4 page

ROYAL COURT
(Samedi Division) 57.

27th March, 1997.

Before: Sir Philip Bailhache, Bailiff, and Jurats Myles, Bonn and de Veulle.

The Attorney General

-v-

Ronald Sidney Harris

Sentencing by the Assize Court following conviction on 12th March, 1997 on a not guilty plea to:

10 counts of fraud (counts 2,3,4,5,6,7,8,9,10 and 11)

[The accused was acquitted on count 1 of the indictment]

AGE: 58 (54 when offences committed)

DETAILS OF OFFENCE:

Over a period of a year claimed sickness benefit totalling £5,386.33. In fact continued to work and be paid his usual salary. Not in financial need.

DETAILS OF MITIGATION:

Not professional fraudsman. Genuinely ill. Error of judgment. Lower end of scale for fraud. Co-operated with police. Offer to repay. Effect on family. Age. Good character.

PREVIOUS CONVICTIONS: None.

CONCLUSIONS:

12 months' imprisonment on each count, concurrent, with a compensation order for £5,386.33 under Articles 2 and 3 of the Criminal Justice (Compensation Order) (Jersey) Law 1994.

SENTENCE AND OBSERVATIONS OF THE COURT:

£2,000 fine or 1 month's imprisonment in default of payment on each count, the default sentences to follow one another consecutively if need be.
Compensation Order for £5,386.33 or 2 months' imprisonment in default of payment, to follow consecutively if need be.

Fines to be paid within 3 months; compensation order to be paid within one week or 2 months' imprisonment in default of payment.

The Solicitor General
Advocate M.J. Thompson

JUDGMENT

THE BAILIFF: A fraud upon the Social Security fund is not a victimless crime. It is a fraud upon every contributor to the fund and in effect a fraud upon the community.

Month after month the Defendant in this case was certifying that he had not worked when that was not in fact the position. The fraud was aggravated here by the length of time - over twelve months - during which it was perpetrated. We well understand why the Solicitor General moved for a custodial sentence.

As the Court has said on previous occasions the proper approach is to begin by considering a prison term. We agree, however, with the observation of Lane, L.C.J., in R. -v- Livingstone Stewart & Ors (1987) 9 Cr. App. R. (S)135, that the Court should continue by asking itself whether a custodial sentence is really necessary. It is not so much a question of asking whether there are exceptional circumstances - or whether it is a case for exercising mercy - as a question of what is the penalty most appropriate to meet the justice of the case having regard to all material considerations.

The Court has taken into account here the fact that there was no forgery of documents and that at the beginning there was an entitlement to sickness benefit. There is no doubt that the Defendant was suffering from a painful disability. More importantly we have taken into account the age and previous good character of the Defendant and the impressive testimonials from many people in different walks of life in support of that previous good character. There has also been an offer to repay the amount defrauded although that would have been a more powerful factor if repayment had already been made.

Harris, the Jury found - and the Court agrees - that what you did was clearly wrong. You have brought shame upon yourself and hurt upon your family and we acknowledge that that is punishment in itself. We have reached the conclusion that the justice of this case would be met by the imposition of a financial penalty.

The sentence of the Court is that you will fined on each count upon which the Jury convicted you the sum of £2,000, or in default 1 month's imprisonment consecutive in each case. The total fine is a sum of £20,000 or in default of payment 10 months' imprisonment. You will have three months in which to order your affairs and pay the fine. There will also be a Compensation Order in the sum of £5,386.33, or two months' imprisonment consecutive to the other default sentences if that sum is not paid and that sum must be paid within one week.

Authorities

Livingstone Stewart & Ors. (1987) 9 Cr. App. R.(S) 135.

Miah (1989) Cr. App. R. 163.

A.G. -v- Blake (18th August, 1995) Jersey Unreported.

A.G. -v- Halsall (9th December, 1996) Jersey Unreported.

A.G. -v- Pritchard (20th October, 1995) Jersey Unreported.

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