

JERSEY / JUDGMENT

AG -v- Gouveia [2016] JRC 166A (16 September 2016)

[2016] JRC 166A

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JUDGMENT

THE DEPUTY BAILIFF: 1. We sentence you today for one count of larceny as a servant. That count reflects that over a 3 month period you diverted some £30,761.51 from your employer to yourself. You did so in total disregard of the complete trust that your employer had in you, with your unfettered access to your employer's online banking account. 2. You needed money and whilst you considered asking for a loan it is clear that you believed that your employer would not agree to a loan, so you took the money anyway. You have declined to say why you needed the money, but it appears from an analysis done on your bank account that it was used to meet daily living expenses and towards your other businesses. This failure to offer us an explanation we view with concern and what it means is that we cannot assume that there is any mitigation available to you in this respect. 3. We note the effect of this offending on your former employer, which was a small family business. We take into account the worry and the fear that this has caused to them; and the fear for the future and the financial consequences that your crime has visited upon them. 4. You are of good character and we note and accept the genuineness of your remorse. You have pleaded guilty at an early stage and you were, in effect, completely cooperative with the authorities. We have read the references that have been provided on your behalf. They speak not only of your good character, but of your significant service to the community and we certainly take that into account. We note not only the effect that this offending has inevitably had on you but on members of your family including, of course, on your daughter. It is a pity that you did not think of these effects when you embarked upon this course of offending. We have of course had regard to her circumstances but as the Crown observes there is often very strong mitigation in cases such as this and offenders are often of good character and often there are consequences that flow not only to them but to members of their family. The clear policy of the courts is that, save in the most exceptional circumstances, a custodial sentence for an offence of this nature, involving as it does an egregious breach of trust, is almost inevitable. 5. Accordingly, we do not feel able to depart from that sentencing policy, but in the light of the strong mitigation that is available to you we are prepared to reduce somewhat the conclusions moved for by the Crown and you are sentenced to 18 months' imprisonment. 6. In terms of the payment of compensation, in the light of the sentence that we have just imposed, and in the light of your means as communicated through the schedule provided by your Counsel, we do not make any order for

compensation. To the extent that compensation becomes a question in the future that may be a matter to be dealt with through the civil courts in due course but not by us. 7. We now reconstitute ourselves as a Court of civil jurisdiction and we order your disqualification pursuant to Article 78(1)(a) to (c) in the terms moved for by the Crown, and that under the Companies (Jersey) Law 1991 for a period of 5 years. Authorities Companies (Jersey) Law 1991. AG v Morgan

[2006] JRC 176 . R v Barrick [1985] 7 Cr App R (S) 142. AG v Dauny

[2010] JRC 141 . AG v Esnouf

[2016] JRC 108 . Whelan on Aspects of Sentencing in the Superior Court of Jersey. Criminal Justice (Compensation Orders)(Jersey) Law 1994. Page Last Updated: 31 Oct 2016 BAILII:
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