

R v Andrewes (Respondent)

Case ID: 2020/0166

Case summary

Issue

Section 6(5) of the Proceeds of Crime Act 2002 provides that, if the Court has decided that the defendant benefited from the relevant wrongdoing or conduct then it must make a confiscation order requiring the defendant to pay the recoverable amount of that benefit, but that the requirement to make a confiscation order applies "only if, or to the extent that, it would not be disproportionate to require the defendant to pay the recoverable amount." This appeal concerns the meaning of "disproportionate" in the context of that provision.

Facts

In 2004 Mr Andrewes obtained the post of Chief Executive Officer of a hospice by making a number of false or dishonestly inflated and misleading statements about his educational qualifications and experience in his application for that role. He remained employed in that role until 2015. During that time he also successfully applied to other remunerated offices at two NHS trusts on the basis of the same falsehoods plus one more about having obtained a doctorate (PhD.) from Plymouth University. His employment and appointments came to an end when the truth about his qualifications started to emerge. He was prosecuted and pleaded guilty to three counts, including obtaining a pecuniary advantage by deception contrary to s.16(1) of the Theft Act 1968 and fraud by false representation under the Fraud Act 2006. He was sentenced to two years' imprisonment for those offences.

The Director of Public Prosecutions sought a confiscation order under section 6(5) of the Proceeds of Crime Act 2002. The Crown Court found that, by pleading guilty, Mr Andrewes had accepted that he had benefited from the wrongdoing. The Crown Court concluded that it would not be disproportionate within the meaning of section 6(5) of the 2002 Act to make a confiscation order in the sum of the recoverable amount of the benefit obtained by Mr Andrewes and accordingly made such an order. The Court of Appeal allowed Mr Andrewes' appeal and quashed the order. The Director of Public Prosecutions now appeals to the Supreme Court.

Judgment appealed

[\[2020\] EWCA 1055](#)

Parties

Appellant(s)

Director of Public Prosecutions

Respondent(s)

Jon Andrewes

Appeal

Justices

Lord Hodge, Lord Kitchin, Lord Hamblen, Lord Burrows, Lord Stephens

Hearing start date

22 June 2022

Hearing finish date

22 June 2022

Watch hearing

22 June 2022 [Morning session](#) [Afternoon session](#)