

IN THE MAGISTRATE'S COURT

MC/CRIM/13/16

R v MELISSA LOUISE THOMAS

Summary of Sentencing Remarks

(Issued pursuant to section 54 Administration of Justice Ordinance)

You have pleaded guilty to two offences of blackmail and one offence of perverting the course of justice. The offences are interconnected and for the purpose of these reasons I shall outline the facts. On 15th April 2016 you sent a text message to the victim, a convicted offender, in which you demanded he pay you £2,000 or you would “put him back” in prison. The victim paid £2,000 into your bank account. Despite having sent a message to the victim “*Sorry to blackmail. I actually dnt have nothing against u. I just desperately need the money n yeh I shuldve asked but sorry*”, on 4th May 2016 you contacted the victim again, this time asking for £5,000. As before, you sent the demand by text message and issued a threat of prison. You persisted with the demand by sending several text messages over a very short time. The victim reported the matter to the police and you were arrested and released on bail. As soon as you were released you contacted the victim and told him that if he dropped the charges you would pay back the £2,000 but you then went on to threaten that if he did not, you would make his life hell. You paid £2,000 into the victim’s bank account on 9th May 2016.

I accept that you felt that in some way that you had a claim against the victim and that he owed you something because you had suffered at his hands but it is not clear whether there is any justification at all for your feelings. Mr Sabino has explained on your behalf that you have declined to make a complaint about the victim because you have had a bad past experience when you made a complaint but the investigation was not carried out in the way you wanted it to. You felt out of control and you have been left with a bad taste.

I cannot accept that your behaviour to the victim was anything other than very serious. Blackmail is always serious. To put pressure on a person in an illegal way because you believe that person “owes” you in some way is very serious indeed and how you feel is no excuse. There is a system for those who claim to have been wronged by the illegal acts of others. By means of making an official complaint to the police the complaint can be examined and tested through a proper legal process.

In this case I believe the victim was interested in developing his friendship with you. Mr Sabino has referred me to text messages that would suggest that that was so. But you appear to have taken advantage of his vulnerability as an offender and ex-prisoner and I see that as an aggravating feature. You knew that the victim had a lot to lose. You knew he had been in prison and was trying to re-build his life and he would want to protect his reputation. He would not want to risk you pursuing your threat to provide information that would put him back in prison. You then lulled him

into a feeling of security by admitting that you did not have anything against him. If what you say is true – I have not heard the victim's side of it - and he asked you to write the text message admitting you had nothing against him, it is understandable. He wanted confirmation and you appear to have bought his forgiveness.

Not content with having got £2,000 from him on 18th April 2016, you went on to repeat the blackmail on 4th May 2016. By having another go at him you aggravated the first offence. Then, when you realised you had got yourself into a complete mess, you paid back the £2,000. On the face of it, paying back the money could have been a good thing to do if you were truly sorry. The court often looks for evidence of remorse and takes a positive view of steps taken to compensate a victim. However, you paid the money back in a clear attempt to buy your victim's silence.

There is absolutely no doubt in my mind that the two blackmail offences and the offence of perverting the course of justice cross the threshold for a custodial sentence. It would be normal for this court in any blackmail case or any instance of perverting the course of justice to consider the offence so serious that a custodial sentence would be appropriate.

The question then is what should be the appropriate length of sentence in the particular circumstances of your case? You have pleaded guilty at the earliest opportunity. You appear to have been very self-willed in the past, feeling that what you wanted and the way you wanted it was more important than the law. I give you full credit for taking responsibility for your actions on this occasion and pleading guilty. I also take into account that in the Falkland Islands a minimum of two thirds of a custodial sentence is served in prison which is a greater proportion than in England.

I see the starting point for your sentence as something over a year. Against that there is credit for your early guilty plea. There are mitigating features to take into account. I have had the benefit of a full pre-sentence report which explains your difficult personal situation. You have just turned 23 and are the mother of a young child from whom you will be separated by imprisonment. You have lost your job and your home and you will probably not be allowed to stay in the Falkland Islands after your release from prison, even if you want to. Despite the fact that repayment of the money was combined with actions intended to pervert the course of justice, I note that you have returned the money; you have shown a peculiar naïveté which, unfortunately, expresses itself in a high degree of self-will without proper comprehension of the consequences but also suggests yours was an unsophisticated system of blackmailing; there were no threats of violence and you acted alone.

On the other hand, although the two blackmail offences were committed over a short period, there was a degree of persistence which extended over a period of time. You have previous convictions which include an offence of dishonesty.

So, taking all the circumstances into account, I settle on a period of eight months' imprisonment on the first offence (not the first on the charge sheet but the first chronologically – the demand for £2,000 on 15th April 2016) as proportionate and properly balanced.

I have been urged to suspend any sentence of imprisonment. I note that in the Falklands we do not have the same statutory rules as England about how to decide when sentence should be suspended. Here, it is simply a question of the court being satisfied that it is justified. I think it appropriate to say that when looking for justification the court should look for exceptional circumstances. I am not

satisfied that suspending the sentence is justified in your case. The sentence must be served in prison.

I then turn to the other two offences. The second offence (committed on 4th May 2016) was for a greater sum of money but no money was paid. I take account of the totality principle. The sentence I impose is 6 months imprisonment, to run concurrently.

With regard to the offence of perverting the course of justice, I have already commented that there is a very peculiar situation in Falkland Islands. The offence carries a much lower maximum penalty than in England and, given that in this instance the offence followed on the blackmail and was most unusual in the way it was committed (in that it was combined with the repayment of the money), I am imposing a penalty of three weeks imprisonment, also to be concurrent. I emphasise that I see the facts in this case as an exceptional instance of perverting the course of justice.

There will be no award of costs in the circumstances.

Senior Magistrate

16th June 2016

[Note: The Senior Magistrate gave reasons for the decision extempore at the conclusion of the hearing. These written reasons are not a verbatim record but have been prepared from a transcript of the recording.]