

JERSEY / JUDGMENT

AG v Austin

COURT

ROYAL COURT

BEFORE

F.C. Hamon, Esq., Deputy Bailiff, and
Jurats Gruchy and Quérée

The

Attorney General

-v-

Dean

John Austin

2

counts of larceny as a servant

(counts 1, 2);

3

counts of obtaining money by

false pretences (counts 3, 4, 5); and

2

counts of embezzlement (counts

6, 7).

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Source record

1999/48

3 pages

ROYAL COURT

(Samedi

Division)

12th

March, 1999

Before:	F.C. Hamon, Esq., Deputy Bailiff, and Jurats Gruchy and Quérée The Attorney General -v- Dean John Austin 2 counts of larceny as a servant (counts 1, 2); 3 counts of obtaining money by false pretences (counts 3, 4, 5); and 2 counts of embezzlement (counts 6, 7).
Age:	29. Plea: Guilty. Details
of Offence:	Defendant employed by Professional Business Services (CI) Limited. In December, 1997, defendant “sold” computer and accessories to customer, the retail price of which was £3,500. He told the customer to make a cheque payable to cash in the sum of £1,000 and he would then buy the computer. The defendant put the sale through company accounts at retail price. When Managing Director contacted purchaser to ask why balance was overdue, offence was discovered (count 1). A similar situation had arisen with a second laptop (count 2). The defendant was living way above his means enjoying a lavish lifestyle to impress his girlfriend. He bought two motorcars and a speed boat on conditional sale agreements, selling them before the conditional sale agreements were completed in order to realise cash. A loss was suffered by purchasing garages and member of the public who purchased the cars and speed boat, all of whom had to pay the finance companies the outstanding balance owed by the defendant in order to avoid repossession (counts 3, 4 and 5). Counts 6 and 7 relate to furniture which was sold by the defendant to a doctor, who paid in cash. The cash was never paid into PBS’s account and receipts were not provided by the defendant. Details

of Mitigation:	Defendant's general medical practitioner had written to the Court stating that the defendant suffered from endogenous depression and obsessive symptoms. This diagnosis was not confirmed by the Consultant Psychiatrist, Dr. Blackwood. Defendant was effectively a first offender who claimed he did not know he was not free to sell the vehicles and boat whilst still subject to the agreements. Defendant not initially co-operative with police but was ultimately. Had spent four weeks in custody. When granted bail pending sentencing had worked as a carpenter and Court provided with a good reference. Defendant had been offered work in the United Kingdom and probation had confirmed that any community based sanction could be supervised in the United Kingdom. Defendant assessed as being unlikely to re-offend, was ashamed of what he had done and wished to make restitution. Defence counsel sought community service and restitution or if imprisonment, a maximum of six months. Previous Convictions: Nothing relevant (DIC 1996).
Conclusions:	Counts 1 & 2: 15 months' imprisonment, on each count. Counts 3 - 7: 12 months' imprisonment, on each count. All concurrent. Sentence and Observations of
the Court:	Counts 1 - 7: 12 months' imprisonment on each count, concurrent. Court observed that public must be protected. Mrs. S. Sharpe, Crown Advocate. Advocate A. Messervy for the Accused.

JUDGMENT

THE DEPUTY BAILIFF: The defendant must have known that he was acting unlawfully when he sold the boat, the 'Escort' car and even the 'Mini' while they were still subject to hire purchase agreements. The cheating of his employer whilst in a position of trust is deplorable. He has left a financial mess behind him. It must be recalled that his former employer has lost stock, two garages and the purchaser of the boat has been obliged to pay the balance owing to the finance companies concerned. Even though he was caught in a financial tangle entirely of his own

making, he and his girlfriend still enjoyed a high standard of living. We have considered the circumstances set out in the case of *Barrick* (1985) 7 Cr.App.R.(S.) 142, though two cases are never the same. There was a degree of trust placed in Austin at PBS; several offences took place over a period of more than twelve months; the money was used to fund a lifestyle; the owner of the speedboat has had to pay over £5,000 to retain it. We have carefully considered all the medical evidence and the very detailed social background report but the public must be protected against this sort of offence. We cannot distinguish this case from that of *AG -v- Cairns* (15th January, 1999) *Jersey Unreported* and *AG -v- Cooper* (6th February, 1998) *Jersey Unreported*, although of course this is not as sophisticated. Stand up, please, Austin. We are going to sentence you to twelve months' imprisonment, concurrent on each count, which will include the four weeks you have already spent in custody. Authorities. *Barrick* (1985) 7 Cr.App.R.(S.) 142. *AG -v- Cooper* (6th February, 1998) *Jersey Unreported*. *AG -v- Cairns* (15th January, 1999) *Jersey Unreported*.

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Prepared on 28 October 2026 · Esheria