

JERSEY / JUDGMENT

AG -v- Bradshaw [2017]

JRC 119 (28 July 2017)

[2017] JRC 119

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JUDGMENT

THE commissioner: 1. The defendant is to be sentenced for three counts of social security fraud carried out between 2008 and 2016 by which £102,788.37 was obtained under Count 1 and much smaller sums under Counts 2 and 3 giving rise to a debt of £103,445.87, of which £63,799.91 have been repaid leaving £37,533.78 outstanding. At the current rate of repayments taken from the defendant's income support payments this debt will not be repaid now until February 2033. 2. The fraud involves the non-disclosure of a property in Wales inherited from the defendant's mother and numerous bank accounts and bonds. This is the largest sum defrauded from Social Security and the most prolonged period of offending. We have been taken through the sentencing principles set out in the case of R-v-Graham and Whatley

[2005] 1 Cr App R (S) 115 adopted by this Court in AG-v-Morin

[2010] JRC 217D . 3. The defendant is assessed at a low risk of reconviction and she has effectively no record. In terms of mitigation she has pleaded guilty. We have a letter of remorse from her and other letters and references which we have taken into account. She has a significant history of chronic depression going back many years. We have had a psychological report from Doctor Engelbrecht which says that this may have impacted upon her ability to make decision. Doctor Engelbrecht also advises that imprisonment will impact adversely on her mental health. The issue for us is whether this is sufficient to overcome the need to impose a deterrent sentence for offending which has been described in this way in the case of AG-v-Couillard

[2011] JRC 179A : 2. Benefit fraud is offensive. Most Islanders pay what they should pay into the funds which the Island needs, and claim what they should claim; and it is when people step outside those arrangements that the contract which government makes with the citizens of the Island, falls down. People no longer feel confident about the money that they pay in if they think that their money is being abused, and had you broken into somebody's house and stolen this sum of money, there is no question that the Court would have looked at it very seriously indeed and been looking at a custodial sentence. Cheating the public is really no different in principle" 4. In the case of AG-v-McDonald

[2014] JRC 100 the court on the facts there felt able to avoid custody for a social security fraud just under £50,000 because the defendant had been diagnosed with a recurrent depressive disorder and additional psychological problems. He had just been admitted to Orchard House on an emergency basis and advice received by the court was to the effect that a sentence of imprisonment would have a very detrimental effect on him. The defendant in this case also has a formal diagnosis of recurrent depressive disorder but the circumstances of every diagnosis and of every patient and the impact upon them will be different. In this case Doctor Engelbrecht has advised that the defendant currently does not require hospital treatment. We have considered the matter very carefully but in our view the duration of this fraud, the frequency of it and the amounts involved are just too serious for us to avoid a custodial outcome. There was no issue as to the defendant's cognitive ability when she filed these forms on a regular basis and over these many years she was actively managing these bank accounts and bonds which she had not disclosed. However, in the light of her circumstances we do feel able to reduce the sentence sought. 5. On Count 1 you are sentenced to 2 years' imprisonment, on Count 2; 6 months' imprisonment, concurrent, and on Count 3; 6 months' imprisonment, concurrent, making a total of 2 years' imprisonment. 6. We are not going to impose a Compensation Order. Authorities R-v-Graham and Whatley

[2005] 1 Cr App R (S) 115 . AG-v-Morin

[2010] JRC 217D . AG-v-Couillard

[2011] JRC 179A . AG-v-McDonald and Hughes

[2014] JRC 100. AG-v-Good and Moody

[2015] JRC 027 . AG-v-Cocks

[2014] JRC 142A . AG-v-McLoughlin

[2012] JRC 179 . Page Last Updated: 14 Sep 2017 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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Prepared on 26 October 2026 · Esheria