# Regina v Lizzy Henz Aka Professor Alexia Thomas

No: 201005767 A6

Court of Appeal Criminal Division

21 December 2010

**[2010] EWCA Crim 3121**

**2010 WL 5580372**

Before: Mr Justice Maddison His Honour Judge Scott-Gall (Sitting as a Judge of the CACD)

Tuesday, 21st December 2010

## Representation

Mr J T Mckenna appeared on behalf of the Applicant.

Mr W Hays appeared on behalf of the Crown.

## Judgment

Mr Justice Maddison:

1 On 25 August 2010 in the Crown Court at Southwark the appellant Lizzy Henz, also known as Professor Alexia Thomas, and who is now 37, was convicted on 8 counts of providing immigration advice and services when not qualified to do so contrary to section 91 of the Immigration and Asylum Act 1999 . On 24 September His Honour Judge Higgins sentenced her to 18 months' imprisonment to be served concurrently on each count. She appeals against sentence by leave of the single judge.

2 She was the director of a company called Independent Diplomatic Commission Limited which operated from an address in the Woolwich Arsenal area. When section 91 of the 1999 Act came into force in 2001 it became an offence to provide immigration services and advice unless the provider was a qualified person, such as a solicitor, barrister or an individual or organisation registered with the Office of Immigration Services Commission. Neither the company to which we have referred nor the appellant were qualified persons allowed to give such advice. The appellant claimed in advertisements to have many qualified lawyers working for her, but in truth she had none.

3 Between 9 August 2007 and 31 October 2008 she provided immigration services and advice to eight individuals. She claimed to advocate for them and made applications to the Home Office for leave to remain on their behalf, providing the formal application forms and additional documentation and making representations. On some occasions the individuals had to pay £35 for an identity card before assistance would be provided and then an engagement fee of £1500. There was no direct evidence about the total income generated in this way, but the judge concluded that it would not have been insubstantial.

4 The appellant came before court with one previous conviction for assaulting a constable, for which she received a suspended sentence of imprisonment on 18 November 2009.

5 The judge had a pre-sentence report which indicated that the appellant did not accept any responsibility for committing the offences concerned. There were, however, concerns for her mental and physical health, given that she had refused to eat since being remanded in custody. Given the concerns over her mental health, the court was invited to consider adjourning the matter to obtain a psychiatric report. Should any alternative to custody be considered, then a suspended sentence order with an unpaid work requirement was suggested. The report recorded

that the appellant's four children had been living with her ex-husband since her remand in custody.

6 Passing sentence the judge observed that this was not merely a technical offence. It was plain that the operation was designed to generate an unlawful income for the appellant, and that any benefit to others would be no more than incidental or accidental. The judge said the appellant had no regard to the harm that she might do to those who put their trust in her. Having presided over the appellant's trial the judge concluded that she had been guilty of the most deplorable and deeply antisocial behaviour, including serious breaches of the trust which she encouraged others, many of whom were highly vulnerable, to place in her. The judge said that he would take account of the pre-sentence report and the appellant's personal circumstances, but there was virtually no mitigation. The histrionics which she had displayed during trial and her behaviour in prison were driven by only two motives, an attempt to distract attention from her serious and routine criminality and an attempt to minimise the consequences. The judge observed that the maximum sentence for each of the offences was 2 years' imprisonment, and went on to pass the concurrent sentences of 18 months to which we have referred.

7 The grounds of appeal initially concerned the length of the sentence, which it was said was manifestly excessive having regard to the personal circumstances of the appellant and to such guidance as was available as to the appropriate sentence for a case of this kind.

8 In the latter regard, reliance was placed on the appellant's behalf on the case of *Clark [2008] EWCA Crim. 893* and on a schedule helpfully provided by the prosecution setting out sentences that had been passed in broadly comparable cases in various Crown and Magistrates' Courts. We have to say that having considered those other cases, our provisional view would be that the sentence of 18 months in total was indeed too long, but things have moved on and it is unnecessary for us to consider that aspect of the case in any further detail.

9 Things have moved on because although there was no way at all of knowing this at the time the case was before the Crown Court, it now seems likely that the behaviour of the applicant, both at the time of committing the offences and at the time of and subsequent to the trial, was caused or contributed towards by her mental illness. When this case first came before us on 10 December of this year, we had a report from Dr Sergei Grachev, indicating that on 25 November 2010 the appellant had been moved from prison to the Bracton Centre, a psychiatric unit in Dartford, Kent, with a mental state mainly characterised by persecutory delusions, grandiose ideas and abnormal affective state with agitation. We adjourned for a full psychiatric report to be prepared with a more detailed diagnosis and prognosis.

10 We have now received a report dated 20 December from Dr Catherine Penny, a specialty registrar in forensic psychiatry at the Bracton Centre. She is approved under section 12 of the Mental Health Act 1983 . We have today been provided with a further or the from Dr Chatterjee, also approved under section 12 of the Mental Health Act . We are grateful to both medical practitioners, but in particular to Dr Penny, for the speed and thoroughness with which they have prepared their helpful reports, all of which we have read.

11 It is clear that the appellant does indeed have both grandiose and persecutory delusions. Both doctors state that she suffers from a mental illness known as delusional disorder. This probably developed during late adolescence or early adult life. The disorder contributed to the commission of the offences now before the court in that the appellant believed that she did have special expertise in immigration law, and could therefore legitimately help people with their immigration problems. This disorder, it appears, can often be persistent, particularly without treatment.

12 The appellant has not yet shown any significant response to medication. She lacks insight into her own disorder. Were she to be returned to prison or released into the community without responding to treatment, then she would not accept treatment. In those circumstances the recommendation is for a hospital order under section 37 of the Mental Health Act 1987 .

13 Mr McKenna, who represents the appellant today, has said everything on her behalf that could properly be said. He has told us of the instructions which he has received from the appellant to the effect that she does not feel that a hospital order is necessary or appropriate. He has asked us to consider the possibility of a community order with a mental health requirement, but the concluding paragraphs of Dr Penny's report really provide the answer, and a compelling answer it is, to that suggestion. The fact is that given her lack of insight into her own

predicament, the appellant would simply not take the medication that she requires were that course taken, rather than the course which seems to us to be the inevitable outcome of today's proceedings, namely a hospital order.

14 We allow the appeal by substituting hospital orders for the sentences passed by the judge. The hospital order will attach to each of the offences concerned.

15 There are certain formalities that we have to pronounce. We are satisfied on the written evidence of Dr Penny and Dr Chatterjee that the appellant is suffering from the mental disorder to which we have referred. We are satisfied that the disorder is of a nature or degree which makes it appropriate for the appellant to be detained in hospital for medical treatment. It is our opinion, having regard to all the circumstances, including the nature of the offences and the character and antecedents of the appellant, and to the other means of dealing with her, that the most suitable means of dealing with this case is by means of a hospital order. We are moreover satisfied that arrangements have been made for the appellant's admission to hospital within 28 days of today. In fact, the practical effect of the decision that we have taken is that she will simply remain at the Bracton Centre at which she is presently an inmate.

16 We are grateful both to Mr McKenna and, at least for his attendance, to Mr Hays. For the reasons which we hope clearly to have explained, the appeal is allowed and the sentence is varied.

**The defendant addressed the judges**

17 MR JUSTICE MADDISON: So that it is on the transcript, can I indicate that somewhat unusually after judgment had been given the appellant Lizzy Henz sought to address us and in all the difficult and sensitive circumstances of this case we thought it right to allow her to do so, even though she is represented by counsel. We have taken into account all of the representations that she has made to us. It remains our view, for the reasons expressed in our earlier judgment, that a community order would be simply an inappropriate way of dealing with the case, and insofar as the appellant asks in effect for a transfer to a hospital other than the Bracton Centre, we can only make a hospital order if we are satisfied that arrangements have been made for admission to a particular institution, and we have no information about any institution other than the Bracton Centre. Moreover, it is our view that since the appellant is presently receiving treatment at the Bracton Centre it would, despite, I am afraid, the appellant's own views, be an entirely counter-productive course, even if we had the power to do so, to make an order which would involve her transfer to another hospital. We are grateful to the appellant for the courtesy with which she made her submissions, but the outcome of the appeal remains the same. Thank you very much.