

Inferior Number Sentencing - [REDACTED]

[REDACTED]

**ROYAL COURT  
(Samedi)**

[REDACTED]

**Before : W. J. Bailhache, Q.C., Deputy Bailiff, and Jurats Fisher and  
Marett-Crosby.**

**The Attorney General**

**-v-**

[REDACTED]

Sentencing by the Inferior Number of the Royal Court, following a guilty plea to the following charge:

1 count of: [REDACTED]

**Age: 57.**

**Plea: Guilty.**

**Details of Offence:**

In January 2008 the defendant was in receipt of £350.98 per week income support, out of this he paid £1,083.33 rent per month for his accommodation. At that time the defendant was fully entitled to the award.

In November 2008 the defendant sub-let the accommodation to a third party who paid him a deposit of £1,600 and a monthly rent of £1,100. The defendant then moved to England to live with [REDACTED]. The defendant failed to notify the Social Security Department that he had left the Island and continued to illegally claim income support.

In January 2010 the defendant was sent a review form as part of normal Social Security procedures. The defendant later returned the form to the Social Security Department falsely stating on it that he was still living at the address in Jersey, and that his rent was now £1,137.50 per month. This was an aggravating factor of the case. The defendant was asked to produce bank statements to support his claim, when these were not forthcoming he was invited for a meeting to discuss his claim.

On 9<sup>th</sup> April, 2010, the defendant notified the officers that he was no longer living in the Island. The defendant's claim was immediately suspended.

The subsequent investigation revealed that the defendant had been overpaid £25,170 and that he had used this to fund his lifestyle in England whilst also making frequent trips to [REDACTED].

**Details of Mitigation:**

Guilty plea. The defendant had already paid back £5,000 of the missing monies. No credit given for youth or character. Contents of the Social Enquiry Report and Psychiatric Report. Traumatic childhood.

**Previous Convictions:**

91 previous convictions including inter alia [REDACTED].

### **Conclusions:**

Although Count 1 related to failing to notify the Social Security Department of a change of circumstances, in essence the defendant's actions amounted to a fraud against the public purse in the sum of £25,000. The Court has often said that offences against the public purse are particularly anti-social as they place an unfair burden upon those who meet their responsibilities under the law.

Count 1: 18 months' imprisonment.

Compensation Order in the amount of £20,170.28 sought, with instalments commensurate to those offered under the agreement.

### **Sentence and Observations of Court:**

The defendant had initially legitimately been in receipt of income support. However he had sub-let the property for a small profit, left the Island, and did not inform Social Security, thereby receiving an overpayment of £25,170.28. Benefit fraud is offensive; cheating the public is no different from cheating an ordinary member of the public. A custodial sentence was right in principle. Having listened to defence counsel the Court felt that it was right that it should differentiate between an outright fraud and those that grew out of an originally legitimate claim. The Court had regard for the defendant's guilty plea and the content of the background reports but noted that many people had a traumatic background and did not go on to commit crime.

Conclusions granted.

Compensation Order in the amount of £20,170.28 ordered, 5 years given in which to pay at a rate of £400 per month commencing 3 months after the date of release from prison or 12 months' imprisonment in default.

**C. M. M. Yates, Esq., Crown Advocate.**

**Advocate J. W. R. Bell for the Defendant.**

## **JUDGMENT**

### **THE DEPUTY BAILIFF:**

1. You made a claim for income support and were paid approximately £350.98 per week. A substantial part of that was calculated having regard to the rental which you had to pay for a property in [REDACTED] which was £1,083 per month. You left the Island in about November 2008, having sub-let the property at a small monthly profit; you continued to receive income support not having told the Social Security department that you had left, and worse, when they checked up on you, you sent into the department a claim review form in February 2010, again declaring your address to be [REDACTED] and indicating a slightly higher figure of rent. At that time your sub-tenant was still paying you rent. In all you received £25,170 Income Support to which you were not entitled.
2. The Court has said previously that benefit fraud is offensive and cheating the public is really no different from cheating anybody else. We are pleased to see that you recognise that and we accept that you are remorseful for what you have done and the repayment of money that you have made so far is certainly an indication of that. But nonetheless, this is a matter where the Court is in no doubt that a custodial sentence is right in principle.
3. We have taken into account all the mitigation which your counsel has put before us, and some of it has been given weight; we do not give any weight at all to the complaint that there has been a delay in investigation of fraud. We do not think that is a material factor but we do think it is important to recognise, as your counsel emphasised, that this case can be distinguished from other cases where the claim for benefit was fraudulent from the very beginning, so we do take into account that when you first made your claim for income support it was rightly made. We have also taken into account the guilty plea, and of course, everything which is in the background reports. But we have to say that there are many people who unfortunately have had traumatic things happen to them in their past and they do not commit offences of this kind. It is right that we take into account what is in the background reports but we have to recognise too that that is not a complete answer as

far as you are concerned.

4. We think the Crown's conclusions are correct and you are therefore sentenced to 18 months' imprisonment on this Indictment.
5. In addition we are going to make a Compensation Order in the amount of £20,170.28. The Order is that the money should be paid at the rate of £400 per month commencing 3 months after the date on which you are released. There will be an alternative default sentence of 12 months' imprisonment if you do not pay the money back.
6. I want to say this also about the Compensation Order. We recognise that economic circumstances change. There is power in the Law to give you more time to pay if you need it, and indeed to review whether or not the Compensation Order ought to be enforced. The obligation lies on you, if things change and you find that you cannot pay it, then you must come back to Mr Bell and then to Court and we can consider the circumstances again. We make the Compensation Order on the information we have got at the moment and if that changes it is for you to come back and tell us and we can think about it again; because if you just ignore it and do not pay it then the default sentence is 12 months' imprisonment.

### **Authorities**

Income Support (Jersey) Law 2008.

[AG-v-Morin](#) [2010] JRC 217D.

[AG-v-Couillard](#) [2011] JRC 179A.

[AG-v-Whelan](#) [2011] JRC 159A.

[AG-v-Gallagher](#) [2011] JRC 129.

R-v-Graham and Whatley [2005] 1 Cr App R (S) 115.