



**THE CENTRAL CRIMINAL COURT  
OLD BAILEY**

**LESTER OAKLEY v METROPOLITAN POLICE AUTHORITY**

**DECISION ON APPEAL**

1. This is an appeal by Lester Oakley against a decision of the Metropolitan Police Authority to forfeit 50% of the his pension permanently.
2. The background to this appeal is as follows. Mr Oakley, now 44 years of age, was a police constable in the Metropolitan Police Service from 4 June 1990 until 9 May 2008 when he resigned. He resigned because on that date at Lewes Crown Court he was sentenced to three years imprisonment for six offences of theft. He was at the relevant time in a position of serious police responsibility, being a detective constable with the Flying Squad, investigating robberies.
3. In respect of three armed robberies he stole cash which was recovered (Counts 1-3). On Count 4 he stole cash belonging to a private individual, when money was seized as part of the investigation into another armed robbery (Count 4). In respect of these offences the Appellant created a false document trail. Counts 5 and 6 also concerned his role as a member of the Flying Squad. He stole monies belonging to the police authority set aside for paying rent for a building used as observation posts. He was sentenced to three years' imprisonment on each count concurrently.
4. His conviction led in due course to a permanent partial loss of pension. The Secretary of State certified on 6 August 2010 at the request of the Professional Standards Cases Sub-Committee that the offences were liable to lead to a serious loss of confidence in the public service. As a result the Sub-Committee were entitled to forfeit the Appellant's pension up to a maximum of 65% and they assessed the forfeiture as 50% and permanent.
5. The authority for these decisions lies in Section 1 of the Police Pensions Act 1976 and Regulation K5 of the Police Pensions Regulations SI 1987/257. The Appellant is entitled under Section 6(1)(b) of the Act and Regulation H5(1) to appeal to the Crown Court against that decision. He has done so through counsel for whose helpful submissions we are grateful. On appeal the Crown

Court “may make such order in the matter as appears to it to be just”, in a hearing which is a rehearing not a review of the Sub-Committee’s decision.

6. The Court must therefore come to a decision which is fair and proportionate in all the circumstances. Those circumstances include in particular the nature of the criminal offences, the length of service of the former officer and his personal circumstances by way of mitigation. Forfeiture of part of a pension is a serious interference with the property rights of a former police constable, even one convicted of crime. The purpose on this appeal is not to punish the Appellant but to focus upon the restoration of public confidence in the police service. Guidance is also provided in Home Office Circular 26/2006.
7. In his submissions counsel for the Appellant has emphasised that on a sliding scale of seriousness the criminal offences are at the lower end; that the pension was earned, that is over a period of 18 years with 12 years before any offence was committed; that forfeiture is not a reward to be taken away, but the loss of a hard-earned possession; that the media coverage of his conviction is of limited value in making the forfeiture assessment; and that his personal mitigation is of real value in this process. I have summarised the helpful submissions. They are set out in more detail in the Notice of Appeal and Skeleton Argument.
8. We have read and listened with care to those submissions on behalf of the Appellant, but we have come to the firm conclusion, so that we are sure, that the appeal should be dismissed. We conclude that a forfeiture of pension of 50% permanently is a fair and proportionate decision in all the circumstances. These are our reasons. –
  - (1) The Appellant was convicted of serious crimes of theft in the course of his service as a police officer, carrying out an important public function as a member of the Flying Squad. These were not trivial offences.
  - (2) The thefts took place over an extended period of time between 4 September 2002 and 4 June 2004. During this time he continued to serve as a police officer, investigating crime and otherwise assisting in the process of detection.
  - (3) HH Judge Joseph described this course of conduct in his/her sentencing remarks as ‘a gross breach of trust ... [causing] the public to lose confidence and to lose trust in the integrity of the police force as a whole’. In our judgment this was a serious betrayal of trust by the Appellant for his own personal gain, undermining criminal investigations and the confidence of the public as well as the victims in the criminal cases. In a completely separate case of robbery his alleged involvement in these crimes meant that there was an abuse of process application because in a limited capacity he had been involved with an exhibit. That serves as an illustration of how honest and scrupulous all police officers must be, otherwise the whole criminal process in a particular case may be affected.
  - (4) In our judgment it is not so much the amounts involved in the thefts, a total of about £5,700 (which we note was not repaid by him), but the repeated element of breach of trust that matters.
  - (5) Furthermore the Appellant, who pleaded not guilty at trial (as he was entitled to do), chose in his defence to make, as the sentencing judge described, ‘serious allegations ... against several police officers’ including one officer in particular which the sentencing judge said ‘must have caused her great distress over a period of years’. As the judge said, the

willingness to blame others did not reflect well on the Appellant's character.

- (6) Other cases put forward by the appellant's counsel have been helpful guidance on tariff and for the purposes of maintaining consistency, but each case must be judged separately on its merits.
- (7) We also take into full account the mitigating factors listed by the Appellant in his Notice of Appeal. They include, in particular, family difficulties, money worries, children to be looked after, and ill health. We take them into account.
- (8) We have looked at the Home Office Circular and have been guided by the contents of paragraphs 5 and 11 of Annex B. One aspect of the guidance refers to 'the extent of publicity and media coverage'. There was coverage in this case; we have been shown it. It is of significance in that it brings misconduct to the public's attention. But this is an aspect upon which we do not rely greatly. We rely more upon the phrase used in the Circular: 'the betrayal of an important position of trust for personal gain'.

9. For all these reason we dismiss this appeal.

**HH JUDGE PETER THORNTON QC and TWO JUSTICES**

**17 June 2011**