

JERSEY / JUDGMENT

AG -v- Blood [2015] JRC 201 (02 October 2015)

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JUDGMENT

THE commissioner: 1. The defendant, who is aged 35, stands to be sentenced for one count of failing to notify a change of circumstances to the Social Security Department thereby obtaining £11,966.29 in income support that was not properly payable to her. She declared that she had paid rent to her mother of £700 per month, which was the case at the very outset, but shortly thereafter, she reached agreement with her mother that no further rent needed to be paid. And none was paid until the arrangement was discovered. 2. The period involved was from 8th June, 2011 to 7th September, 2012, some 15 months. The original claim form contained the usual warning, namely "any person who knowingly makes any false statement or false representation for the person obtaining benefit for themselves or for someone else commits a criminal offence for which they may be prosecuted and may also be required to repay the amount fraudulently obtained" as did two change of circumstance forms which she subsequently submitted in relation to her employment. 3. In September 2012 on a routine review the defendant was asked to provide bank statements for three months and those showed that no rent had been paid. When challenged about this, a further bank statement showing a withdrawal in April 2012 in the sum of £700, was sent in by the defendant, who said that it represented rent for her mother and which she subsequently admitted she had forged. She further forged two letters from her mother corroborating her own written explanation that she had not paid rent to her mother over a three month period of that summer which she described as a temporary suspension of payments that had been a genuine error. She claimed that she had paid her mother the arrears for this period which she hoped would adequately resolve matters with the Department. She eventually accepted in interview that in fact no rent had been paid at all over the 15-month period involved. 4. The defendant is well-educated, having just completed a law degree and an LPC course, and she has recently secured employment with an intellectual property law firm. She has no previous convictions and is assessed at a low risk of reoffending. There was a delay of 11 months within the fraud investigation department in pursuing this matter during which she had, in fact, been employed on a temporary basis by the Social Security Department and she was not interviewed under caution until February 2014. The file was not completed and referred to the police legal advisors until August or September 2014. The delays since then have largely been as a result of accommodating the defendant's educational commitments. 5. The Crown has accepted that there

was no plan to commit an offence when she first submitted her application form. 6. We have considered the mitigation put forward by Advocate Bell very carefully. As stated in AG-v-Harris 1997/57 "A fraud on the Social Security Department is not a victimless crime." and the starting point must be a sentence of imprisonment. In this case, having taken into account the mitigation, and on balance, we have decided that the alternative to imprisonment, namely community service, is the right sentence to be imposed for two reasons:- (i) It will enable the defendant to make amends to the community she has defrauded by way of a lengthy period of community service; and (ii) It will enable her to remain in employment and to repay the sum she has wrongly obtained in full. 7. You are therefore sentenced as follows to Community Service of 150 hours', which is the equivalent to 9 months' imprisonment. 8. We also order you to pay compensation of £250 per month starting within 7 days and payable thereafter on the 9th day of each month until the sum of £11, 966.29 has been paid in full and in default of such payment you will serve a sentence of 9 months' imprisonment. Authorities AG v Morin

[2010] JRC 217D . R v Graham and Whatley

[2004] EWCA Crim 2755 . AG v Harris 1997/57. AG v Turner

[2012] JRC 147 . Whelan on Aspects of Sentencing in the Superior Courts of Jersey 3rd Edition.

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