

JERSEY / JUDGMENT

AG v Lelliot [2000] JRC 20 (01 February 2000)

[2000] JRC 20

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JUDGMENT

THE DEPUTY BAILIFF: Time and again this Court has said that Social Security fraud is a deception on every single person who diligently pays their social security contributions into the fund. We need also to say this: it is recognised by Social Security that there may be situations where a person undertakes work sporadically, and there is a precedent for allowing claimants on relief to pay back any over payment. As Crown Advocate Sharpe has said, that procedure relies entirely on the honesty and co-operation of the claimant, but its great advantage is that it avoids the steps towards prosecution. The defendant has been in receipt of incapacity benefit for approximately five years; while working sporadically for various firms during that time, however, he continued to submit successive certificates in respect of his claim. Eventually, after initial denials, the defendant made a clean breast of the matter and, as reported by his probation officer, he said that each job he held was temporary, lasting on average two or four weeks. Had any of these jobs been permanent, he assures me he would have immediately notified Social Security. That, of course, is not the point. Lelliot has a bad record, but it must be said that he made no attempt to conceal the fraud by using a false name or social security number. This case is made particular by the special facts. The defendant is father to an infant son, Fraser. The probation report which we have read very carefully with the psychologist's report, notes the financial difficulties the family faces because the defendants co-habitee and the mother of Fraser, had drinking problems herself, but these have been exacerbated particularly by this prosecution, and it would now seem that the defendant is the child's main carer. The report states this: "The impact of a custodial sentence on Mr Lelliot would therefore be even more devastating than outlined in the report. Mrs Mallet..." that is the co-habitee - "...is not capable of looking after Fraser, and this would result in Fraser being taken into care by the Children's Service". The other consequences that would undoubtedly follow would be that they would lose the tenancy of their States flat. Mr Lelliot would then be homeless on release, and would of course not be able to resume responsibility for Fraser whom he appears to look after very well". This is a difficult case, but we are going to follow the conclusions of the Probation Service, and we are going to sentence you to two years' probation. Stand up please if you would. You are placed on probation for 2 years and you are going to have to attend the SMART course, and the Probation Service will organise that so that the care of Fraser is not jeopardised in any way. Now that may also make it necessary

for you to attend the Alcohol Study Group. You owe £2,037.70 to Social Security. We note that you want to repay it, and in fact that your Advocate has tendered £20 in cash this morning, as a token of your intention. We have every reason to doubt that there is any realistic hope of your doing so, when we look at your finances, so we are going to say this: if you want to make a voluntary contribution to pay back what you have taken from the fund, we will not discourage you from doing it. If the Department feels that it is essential, there is, of course, provision for a civil action for debt, however we are not going to pursue that aspect. Authorities A. G -v- Laverick (11 th January, 1999) Jersey Unreported. A. G -v- Fitzsimmons (1 st October, 1999) Jersey Unreported. Page Last Updated: 19 Aug 2015 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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