

JERSEY / JUDGMENT

Wood v AG [2003] JCA 051 (14 March 2003)

[2003] JCA 051**COURT**

court of appeal

BEFORER. C. Southwell,
Esq., Q. C., President;P. D. Smith, Esq.,
Q. C.; andSir de Vic Carey,
Bailiff of Guernsey.

Robert Andrew Munro Wood

-v-

The Attorney General

(1) Application for

leave to withdraw a notice of abandonment of appeal, dated 24th September,

2002; (2) Application for an extension of time within which to apply for leave

to appeal; (3) Application for leave to appeal; and (4) Appeal against

conviction following a guilty plea entered on

5th July, 2002, to:

16 counts of:

fraud (counts 1-16, on each of which counts

a concurrent sentence of 2 years' imprisonment was passed);

The applications for

leave placed directly before the plenary Court without first being submitted to

a Single Judge for determination.

[On 19th August, 2002, the

Appellant lodged a notice of application for leave to appeal against conviction

and sentence; on 24th

September, 2002, the Appellant signed a Notice of Abandonment of

Appeal against conviction; the appeal against sentence was heard by the

Superior Number of the Royal Court,

exercising appellate jurisdiction, on 16th December, 2002, and the appeal was dismissed.]

The Appellant on his own behalf;

Mrs. S. Sharpe, Crown Advocate.

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Before:

R. C. Southwell,
Esq., Q. C., President;
P. D. Smith, Esq.,
Q. C.; and

Sir de Vic Carey,
Bailiff of Guernsey.

Robert Andrew Munro Wood

-v-

The Attorney General

(1) Application for

leave to withdraw a notice of abandonment of appeal, dated 24th September, 2002; (2) Application for an extension of time within which to apply for leave to appeal; (3) Application for leave to appeal; and (4) Appeal against conviction following a guilty plea entered on

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a concurrent sentence of 2 years' imprisonment was passed);

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leave placed directly before the plenary Court without first being submitted to a Single Judge for determination.

[On 19th August, 2002, the

Appellant lodged a notice of application for leave to appeal against conviction and sentence; on 24th

September, 2002, the Appellant signed a Notice of Abandonment of

Appeal against conviction; the appeal against sentence was heard by the

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exercising appellate jurisdiction, on 16th December, 2002, and the appeal was dismissed.]

The Appellant on his own behalf;

Mrs. S. Sharpe, Crown Advocate.

JUDGMENT

THE PRESIDENT: 1. On 5 July 2002 Mr. R A M Wood pleaded guilty before the Royal Court on indictment to 16 counts of fraud. In the case of each count Wood was charged with having criminally defrauded the Employment and Social Security Committee of a sum representing the benefit he was paid under the Social Security (Jersey) Law 1974 , benefit which he had claimed on a medical certificate on the basis that he had not worked since the date of his last certificate, knowing this to be false because during the period preceding the certificate he had in fact worked in the business of buying and selling used cars. The details of the sixteen counts are summarised in the following Table: Count £ Amount of benefit Date of Certificate Period covered by Certificate 698.60 8 Feb 99 10 Jan to 5 Feb 2 648.70 4 Mar 99 5 Feb to 3 Mar 3 698.60 30 Mar 99 3 to 20 Mar 99 698.60 27 April 99 30 Mar to 26 April 99 998.00 2 Sept 99 17 July to 2 Sept 99 2,131.71 23 Nov 99 2 Sept to 23 Nov 99 2,363.30 14 Feb 00 23 Nov 99 to 14 Feb 00 2,464.28 15 May 00 14 Feb to 13 May 00 2,437.20 12 Aug 00 13 May to 12 Aug 00 2,430.92 7 Nov 00 12 Aug to 7 Nov 11 2,643.94 5 Feb 01 7 Nov 00 to 5 Feb 01 2,522.26 5 May 01 5 Feb to 5 May 01 2,550.60 6 Aug 01 5 May to 2 Aug 01

2,496.78 26 Oct 01 2 Aug to 26 Oct 01 2,856.33 28 Jan 02 26 Oct 01 to 25 Jan 02 2,695.44 22 April 02 25 Jan to 22 April 02 Total £31,335.26 2. On 16 August, 2002, Wood was sentenced to 2 years imprisonment concurrent on each of these 16 counts by the Inferior Number of the Royal Court. 3. On 19 August, 2002, Wood lodged notice of application for leave to appeal against conviction and sentence. On 24 September 2002 Wood signed a notice of abandonment of appeal against conviction. The appeal against sentence was heard by the Superior Number of the Royal Court on 16 December 2002 and dismissed. 4. On 30 December 2002 Wood applied as a litigant in person lodging (i) an application for leave to withdraw his notice of abandonment of his appeal against conviction; (ii) an application for an extension of time within which to apply for leave to appeal against conviction; (iii) an application for leave to appeal; and (iv) an appeal against conviction (despite his plea of guilty to all 16 counts on 5 July 2002), and as it seems from the summary of his case, also against sentence, though no appeal is available against sentence to the Court of Appeal from a sentence passed by the Inferior Number; appeals against sentence lie only to the Superior Number. 5. Leave to withdraw a notice of abandonment of an appeal is given only where it can be treated as a nullity due to mistake, fraud or wrong advice to the appellant or similar grounds: see *AG v Cuthbertson and Cairney* (18 September 1975) Jersey Unreported, Court of Appeal, and *AG v Doyle*

(1978) JJ 93 Court of Appeal, on each occasion the judgment being delivered by Mr. J. G. Le Quesne QC, President. 6. The essence of Wood's case is that now that his health has improved in prison he has appreciated that he should have pleaded guilty in respect of a total amount of £661.42, not £31,335.26. 7. The nub of the prosecution case against him was that his partner and the mother of their children carried on a business of buying and selling cars, and that he worked on this business while simultaneously claiming social security benefit on the basis of being unemployed. The 16 counts related to the various periods when he claimed benefit though, the prosecution alleged, he was working in his partner's car business during those periods. What Wood now says is that, if the Court examines the witness statements obtained by the police, those witness statements proved only that he was working on about 27 days and not that he was working throughout all the periods in all 16 counts to which he pleaded guilty. He says that the benefit fraudulently obtained by him in respect of those 27 days amounted to only £661.42. 8. This way of putting his case ignores the fact that each medical certificate which Wood signed stated: "I declare that for medical reasons I have not worked since the date of my last certificate". So the declarations by Wood on the medical certificates were to his knowledge untrue, if during each relevant period he had worked for one or more days. If he had been able to work sporadically during the relevant periods, it was incumbent on Wood to inform the Social Security officers and to make this clear on the certificates which he signed. 9. This Court is satisfied that the allegations by the prosecution in the 16 counts of the indictment were correctly based on the false certificates which Wood signed by reference to the periods covered by each of those certificates. 10. This Court also notes that the summary of facts presented to the sentencing Court on 16 August 2002 had been agreed between the Crown and Counsel for Wood, Advocate Deacon. Wood has criticised Miss Deacon's

conduct of his case. But the transcript of the proceedings before the sentencing Court shows that she was well prepared to deal with all aspects of the case and with the detail of Wood's circumstances. This is confirmed by the Judge's Report dated 25 October 2002 by the Bailiff (who presided over the sentencing Court), in which he stated: "In my view, Advocate Deacon performed her task conscientiously and thoroughly. Indeed, the Court said as much when sentence was passed. I regard the criticism of defence counsel as being without foundation." 11. This Court is satisfied that even if all the procedural hurdles, which Wood must surmount before being able to present an appeal against conviction, had been surmounted, nevertheless his appeal would fail. 12. As already stated, the first hurdle is that Wood must show that his abandonment of his appeal against conviction was a nullity, due to mistake, fraud or wrong advice. Wood apparently relies on two matters: his attack on his Counsel, and his improvement in health. The first we have already rejected as unfounded. The second affords no basis for seeking a withdrawal of a notice of abandonment within the cases of Cuthbertson or Doyle already cited. We therefore refuse leave to withdraw the notice of abandonment. 13. The second hurdle is that Wood needs an extension of time within which to apply for leave to appeal against conviction. In light of the circumstances already described, there would in any event be no basis for the grant of such an extension. 14. The third hurdle is that an appeal against conviction following a plea of guilty will not be allowed by the Court of Appeal unless either (i) the applicant did not understand the nature of the charge; (ii) he did not intend to admit that he was guilty of the charge; or (iii) on the admitted facts he could not in law have been convicted of the offence charged. See *AG v Fossey*

- (1982) JJ 223 Royal Court; *AG v Foster* 1990 JLR N15 Court of Appeal; *AG v Bish* 1992 JLR N 6 Royal Court; and *AG v Jeune*
- (2000) JLR N42 Royal Court. Wood's submissions do not bring him within any of these grounds. He did understand the nature of the charges. He did intend to admit that he was guilty of the charges. On the admitted facts he was in law correctly convicted on each of the charges. 15. The fourth hurdle would be to satisfy this Court that he had persuasive grounds for allowing an appeal against conviction. As already indicated in this judgment, he does not have any such grounds. 16. Accordingly the applications in relation to his conviction are dismissed. 17. In case this is necessary, a direction is made under Article 35 (4)(b) of the Court of Appeal (Jersey) Law 1961, in respect of the full period of six weeks. Authorities *AG -v- Cuthbertson and Cairney* (18 th September 1975) Jersey Unreported CofA. *AG -v- Doyle* (1978) JJ 93 CofA. *AG -v- Fossey* (1982) JJ 223. *AG -v- Foster* (1990) JLR N.15 CofA. *AG -v- Bish* (1992) JLR N.6. *AG -v- Jeune*
- (2000) JLR N.42. Page Last Updated: 04 Mar 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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