

JERSEY / JUDGMENT

AG -v- Browne [2018]

JRC 070 (16 April 2018)

[2018] JRC 070

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JUDGMENT

THE BAILIFF: 1. You were convicted after a trial, on two counts of benefit fraud under the Income Support (Jersey) Law 2007, concerning your knowingly furnishing information which was materially false or withholding material information with intent to obtain an award, and failing to notify a change of circumstances as required by the same law. At the time of your conviction the Court made it plain that you were convicted on the following basis. 2. In relation to Count 1, there had been a knowing furnishing of false information or withholding material information with intent to obtain an award in relation to a Review Form of 2013 and a Zone Review Form of 2016. The court was satisfied that Mr Browne, your husband had in fact been a member of the defendant's household from 2007 to 2013 but was not satisfied that the defendant had the necessary criminal intention until 2012. 3. In relation to Count 2, you criminally failed to disclose that the circumstances had changed by virtue of your husband joining the household for the six months' period of the sub-lease of the apartment between 2009 and 2010, and upon the basis that from March 2012 you should have notified a change of circumstances in relation to your husband being a member of the household. 4. The amount of benefit which you wrongly obtained was just under £76,000. The fraud took place over the 6 months' period, between 2009 and 2010 that is Count 2, and a three to four year period between 2012 and 2016 which is Count 1. 5. The essence of your defence was that the charges really related to whether your husband was living with you; in fact that you had separated from him so you considered he was not doing so. Your interview with the Probation Service shows that you apparently have no remorse because you do not understand what you have done wrong. 6. The Court accepts that when you first made your claim for Income Support, you did not think of your husband as part of your household as a result of your separation. But there was no doubt that you understood how the Income Support system worked and in particular that you understood that if there were to be a change of circumstances that you have an obligation to tell the Department. Indeed you notified the Department of a change of circumstances on 29 occasions during the period under review, yet you never told the department that your husband was a member of the household making some payments towards household expenses and you never volunteered the information that he was there some of the time; and you never asked the Department whether that would make any difference. You may have ceased your matrimonial relationship with him but that is not the basis

upon which one gets income support, and you understood that. The Court's finding at your trial shows that you knew that you should have notified the department that your husband was living in your household. 7. The Crown asked us to consider a number of cases AG v Bradshaw

[2017] JRC 119 , AG v Good and Moody

[2015] JRC 027 , AG v Cocks

[2014] JRC 142A , AG v McLoughlin

[2012] JRC 179 , AG v Couillard

[2011] JRC 179A and AG v Such

[2012] JRC 155 and we have done that. 8. In our view the offences you have committed must be marked by a period of custody. In particular we endorse what the Court said in AG v Good and Moody , where it was said; "Now, it has been said before and I am going to say it again, that income support fraud is extremely serious. The legislature lays down a maximum of 7 years' imprisonment which shows how seriously the legislature treats it and it is, for the absolute avoidance of doubt, as bad a fraud as any other form of fraud. You are cheating every member of our community by taking monies to which you are not entitled. It is an affront to everybody who is just as badly off as you are but they do not cheat and they tell the truth. It is an affront to everybody who pays their contributions into the fund because they rely on all those who are claiming benefits to claim according to the rules and ensure they do not claim benefits that they should not have,..." 9. Indeed when we look at the references which you have put forward, in your case, it is clear that you are a caring loving mother. It is clear that you relate to other people in the community on a personal level in an absolutely admirable way, but that is not being translated as a person to the way in which all of us need to respond to the community at large. Taking money from Income Support to which you are not entitled is as I say as bad a fraud as any other. 10. Nonetheless, we think that Advocate Harrison was absolutely right to draw the distinction between a claim which is false from the beginning and one which started out all right but became false later on. We accept that submission and that is causing us to reduce the conclusions quite considerably. 11. We also take into account your previous good character and the character references, your good work record; and of course because you pleaded not guilty we cannot give you the discount which otherwise would have been available. 12. Having regard to all these matters we sentence you to 2½ years' imprisonment on Count 1 and 18 months' imprisonment on Count 2, the two periods of imprisonment to run concurrently. 13. You are sentenced to a total of 2½ years' imprisonment. Authorities Income Support (Jersey) Law 2007. Articles 5 and 8, Income Support (General Provisions) (Jersey) Order 2008. AG v Bradshaw

[2017] JRC 119 . AG v Good and Moody

[2015] JRC 027 . AG v Cocks

[2014] JRC 142A . AG v McLoughlin

[2012] JRC 179 . AG v Couillard

[2011] JRC 179A . AG v Such

[2012] JRC 155 . R v Graham and Whatley

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