

**Neutral Citation Number: [2018] EWCA Crim 481**

No: 201703848/A1

**IN THE COURT OF APPEAL**  
**CRIMINAL DIVISION**

Royal Courts of Justice  
Strand  
London, WC2A 2LL

Friday 2 March 2018

**B e f o r e:**

**MR JUSTICE SWEENEY**

**MR JUSTICE WILLIAM DAVIS**

**R E G I N A**

**v**

**GRAHAM CLARK**

Computer Aided Transcript of the Stenograph Notes of WordWave International Ltd trading as DTI, 165 Street London EC4A 2DY, Tel No: 020 7404 1400 Fax No: 020 7831 8838 (Official Shorthand Writers to the Court)

**Non-Counsel Application**

**J U D G M E N T (Approved)**

If this transcript is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person.

1. MR JUSTICE SWEENEY: On 19 July 2017 in the Crown Court at Kingston upon Thames, the applicant, aged 59 and with no previous convictions, pleaded guilty on re-arraignment to an offence of fraud. He was sentenced by Mr Recorder Jones to 70 months' imprisonment. He now renews his application for an extension of time of six days in which to apply for leave to appeal against sentence and for a representation order, after refusal by the single judge.
2. The facts are set out in the Criminal Appeal Office summary. It suffices for present purposes to record that in 2011 the applicant took over responsibility for the finances of his then 89-year-old distant relation, Gwendoline Sedgley - who was both physically and mentally frail and required visits four times a day by carers from Bromley Social Services for which she had to pay.
3. Over the following three years the applicant spent all the victim's resources, amounting to around £300,000, failed to pay the London Borough of Bromley £50,000 in relation to her care costs, and opened credit cards in her name resulting in a loss of £1,500 to Barclays.
4. When arrested in September 2014, the applicant told numerous lies to try to avoid responsibility for what he had done.
5. Miss Sedgley died in March 2015.

6. There was no pre-sentence report before the Recorder and we agree that one was unnecessary. In passing sentence, the Recorder concluded that Miss Sedgley was a particularly vulnerable victim who had trusted the applicant and had been taken advantage of when unable to do anything for herself. That, said the Recorder, moved harm from Category 2 to Category 1 in the relevant Guideline, resulting in a starting point of seven years, with a range of five to eight years. In mitigation, the applicant had no previous convictions and his mild mental health problems were also taken into account. Thus, via an eventual notional sentence after trial of 78 months and a 10 per cent discount for the late plea, the Recorder arrived at and imposed the sentence to which we have already referred.

7. The grounds of appeal are that:

1. The sentence imposed was manifestly excessive. The learned Recorder had placed the case at too high a level within the sentencing guideline when elevating it from Category 2 to Category 1, when (i) he had already taken account of the same sentencing features, (ii) that the complainant had an awareness of the extent of the fraud was given too much weight given that her age, physical and mental health had formed part of the harm assessment, (iii) it was arguable that the impact on someone who had lived a frugal and reclusive lifestyle would not have been as great as those concerned about her had assumed, (iv) the complainant's death in 2015 was not linked to the offence; she had not wanted for care due to any financial hardship, (v) there had been other similar cases which had not been treated as severely.
2. Insufficient account had been taken of the applicant's mitigation. (i) he had been given the barest discount for his guilty plea, (ii) he had not engineered the circumstances in

which the complainant's money had become available to him, (iii) he was 53, of previous good character, and had a partner and 14-year-old daughter, (iv) he had no previous experience of custody and was of fragile mental disposition which was confirmed in writing by a doctor.

8. We have carefully considered these grounds and the arguments advanced in writing in support of them. In our view there is no arguable merit in any of them. Rather, it seems to us that the Recorder applied the relevant Guideline in copybook fashion and that the sentence that he imposed was plainly within the relevant range. This application is refused.

**WordWave International Ltd trading as DTI** hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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