

JERSEY / JUDGMENT

AG -v- McCallion [2014]

JRC 148B (25 July 2014)

[2014] JRC 148B

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JUDGMENT

THE DEPUTY BAILIFF: 1. You are here to be sentenced on three counts of dishonesty in relation to a fraud or attempted fraud on your employer and one count of attempting to obtain money by deception from your landlady. The first three offences were committed over a three-month period and the last offence came some two months later and is aggravated by the fact that you were under investigation and you knew it at the time for the other three offences. 2. The offences themselves were not sophisticated offences; indeed the Court cannot really understand how you thought you might ever have got away with them but, nonetheless, there was deliberate dishonesty in that when receiving monies made payable to your employer you paid the purchase price for these vehicles which you were selling directly into your own personal account. 3. The Court has considered all the Barrick

[1985] 7 Cr. App. R. (S) 142 factors which are set out at paragraph 24 of the Crown's summary and, with the exception of the statement that you do not have the benefit of remorse because you have expressed that, both to the probation officer and indeed through your counsel to us today, we think the Crown's general summary of those Barrick factors is correct. 4. The Court's policy in relation to offences of breach of trust is well established; unless there are exceptional circumstances a custodial sentence follows, and in these circumstances that we have today the only exceptional issue which is put to us, and which I have to say we do not find to be exceptional, is the immobility of your partner's mother. The need to care for elderly people has arisen in other cases before this Court - AG-v-Pallot

[2010] JRC 122 is an example - and has not been found to be an exceptional circumstance, and in the present case we certainly do not find it to be an exceptional circumstance either, so in those circumstances a custodial sentence is inevitable. 5. We have looked carefully at all the circumstances of this case, taking into account your age, your guilty plea, the amount of money involved, the unsophisticated nature of the offending, and the short period over which the offending took place. We think that the right sentence is one of 15 months' imprisonment on Counts 1 - 3, which will run concurrently. In relation to Count 4, this was a different offence, and it is, as I say, aggravated by the fact that it occurred while you were being investigated on the other charges; nonetheless there is no breach of trust that we

identify in that particular case, and we think the right sentence on Count 4 is 3 months' imprisonment, which will run consecutively and therefore makes a total of 18 months' imprisonment. 6. You have been described by your counsel as a broken man. You have been sentenced by this Court for the offences that you have committed and once that is done then you will have to mend yourself in the future, which we have doubt you can do. 7. We are not going to impose any Compensation order in this case. There is no obvious ability to pay it, and in those circumstances your former employers will have to take civil action if they consider that to be appropriate. 8. So you are sentenced to 18 months' imprisonment in all. Authorities *Barrick* [1985] 7 Cr. App. R. (S) 142. *AG-v-Pallot*

[2010] JRC 122 . Criminal Justice (Compensation Orders)(Jersey) Law 1994. Whelan on Aspects of Sentencing in the Superior Courts of Jersey 3 rd Edition. *AG v Zielinski*

[2008] JRC 028 . *AG v Oliveira*

[2012] JRC 018 . *AG v Blaby*

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