

ROYAL COURT
(Samedi Division)

209.

8th November, 1996

Before: F.C. Hamon, Esq., Deputy Bailiff, and
Jurats Myles and Gruchy

The Attorney General

- v -

Gary Stuart Sheldon

1 count of Larceny.

Plea: Guilty.

Age: 45.

Details of Offence:

The defendant was employed to nurse an elderly gentleman who was terminally ill. This was a live-in appointment which lasted only for a matter of days before the patient passed away. At that point the defendant stole the patient's credit card and jewellery to the value of some £6,000. He was arrested at a U.K. airport attempting to travel to S.Africa using the stolen credit card.

Details of Mitigation:

No previous record of dishonesty; impulsive crime committed at a time when the defendant had health worries of his own. Property recovered. Guilty plea throughout. Remorse.

Previous Convictions: None relevant.

Conclusions: 12 months' imprisonment.

Sentence and Observations of the Court: 9 months' imprisonment. Jurats divided as to custodial or community based disposal; Deputy Bailiff casts vote in favour of custodial sentence because the offence amounts to a serious breach of trust.

Remarks:

14th November, 1996. Application to the Superior Number for leave to appeal against sentence, on the basis that established practice required the Deputy Bailiff to cast his vote in favour of leniency.

Application heard and refused. Reasons reserved.

C.E. Whelan, Esq., Crown Advocate.
Advocate N.M. Santos Costa for the accused.

JUDGMENT

5 THE DEPUTY BAILIFF: Sheldon was appointed to look after an elderly father by his son. Some days into the appointment the elderly patient died. Sheldon informed the son in England of the sad news, obtained permission to remain in the house, and proceeded to steal property of the deceased, including a diamond and platinum ring worth some £4,800 and other valuable items which may have had a sentimental value.

10 When he was arrested he was attempting to collect an air ticket at Birmingham Airport to travel to South Africa where his wife lives. He had charged the cost of the air ticket to the stolen credit card of the deceased. Also on his person was a cheque for £650 made out to him by a firm of Birmingham jewellers which was the proceeds of the stolen ring.

15 The accused has expressed his sorrow; he says that he acted on impulse and he has expressed remorse and has pleaded guilty throughout. The credit card when he stole it was unsigned.

20 Despite all that there is something both sordid and horrible in a breach of trust of this nature, particularly when the accused came from a nursing agency and had a very long experience in hospital work.

25 The crime is an offence to the old man who died and it is an offence to his son, who needed to grieve his father's death. The theft can be described as mean and despicable.

30 We are not certain that the case of Lowes (1988) 10 Cr.App.R(S) 175 helps us very much because the character of Sheldon is very good and his reference, particularly from Dr. Bruce, is supportive and impressive.

35 Mr. Costa has argued cogently everything that can be said on Sheldon's behalf. He is, Mr. Costa says, in Court for a terrible

and stupid mistake. The Jurats are divided. One feels that the seriousness of the offence could only be met with a prison sentence, but in the particular circumstances that sentence would be reduced to nine months. The other Jurat feels that the particular circumstances of this case and the particular opportunist nature of the offence allows the imposition of a period of twelve months' probation with 240 hours of community service as recommended by the Probation Officer. The decision is therefore left to me, I have to recall that Sheldon was on the verge of leaving the jurisdiction of the Court for ever and the theft is in my view such a serious breach of trust that I can see no alternative but to side with a decision to imprison and therefore, Sheldon, you are sentenced to nine months' imprisonment.

Authorities

Lowes (1988) 10 Cr.App.R.(S) 175.

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