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ROYAL COURT
(Samedi Division)

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5th September, 1997

Before: F.C. Hamon, Esq., Deputy Bailiff, and
Jurats Le Ruez and Le Brocq.

The Attorney General

- v -

Darryl James Davies

1 count of contravening Article 36(1) of the Social Security (Jersey) Law, 1974, as amended, by failing as an employer, trading as D.J. Davies Roofing Contractors, to pay Social Security contributions for which he was liable for Quarter B of 1997 within the specified time.

Details of Offence:

The defendant, a roofing contractor, filed a schedule in respect of B Quarter 1997, but did not pay the contributions of £1,170.09. Employing five persons, the contributions had now been paid, but nonetheless the matter had been referred to the Royal Court as the defendant had committed a precisely similar offence in May 1997 and had then been fined £200 by the Magistrate.

Details of Mitigation:

Guilty plea. Accepted he was a bad manager therefore offence one of negligence rather than wilful or fraudulent withholding of funds. Child recently arrived. Business deeply in debt. Described by defence counsel as "in a cash-flow crisis". Defendant thought he would have more time to pay and was surprised at the speed with which the prosecution had been brought and processed. A heavy fine would bankrupt the business and put six people out of work.

Previous Convictions:

Only one of relevance. The defendant had committed a precisely similar offence in May, 1997, and had then been fined £200 by the Magistrate.

Conclusions:

£500 fine; £150 costs.

Sentence and Observations of the Court:

£200 fine; £50 costs, or 1 week's imprisonment in default of payment. One month to pay.

A.J. Olsen, Esq., Crown Advocate.
Advocate Clyde-Smith for defendant.

JUDGMENT

THE DEPUTY BAILIFF: Davies, your personal situation was well explained to us by Advocate Clyde-Smith. However, we must remind you yet again that this is not your money, it is the money of your employees and you hold it in trust for them.

Although this is your second offence, you have paid the original sum back and we can, perhaps, regard the circumstances, as explained to us, as an offence more in the breach than the observance. We are going to fine you £200 and you will also make a contribution of £50 to the Crown's costs. You have one month in which to pay, or, in default of payment, you are sentenced to one week's imprisonment. I have to tell you that we will not be so lenient if this happens again.

No Authorities.