

ROYAL COURT
(Samedi Division)

16th July, 1993

94.

Before: The Bailiff, and
Jurats Blampied and Myles

The Attorney General

- v -

Janice Cox

1 contravention of Article 14(1)(a) of the Housing (Jersey) Law, 1949

AGE: 36.

PLEA: Facts admitted.

DETAILS OF OFFENCE:

Came to Jersey in or about 1978, left in 1982 for a period of 8 months to live in the United States, returned to Jersey and remained continuously thereafter. Applied for her Housing qualifications in 1988 giving a reference which states she had been in employment in Jersey during her 8 month period of absence.

DETAILS OF MITIGATION:

Admitted immediately and was remorseful about her offence. Housing Committee's incompetence - "lost" the letters received in 1991 detailing Cox's offence. At time of offence had not intended leaving for 8 months - was for a holiday and could not afford return fare. Cox was 6 months pregnant at time of sentencing.

PREVIOUS CONVICTIONS:

Nil.

CONCLUSIONS:

£500 or 3 months' imprisonment. Costs £150.

SENTENCE AND OBSERVATIONS OF THE COURT:

£50 fine - no costs. Court said it was repugnant that anonymous letters should be written in our society and that the Housing Committee should not have "lost" important documents such as the one concerned. Cox remorseful and of good character, therefore the significantly lighter figure of £50 was fixed upon.

**The Attorney General.
Advocate A.D. Robinson for the accused.**

JUDGMENT

THE BAILIFF: This case has given the Court considerable difficulty. Of course, the Court recognises that it is a person's duty if a crime has been committed, to assist the police and indeed to report that crime. We accept that in society that has to be done.

However, in the case of the Housing Law, we find it repugnant that anonymous letters can be written - although we accept that the Committee and its officers have a duty to investigate allegations of breaches of the Housing Law - but I repeat it is still repugnant in a democratic society that this should be so.

It is not for that reason that we have felt it necessary to reduce considerably the conclusions asked for. The reason for our decision is that the Committee, through its officers, knew on 4th January, 1991, of the suggestion, through the anonymous letter, that the defendant had not been continuously resident in Jersey for the required time.

We do not know, because the Attorney General did not tell us, whether or not the information given to us by counsel was available to the Committee and its officers; namely that the

defendant went to the United States for a holiday and for reasons which were explained to us, was more or less stranded there for some eight months. We wonder whether if that had been known to the Committee, it might not have been possible for them, in 1988, to reach the conclusion that, notwithstanding that absence and the intention to return, she might well have qualified. We do not know. We are not told whether that was explored at the time.

However, if the prosecution had been brought earlier, the position of the defendant would not have worsened in the way that Mr. Robinson has made plain to us. The decision in the case of Giggles, Ltd -v- A.G. (1985-86) J.L.R. 276, C.of.A., referred to by Mr. Robinson makes it clear that if the Committee had been informed of the anonymous letter and the prosecution had not been brought within the period of one year from the time in which the Committee was informed, then the action would have been prescribed by today.

We think the defendant has suffered enough by the unfortunate train of events; but having said that we do not overlook the fact that she has lied to the Committee and has deliberately put someone who was giving her a reference in possible jeopardy - I put it no higher than that - by having that person sign something which was not true.

However, after balancing the facts behind the offence and her quite long period of residence in Jersey, and after looking at the references and her background, we have come to the conclusion that the proper penalty to impose is a financial sanction; we do not feel it right not to impose a financial sanction, but it should be a nominal one. Accordingly, you are fined £50 and there will be no order for costs.

Authorities

Giggles, Ltd -v- A.G. (1985-86) J.L.R. 276 C.of.A.

A.G. -v- Hyde, Munn (5th July, 1991) Jersey Unreported.