

ROYAL COURT
(Samedi Division)

247A.

20th December, 1996

Before: P.G. Blampied, Esq., OBE, Lieutenant Bailiff,
and Jurats Myles and Potter

The Attorney General

- v -

Debbie Louise Horgan (née Mason)

- 2 counts of fraud (counts 1 and 2).
- 2 counts of falsification of accounts (counts 3 and 4).
- 2 counts of obtaining money by false pretences (counts 5 and 6).

Plea: Guilty to counts 1-4; not guilty to counts 5 and 6, which plea the Crown accepted.

Age: 24.

Details of Offence:

Fraud by junior travel consultant who, by means of false representations, obtained two cheques (total value £3,675) from clients and then paid cheques into her own bank account. In one case the client, at the invitation of the accused, left the payee section of the cheque blank the accused then wrote her own name on payee and banked the cheque. In the other case the accused having struck up a friendship with the client persuaded the client to make a cheque payable to the accused on the basis that the accused would then pay the travel firm with a cheque drawn on the accused's account. In this way the client would obtain an additional sum of £120 by way of staff discount vouchers. Accounting and client records were then falsified, including the generation of a false credit card voucher in an unsophisticated effort to avoid immediate detection following the uncovering of irregularities by management. Travelmaker honoured holiday bookings from its own funds.

Details of Mitigation:

First offender, relative youth, mother of two children aged 5 and 2, separated from husband, in financial straits. Paid back £500 to Travelmaker and continuing to pay at the rate of £20 per week. Offered to sell her car once the division of matrimonial assets has been agreed with her husband. Co-operative with the police - full admission made at first interview. Non-selfish motives in explanation for why she committed offences. Intelligent and articulate lady with unremarkable background and upbringing. Although defence counsel conceded there were no exceptional circumstances to justify a departure from the normal custodial sentencing policy, the Court was asked to impose a probation order with community service as an act of mercy in the interests of the two children of the accused who had suffered from the recent separation of their parents. Not possible for the children to live with their father and it would be "difficult" for the children to move in with the accused's mother (the accused's mother was going away for two weeks in January, 1997).

Previous Convictions: None.

Conclusions:

Count 1 : 9 months' imprisonment.

Count 2 : 9 months' imprisonment.

Count 3 : 9 months' imprisonment.

Count 4 : 9 months' imprisonment.

Sentence and Observations of the Court:

Two years' probation with 180 hours' community service to be completed within 12 months. No exceptional circumstances found to depart from the normal custodial policy, but Court tempered justice with mercy.

JUDGMENT

P. Matthews, Esq., Crown Advocate.
Advocate S.E. Fitz for the accused.

JUDGMENT

THE LIEUTENANT BAILIFF: It is a well established policy of this Court that those who abuse a position of trust to steal from their employers will, in the ordinary course of events, go to prison.

5 Advocate Fitz has put before the Court strong mitigating
circumstances: a first offender, a guilty plea, an unhappy
marriage involving a period spent in the Women's Refuge, strenuous
efforts to repay the money stolen, and financial pressures caused
10 by family bills which had to be met. Breach of trust cases
generally involve financial pressures and we find nothing
exceptional in the circumstances of this case. However, Horgan
has in her care two young children aged five and two and only
intermittent contact with her husband. We have heard that the
15 children have suffered because of traumas in the marriage. As an
act of mercy, therefore, and so that Horgan may give to her
children the maternal care that they require, we are going to
place you, Horgan, on probation for two years and you are to
perform 180 hours' community service, to be completed within 12
months.

Authorities

Whelan: "Aspects of Sentencing in the Superior Courts of Jersey":
pp.55-63.

Ibid: May 1995 - 1996 Noter up: pp.19-20.

AG -v- Picot (29th May, 1990) Jersey Unreported; (1990) JLR N.19.

AG -v- Allen (16th February, 1996) Jersey Unreported.

AG -v- McMeiken (27th July, 1994) Jersey Unreported.

AG -v- Warn (26th July, 1996) Jersey Unreported.

AG -v- Blake (28th August, 1996) Jersey Unreported.