

JERSEY / JUDGMENT

AG v Fitzsimmons

COURT

ROYAL COURT

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1999/164

3 pages

ROYAL COURT

(Samedi

Division)

1st

October, 1999

Before: Sir Philip Bailhache, Bailiff,
and Jurats

Quérée, Allo

The

Attorney General

-v-

Francis

Charles Fitzsimmons

6

counts of: obtaining money by false
pretences (counts 1,2,3,4,5,6).

(Count

5 abandoned)

Age:

46

Plea: Guilty

Details

of Offence:	Between July and December, 1997 the defendant submitted continuous medical certificates to Social Security and claimed sickness benefit. The first certificate related to hyper-tension and exhaustion. It was accepted by the prosecution that there may have been times during the material periods when the defendant was genuinely ill. The defendant was a taxi driver. The prosecution relied on documentation relating to account customers but had no record of cash customers. The defendant submitted medical certificates at the end of the relevant periods making it difficult to investigate whether he was working or not. In September Social Security had asked him to sign a declaration form that he was incapable of work through illness. The defendant did so but continued to work. He also submitted claims in January, 1998 (Count 2), February, 1998 (Count 3) and March, 1998 (Count 4). An attempt to obtain benefit in July/August, 1998 was thwarted by a stop being put to the cheque by Social Security (Count 6). Following police investigation and interviewing of company personnel it became clear that the defendant was working. At interview he denied working saying that other people drove his car. None of the other drivers he named and who were interviewed corroborated his story. Total sum defrauded £4,797.84. Details
of Mitigation:	Fitzsimmons' initial claim had been genuine in that medical evidence was produced to show he had a heart condition. Defence counsel conceded he was "shutting his eyes to the obvious" when signing the benefit cheques which carry clear warnings on the face of the document. Defence counsel claimed he had made a serious error of judgment rather than a deliberate and systematic fraud. He was not in financial distress. Offered apologies to the Court and character references. Previous
Convictions:	1979 - Taking and driving away. 1992 - Exceeding the speed limit. 1993 - Refusing to leave licensed premises. 1995 - Larceny from a shop of a raincoat for which he was bound over for 2 years. Conclusions: Count 1: 9 months' imprisonment. Count 2: 3 months' imprisonment. Count 3: 3 months' imprisonment..

Count
4: 3 months'
imprisonment..
Count
5: abandoned..
Count
6: 3 months'
imprisonment.
All
concurrent
Compensation
Order: £4,797. 84, or 2 months' imprisonment in default of payment,
consecutive.
Total: 9 months' imprisonment.
Sentence & Observations

of Court:

Careful consideration of all
matters raised: defence counsel could not have said anything further. However, court
took the view that
it was a deliberate fraud on Social Security fund and could not find anything
in the case which would entitle the Court to depart from the conclusions of the
Crown Advocate which appeared to be reasonable and appropriate. Conclusions
granted, Compensation
Order to be repaid within 18 months and in default of payment 2 months'
imprisonment consecutively.
Mrs.
S. Sharpe, Crown Advocate
Advocate
R. Tremoceiro for the Accused.

JUDGMENT

THE BAILIFF: The Court has given very careful consideration to all the matters very properly raised by Counsel for the accused, and indeed we think that nothing further could have been said on his behalf than was said. At the end of the day we take the view that this was a deliberate fraud upon the Social Security fund. We cannot find anything in the case which would entitle us to depart from the conclusions of the Crown Advocate which appear to us to be reasonable and proper. Fitzsimmons you are therefore sentenced on count 1: 9 months' imprisonment; count 2: 3 months' imprisonment; count 3: 3 months' imprisonment; count 4: 3 months' imprisonment; count 6: 3 months' imprisonment. All those sentences to be concurrent making a total of 9 months' imprisonment, and we make a Compensation Order in the sum of £4,797.84 in favour of the Committee of Employment and Social Security. That sum of money to be paid within 18 months and in default of payment we order that you will serve a further 2 months' imprisonment, consecutive to the sentence otherwise imposed. Authorities A.G. -v- Halsall (9th December, 1996) Jersey Unreported. Livingstone-Stewart (1987) 9 Cr. App.R.(s) 135. A.G. -v- Burns, Armitage (20th August, 1999) Jersey Unreported. A.G. -v- Harris (27th March, 1997) Jersey Unreported. A.G. -v- Pritchard (20th October, 1995) Jersey Unreported. A.G. -v- Laverick (11th

January, 1999) Jersey Unreported. Johnson -v- A.G. (15th March, 1999) Jersey Unreported, C.of A. A.G. -v- Godwin (30th October, 1998) Jersey Unreported. A.G. -v- Horgan (20th December, 1996) Jersey Unreported. A.G. -v- Thorne (28th November, 1997) Jersey Unreported. A.G. -v- Warn (26th July, 1996) Jersey Unreported. A.G. -v- Blake (18th August, 1995) Jersey Unreported.

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Prepared on 26 October 2026 · Esheria