



ROYAL COURT
(Samedi Division)

30th January, 1995

22.

Before: The Bailiff and Jurats
Blampied, Le Ruez and Potter

The Attorney General

- v -

Gregory David Sinclair

Sentencing following conviction before the *Assise Criminelle* on 12th January, 1994 after entering not guilty pleas to:

8 counts of fraudulent conversion (counts 1 to 8 of the indictment)

AGE: 40

PLEA: Not Guilty.

DETAILS OF OFFENCE: 8 offences of fraudulent conversion of mother's funds over a period of 6 months. These funds represented the last assets of the mother, and charges amounted to £80,300.

DETAILS OF MITIGATION: Court found no mitigating factors. Sinclair had pleaded not guilty, brought his mother to Court, and betrayed a position of absolute trust.

PREVIOUS CONVICTIONS: Minor motoring offences (effective first offender)

CONCLUSIONS: 3 years concurrent.

SENTENCE OF AND OBSERVATIONS OF THE COURT: 3 years concurrent. "Very serious breach of trust - most serious because committed within family."

J. A. Clyde-Smith, Esq., Crown Advocate
Advocate R.G.S. Fielding for the accused

JUDGMENT

5 THE BAILIFF: The Court has examined the principles which underline the way we deal with cases of this nature and it is quite true, as both Counsel have said, that there is not a single case on all fours with the present one and therefore the examples which we have been given are not really of great assistance.

Counsel for the defence, Mr. Fielding, relied very much on Marriott (1987-88) JLR 285 C. of A., but we regard Marriott as totally different in degree from this case. There he was a curator; he was the only son; there was just one attempt. This is quite a different matter. He was not the only son; it went on over a long period of time and the circumstances were in no way similar. Therefore Marriott is not of much help to us.

We have, however, looked at Barrick (3rd May, 1985) Cr. L.R. 142, which has been of more assistance to us in examining how we should approach this case. After looking at the matters mentioned in Barrick, we are left with this position: the accused had the complete trust of his mother to manage her affairs and that included all her investments. Up to 1989, we are satisfied that everything he did had her approval. During that period he was indulged to a great extent by his mother; that, however is purely a matter between the two of them and does not concern this Court. But, then, his business ventures got into grave difficulties. We think he crossed the boarder line from proper business into the other sort, and instead of going to his mother, as he should have done and asking for the money - which he told the Jury he did, but they did not believe him - he helped himself. We are satisfied that you had no justification in doing that; that it was a very serious breach of trust because your mother not only trusted you but loved you. You caused her considerable anguish by bringing her to Court, and although that is not a reason for increasing your sentence, it does not go towards any form of mitigation; indeed, the Court has been able to find little mitigation; this matter and considers it one of the more serious cases that it has been faced with. Of course, it is a family matter and therefore there will be no reflection on the good name of this island as a financial centre.

Under all the circumstances the Court is unanimous that the proper sentence is that asked for by the Crown Advocate in his conclusions and you are therefore sentenced to 3 years concurrent on each count.

Authorities

Whelan: "Aspects of Sentencing in the Superior Courts of Jersey":
pp.53-80.

Barrick, (3rd May, 1985) Criminal Law Reports 142.

Marriott -v- A.G. (1987-88) JLR 285 C of A.