

JERSEY / JUDGMENT

AG -v- Turner [2012] JRC 147 (03 August 2012)

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JUDGMENT

THE DEPUTY BAILIFF: 1. You are here to be sentenced on 3 counts of offences created under the Income Support (Jersey) Law 2007 ; failing to notify changes of circumstances; knowingly furnishing false information, and obtaining an award of income support. The total that was obtained was £14,355.76 although the Court has been told of two previous occasions where you have obtained money from the Social Security Department which you ought not to have obtained. That is relevant not because you are being sentenced for those offences but it is relevant to the question of your own state of mind at the time these offences were committed. 2. The offences carry a maximum sentence of imprisonment of 7 years or a fine. That shows the degree of seriousness which the legislature accords to benefit fraud, and the Court has been considering sentence for quite a long time because it has to have regard to the seriousness which the legislature approaches this nature of offending. 3. We have read the papers carefully and we are not really satisfied that there is any significant evidence of remorse on your part in this case and we certainly are not satisfied that this is one of those cases of desperate need which sometimes we see in this Court. We accept that the money may not have been spent on luxuries but it is not a case of desperate need. You have quite deliberately stolen money from the taxpayer. Services and benefits from the States do not come for free. Theft of this money, for that is what it is, is an insult to those who make substantial contributions in tax and social security contributions, without complaint, in the knowledge that in our democracy proper provision is made for those who are in genuine need. Theft of this money is also an insult to the many people who are not well off and who struggle on day by day doing without luxuries but acting honestly and not making claims which they are not entitled to make. You have deliberately made these claims, knowing that you were not entitled to make them. 4. We have considered very carefully whether or not a custodial sentence should be imposed, having regard to what the legislature provides, but in the event we are going to impose community service, largely because of the interests of the three children who live with you. However, I do wish to add that the existence of those children is not such that we would not have been able to impose a custodial sentence, and there will be cases where, despite the impact on children, a custodial sentence might be imposed. People should think about their children before they commit the offences and consider the effect that those offences might have on those children. 5. In this case we are not going to impose a custodial sentence. We are going to

impose 210 hours community service on each count to run concurrently, with a default sentence of 15 months' imprisonment on each count. That means that you have a total of 210 hours community service to do. If you do not do it, if there is any problem in doing it and it is referred back to us by the community service authorities, then the Court will consider very carefully whether the default sentence of 15 months imprisonment should be imposed. 6. Now for all the reasons which I have already given, the Court has absolutely no doubt at all that you should pay this money back. The Compensation Order Provisions are to be found in the Criminal Justice (Compensation Orders)(Jersey) Law 1994 and under Article 3 (5) of the Law we are to have regard to the person's means so far as they appear, or are made known to the Court. Unfortunately we do not have very much information about your means, mainly because you have not engaged with the Social Security Department or with the prosecuting authorities when asked to make arrangements for repayment. However you should not have the benefit of your failure to engage and cooperate with them, and therefore we are going to make a Compensation Order for the full amount, £14,355.76. You are to repay it at a rate of not less than £50 per week, starting on 1 st August, 2013. We have put it back to the 1 st August, 2013, because we anticipate that you will have to do your community service and therefore we wish to give you a chance to get yourself organised and to get employment. If you get employment and at the same time are able to do community service then you should start saving because the full amount has to be paid back by 31 st July, 2016, that is four years from now. And if it is not repaid by then the Court imposes a default sentence of 9 months' imprisonment. 7. Now there is a power as your counsel will tell you under the Criminal Justice (Compensation Orders)(Jersey) Law 1994 for a Court to review a Compensation Order. We acknowledge, we appreciate, that we have not had full details of your means and therefore if you cannot meet the terms of repaying the money as I have indicated, then it will be down to you to make your application to the Court to have the Order reviewed because if you do not have it reviewed and fail to make the payments, then you are liable to go to prison for 9 months. 8. In the case of the AG-v-Whelan

[2011] JRC 159A the Bailiff said to the defendant in that case:- "You have been at risk of a prison sentence because the Court wishes to send out a message that those who defraud the community by obtaining income support or other benefits by telling lies are at risk of a prison sentence." This Court entirely endorses what the Court said on that occasion and wishes to emphasise, and no doubt the media will give it appropriate publicity, that offences of this kind are absolutely not going to be tolerated by the Courts of this Island. Authorities Income Support (Jersey) Law 2007. Criminal Justice (Compensation Orders) (Jersey) Law 1994. AG-v-Whelan

[2011] JRC 159A . AG-v-Morin

[2010] JRC 217D . R-v-Graham and Whatley

[2004] EWCA Crim 2755 . AG-v-Gallagher

[2011] JRC 129 . AG-v-Duchesne

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Prepared on 29 October 2026 · Esheria