

ROYAL COURT
(Samedi Division)

31st May, 1996

100

Before: The Bailiff, and Jurats
Gruchy and de Veulle

The Attorney General

and

Derek John Fann

10 infractions of the Income Tax (Jersey) Law, 1961, Article 137(1)(a) (counts 1-10).

Age: 67.

Plea: Facts admitted.

Details of Offence:

Offences spanned 10 year period from 1984 to 1993 inclusively. £388,588 of concealed investment income during that period resulting in £77,153.60 tax loss to the Revenue. On detection accused had lied and prevaricated causing a 21 month enquiry before finally capitulating.

Details of Mitigation:

Remorse and shame. Having put a fiction in place originally, the accused had seen no option other than to perpetuate it.

Previous Convictions: Nothing of relevance.

Conclusions:

Count 1 : £750 fine	Count 6 : £15,330 fine
Count 2 : £8,540 fine	Count 7 : £21,550 fine
Count 3 : £7,370 fine	Count 8 : £21,050 fine
Count 4 : £10,000 fine	Count 9 : £380 fine
Count 5 : £10,130	Count 10 : £400 fine

with £1,500 costs.

TOTAL: £95,500 plus £1,500 costs (60% of available statutory maximum; the usual tariff being at about 50% of that maximum).

Sentence and Observations of the Court:

Count 1	: £1,000 fine	Count 6	: £20,000 fine
Count 2	: £10,000 fine	Count 7	: £30,000 fine
Count 3	: £10,000 fine	Count 8	: £30,000 fine
Count 4	: £15,000 fine	Count 9	: £500 fine
Count 5	: £15,000 fine	Count 10	: £500 fine

with £1,500 costs.

TOTAL: £132,000 plus £1,500 costs.

1 month's imprisonment, consecutive, on each count in default of payment.

2 weeks to pay.

Conclusions increased. Existing statutory penalties considered inadequate for a case of this gravity and legislature might properly consider revising them. This was about as bad a case as could be envisaged.

C.E. Whelan, Esq., Crown Advocate.
Advocate D.F. Le Quesne for the accused.

JUDGMENT

5 THE BAILIFF: This was, as submitted by the Crown Advocate, a disgraceful case of tax evasion where the Defendant failed to declare income amounting to nearly £400,000 thereby defrauding the community of some £77,000 in tax. The fraud was aggravated by the period of time over which it continued. To make matters worse the Defendant obstructed the investigation of the Income Tax Department by prevaricating and lying and by submitting false documents in support of his false explanations.

10 The rate of taxation in Jersey is modest compared with other places and there can in the view of the Court be no excuse for wealthy men in particular not to pay their dues when honest men of modest means struggle to meet their obligations in the proper way.

15 We have no doubt that the statutory maximum penalties set out in the Income Tax Law are inadequate to meet the justice of this case and we hope that consideration will be given by the legislature to the revision of those maximum penalties.

20 In the meantime, however, we are bound by them. We see no particular merit in an arithmetical approach. The fact is that this was about as bad a case as it is possible to envisage of a fraudulent breach of the Income Tax Law. We propose therefore to increase the conclusions moved for by the Crown.

Mr. Fann, we accept your remorse for the offences committed and you are entitled to credit for instructing your advocate to make a clean breast on your behalf and not to seek to excuse your conduct.

We take all that into account as well as taking into account your shame for these offences but we must impose substantial penalties to mark the gravity of the case. On charge 1 you are fined the sum of £1,000; on charge 2 you are fined the sum of £10,000; on charge 3, you are fined the sum of £10,000; on charge 4, you are fined the sum of £15,000; on charge 5, you are fined the sum of £15,000; on charge 6, you are fined the sum of £20,000; on charge 7, you are fined the sum of £30,000; on charge 8, you are fined the sum of £30,000; on charge 9, you are fined the sum of £500; on charge 10, you are fined the sum of £500, making a total of £132,000. There will be an alternative of 1 month's imprisonment on each charge, consecutive, making a total alternative of 10 months' imprisonment. We also order that you pay the costs of the prosecution not exceeding the sum of £1,500.

Authorities

A.G. -v- Raimundo (12th June, 1992) Jersey Unreported.

A.G. -v- Faudemer (12th March, 1993) Jersey Unreported.

Ford (1981) Cr.L.R. 15.