

ROYAL COURT
(Samedi Division)

11th July, 1997 133

Before: Mrs. J.G.B. Myles, Lieutenant Bailiff,
and Jurats Le Ruez and Jones.

The Attorney General

- v -

Paul Henriette

Sentencing, following:

(1) a guilty plea entered on 13th June, 1997 to:

1 count of obtaining money by false pretences (count 1).

[On 13th June, 1997, the accused pleaded not guilty to one count of violently resisting Police Officers in the execution of their duty (count 2); and to one count of being disorderly on licensed premises, contrary to Article 83 of the Licensing (Jersey) Law, 1974, (count 3) which pleas the Crown accepted]; and

(2) an admitted breach of a Probation Order, imposed by the Royal Court on 15th January, 1996, on an appeal from a total sentence of three months' imprisonment, imposed by the Magistrates' Court on 27th September, 1995, on guilty pleas to 1 count of assault (count 1), 1 count of possessing an offensive weapon (count 2), and 1 count of malicious damage (count 3) (*see Jersey Unreported Judgment of that date*).

Plea: Guilty.

Age: 33.

Details of Offences:

Over a period of nine months Henriette obtained a rent rebate in respect of his occupation of Flat 4, "Avoca", 94 Great Union Road, St. Helier, by falsely pretending that he continued to reside there. The breach of probation offences were public order offences arising from domestic incidents.

Details of Mitigation:

Accused yielded to temptation and needed the money for groceries, etc. After returning to Jersey from the United Kingdom he attended at Police Headquarters and made a full confession after he had handed himself in. The background reports clearly show that the offence arose from impulsive behaviour, resulting from a character defect which was at the root of his problems. If a custodial sentence is imposed he will fall back into the same cycle of re-offending and therefore deserved one last chance.

Previous Convictions: Extremely lengthy covering a whole range of offences from 1981 to 1996.

Conclusions:

12 months' imprisonment on count 1 of present indictment.

2 months' imprisonment on count 1 (assault on wife) of the charge sheet laid against the accused on 27th September, 1995.

1 week's imprisonment on count 2 (offensive weapon) of the charge sheet laid against the accused on 27th September, 1995.

1 month's imprisonment on count 3 (malicious damage) of the charge sheet laid against the accused on 27th September, 1995.

The sentences imposed on counts 1-3 of the charge sheet of 27th September, 1995, to run concurrently with one another, but to follow consecutively the sentence imposed on count 1 of the present indictment.

TOTAL SENTENCE: 14 months' imprisonment.

Sentence and Observations of the Court:

Conclusions granted except that sentence of 12 months' imprisonment on count 1 of present indictment reduced to 9 months.

TOTAL SENTENCE: 11 months' imprisonment.

Previous experience and background reports showed a total inability to complete probation or psychology treatment. Welfare fraud is a crime against the community.

J.G.P. Wheeler, Esq., Crown Advocate.

Advocate J.D. Melia for the accused.

JUDGMENT

5 THE LIEUTENANT BAILIFF: It has been said many times before in this Court and repeated today, that those who defraud public funds not only prejudice all rate-payers in the community, but also those who are genuinely entitled to benefit. It is also the case that
10 unless there are special circumstances particular to a case, the Court should first consider a custodial sentence. However, mitigating factors may entitle the Court to consider, as both counsel have mentioned today, what may be appropriate to meet the justice of the case.

15 This case of Henriette concerns, and involves, the fraudulent obtaining of rent rebate from the Housing Department. Although Henriette signed the original application form for rent rebate in good faith, on 12th July, 1995, he well knew, when he attended the Housing Department on 16th August of the same year that he was not entitled to receive the benefit.

20 Miss Melia has said everything that she could possibly say in your favour, Henriette, and we have read the Probation report and Mr. Berry's report with care, as well as your own letter. The Court considered carefully, following the recommendations in those reports, but the one thing in them which has made it difficult for the Court to do so is what appears to be your total inability to
25 complete any term of probation, or even the psychological course of therapy which you voluntarily undertook under the care of Mr. Berry. We are, therefore, forced to agree with the Crown

Advocate, Mr. Wheeler, that custody is inevitable. However, in view of your expressed intention to make changes to your life in the future we are reducing the conclusions slightly.

5 Stand up, please, Henriette. On count 1 of the indictment, we are sentencing you to nine months' imprisonment.

10 In relation to the breach of the Probation Order, imposed by this Court on 15th January, 1996, that Order is discharged and on count 1, (the charge of assault) you are sentenced to two months' imprisonment; on count 2, (the charge of possessing an offensive weapon) you are sentenced to one week's imprisonment; and on count
15 3, (the charge of malicious damage) you are sentenced to one month's imprisonment. The sentences imposed in relation to the breach of Probation to run concurrently with one another, but to follow consecutively the sentence imposed on the count of obtaining money by false pretences.

Authorities.

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

A.G. -v- Harris (27th March, 1997) Jersey Unreported.

R. -v- Livingstone, Stewart & Ors. [1987] 9 Cr.App.R. (S) 133.

A.G. -v- Hutchings (14th April, 1989) Jersey Unreported.