the direction of the Appellant and his wife from Guernsey. The prosecution case in opening was that the Appellant and his wife in effect controlled trained robots to act in the Sevenoaks office, and we are informed that at the trial the court heard evidence from six employees of that office and five “nominee” directors, all of whom gave consistent evidence that they had no knowledge of the business arrangements sitting behind the nominee appointments and that it was standard practice to append a blank form signed on a prior occasion to a document prepared separately to the order of the respective customer. None of the employees had ever trained in money laundering, and even the accountant hired by the Appellant confirmed that she was unaware at the time of money laundering typologies.
10. Count 6, the common law offence of perverting the course of justice, involved a joint decision by the Appellant and his wife to dispose of a number of bags of documentary material knowing or suspecting that this would be relevant to a money laundering investigation. That material had originally not been found by Customs officers when carrying out a search warrant at the Appellant’s property, because the bags of material had not been kept in the premises occupied by the Appellant and his wife, but rather in separate living quarters of their housekeeper. The bags of documentation had been stored at an earlier date under the housekeeper’s bed, and three days after the search took place, the Appellant and his wife drove to the recycling units where they disposed of the evidence in the bins provided. However, a number of admissible recorded conversations between the Appellant and his wife revealed that they acknowledged the content of the material of which they were disposing and that the purpose of so doing was to enable them to escape a money laundering prosecution. The Appellant had been charged with the regulatory offence, the fifth count, following initial arrest on 19th November 2012 when he was released on bail. He and his wife were rearrested on 23rd November following the

emergence of the evidence in relation to count 6, and they were both charged with perverting the course of justice and remanded in custody. The Appellant's wife remained in custody only for five days until 28th November 2012 when she was released subject to a surety. The Appellant however, remained in custody on that count until 26th September 2013 when he was released on conditional bail, and also charged with what are the first four counts on the indictment; his wife being charged with counts three and four. Both the Appellant and his wife remained on bail until September 2015 when they were sentenced on the counts on which they had been convicted or pleaded guilty.

The Royal Court's approach

11. Judge Finch set out clearly the sentencing considerations which the Royal Court took into account. He commenced by citing the observations of this Court in the case of Taylor (2011 – 12) GLR 81, at paragraphs 194-5:-

“Money laundering is to fraud what receiving stolen property is to theft. Fraudsmen... depend on [money launderers] to facilitate their criminal conduct....”

12. And:-

“Those who launder the proceeds of crime imperil [the reputation of Guernsey for probity and integrity] and nullify the efforts of those who endeavour to protect it. This Court and the Royal Court will deal severely with those who commit crimes of this kind....”

13. He referred to the English Sentencing Council guidelines in this way:-

“We stress very emphatically that they are not binding on us. We sentence on Guernsey considerations. These guidelines are principally helpful in drawing attention to possible aggravating and mitigating factors which relate to the much larger number of cases faced in England.”

14. In passing we note that this was the approach taken by this Court in Wicks v Law Officers 2011 – 12 GLR 482: see paragraphs 16, 17 and 44-46. It is also an approach which is taken by the Court of Appeal in Jersey – see P v Attorney General (2012)(1) JLR Note 22 at paragraph 2 where the decision given by Sir John Nutting is reported as follows:-

“Although English case law should not be ignored altogether it should not automatically be treated as the correct starting point. As Jersey was a relatively small jurisdiction with its own cultural and legal heritage, separate constitutional existence from the United Kingdom, unique sentencing procedures (e.g. recommendations from the Attorney General and the participation of the Jurats in fixing sentences), its own social issues and criminal landscape, the Jersey Courts were fully entitled to develop their sentencing jurisprudence without necessarily importing starting points from English law.”

15. We endorse those remarks as having like effect in Guernsey which similarly has its own cultural and legal heritage, its own social issues and criminal landscape.

16. Judge Finch in the instant case then went on to make clear that the Court found the applicable factors to be the high culpability of the Appellant which he said “*stares one in the face*”; the sophisticated nature of the offending and planning; the activities conducted over a considerable period of time; and the seriousness of these activities in the world of finance, and the fact that the offences were committed on an international scale. The Court took what it referred to as a

starting point for the Appellant of 9 years imprisonment on counts 1 to 5 and indicated that the sentence in respect of count 6 should be consecutive.

17. Judge Finch then described the mitigation taken into account which, in so far as the Appellant is concerned, included the considerable effluxion of time before the matter came to trial; the submissions made by the defence advocate and the matters contained in the probation reports; the pleas; the totality principle; and in respect of counts 1 to 5 then gave the Appellant a reduction from the starting point of just over 20% and his wife a reduction of around one third from her starting point of five years. The Court described the “breath taking criminality of the operation and the sham of the Kent office”.
18. In so far as count 6 was concerned, it is clear that the Court took into account the time spent by the Appellant on remand and reduced the sentence to six months imprisonment to reflect that reduction. As an exercise of mercy, the Appellant’s wife was given the same sentence of six months imprisonment on count 6 even though she did not spend ten months in custody.

The law

19. The Sentencing Council in England and Wales has published definitive guidelines for sentencing in fraud, bribery and money laundering offences. The guidelines involve determining the offence category by assessing culpability and harm, and having done that the guidelines require the sentencing court to adopt the appropriate starting point within the table which is published. The starting point would apply to all offenders irrespective of plea or previous convictions, and the guidelines then require the sentencing court to adjust the sentence upwards or downwards as appropriate having regard to the value of the money laundering and its relationship to the amount on which the starting point is based. The sentencing court is then directed to apply the statutory aggravating factors which increase the seriousness of the offence, and the mitigating factors which reduce it so as to end up with a term of years which is then further reduced by statutory factors under sections 73 and 74 of the Serious Organised Crime and Police Act 2005, a reduction for guilty pleas in accordance with Section 144 of the Criminal Justice Act 2003 and the totality principle, thus arriving at the sentence to be imposed.
20. For a number of reasons we would not wish this jurisdiction to adopt the Sentencing Guidelines. In particular we do not think it would be desirable to adopt monetary brackets (i) because the value of money changes, (ii) because Guernsey has no Sentencing Guidelines Council making it difficult therefore to make changes as and when necessary, (iii) because we do not have the material before us on which to make an assessment as to whether the monetary guidelines adopted by the Sentencing Guidelines Council are the appropriate guidelines to adopt for Guernsey and (iv) because the Guidelines refer to statutory provisions which have no application in this Island. Most of all, however, we take the view that the assessment of harm is not just a fiscal measurement. Ten money laundering cases in the United Kingdom will not affect the reputation of the United Kingdom for financial dealings. Ten money laundering offences committed in Guernsey, if they are offences of the present kind, are certainly capable of impacting very adversely upon Guernsey’s reputation in the international financial world. It may seem harsh at first blush, but a money laundering offence committed in Guernsey is more serious than an identical money laundering offence committed in the United Kingdom because the offence is likely to have more directly adverse consequences for Guernsey’s reputation and for Guernsey’s business, and therefore for the community as a whole. In terms of sentencing policy, deterrence is therefore bound to have a stronger influence in this island than in larger jurisdictions.
21. Because of the special circumstances in which Guernsey finds itself in having a refined financial system which is also integral to its economic life, and because money laundering offences are mercifully rare within the jurisdiction, we do not consider that there would be merit in attempting to set out guidance of the type promulgated in England and Wales. However, courts within this jurisdiction should follow a systematic approach to sentencing in respect of this crime

where, often, the acts are ones of facilitation, the victims affected indirectly and the value of the resultant harm difficult, if not impossible, to identify with any reasonable degree of precision.

22. Although, as we say, the Guidelines should not be adopted in this jurisdiction, nevertheless the Royal Court was right, in our judgment, to consider the rationale which underlies the approach set out in the Guidelines. In our view it is right to have regard to the gravity of the offence committed by a defendant charged with money laundering. The factors which we now set out are capable of being relevant factors for the court in attempting to appraise that gravity. They are:
- i. The nature of the role played (whether leading or limited) where the offending is part of a group activity
 - ii. The level of pressure or influence either exerted or experienced
 - iii. Any abuse of a position of power, trust or responsibility
 - iv. The degree of sophistication in the nature of or of planning required for a scheme
 - v. The period of time over which the criminal activity has been carried out
 - vi. The nature of the predicate criminality
 - vii. The level of awareness or understanding of the extent of the predicate criminal activity
 - viii. The degree of proximity between the activities of the defendant and the scheme which reflects the underlying offence
 - ix. The amount of money laundered
 - x. The degree of economic harm, especially widespread or serious harm caused to a smaller number of individuals
 - xi. The level of gain achieved by the individual from his criminality.
23. This is not necessarily an exhaustive list, nor are the factors necessarily mutually exclusive. For example we would certainly consider that the fact that a person is carrying out regulated business without a licence under the Fiduciaries Law would be a relevant consideration, but it could be regarded either as an element going to sophistication or as an abuse of position. One of the Island's key defences to money laundering lies in the regulatory powers of the Guernsey Financial Services Commission, including its powers over principal persons, its powers to conduct site visits and its powers to require the production of relevant documents. Money laundering is more likely to take place where these powers cannot be exercised and it follows that the conduct of regulated business without a licence is an aggravating factor in a money laundering offence.
24. The individual crime will carry a statutory maximum penalty but, whereas most other criminal activity is either so frequent that an accepted tariff emerges or such that appellate decisions have set bounds, the appropriate place on the scale in money laundering cases will not be immediately obvious unless some form of systematic approach is adopted. In our view, once the statutory maximum penalty has been identified, the principal relevant circumstances, as broadly indicated in paragraph 22 above, which require to be taken into account are those which assist most in appraising the degree of responsibility; that is the degree which ought to be apportioned

to the activity of the defendant either in the facilitation of the removal of colourable funds from transparent scrutiny or in the facilitation of a criminal scheme.

The Grounds of Appeal

25. Against that background we now turn to the grounds of appeal, and take the first three grounds together because they all go to the seriousness of the money laundering counts on the indictment. This Court has received, as indicated earlier, only a fraction of the factual material upon which the Royal Court proceeded below. We have had the barest of Crown summaries and a part only of the evidence. By contrast, the Royal Court heard evidence over a period of some four weeks. In the circumstances, nothing has been put before us which would justify us in interfering with the assessment by the Royal Court that the Appellant should be treated as carrying a high degree of responsibility for the money laundering activities charged in the different counts. We take the same view in relation to the Royal Court's conclusion that the Kent office was a sham. The Royal Court heard the evidence, and it was entitled, if the evidence supported it, to reach the conclusion it did. Nothing has been put before us to show that the Court was not entitled on the evidence to reach that conclusion. Indeed, the extract of the evidence of the FBI investigator Mr Lo Stracco at page 20 of the transcript before us, which contains the Appellant's suggestion to Curshen that they brief Mr Blythe before he spoke to the NASD office, suggests that the staff needed direction from the Appellant; and furthermore the conviction on count five shows that the Royal Court was satisfied that the real business was conducted by the Appellant and his wife from Guernsey, and not within the Kent office.
26. The sentencing court is far better placed to form a view as to the facts of the case, the seriousness of the offences committed and the credibility of the explanations offered in mitigation than is this Court, which has not had the advantage of sitting through a four week trial and listening to the evidence directly. We have had put before us the materials which were put before the Royal Court at the sentencing hearing in September but that Court had already sat through a four week trial, a significant period in the annals of the work of the criminal courts in this jurisdiction. There would in our view have had to be a very cogent case put forward to justify interfering with the sentencing court's conclusions on the facts.
27. The Appellant submitted that the Royal Court erred in categorising the money laundering accounts as serious whilst, at the same time, failing to quantify the sums involved. He pointed to his plea in mitigation during which the attention of the Royal Court was drawn to the fact that, on the calculation of the defence, the sum of £118,000 out of a total of £800,000 of fee income represented the proceeds of the Appellant's criminal conduct through money laundering. Such sums, it was submitted, did not place the Appellant's money laundering in a very serious setting. In the alternative it was submitted that, if the defence quantification of the sums involved was wrong or immaterial, the court, by being unable to perform its own quantification, was equally unable to make the leap of placing the offences in a very serious setting.
28. During the trial the Royal Court had heard evidence that Curshen had used either Costa Rican directors or the Appellant's nominees for appointment to crucial brokerage accounts through which vast sums were transferred. The Crown therefore accepted that it was impossible to put a specific value on the total fraud with which the Appellant assisted, but emphasised that the enterprise was a sustained and very high value one, involving a conspiracy from 2003 to 2009.
29. In our opinion, in the matter of money laundering, it is of no moment that the Crown cannot prove with any reasonable degree of precision the value of the laundering which has been facilitated by the accused. Sometimes that will be demonstrated easily as where specific sums are laundered through the accused's bank account. But increasingly it is the essence of money laundering that, as here, a tapestry is woven through the work of different hands. It is the existence of each constituent part of the whole which allows the proceeds to pass but causes the eye to be distracted as to how, particularly, anything has passed. As with our comments in paragraph 20 above as to the assessment of harm not being a purely fiscal measurement, we do

not consider that the inability to link an obvious part of a scheme with the channelling of a particular value to be a barrier to finding that an accused had been an effective participant in a money laundering arrangement.

30. The fourth ground of appeal is that the Royal Court erred in adopting a sentencing starting point of nine years imprisonment in respect of counts 1 – 5. We are not at this stage persuaded that a formal regime of starting points should be adopted in this jurisdiction in relation to money laundering offences. The function of the sentencing court is to assess the gravity of the offence using factors such as those which we have set out together with any aggravating or mitigating circumstances. The exercise for this Court is to identify whether the sentence ultimately imposed was either wrong in principle or manifestly excessive.
31. It was not contended before us that a sentence of imprisonment was wrong in principle, nor indeed could it have been seriously so contended. The only question for us then is whether the sentence was manifestly excessive. In our judgment, applying the factors which are set out above we take into account in particular:-
- i. The size of the overall fraud in which Curshen was involved and the proximity of the activities of the Appellant to that fraud.
 - ii. The fact that the participation of the Appellant involved cross border activity not only on Curshen's part but on the Appellant's part as well. The existence of cross border activity makes the detection of fraud that much more difficult and is an aggravating factor.
 - iii. The economic harm, which was both widespread and serious, caused by the fraud and assisted by the Appellant through committing these offences.
 - iv. The time period over which these offences were committed.
 - v. The fact that the Appellant knowingly and deliberately conducted a financial services business unlicensed in the course of committing the offences.
 - vi. The fact that his gain was far from negligible.
32. The Appellant has no discount for a guilty plea, and is not of good character although he does not have previous convictions for money laundering. The offences are not therefore made more serious by previous offending, but what the Appellant is not able to do is to say that his good character operates as a substantial piece of mitigation to be set against the offences he has committed. We note that the Royal Court gave the Appellant a reduction in this area of some 20%, which seems to us to have been generous.
33. We reject the view that all money laundering is sophisticated. At its most basic level, money laundering could involve the use of a bank account in the name of the defendant into which the proceeds of crime are paid before being remitted to the criminal. That would be an example of relatively unsophisticated money laundering. The Appellant's conduct in the instant case does not fall into that category.
34. We have also noted that the Royal Court took into account the delay in bringing the matter to trial as a matter relevant for mitigation. Clearly all cases should come to trial as soon as is conveniently possible and nothing we say in this connection derogates from that general principle. However, in a cross-border case where information has to be obtained from other jurisdictions there will inevitably be some delays before the case can come forward, and in a fraud or money laundering related matter, it is usually the case that part of the reason for the delay lies in the law enforcement authorities having to uncover all the relevant facts without knowing, when they set out, where they should look, or even sometimes what precisely it is they

are looking for. That often arises because the defendant himself has covered his tracks or used a sophisticated arrangement to prevent or inhibit detection – or, as here, has destroyed documents which might have incriminated him. In giving credit to the defendant for the delay, we think the Royal Court was in fact erring on the generous side.

35. Advocate Tee for the Appellant also submitted that the Royal Court should have considered each of the counts separately before identifying an overall figure. Here it had rolled up its appraisal of all Counts 1 to 5 and thus achieved a higher starting point for Count 1. In our view a sentencing court should consider the appropriate sentence for each Count separately before embarking upon application of the totality principle. For present purposes, however, as we do not consider the adoption of a starting point to be appropriate, and as, for the reasons set out in paragraph 31, we consider that the sentence was within an appropriate range – albeit, in our view, at the top end of that range - the issue does not arise.
36. Having regard to all these features, we cannot say that the sentence imposed on counts 1 – 5 on the indictment were manifestly excessive and the appeal fails in respect of these counts.
37. We turn next to count 6, which is the commission of an act tending or intended to pervert the course of justice. In our judgment, the court below was right to treat this count as carrying a consecutive custodial sentence.
38. It is said by the Appellant that it was unjust to impose a sentence of six months imprisonment for these reasons:-
 - i. The Appellant had spent ten months on remand. It was submitted that it appeared that this had not been taken into account as, had this been done, the Appellant would not have been ordered to serve an additional six months for this offence.
 - ii. The Appellant’s wife had been given the same sentence as the Appellant for her activities on this count, although she had spent no time on remand; and no reason was given as to why her position, in contradistinction to that of the Appellant, merited mercy in reducing it to 6 months.
 - iii. Assuming the Royal Court to have taken into account the Appellant’s period on remand, it must have erred in adopting too high an initial sentence.
39. We address the first two reasons together.
40. In its sentencing remarks, the Royal Court indicated both that it had reduced the sentence for the Appellant on count 6 to reflect his period in remand and that, both as a matter of mercy and bearing in mind the total sentence, it ought to reduce the sentence for the co-accused to the same number of months, albeit she had not spent a material time on remand. Disparity arguments of this kind do not work in favour of an Appellant where he cannot properly be said to have a justified sense of grievance at the outcome. In the present circumstances what appears to the Appellant to be a disparity is in fact a difference as a result, in the first place, of the Royal Court having allowed him relief for the period in remand and, in the second, as regards the element of mercy.
41. There remains necessity on every sentencing court to express clearly the basis upon which the length of any sentence is assessed – whether that of a single accused or of multiple accused. Allowing that recognition, the Royal Court, here, has indicated both that it had reduced the sentence for the Appellant on count 6 to reflect his period in remand and that, both as a matter of mercy and bearing in mind the total sentence, it considered that it ought to reduce the sentence for the co-accused. As a matter of principle, that is not a determination with which we can interfere.

42. It seems to us that, properly characterised, the question is whether, having regard to the ultimate disposal, it appears that this expression of principle was adhered to. This consideration takes one back to the sentencing remarks, referred to above, wherein the Royal Court indicated both that it had reduced the sentence for the Appellant to reflect his period in remand and, as a matter of mercy, reduced the sentence for the co-accused to the same number of months.
43. It appears, therefore, that the Royal Court did take into account the Appellant's period in remand and, as a matter of principle, we cannot interfere with that approach.
44. The third reason given here is that the Royal Court must have adopted too high an initial sentence.
45. In our opinion this reason is not made out. Unfortunately the Royal Court did not explain its process in arriving at the net figure of 6 months. Advocate Tee for the Appellant was driven to conjecture that the sentence must have been 24 months: that is before allowing discount of one third for the guilty plea and taking account of the period on remand. We were not shown any authorities suggesting that 24 months was manifestly excessive for an offence of this nature. We therefore could not interfere with such a sentence in the present circumstances.
46. The Court generally takes the view that perverting the course of justice for the purposes of securing the conviction of innocent people is a different and more serious offence than perverting the course of justice with the objective of avoiding one's own criminal liability. Count 6 was a case which falls into the latter category. An offence of this kind is still serious, but in our view it is to be distinguished from offences of perverting the course of justice where the objective is to cause innocent people to suffer.
47. As against that, the destruction of the material in the instant case may have helped the Appellant considerably in respect of the confiscation proceedings, as well as preventing any further money laundering charges.
48. We consider that the Jurats were perfectly entitled to reach the sentence which they did.
49. Advocate Tee also observed that the effect on the Appellant of the application of the Parole Review Committee Ordinance 1991 ("Parole Ordinance") was that the Appellant's time spent on remand will not be taken into account in the computation of the dates when he will first be considered for parole, and thus unjustly he will have to serve additional months imprisonment.
50. First, in our view, the Parole Ordinance is not a matter for a sentencing court to be required to take into account in such a way as to accelerate the stage at which the prisoner will be eligible for parole.
51. Second, there is no unfairness to the Appellant here as he was not charged with counts 1-4 until September 2013, by which time he had already spent ten months on remand. Were it appropriate to consider the counts separately, the ten months spent on remand in respect of count 6 could not have been a factor in assessing the appropriate time for parole on the sentences for counts 1-5.
52. It was broadly and briefly proposed to us that the sentence was overall not just or proportionate on totality grounds. This is a question of judgement.
53. In our view the imposition of the total sentence of seven years and six months cannot be regarded as manifestly excessive in all the circumstances, although it is perhaps at the top end of the scale.
54. The appeal therefore fails.

