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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
Strand
London, WC2A 2LL

Thursday, 2 May 2013

B e f o r e:

LORD JUSTICE TREACY

MR JUSTICE EDWARDS-STUART

THE RECORDER OF LEEDS
(HIS HONOUR JUDGE COLLIER QC)

R E G I N A

v

JAMES ONANEFE IBORI

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WordWave International Limited
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165 Fleet Street London EC4A 2DY
Tel No: 020 7404 1400 Fax No: 020 7831 8838
(Official Shorthand Writers to the Court)

Mr N Purnell QC and Mr J Akinsanya appeared on behalf of the **Appellant**
Miss S Wass QC and Miss E Schutzer-Weissmann appeared on behalf of the **Crown**

J U D G M E N T
(As approved)

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1. MR JUSTICE EDWARDS-STUART: On 27th February 2012 in the Crown Court at Southwark, the appellant, James Ibori, who is now in his 50s, entered pleas of guilty to various charges of money laundering and related offences of fraud. He was sentenced for these offences on 17th April 2012 in the same court.

2. The charges had been split into two groups referred to during the proceedings as the "first indictment" and the "second indictment". All the charges arose out of massive frauds perpetrated in Nigeria by the appellant and others. The charges on the second indictment related to one particular fraud arising out of the sale of shares in an African mobile phone company.

3. The charges were to be the subject of two trials. Those in the first indictment had been set down for trial on 27th February 2012 with a time estimate of 12 weeks. The charges in the second indictment were to be the subject of a second trial that was to start in January 2013, also with an estimate of about 12 weeks. The appellant indicated that he would plead guilty to some of the charges a day or two before the start of the first trial.

4. In relation to the first indictment, the appellant pleaded guilty to and was sentenced for the following offences: Count 2, conspiracy to commit money laundering under section 93(C)(1) of the Criminal Justice Act 1988, contrary to section 1(1) of the Criminal Law Act 1977. For that he was sentenced to 10 years' imprisonment. Count 3, money laundering contrary to section 328 of the Proceeds of Crime Act 2002. For that he was sentenced to 10 years concurrent. Count 4, obtaining a property transfer by deception contrary to section 15A of the Theft Act 1968, he received a sentence of four years concurrent. For counts 7, 9, 11 and 12, each of which was for money laundering contrary to section 328 of the Proceeds of Crime Act 2002, he was sentenced to five years concurrent on each count.

5. In relation to the second indictment, the appellant pleaded guilty to and was sentenced for the following offences: Count 1, conspiracy to defraud, contrary to common law, three years' imprisonment consecutive to the sentences on the first indictment. Count 2, conspiracy to make false instruments contrary to section 1(1)(a) of the Criminal Law Act 1977, three years concurrent again. Count 3, money laundering contrary to section 328 of the Proceeds of Crime Act 2002, again a sentence of three years' imprisonment concurrent. Thus the total sentence was one of 13 years' imprisonment, less 645 days spent on remand.

6. He appeals against those sentences with the permission of the single judge. When granting leave, the single judge said that he did not consider that the 13-year term imposed was manifestly excessive, but that he was concerned that something may have gone wrong with the Goodyear process. That is of course a reference to the procedure by which a judge can give an indication of the maximum sentence which would be imposed if the defendant pleaded guilty at that stage as set out in R v Goodyear [2005] 1 WLR 2532. Nevertheless, the appellant has permission to argue all grounds of his appeal against sentence.

The facts

7. In May 1999 the appellant was elected Governor of Delta State in Nigeria, a position that he held, following a re-election, until 2007. It was the prosecution's case that from the moment he was elected and throughout his time in office he deliberately and systematically defrauded the people whose interests he had been elected to represent. The sums involved in the counts that were the subject of the two indictments amounted to approximately £50 million. Since the appellant had two relatively minor convictions for dishonesty whilst he was working in the United Kingdom, which would have disqualified him from holding public office in Nigeria, he changed his date of birth about three years before seeking election, advancing it by exactly four years to 4th August 1958. However, this was a biological impossibility since the appellant's mother gave birth to his elder sister in July 1958.

8. In 2005 the authorities in Nigeria in conjunction with the Metropolitan Police began to investigate the appellant in relation to corruption and theft whilst he was in office. The fraud that was the subject of the second indictment was committed after the appellant had become aware of this investigation.

9. It was the Crown's case that the appellant corruptly and fraudulently used at least nine companies to defraud the state, that he purchased at least six properties outside Nigeria with the stolen money and that he operated bank accounts all over the world. Needless to say, none of these assets were disclosed as the Nigerian constitution required.

10. The properties acquired included a house in Hampstead, London, purchased in about 2001 for £2.2 million in cash, a mansion in South Africa purchased in 2006 for £3 million and a house in Houston, Texas, purchased for $1.8 million in 2007. He bought a Mercedes Maybach 62 for use in South Africa. That car cost nearly €500,000. In 2005 he instructed a solicitor to purchase a private jet for a sum of about $20 million.

11. Count 1 of the first indictment, which was ordered to lie on the file, involved a conspiracy together with his wife, his mistress and others to defraud the Delta State by the commission of inflated price frauds in relation to the building of a sports track and the supply of vehicles to the State Government. The frauds also involved the diversion of cash from the Delta State treasury to his personal benefit and continuing to run and to profit from undeclared businesses. By the Nigerian constitution a state governor was not allowed to run other businesses for profit.

12. Counts 2 and 3 concerned the money laundering of the funds that had been the subject of the frauds on count 1. Count 4 related to the obtaining of a mortgage by deception in the sum of £157,500 in respect of a property in St John's Wood, London. This involved the making of various false statements, including giving the false date of birth.

13. Count 7 involved the use of a client account of Arlington Sharma Solicitors, a firm of solicitors in Mayfair, as a private bank account for himself and his family through which he laundered money. A Mr Gohil, a partner in the firm, facilitated this by disguising the appellant's money through the creation of a series of complex financial transactions. In 2007, Mr Gohil became aware of the investigation into the appellant so

he opened a bank account in Denver, Colorado, which could be used in the same way as his firm's client account had been used.

14. Count 9 was the subject of an instruction to Mr Gohil to assist in the purchase of a Challenger Jet from Bombardier at a cost of $20 million and to keep the appellant's ownership of the jet a secret. Gohil devised a sophisticated money laundering scheme to ensure that the ownership of the jet was made as complicated and as obscure as possible. This involved the use of bank accounts in various different countries. In the end, the freezing of the appellant's assets by a restraining order in August 2007 prevented completion of that purchase of the jet.

15. Counts 11 and 12 related to money laundering activities in Guernsey, the proceeds of his fraudulent activities being placed into various off-shore trusts. At least $5 million was transferred into these trusts.

16. Turning to the second indictment, this concerned the third largest mobile phone service provider in Africa V Mobile. Delta State owned 18 per cent of the shares in this company and another state, Akwa Ibom State, some 10%. A number of companies expressed interest in acquiring a controlling interest in V Mobile and so both States decided to sell their shares to raise money - ostensibly for the benefit of the public. The potential for growth and profit in the Nigerian Telecom market was enormous and so the proposed sale attracted considerable interest. In June 2005, Vodacom, a South African company, joined forces with Virgin and offered $8.05 per share. Shortly afterwards two other companies made offers at slightly lower prices, but still over $7.50 per share. Thus the water had been tested and the market value of V Mobile effectively established. The appellant and his fellow Governor of the Akwa Ibom State, assisted by Mr Gohil, set up a company, African Development Finance Limited ("ADF"), whose stated role for a substantial fee was to advise on and negotiate the sale. In fact, ADF was a sham and it gave no advice and negotiated nothing. In May 2006 the sale of the V Mobile shares was completed at a price of $7.60 per share, of which ADF's fee was in excess of $6.50 per share, plus a commission. This enormous fee was then diverted to the intended beneficiaries of the fraud, principally the appellant and his fellow governor. This conspiracy formed the subject of count 1 of the second indictment.

17. Count 2 of that indictment was a conspiracy to make false instruments which effectively consisted of a false paper trail set up by Gohil to enable and to conceal the movement of the money.

18. Count 3 involved the subsequent laundering of the money through four separate corporate vehicles to which loans were purportedly made. One company received $11 million, another $4 million, another $10 million and one company $1 million. A further $12 million was left under the control of ADF.

<u>The events leading up to the sentence</u>

19. In April 2010 the appellant fled to Dubai where he was detained by Interpol a few weeks later following the issue of a warrant for his arrest and a request for his

extradition by the United Kingdom authorities. The allegations made against him included his involvement in the various frauds against the Delta State Government which we have already mentioned. Allegations were also made in relation to the sale of V Mobile and the diversion by the appellant of a very substantial proportion of the proceeds of that sale.

20. The appellant was extradited to the United Kingdom on 15th April 2011 following protracted proceedings in the United Arab Emirates.

21. On 16th April 2011 he was committed to the Southwark Crown Court for trial. On 6/7th December 2011 there was a hearing in the Crown Court at which submissions were made on behalf of the appellant in relation to jurisdiction, the severance of count 1, the admissibility of the convictions following earlier trials of the appellant's wife and sister and whether the appellant could receive a fair trial. Those issues were determined against the appellant. The appellant then entered not guilty pleas to the counts on the first indictment.

22. Between 13th and 15th February 2012 there was a further hearing in relation to, amongst other things, the interpretation of section 182 of the Nigerian Constitution. This prohibited a person with a conviction for dishonesty within the past 10 years from standing for election. Experts on the Nigerian Constitution were called, two from each side. The judge ruled in favour of the Crown.

23. During this hearing, or immediately after it, leading counsel for the appellant and for the Crown and counsel for the co-defendant had meetings with the judge in his chambers on 15th, 16th and 17th February 2012 in which the issue of the possible sentence was raised by counsel for the appellant. At that stage the appellant was still maintaining his pleas of not guilty. The first meeting was a very short one. It was not recorded and it really amounted to nothing more than an arrangement to set up a following meeting with the judge on the following day. Miss Sasha Wass QC, who represented the Crown at those proceedings, indicated to the judge that the meeting should not continue any further without proper recording arrangements being in place. However, the second and third meetings were recorded and we have been provided with a transcript of those meetings. There was a further hearing in open court on 21st February 2012.

24. It is clear from the transcripts of the second and third meetings that counsel for the appellant was concerned to persuade the judge to give an indication that the sentence that would be passed on the appellant if he pleaded guilty to an acceptable number of counts on both indictments would be similar to that passed on Gohil, namely 10 years' imprisonment. Gohil had pleaded guilty to the charges in relation to the V Mobile fraud, but he contested the charges on the first indictment of which he was eventually found guilty. In the light of this, the point was made on behalf of the appellant that if he was given an appropriate reduction for his plea of guilty, a sentence of 10 years for the appellant would reflect a higher starting point than that taken in the case of Gohil and could therefore be properly regarded as a more severe sentence.

25. During the course of the last hearing to which we have referred, which was the one in open court, the judge said, referring to the meetings that had been held in his chambers: "I don't consider that to have been in any way a Goodyear direction." One issue raised by this appeal is whether the judge did give some indication during those meetings by which he should have been bound or which gave the appellant a legitimate expectation as to the length of sentence that he might receive. Mr Nicholas Purnell QC who together with Mr Akinsanya has appeared today for the appellant, has made it clear that it is not his case that a Goodyear indication in the formal sense was ever given.

26. On 24th February 2012, one working day before the start of the trial, leading counsel for the appellant notified the court and the Crown by letter that the appellant was willing to plead guilty to 10 of the 23 counts on the first and second indictments. There was no basis of plea. On the contrary, the letter made it plain that the pleas tendered were intended to reflect the full seriousness and extent of the offending charged. Those pleas were acceptable to the Crown.

The sentence

27. The judge had made it quite clear that he would not hold against the appellant the fact that he had made through his counsel lengthy detailed and complex legal arguments on various issues that had to be decided in the weeks leading up to the trial. In addition he made it clear that he was going to sentence the appellant only for the criminal offences that he had admitted. He stressed that it was not his role to sit in judgment on the appellant in his role as Governor of Delta State between 1999 and 2007. However, he noted the mitigation put before the court to the effect that in many respects the appellant had been a good governor and politician and had brought about many important infrastructure improvements such as bridges, roads and hospitals for the benefit of Delta State.

28. The judge then outlined the facts of the offences to which the appellant had pleaded guilty in the first indictment, much as we have already set them out, and then said that the history of dishonesty, corruption and theft to which the first indictment related would alone justify sentences at or near the maximum that the court can give for money laundering offences. But, said the judge, that was not all. The second indictment reflected a further serious fraud in relation to the sale of V Mobile covering the period from 2005 to 2007 and the judge noted that Mr Gohil had received a sentence of 10 years' imprisonment in all.

29. The judge referred to the appellant's two convictions for minor thefts which were committed when he was living in London. One was for stealing from the till at Wickes, the hardware store, where the appellant worked in the 1990s, another offence was handling a stolen Amex card. For each of these offences the appellant was fined.

30. The judge noted that the maximum sentence for conspiracy to defraud is 10 years and that the maximum sentence for money laundering is 14 years. He said that there were no applicable sentencing guidelines. The judge considered that this was a case where the conduct involved in the laundering of the proceeds of the frauds added to the culpability of the conduct relating to the frauds themselves, so that an additional

penalty was appropriate. The judge said that at its lowest the sum involved in these offences was some £50 million but could well be much higher.

31. The judge said that the offences in the first indictment must be or nearly be the most serious offences of money laundering that come before the courts and therefore justify a sentence after a trial of 13 or 14 years. He said that if the appellant had been convicted after a trial of the offences in the second indictment the appropriate sentence would have been at least 10 years' imprisonment, which would be ordered to run consecutively to the sentence for the first indictment. Simply added together this would produce a total sentence of 24 years.

32. The judge exceptionally gave the appellant the full reduction for his late pleas of guilty to the counts in the first indictment on the basis that these would save a colossal amount of time and public money and as a recognition of the courage the judge said it took to plead guilty at that time. So the judge reduced his starting point of 24 years to 16 years.

33. He then said that he would further reduce this having regard to the totality principle and this resulted in a reduction of a further three years. As we have already noted, the higher sentence passed on the first indictment was one of 10 years with three years consecutive for the three counts on the second indictment.

The grounds of appeal

34. The written grounds of appeal briefly summarised are, first, that the judge's starting points of 14 years and 10 years were too high, and second, that as a result of the discussions which had taken place in the judge's chambers the appellant had a legitimate expectation that the judge would take a starting point of 10 years on each of the indictments. Had this not been the case, it is submitted, submissions would have been made to the judge as to the circumstances in which the sentence for a money laundering offence can be higher than the maximum sentence for the predicate offence of fraud which preceded it. However, submits the applicant, the judge gave no indication that he was not minded to abide by the indications as to his approach to sentence that it is said he gave during the discussions in his chambers.

35. In addition it is submitted that the imposition of the maximum penalty for conspiracy to defraud, had the case been contested, was not merited since the predicate offending in relation to each set of charges was undertaken in and directed at the citizens of another state, namely Nigeria. In any event, it is contended that the total sentence of 13 years was manifestly excessive.

36. In his submissions to the court today, Mr Nicholas Purnell pithily summarised his case as follows. First, that he, as leading counsel for the appellant, was never invited to contemplate the possibility of a 14 year starting point for either indictment and that he was never invited to make submissions on that starting point. Second, if a starting point is to be 24 years, the defendant is clearly going to get a longer sentence than if the starting point taken is only 20 years. Third, that he and his client, the appellant, had a legitimate expectation of what starting point the judge would take. It was not an expectation that arose out of any confusion and Mr Purnell accepts that he did not get

any promise that the judge would impose a sentence of 10 years on the appellant all told. But Mr Purnell submits that he did get a clear indication that the judge would start the sentencing exercise with an entry point of 10 years on each indictment, those starting points being consecutive. Fourth, he made the general submission that this was an exceptional case in every circumstance.

The Goodyear procedure

37. Before we turn to the detail of what was said in the discussions with the judge in his chambers, we should mention the procedure that is to be followed when a defendant seeks a Goodyear indication. We should make it quite clear at the outset that the whole purpose of the procedure set out in Goodyear is to avoid exactly the sort of problem that has arisen in this case. When a defendant invites a judge to give a Goodyear indication, he is asking to be told what is the maximum sentence that he will receive if he pleads guilty at that stage to the offences with which he is charged and, if he proposes to plead guilty on a basis that differs from the case put by the prosecution, the basis of plea must be agreed with the prosecution and then put in writing before the indication is sought. That is all a defendant is entitled to ask for and that is all he is entitled to receive. The judge should not go further and indicate the maximum possible level of sentence that might be passed following conviction by a jury. To this we should add that when a defendant proposes to plead guilty to some but not all of the counts on the indictment, this course must be agreed by the prosecution and approved by the judge. That again is something that should be reduced to writing in all but the simplest cases.

38. For the sake of completeness, we should mention that the only other indication that it is appropriate for a judge to give in relation to sentence is to indicate whether if the defendant pleads guilty or not guilty the sentence would or would not take a particular form. In any event, of course, a judge is always entitled to refuse altogether to give an indication or to postpone doing so.

The discussions with the judge

39. It is now necessary for us to consider in more detail what actually took place during the discussions in the judge's chambers on 16th and 17th February 2012. The appellant's case is that in the second meeting in the judge's chambers the judge stated that his first impression was that the appellant's guilt was greater than that of Gohil and that a sentence of 14 years was "his first sense of a tariff". By the second meeting in the judge's chambers (we are referring to the meeting that took place on 16th February) counsel for the appellant accepts that he was exploring whether the judge might be prepared to pass a sentence on the appellant commensurate with that imposed on Gohil, namely 10 years.

40. During the meeting on 17th February, the following day, the appellant relies on this passage where the judge said:

> "... looking at a totality of 20, if you like, and reducing it to 15, giving a third off, we will not get back down to those levels ... It is possible ... I do

> not think I can at this stage give you an indication that will be the case ... but I can see how one would arrive at that."

Mr Purnell submits that the references to "those levels" and "arrive at that" are references to the 10-year sentence for which he was hoping to receive an indication.

41. In another passage that is relied on by the appellant the judge said this:

> "It is a question of deciding in the end, with the help of counsel - where in reality counsel thinks, given the credit for the please, and given a possible sentence of 20, a totality reduced perhaps by 5 years and then the request for a proper deduction, which I have indicated I will give, whether it is in his interests to fight it, because if the other side of the coin, of course, is you will be getting down to whatever figure - I cannot guarantee 10 but you will be getting down to a figure which will be very considerably less than after two full trials."

Mr Purnell submits that as a result of these discussions he understood that he had received an indication from the judge during the second and third meetings that:

(1) the maximum sentence which was contemplated by the judge on contested trials was 10 years' imprisonment on each indictment consecutively;

(2) that the maximum sentence in the event of contested trials would necessarily be reduced by reference to the totality principle;

(3) that in the event of plea there would be given a maximum discount;

(4) that the judge envisaged that mitigating factors would operate to reduce the sentence further.

42. We have read the transcripts of those two meetings with great care. In our view the following matters emerged from the discussion on Thursday 16th February 2012 which lasted for about 20 minutes:

(1) the judge made it clear that he knew almost nothing about the involvement of Mr Gohil, although Miss Wass did explain to the judge that Mr Gohil only came on the scene in 2005 and was involved until about mid-2007, a period of about two years.

(2) on the limited information available to the judge, the appellant could expect a longer sentence than Mr Gohil.

(3) the judge would give the appellant a reduction of 20 to 30 per cent for a late plea of guilty to the charges in the first indictment.

(4) that the rough bracket for the overall sentence that the judge had in mind was 12 to 14 years. When saying this, the judge had already made it clear that he was playing this "off the cuff" because he knew so little about all the facts. In fact, he made this point more than once. Both on 16th and 17th February, particularly in relation to the mobile

fraud.

43. In our judgment, the most that the appellant could have derived from this discussion was, first, that he would receive a greater credit than was usual for a very late plea, the judge having indicated a range of 20 to 30 per cent, and second, that the sentencing range that the judge was considering at that stage was 12 to 14 years, although this was very much a preliminary view.

44. We now turn to the discussion that was held on Friday 17th February 2012. This lasted from 4.00 to 4.16 pm, some quarter of an hour. At this stage, Mr Purnell had seen his client and he tells us, and we accept, that he then had instructions to explore the question of possible sentence. However, he began that discussion by telling the judge that his instructions were still to fight the case. In these circumstances, the discussion should have gone no further because no pleas of guilty had been indicated and nothing had been agreed with the Crown. However, their discussion continued and Mr Purnell invited the judge to treat the offending as if it was all on one indictment consisting of 25 counts, which was the basis on which the appellant had been extradited from Dubai, and then to make a starting point of 14 years being the maximum sentence for the offence of money laundering and then give a reduction of 30 per cent for the plea of guilty. This would result in an overall sentence of 10 years. He told the judge that having seen the appellant he was shocked at the thought of receiving a 14-year sentence and the reference to a possible 14 year sentence was raised again during the course of that discussion.

45. Mr Purnell's approach was strongly opposed by Miss Wass who told the judge that the indictment had been effectively split from the outside and that the V Mobile fraud was clearly an identifiable and separate predicate offence. She also told the judge that she had come quite unprepared for the discussion that was taking place because she had understood that the appellant was not interested in pleading guilty to anything.

46. We should refer to one particular passage in the transcript of that meeting. The judge said this at page 10D:

> "The difficulty here is, I am not saying in the end, with pleas, looking at totality of 20, if you like, and reducing it to 15, giving a third off, we will not get back down to those levels.
>
> MR PURNELL: Yes.
>
> THE JUDGE: It is possible.
>
> MR PURNELL: Yes.
>
> THE JUDGE: I do not think I can at this stage give you an indication that will be the case."

The judge then went on to make the point that he could understand how one could arrive at the figure for which Mr Purnell was contending.

47. The matters that in our view emerge from this discussion were the following:

(1) Whether the appellant pleaded guilty or not guilty, the sentencing for the two sets of charges would be consecutive. (2) The judge said in terms that he could not give the appellant any indication that the total sentence would be as low as 10 years. He said: "I cannot guarantee 10." Although he said that he could see how such a sentence could be arrived at.

(3) That the appellant had never been given any indication or promise by the judge as to the level of reduction that would be given for totality.

48. We should mention also that the judge must have had in mind the fact that the maximum sentence for money laundering was 14 years because Mr Purnell had mentioned it at least twice in the early part of the discussion. But we would observe that the fact that the judge had been talking in terms of an overall starting point of 20 years does not lead to the conclusions that the final sentence is going to be 10 years. However one looks at it, at no stage did the judge give an indication that the likely sentence on a plea of guilty would be 10 years. On the contrary, he made it plain that he could not give any undertaking that the sentence would be as low as that.

49. Before us today, Mr Purnell has very fairly conceded that he could not have taken away the message that the appellant was receiving an indication that the sentence would be as low as 10 years. Mr Purnell's point is that what he was given to understand was that the judge would start with 10 years as his starting point for the charges on each indictment. However, we are prepared to accept that Mr Purnell may have hoped that the judge could be persuaded to pass a sentence as low as 10 years but that is quite different from a legitimate expectation that he would do so.

50. We turn now to the submissions of the Crown. In her written grounds of opposition, Miss Wass, who appeared today with Miss Schutzer-Weissmann, made the following points. First, when the sentencing judge was invited to give "a figure" relating to sentence he did so before the appellant had given any instructions that this should happen, let alone sought an indication or provided written instructions to that effect. Second, the sentencing judge made it plain he was not in a position of sufficient information to give an indication. Third, no offers of plea had been made to the Crown, there had been no agreement as to what pleas might be acceptable on the indictments and there was no written basis of plea. Fourth, the discussions were not heard in open court in the presence of the parties and the appellant. The first meeting was not recorded, junior counsel were not present and it appears that the appellant did not himself know that at least the first two meetings were taking place. We have already mentioned that by the time of the meeting on Friday 17th February, Mr Purnell had already seen his client and discussed the question of exploring the possible outcome of sentence. Further, Miss Wass submits that the sentencing judge did not give any indication as to what the plea would be and he made it clear in open court that he had not given a Goodyear indication and that the procedure was still being followed. Finally, she submits that to the extent that the judge gave any indication of the range of sentence, it was one of 12 to 14 years' imprisonment, perhaps decreased to reflect mitigation. Pausing there, we should say that we accept those submissions. Finally,

she submits that in sentencing the appellant to 13 years' imprisonment, the sentencing judge remained faithful to what he had said.

Our conclusions on the issue of the indication as to sentence by the judge

51. In spite of the submissions of Mr Purnell, we have no doubt that during the discussions on 16th and 17th February 2012 the judge did not give any binding indication of the level of sentence that he would pass. Even if there had been room for thinking this, the matter was put to rest by the observation made by the judge during the hearing in court on 21st February 2012 that he had not given a Goodyear indication. This arose because Miss Wass quite correctly mentioned the visit to the judge's chambers the previous Friday afternoon and said that any future discussions about sentence should be conducted in accordance with Goodyear practice. Unfortunately, the judge's observation in response to this that he had not given a Goodyear indication and his remark that "we are following the procedure" seems to have fallen on deaf ears in the appellant's camp, or at least those acting for the appellant did not appreciate that significance of what the judge had said. But it is right that we should point out that at that hearing Mr Purnell was not in court and nor was the appellant, although the appellant was represented by his second leading counsel.

52. Further, in the light of the conclusions that we have already mentioned as to what emerged from the meetings, we do not consider that the judge gave any indication beyond the fact that the sentence would fall within the range of 12 to 14 years. If the appellant was given any legitimate expectation, it was no more than that.

53. It is true, as Mr Purnell pointed out, that at one point the judge did refer to a one-third discount for the guilty plea, but in our view that was simply the judge rehearsing the suggestion that was being put to him and how it might be possible to get to a 10 year sentence. In our judgment, it fell well short of an indication that the appellant would receive a discount of one-third for his plea of guilty to the first indictment. In our judgment, the only indication that was given was that the reduction would be between 20 and 30 per cent.

54. So for all these reasons, we consider that the judge did not give an indication that gave rise to a legitimate expectation that the sentence would be anything other than one falling within the range of 12 to 14 years. In fact, the sentence did fall within that range because it was one of 13 years. No doubt Mr Purnell thought that he was trying to do everything he could for his client, but that cannot alter the position that the course that was taken in this case was wholly inappropriate.

55. We now turn to the question of the appropriate sentence. We can take this very shortly. By any standards this was money laundering on a huge scale. The amount involved was at least £50 million, possibly more. It is well established that the offence of money laundering is an offence that is quite independent of the criminal conduct that may have preceded it and this may be so even when it is carried out by the same person - see for example R v Linegar (Scott Anthony) [2009] EWCA Crim. 648 and R v Greaves [2011] 1 Cr.App.R (S) 8. In this case, the laundering of the money and its movement overseas meant that the appellant did not amass within Nigeria the huge wealth that he

obtained from the frauds. He was able to conceal his ownership of the property and money gained and thereby to continue to perpetrate his fraudulent activities in Nigeria. Further, the appellant involved various close members of his family and staff in his criminal activities.

56. In our view this was clearly a case where the money laundering activities added considerably to the culpability involved in the antecedent offences. We do not accept Mr Purnell's submission that the maximum sentence was not merited on the ground that the predicate offending in relation to each set of charges was undertaken in and directed at the citizens of Nigeria, as was suggested in his written grounds. The money laundering and the other frauds to which the appellant pleaded guilty were, as we have said, sophisticated and involved numerous independent acts that took place outside Nigeria. The most that can be said in support of the submission is that the successful money laundering operations enabled the appellant to conceal the extent of his fraudulent activity in Nigeria. However, we do not consider that that is a factor that justifies any reduction in an otherwise appropriate sentence.

57. In addition, we consider that consecutive sentences were appropriate for the two sets of charges. The V Mobile fraud was different in type and scale to the individual frauds that were the subject of the first set of charges in the first indictment and the money laundering offences were committed whilst the appellant knew that he was already under investigation. In our judgment, money laundering on this scale must attract a sentence following a trial which is close to the maximum sentence of 14 years.

58. We consider that the judge was fully entitled to adopt an overall starting point of 24 years. He then reduced this by one-third to reflect the guilty pleas, which in our view was a generous reduction, and then he reduced the resulting figure of 16 years by a further three years to reflect the principle of totality. In our judgment, that justly reflected the overall seriousness of the offending as required by the sentencing guideline on totality.

59. We can therefore see no error in the sentence passed by the judge. It was wholly appropriate. Accordingly this appeal must be dismissed.