

JERSEY / JUDGMENT

# AG -v- Vincent [2007] JRC 132 (06 July 2007)

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## JUDGMENT

THE commissioner: 1. The defendant, who is a medical general practitioner has pleaded guilty to two counts of obtaining pethidine and diamorphine, both Class A drugs, by false pretences. He has also pleaded guilty to a count of failing to provide a specimen. 2. The drugs offences took place over a period of two months. He obtained the drugs from the same chemist by falsely pretending that the drugs were intended for and would be administered to his patients. In fact he administered the drugs to himself. 3. As the Court observed in the case of AG v Kirkland 2001/200:- "It is one of the tragedies of case like this that there is almost invariably very powerful mitigation. The accused will usually be of hitherto impeccable character, unlikely ever to offend again, unlikely to be able ever again to secure similar employment, and to have brought disgrace and hardship on to his family." Although the defendant is not married and has no dependants, that is the case here. He is a person of previous good character and has pleaded guilty. At the time of the offences he was encountering serious difficulties within his practice, but not, I hasten to say with his patients, resulting in him having to close down his surgery and move premises. His sleep was deteriorating and he was not eating. He was suffering from a psychiatric illness specifically depression. He began using alcohol and then later drugs in order to escape. 4. Following his arrest he was admitted to Marchwood Priory where he underwent a detoxification alcohol treatment programme and on his return he has been seeing Dr Harrison, a psychiatrist, and he also regularly sees Dr. White, a clinical psychologist, a community psychiatric nurse and a nurse from the Alcohol and Drug Service. 5. He continues to show signs of clinical depression. He has lost his property in London which he has sold to pay off his debts, and is likely to be struck off by the General Medical Council who will hold a hearing following the outcome of this case. It is not an exaggeration to say that he has lost virtually everything. 6. It is the policy of the courts to impose custodial sentences in cases involving a violation of trust in all but the most exceptional circumstances. The trust reposed by the community in the defendant as a doctor was absolute. This was not an isolated case of dishonesty but was repeated over some two months. It was dishonesty involving Class A drugs. It was not peripheral to the discharge of his duties, but was dishonesty in the performance of one of his duties as a doctor, the completion of prescription forms. 7. We have been referred to Whelan on Sentencing and in particular the case of Barrick

- [1985] 7 Cr. App. R. (S) 142 at 145, where the Court observed that a court has to look for something more than individual features to find exceptional circumstances. We quote from that case: "But it is not right to search for factors which in isolation may amount to exceptional circumstances. In deciding on sentence a Court looks at all the circumstances to see whether, taken in their totality, they can be said to be exceptional." 8. In the case of *R v Hurren*
- [1990] Cr. App. R.(S) 60 the test propounded by the Court was whether they "would feel that any right-thinking member of the public would conclude that an offence when viewed in its proper context was so serious as to make a non-custodial sentence unjustified". 9. In our view a sentence of 18 months' imprisonment would be the appropriate sentence to be imposed in a case of this kind. However, we have taken into account all of the mitigation advanced, the quite exceptional references, we have considered the Reports and the fact that all the professionals involved recommend a Community Service. 10. We do feel able, therefore, to grant the conclusions of the Crown. On Count 1, you are sentenced to Community Service for 240 hours, the alternative custodial sentence would have been 18 months' imprisonment. On Count 2, you are sentenced to Community Service for 240 hours, concurrent, again the custodial alternative would have been 18 months' imprisonment. On Count 3, you are fined £750 with 3 months' imprisonment in default and there will be an 18 months' disqualification from driving. Authorities *AG v Kirkland* 2001/200. Whelan: Aspects of Sentencing in the Superior Courts of Jersey (2nd Ed'n): paras 337 - 339; 340-356. *Barrick* [1985] 7 Cr. App. R. (S) 142. *R v Hurren* [1990] Cr. App. R. (S) 60. Page Last Updated: 20 Jul 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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