

JERSEY / JUDGMENT

AG v Vieira [2019] JRC 226A (22 November 2019)

[2019] JRC 226A

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JUDGMENT

THE BAILIFF: 1. You are to be sentenced today with regard to one count of knowingly furnishing false information or withholding material information with intent to obtain an award, contrary to the Income Support (Jersey) Law 2007 . 2. As we have heard from the Crown the material information that you withheld was that you owned property including a house in Madeira. Given the references that have been submitted on your behalf and the fact that the Court is aware of what we accept to be your strong religious faith, we find it strange indeed, that you should have felt able to lie on many occasions in official forms, declaring that you owned no property anywhere else in the world, in order to obtain over an eight year period some £63,459. 3. It is clear that your purpose in making these false declarations was to obtain an income from the people of Jersey to which you were not entitled so that you could continue to live here even though by using your assets in Madeira, including the sale of your property there, you would have been able to sustain a life in Jersey for many years out of your own resources. 4. As the Court has said on many occasions, obtaining money in this way is a serious matter and is an affront to all those who make contributions to the fund and to those who are worse off than you, but who tell the truth and do not cheat. 5. We accept your remorse expressed by you through the Social Enquiry Report and through your counsel by reference to the letter that you have sent as entirely genuine. What is described as your prosocial lifestyle, your relationship with your church, your charity works and the contents of the references that we have read which describe a very positive character indeed, makes it all the more incomprehensible to the Court that you should have fallen so far below your apparent standards. That being said, you have the benefit of a substantial amount of money to which you were not entitled and as we have said you have lied on many occasions to secure that benefit, although we appreciate that after the first lie it might have been harder then to tell the truth. 6. In addition to the positive good character that your references disclose, you have the benefit of a guilty plea and that you have no previous convictions of any sort. We also note your health condition which gave rise to your first fraudulent application and we also note that the property in Madeira is up for sale and when that sale is achieved you intend to repay what you have taken in full. 7. We have asked ourselves whether, taking all of this information in the round we could consider that there were exceptional circumstances which would enable us to consider a non-custodial disposal of this matter, but we are clear in our minds

that we find no such exceptional circumstances and it is inevitable, therefore, that you face a custodial sentence. 8. But, in our judgment we can take into account some of the exceptional features of the mitigation as it presents itself, including your very positive good character and positive contribution to society in the Island. And in the light of those circumstances and taking all of the available mitigation into account we think that we can reduce some of the conclusions of the Crown. Accordingly, you are sentenced to a period of 18 months' imprisonment. 9. We agree to the Crown's request for a Compensation Order in the sum of £62,459.45 and indeed that is not opposed by you through your counsel. This must be paid within 12 months and that period provides you with the opportunity to sell the property in Madeira. The default sentence is one of 12 months which will run consecutively from the expiry of the sentence that you will now serve. We do however, consider that you should have liberty to apply to the Court, should due to unforeseen circumstances it prove difficulty for you to sell the property in Madeira during that period. We would of course expect compelling evidence should that be an application that you needed to make. 10. We consider now the question of deportation. We do not need to consider this at length because it is clear that you fall squarely within the first part of the test set out in *Camacho v AG*

[2007] JLR 462 , but equally clearly the second part of the test is not passed, which is indeed the position of the Crown. We agree, and we do not make a recommendation for deportation. Your links to the Island, duration of your time here and the fact that you have children and grandchildren in the Island to us means that the current offending is not sufficient to outweigh yours and your family's Article 8 ECHR rights. 11. The Crown seeks an order for costs in the sum of £1,500. You do not oppose that through counsel and the Court accordingly makes that order. You will have 12 months, the same period in which to sell the property, in order to make that payment. Authorities Income Support (Jersey) Law 2007 Criminal Justice (Compensation Orders) (Jersey) Law 1994 Costs in Criminal Cases (Jersey) Law *Camacho v AG*

[2007] JLR 462] *AG v Couillard*

[2011] JRC 179A *AG v Such*

[2012] JRC 155 *AG v McLoughlin*

[2012] JRC 179 *AG v McDonald and Hughes*

[2014] JRC 100 *AG v Cocks*

[2014] JRC 142A *AG v Good and Moody*

[2015] JRC 027 *AG v Bradshaw*

[2017] JRC119 *AG v T*

[2017] JRC 161 *AG v Browne*

[2018] JRC 070 *R v Graham and Whatley*

[2005] 1 Cr App R(S) 115 . Page Last Updated: 09 Dec 2019 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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