

JERSEY / JUDGMENT

AG v Smith [2024] JRC 274 (06 December 2024)

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JUDGMENT

THE DEPUTY BAILIFF: 1. Marie Smith, you are 42 years old and prior to committing these offences had no convictions recorded against you. The offences arise from you failing to notify the Social Security Department of changes in your circumstances on four occasions over a two and half year period, resulting in overpayment in your benefits of approximately £30,000. These are not victimless crimes. All taxpayers are victims of frauds against the island community such as this. Further, you should have been in no doubt of your duty to notify a change in circumstances as you previously were responsible for a significant failure in this regard some years ago. 2. You claimed income support from June 2010 to June 2011, and then from September 2015 to July 2019. Your first claim for income support was closed as you failed to declare that you were co-habiting with your then partner - resulting in an overpayment to you of just over £11,000. 3. You went on to receive income support payments from November 2019 to November 2022 which are the subject matter of the indictment. You were fully aware of your duty to tell the department of a change in circumstances which you did, for example, when you moved address in September 2022. 4. Following information received by the department in November 2022, your claim for income support was investigated. The following offences were revealed. Count 1 5. In November 2019, you gave the department a letter from your employer, The Entertainer Toy Shop, showing your hourly wage and that your period of employment was due to conclude in December 2019. You resumed employment with the same employer between April and July 2020 and received wages of £3,636. The department was notified of this change in April 2020. 6. In May 2020, the department wrote to you asking you for confirmation of your income from The Entertainer since January 2020. You responded to this in August 2020 and provided your payslips for a period in July 2020 only and did not give the confirmation regarding the income you received for the period between April to July. This led to an overpayment £1,730. Count 2 7. In November 2021, you submitted an online change of circumstances form in which you said that you began work at Autism Jersey in November, the same month. You said your pay date would be 25 November. But in fact you had already received earnings from the employer in July, August and September

- none of which you declared to the department. 8. Subsequently, indeed later the same month, following email exchanges, you did provide photographs of your payslips for those months but your failure to notify the department of your earnings led to an overpayment of benefit in the sum of £4,931. Count 3 9. You lived with Mr Smith from the autumn of 2021. In November 2022, you were written to specifically asking whether you had been in an "interdependent relationship" since your claim for income support began in November 2019. You were warned that knowingly making a false statement to obtain benefits was a criminal offence. You were required to respond to the letter within seven days. You ignored the letter. The department wrote to you again in December making a similar request. Again, you did not respond. 10. It was only when an enforcement officer met you at Customer and Local Services in January 2023 that you made a written statement which we have read today in which you accepted that you did live with Mr Smith who was your partner and the father of your youngest child, and you said in that document that you had done so since October of 2022. 11. The following month, an officer of the department visited your home, spoke to Mr Smith and it is said that you were evasive when you spoke to the departmental officer who attended. But in fact as a result of your failure to notify the department that you began co-habiting with Mr Smith a year earlier than you said (in October 2021), there was an overpayment to you in the sum of £18,065. Count 4 12. You failed to notify the department of the increase in your earnings from Autism Jersey. That resulted in an overpayment of £5,951. 13. You were interviewed under caution on two occasions in February of this year. You accepted you understood your obligations to notify the department of any change in circumstances. You said you were bad at reporting changes which is plainly the case. In your second interview, you said you could not remember why you had told the department you had moved in with Mr Smith in October 2022, when in fact you had moved in with him in the previous year. You accepted that you had misled the department on that point. 14. The total overpayment to you by way of income support is £30,678. Of that £760 has been recovered from your income support benefit and you have made further voluntary payments pursuant to a repayment plan totalling £2,970. So you have now paid back £3,630, leaving a remaining balance of £27,047 outstanding. 15. You pleaded guilty in the Magistrate's Court to these offences at what was the first opportunity. You will receive full credit for those pleas. But you received significant benefits to which you were not entitled over a long period as a consequence of not complying with obligations that you understood. 16. It is clear that the custody threshold in this case is passed in that these offences are so serious that you could not complain if the Court was to impose a prison sentence, and the starting point in these sort of cases is invariably consideration of a custodial sentence. 17. You are assessed at being at low risk of re-conviction. We take into account the delay since this investigation began, much of which is not attributable to you. 18. We have had regard to the reports in front of us and we note that there are three young children - all aged 10 or under - who depend on you to a large extent. The boy aged 10 and the girl aged 7 are subject to a shared care arrangement with your former partner and they spend half their time with you and are both at school in primary education. The youngest child, a boy aged 2, lives with you full time with your current partner and you are his principal carer. 19. Although these offences

are serious, none of monies you received were spent on luxuries. They were spent, so far as we can tell, on ordinary living expenses and these claims began as valid genuine claims which is, on the authorities, a significant feature 20. We note that in previous years you have suffered from difficulties with your mental health owing to matters about which we have read in the Pre-Sentence Report. The Probation Officer says that a custodial sentence would result in a "significant negative impact" on your family which we accept. 21. We have also had regard to your letter, in which you express what we accept as genuine remorse and the fact that in your contact with the Probation Officer, who is here in Court today and has spoken to us about your needs, that you have come to realise that you do need to develop life skills and coping strategies that you simply do not have at the moment and had you had those skills then you would, you think, have avoided this offending. For that reason the Probation Officer says in her report that although offenders who are at low risk of reconviction are not recommended for probation supervision, probation would offer you an opportunity to develop your organisational and problem-solving skills, and there are particular courses that are recommended that would support you in that regard which you have discussed with the Probation Officer. The Probation Officer goes on to conclude that having regard to all the circumstances of this case she would respectfully request the Court to consider a departure from established sentencing guidelines and consider the imposition of community orders in this case. 22. We have also had regard to the fact that you are not merely in work, but an excellent employee. We are in receipt of three references from people who work with you and know you well. In particular we have a reference from someone who has worked with you for the past 18 months. They describe you as someone who is respected at work, who has helped vulnerable people at work, is kind, genuine and extremely supportive, a good listener, a well-liked professional, highly dependable and a good and strong member of the team. 23. Drawing all these threads together we have a picture of a good mother, an excellent employee, someone who has exhibited genuine remorse and pleaded guilty at the first opportunity who needs help and support, and committed offences albeit serious ones in large without any dishonesty or intention to mislead. 24. In the circumstances, we have been persuaded that this case is sufficiently exceptional to warrant the imposition of a community service order as a direct alternative to custody and on each of the four counts on the indictment you are sentenced to 180 hours' Community Service Order, which is the equivalent to 12 months' imprisonment, and a probation order for 18 months. *Authorities AG v Mason*

[2024] JRC 030 *AG v Galluzzi*

[2021] JRC 265 *AG v Browne*

[2018] JRC 070 *AG v Good and Moody*

[2015] JRC 027 *AG v Such*

[2012] JRC 155 *AG v Turner*

[2012] JRC 147 R v York

[2019] 1 Cr App R (S) 41 R v Graham and Whately

[2005] 1 Cr App R (S) 115 . Page Last Updated: 02 Jan 2025 [Back to top](#) [About JLIB Accessibility](#)
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