

In the Royal Court of Jersey

192.

11th December, 1990

Before: F.C. Hamon, Esq., Commissioner, and
Jurats Blampied and Le Ruez

Attorney General

- v -

Paul Charles Spencer

Sentencing - Infraction of Housing (Jersey) Law, 1949 Article 14(1)(b) viz., making a false statement, namely that a Mrs. C. Driscoll, née Cunningham, had been resident in Jersey from March, 1979, to March, 1981, the said statement having been reduced to writing, signed by the accused and made to the Housing Committee for the purposes of Part III of the Law, and this with intent to deceive.

Crown moved for fine of £500 or 6 weeks in default and costs of £250 on the basis (a) that the accused of his own volition had attended at the Housing Department to make a written statement to a Housing Law Officer that the accused and Mrs. Driscoll had resided at the same lodging house between March, 1979, and March, 1981, and (b) that the statement that was recorded indicated that there was an element of conspiracy between the accused and Mrs. Driscoll (the accused had volunteered the information that during the period in question, Mrs. Driscoll had not worked in Jersey but that he believed that she was being supported by her father).

During the hearing the accused, through his advocate, indicated that the statement was recorded by the Assistant Housing Law Officer who had called at the accused's home and this was accepted by the Crown.

In mitigation it was said that the accused was of good character, that he had made the false statement casually believing that what Mrs. Driscoll had said to him concerning her residential status was true, that the statement was made with a view to assisting a friend, that there was no element of conspiracy as suggested by the Crown Advocate and that the accused received no financial gain from making the statement.

The Court was advised that on the 7th September, 1990, Mrs. Driscoll had been fined £1,000 and ordered to pay costs of £250.

In relation to the ability of the accused to pay the fine, the accused's affidavit of means disclosed that the joint family earnings were just sufficient to pay for the family expenditure and that the accused held a joint deposit account with his wife which contained £1,500.

In relation to costs the action was sent to proof on the 21st August, 1990, and the accused maintained his not guilty plea until 2/3 weeks before date fixed for trial (11th December, 1990).

W.J. Bailhache, Esq., Crown Advocate
Advocate A.D. Hoy for the accused.

JUDGMENT

COMMISSIONER HAMON: This is a case of totally misplaced loyalty leading to a serious breach of the Housing Law by what appears to have been a very determined applicant for housing accommodation.

Mrs. Driscoll wove a web of deceit. We have found that the statement made by Mr. Spencer was taken from him at home on an enquiry by the Assistant Housing Law Enforcement Officer. Had Mr. Spencer in fact volunteered the statement at the housing offices as we were at first led to understand we would have had no hesitation in following in full the recommendations of the learned Crown Advocate.

The statement taken at his home was written down by Mr. Harris in Mr. Spencer's presence. He then wrote in his own words and in his own handwriting "I have read the above page of statement which is made of my own free will which is true to the best of my knowledge and belief". He signed it and dated it.

Whatever the circumstances he must have known that he was lying. In fact the learned Crown Advocate told us that he said as much in a later statement when he said "I have told a deliberate lie".

It is a tragedy that a man with such good references as we have before us and of good standing should now have to besmirch that reputation either because of misguided loyalty or because he believed that what he had been told by Mrs. Driscoll was true.

In the circumstances of the affidavit presented to us we will impose a fine of £350 but costs must follow at £250. The late change of plea makes the accused, unfortunately, the author of his own misfortune in regard to costs.

Authority referred to by Crown Advocate

A.G. -v- Mrs. C. Driscoll, née Cunningham (7th September, 1990)
Jersey Unreported.

Authorities considered by the Court in Chambers

A.G. -v- Adams (28th November, 1989) Jersey Unreported.

A.G. -v- McIntosh (24th April, 1990) Jersey Unreported.

A.G. -v- Mackenzie (19th October, 1990) Jersey Unreported.