

JERSEY / JUDGMENT

The Attorney General v Stephen John Coleman

COURT

Royal Court

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Superior Number Sentencing - Fraud - Forgery - Uttering a forged document

[2020]JRC023

Royal Court

(Samedi)

6 February 2020

Before :

Sir Michael Birt, Commissioner, and Jurats Crill,
Thomas, Pitman, Averty and Hughes
The Attorney General

-v-

Stephen John Coleman

Sentencing by the

Superior Number of the Royal Court, to which the accused was remanded by the
Inferior Number on 29th November, 2019, following guilty pleas to

the following charges:

15 counts of:

Fraud (Counts 1 to 15).

2 counts of:

Forgery (Count 16 and Count 18).

2 counts of:

Uttering a forged document (Count 17 and
Count 19)

Age: 62.

Plea: Guilty.

Details of Offence:	Counts 1-15 – Fraud The defendant was the chief executive of a Jersey charity. On fifteen occasions he misled its pay clerk into awarding him inflated pay rises or bonuses. On most occasions he doctored the minutes of committee meetings to justify the illicit pay awards. Some of the frauds also benefitted innocent members of staff. The defendant obtained a total of £298,952.21 for himself much of which was spent on luxuries and borrowing to support a lifestyle beyond his means. A further £106,598.70 was paid to the other employees. Counts 16-19 (inclusive) – Forgery In the course of two loan applications the defendant was asked to provide written confirmation from his employer of his salary. He accordingly forged and presented two letters purporting to be signed by a committee member.
Details of Mitigation:	Pleas; good character including service in the British Army which had caused him some psychological harm.
Previous Convictions:	None.
Conclusions:	
Count 1:	5 years’ imprisonment, concurrent with each of the other counts of fraud.
Count 2:	5 years’ imprisonment, concurrent with each of the other counts of fraud
Count 3:	5 years’ imprisonment, concurrent with each of the other counts of fraud.
Count 4:	5 years’ imprisonment, concurrent with each of the other counts of fraud
Count 5:	5 years’ imprisonment, concurrent with each of the other counts of fraud.
Count 6:	5 years’ imprisonment, concurrent with each of the other counts of fraud
Count 7:	5 years’ imprisonment, concurrent with each of the other counts of fraud.
Count 8:	5 years’ imprisonment, concurrent with each of the other counts of fraud
Count 9:	5 years’ imprisonment, concurrent with each of the other counts of fraud.

Count 10:	5 years' imprisonment, concurrent with each of the other counts of fraud
Count 11:	5 years' imprisonment, concurrent with each of the other counts of fraud.
Count 12:	5 years' imprisonment, concurrent with each of the other counts of fraud
Count 13:	5 years' imprisonment, concurrent with each of the other counts of fraud.
Count 14:	5 years' imprisonment, concurrent with each of the other counts of fraud
Count 15:	5 years' imprisonment, concurrent with each of the other counts of fraud.
Count 16:	6 months' imprisonment, consecutive to Counts 1 to 15, 18 and 19 and concurrent with Count 17.
Count 17:	6 months' imprisonment, concurrent with Count 16.
Count 18:	6 months' imprisonment, consecutive to Counts 1 to 15, 16 and 17, concurrent with Count 19.
Count 19:	6 months' imprisonment, concurrent with Count 18. Total: 6 years' imprisonment. Confiscation order sought in the realisable amount of £228,210.84. Compensation order sought to the victim in the same amount as above.

Sentence and Observations of Court:

Count 1:	6 years' imprisonment, concurrent with each of the other counts of fraud.
Count 2:	6 years' imprisonment, concurrent with each of the other counts of fraud
Count 3:	6 years' imprisonment, concurrent with each of the other counts of fraud.
Count 4:	6 years' imprisonment, concurrent with each of the other counts of fraud
Count 5:	6 years' imprisonment, concurrent with each of the other counts of fraud.
Count 6:	6 years' imprisonment, concurrent with each of the other counts of fraud
Count 7:	6 years' imprisonment, concurrent with each of the other counts of fraud.

Count 8:	6 years' imprisonment, concurrent with each of the other counts of fraud
Count 9:	6 years' imprisonment, concurrent with each of the other counts of fraud.
Count 10:	6 years' imprisonment, concurrent with each of the other counts of fraud
Count 11:	6 years' imprisonment, concurrent with each of the other counts of fraud.
Count 12:	6 years' imprisonment, concurrent with each of the other counts of fraud
Count 13:	6 years' imprisonment, concurrent with each of the other counts of fraud.
Count 14:	6 years' imprisonment, concurrent with each of the other counts of fraud
Count 15:	6 years' imprisonment, concurrent with each of the other counts of fraud.
Count 16:	6 months' imprisonment, consecutive to Counts 1 to 15, 18 and 19 and concurrent with Count 17.
Count 17:	6 months' imprisonment, concurrent with Count 16.
Count 18:	6 months' imprisonment, consecutive to Counts 1 to 15, 16 and 17, concurrent with Count 19.
Count 19:	6 months' imprisonment, concurrent with Count 18. Total: 7 years' imprisonment. Confiscation order made in the realisable amount of £228,210.84. Compensation order made to the victim in the same amount as above. D. J. Hopwood Esq., Crown Advocate. Advocate L.V. Marks for the Defendant

JUDGMENT

THE commissioner: 1. The JSPCA has run the Animal Shelter for over 80 years. It is a much loved Jersey charity. Almost all the funding originates from donations in Jersey and, as the Chairman says in his victim impact statement, many of those who give can ill afford what they contribute. You were entrusted to run this charity Mr Coleman, you were trusted completely; both by the committee above you and the employees below you. You abused that trust by lying to the financial administrator and telling her that the committee had given you a larger pay rise or bonus than they in fact had, and you then falsified the minutes of the committee so that the

minutes appeared to support your lie. In this way you defrauded the charity of some £405,000 in all, of which just under £300,000 was paid to you and the balance to other employees, upon whom suspicion wrongly fell when the truth emerged. 2. Now whilst your actions were not the sole cause of the financial difficulties which the JSPCA has encountered recently, they were certainly a major contributory factor. As the Chairman put it in his statement, you not only abused the generosity and good faith of all those who donated, but you severely damaged the JSPCA's reputation and the trust that people had in the charity. 3. Apart from the fraud on the JSPCA, you in addition committed two quite separate offences of forgery. You forged letters to two financial institutions in connection with loans which you were seeking from them and the forgery involved writing letters purporting to come from the Chairman of the Committee of the JSPCA, whereas in fact he knew nothing about the letters. 4. Now, as is well established, when considering cases of fraud the Court considers amongst other matters the factors listed in the leading English case of *R v Barrick*

[1985] 7 Cr App R (S) 142. In your case the degree of trust reposed was immense, which is why you were able to carry out your fraud. It was a breach of trust of the highest order. Your advocate mentioned that there were no checks on you personally, there was no four eyes principle; but that only emphasises the degree of trust which was placed in you and which you betrayed. 5. The offending took place over a lengthy period, some 8 years, so this was not an isolated incident of giving way to temptation. As to the use of the money you appear to have spent it on living to a higher standard than you would otherwise have been able to; you went on holidays abroad, you bought an expensive car and a firearm collection. 6. As to the effect on your victim, as already mentioned, the JSPCA has suffered considerable damage, both financially and in terms of its reputation. And as to the effect on colleagues they have been affected in terms of suspicion wrongly falling upon them. 7. Now we have been referred to a number of other cases namely *AG v Byrne* [2018] JRC 221, *AG v Arthur* [2018] JRC 129, *AG v King* [2019] JRC 079, *AG v McDermott* [2019] JRC 157A, *AG v Manning* [2018] JRC 230 and *AG v Nicholls* [2017] JRC 093A. We have to say that we regard *Byrne* as being a very different case, because it involved inducement to invest rather than fraud and obtaining the money for yourself. As to the other cases, *Arthur* involved a greater sum as did *King*, but the latter offending was only over a 3 month period compared with your 8 years. The other cases mentioned involved smaller sums over shorter periods. In relation to *Arthur* we note particularly that the Court gave a discount of 1 year and 3 months on Count 14 to reflect the fact that *Arthur* had given evidence against a co-accused. The Court often gives a special discount in sentence if people are willing to assist in prosecuting others or giving information about others. If that discount had not been there, the sentence on *Arthur* would have been 8 years and 3 months. 8. Now, Advocate Marks on your behalf has spoken in mitigation and she has said everything that could possibly be said. She has emphasised your guilty plea and we accept you are entitled to a full discount for that. More than that, she has of course emphasised your previous good character. You have no previous convictions but it is more than that. You have given service to the army and fought in various areas such as Ireland, Cyprus and others. You have given good

service to the Jersey Field Squadron. You have given honorary service by being a Centiener for 3 years, although we have to say that the effect of that is severely detracted from because you continued to commit these criminal offences whilst you were a Centenier; so there is limited mitigation in that. 9. We have read all the other references and it is quite clear that you have in the past offered much to the community in many different ways. We have read your letter of remorse and the letter from your wife and we accept that you very much regret what has happened. We have also read Dr Boucher's report, which indicates that you are suffering from post-traumatic stress disorder. We hope very much that assistance for this can be given whilst you are in prison. We also note the delay, which was mentioned by Advocate Marks, but the fact is that in cases of financial fraud there is inevitably some delay whilst matters are investigated. Furthermore, in this case when you were first interviewed by the Police in August 2018 you simply went 'no comment'. If you had at that stage come clean and told everybody exactly what you had done, perhaps the investigations would not have taken so long. As it was, no doubt there has detailed forensic evidence which had to be gathered before you were interviewed again, a year later. So we do not consider that the delay in this case is a mitigating factor.

10. We do take account of the effect on you and your wife, although the sad fact is that this happens in almost all cases of financial fraud. As the English Court of Appeal said in *Barrick* "The type of case with which we are concerned is where a person in a position of trust, for example, an accountant, solicitor, bank employee or postman, has used that privileged and trusted position to defraud his partners or clients or employers or the general public of sizeable sums of money. He will usually, as in this case, be a person of hitherto impeccable character. It is practically certain, again as in this case, that he will never offend again and, in the nature of things, he will never again in his life be able to secure similar employment with all that means in the shape of disgrace for himself and hardship for himself and also his family." So it is unfortunately an inevitable effect of the financial crime of which you have committed.
11. We take into account the mitigation which your Advocate has urged, but we consider this to be a serious case. It was a fraud for over 8 years which involved substantial sums, a gross breach of trust by taking advantage of the complete trust placed in you by the charity and it had a serious effect on the charity and possibly on confidence in charities generally.
12. We regard the case as being broadly similar in gravity to the case of *King* in that, although the sums in this case are less and *King* did have a previous conviction, the fraud in this case was carried out over a much longer period and has the other serious features that we have mentioned. We also consider that the Crown is correct to make the sentence for the forgery offences consecutive as they were completely separate. The fact that the sentences for those offences is only 1 year takes account of the totality principle.

13. So, having regard to all these matters, we think that the sentence for the fraud offences should be 6 years and not
5. On Counts 1 to 15 we impose a sentence of 6 years imprisonment concurrent on each count. On Counts 16 and 17 we impose a sentence of 6 months imprisonment. They are concurrent with each other but consecutive to Counts 1 to 15, and similarly on Counts 18 and 19; 6 months' imprisonment on each concurrent but consecutive to the other Counts, which makes a total of 7 years in prison.
14. As to the confiscation and compensation orders we have dealt with those during the course of the hearing. So that is the sentence of the Court. Authorities *R v Barrick* [1985] 7 Cr App R (S) 142. *AG v Byrne* [2018] JRC 221. *AG v Arthur* [2018] JRC 129. *AG v King* [2019] JRC 079. *AG v McDermott* [2019] JRC 157A. *AG v Manning* [2018] JRC 230. *AG v Nicholls* [2017] JRC 093A. *Arthur v AG* [2018] JCA 217. *AG v Jima- Otero* [2017] JRC 163. *AG v Esnouf* [2016] JRC 108 *AG v Self* [2010] JRC 022.

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