

JERSEY / JUDGMENT

AG v Appleby [2002] JRC 229 (05 December 2002)

[2002] JRC 229

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JUDGMENT

THE BAILIFF: 1. The defendant was the honorary treasurer of a club called the Jersey Freshwater Angling Association. He obtained, by fraud, over a period of some 4½ years, the sum of £45,000 from the Club by plundering its bank account. Serious deceits were involved in this offending. He obtained a second cheque book by which he was able to deceive the President and members of the Club, and he lied to members about having the accounts audited. It was, in short, a gross breach of trust committed over a substantial period. 2. The defendant has previous convictions but they were long ago. We shall ignore them and treat the defendant as a first offender. Advocate Messervy has urged upon us, quite rightly, that there is substantial mitigation in this case. Since he has been arrested by the police the defendant has sold his flat and paid the net proceeds of sale to the Association. He is making arrangements to sell a mobile home which is in France. He has made arrangements to surrender an insurance policy which will yield some £4,000. He has given the contents of his flat to Roseneath Hostel. He finds himself in his mid-forties, as counsel has said, in a position where, in material terms, he has virtually nothing left. 3. In terms of restitution to the Association of which he was a member for many years, he has paid just under £44,000 to the Association and has undertaken to repay the outstanding balance of £1,341.00, and legal costs incurred by the Association together with interest. 4. The Court accepts that the defendant has shown remorse. He has been co-operative with the police, and has pleaded guilty to the indictment and admitted the offending at the first available opportunity. 5. The Court has given very anxious consideration to the question of whether a non-custodial sentence can be imposed. We have reached the conclusion that the offence is too serious to be dealt with in that way. The Court must make it clear to others who might be tempted to breach a trust reposed in them that the likely result will be a custodial penalty. We can, however, in the light of the very substantial mitigation substantially reduce the conclusions. 6. The sentence of the Court is that on count 1 you will be sentenced to 18 months' imprisonment on counts 2 - 42 inclusive, to 18 months' imprisonment concurrently on each count and concurrent with count 1. On the second indictment you will be sentenced to 2 months' imprisonment again concurrent. You will be disqualified for a period of 3 years' from holding a driving licence. We are not satisfied that there are special reasons not to disqualify; but the disqualification will date from today. The total sentence is therefore one of 18 months' imprisonment. We also make a compensation order in

favour of the Jersey Freshwater Angling Association in the sum of £1,341.00. Authorities Barrick (1985) 7 Cr. All. R (S) 142. A. G. -v- Cooper (7 th May, 1999) Jersey Unreported; [1999/78]. A. G. -v- Congdon (16 th November, 2001) Jersey Unreported; [2001/231]. A. G. -v- Marsh (18 th January, 2002) Jersey Unreported; [2002/16]. Le Monnier -v- A. G.

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