

JERSEY / JUDGMENT

AG -v- Christmas [2013]

JRC 068 (08 April 2013)

[2013] JRC 068

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JUDGMENT

THE commissioner: 1. This is an application for compensation by the Attorney General in respect of the loss suffered by Mrs Cotrel in respect of the one count that Mr Christmas was convicted of. Starting with the loss: that is not a complicated matter. It was £100,000. That was the money paid over in respect of Count 2 on the Indictment where the Jurats were sure that, for the reasons set out on other occasions, this defendant had been a party to the reckless misrepresentation of the position to Mrs Cotrel so as to be guilty of the offence of which he was convicted. 2. We agree with the Prosecution that the correct way of calculating the loss is to see what inflation has done to the sum of money since it was paid over so that, although the order will not be in the full amount claimed, it should not be thought that we have in any way mitigated the loss to Mrs Cotrel. It is a question of what order should be made by way of compensation. For any additional money she will of course still have her civil remedy. 3. The power of the court is straightforward and I read from Article 2(2) of the Criminal Justice (Compensation Orders)(Jersey) Law 1994 :- "The compensation order shall be of such amount as the court considers appropriate, having regard to any evidence and any representations that are made by or on behalf of the offender..." 4. In practical terms that means that once the loss is established the court has to ask itself whether it is appropriate to order the whole of that sum to be paid by the offender or part of that sum and if so, over what period. In this case we have had regard, and the Jurats have had regard in concluding the appropriate sum, to the two amounts of capital that are now available. It is true that those are the proceeds of policies which it was intended by the defendant would go to meet his mortgage obligation but they were not policies which the bank was entitled to. They simply expected that the proceeds would be paid over. Similarly we have approached the case on the basis, as we were invited to, that Mr Christmas will receive his pension from the States, though that has not yet been finally determined. 5. Bearing those matters in mind and having regard to the obligation not to make any order against him that he cannot reasonably pay, the conclusion of the Court is this. There will be a compensation order in favour of Mrs Cotrel in the sum of £100,000 that will be payable as follows:- (i) £60,000 will be payable within 28 days; and (ii) the balance of £40,000 will be payable within 12 months. If there is a failure to make either of those payments the whole sum will be due and in the event of the whole sum not being paid, there will be a sentence of 12 months' imprisonment in default. Authorities Criminal Justice

(Compensation Orders)(Jersey) Law 1994. Page Last Updated: 16 Aug 2015 BAILII: Copyright
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Prepared on 29 October 2026 · Esheria