

ROYAL COURT

2nd August, 1991

111.

Before: The Deputy Bailiff, and
Jurats Coutanche and Bonn.

The Attorney General

- v -

Francis William Bennett

OFFENCE:

Fraudulent conversion.

PLEA:

Guilty.

DETAILS OF OFFENCE:

Bennett, on 23rd August, 1989, in the Parish of St. Helier, whilst employed as a sales assistant in Bijou Jewellers, criminally and fraudulently converted to his own use £2,070 in cash being part of the monies entrusted to him by his employer, James Wakefield. At the time of the offence he was only 20 years of age.

DETAILS OF MITIGATION:

Guilty plea.
Age.
Not premeditated.
Girlfriend just given birth to their son, while in custody.
No significant record.
Car accident (fatal) recent.

PREVIOUS CONVICTIONS:

Two for criminal damage; one for theft.

CONCLUSIONS:

Nine months' imprisonment.

SENTENCE AND OBSERVATIONS OF THE COURT:

Nine months - conclusions granted.

REMARKS:

Could not repay money - spent on travel to America. The sentence took full notice of the mitigating factors.

The Attorney General.

Advocate C.J. Scholefield for the accused.

JUDGMENT

THE DEPUTY BAILIFF: We reject the ingenious attempt of counsel to divide up a sentence on a ratio of amount of money to months of sentence. A similar attempt was made recently in a drugs case where counsel sought to use the weight of the drugs, as Mr. Scholefield has sought to use the amount of money and that, too, was rejected.

This is an offence involving dishonesty and there must be a basic sentence for that offence regardless of the amount involved.

In R. -v- Upton on the same page of Thomas' "Current Sentencing Practice" the Court of Appeal imposed a sentence of two months for a theft of £5. If we multiplied that to reflect a theft of £2,000 the sentence would be very long indeed. We

mention it only to show how unrealistic the argument put to us is.

In our opinion the cases of Lally and Russell have no application to the present case.

This was a simple case of theft of £2,000 by an employee - thus a breach of trust - who was using a false name - and who immediately absconded and wasted the proceeds.

The sentence moved for fully takes into account all the mitigation and is the correct sentence in all the circumstances. The conclusions are granted. Bennett, you are sentenced to nine months' imprisonment.

AUTHORITIES

Thomas' "Current Sentencing Practice": p.2291.

A.G. -v- Lally (24th February, 1989) Jersey Unreported.

A.G. -v- Russell (14th January, 1991) Jersey Unreported.