

ROYAL COURT  
(Criminal Assize)

22nd December, 1988

Before: The Bailiff and  
Jurats Vint, Baker, Gruchy  
and Le Ruez

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Her Majesty's Attorney General

- v -

Derek George Foster

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Accused sentenced in respect of  
one count of fraud, contrary  
to the common law of Jersey  
following change of plea to  
guilty from not guilty.

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H.M. Solicitor General for the Crown  
Advocate R.G. Day for the Accused.

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JUDGMENT

BAILIFF: The Court has given anxious consideration to the conclusions asked for by Her Majesty's Solicitor General. It is true that fraud of this nature by a trusted employee to the prejudice of his employers, merits a custodial sentence, unless there are exceptional circumstances. We have been able to find those exceptional circumstances in the facts of this case, Advocate Day, as outlined by the Solicitor General and supported by you, namely that it is not certain that had the matter proceeded to the jury, in the light of the evidence of the directors of the bank as to what the accused told them, that he would have been convicted on a number of the particulars of the indictment. In effect, it was only when he was aware that he was going to receive payment that criminality came into the picture.

We have taken into account the effect on the accused, a man of hitherto good character, of the loss of his self-respect, which is far more important than his financial difficulties. You know the quotation from "Othello";

"Who steals my purse, steals trash; 'tis something, nothing;  
T'was mine, 'tis his, and has been slave to thousands;  
But he that filches from me my good name  
Robs me of that of that which not enriches him,  
And makes me poor indeed".

The accused robbed himself of his good name and for that he is no doubt remorseful. Therefore, taking all these matters into account, we are satisfied that it would be appropriate to impose the sanction of a fine. We have looked at the affidavits, and having considered the circumstances and the authorities which the Solicitor General provided for us, we see no reason to differ from the conclusions asked for. Therefore these are granted and you are fined £45,000, with £5,000 costs.

Authorities cited:

Thomas - Principles of Sentencing 2nd edition, p. 320.

Thomas - Current Sentencing Practice, p.p. 9001 - 9038.