

ROYAL COURT

14th April, 1989

Before: The Deputy Bailiff and
Jurats Coutanche and Bonn

Her Majesty's Attorney General

- v -

Terence Roy Hutchings

Seven counts of knowingly making a false statement for the purpose of obtaining benefit, contrary to Article 36(3)(a) of the Social Security (Jersey) Law, 1974, and six counts of obtaining money by false pretences

H.M. Solicitor General for the Crown
Advocate P.A. Bertram for Hutchings.

JUDGMENT

DEPUTY BAILIFF: Where there is a breach of a Probation Order which has been used as a vehicle for Community Service, a custodial sentence is, in the view of this Court, inevitable.

For the Court to have imposed Community Service in October, 1987, it must have been satisfied that a custodial sentence and not probation was appropriate. It then went on to consider whether it could substitute Community Service, and it did so.

Hutchings was, in effect, given a last chance then. When a very similar offence is committed during the term of the original order, the accused cannot expect a second last chance.

As Lord Lane C.J., said in the Stewart case: "These offences involve the dishonest abstraction of honest tax payers' money and are not to be treated lightly. They are easy to commit and difficult and expensive to track down".

The Chief Justice said that the element of deterrence should not play a large part in the sentencing of this sort of case in the Crown Court - but he did not say no part - and in a case like this where a second offence of the same nature is committed, and committed in Jersey, we have no hesitation in saying that deterrence is important.

The Court does not accept the grievances of the accused in relation to Community Service and the work done at the Shelter, certainly not that the work is demeaning. We must not overlook the fact that Community Service is intended as a punishment and not as a let-off.

We are satisfied that the Solicitor General has taken all the factors into account, including the mitigation, and that his conclusions are correct and proper.

Therefore Hutchings, you are sentenced as follows: on count 1, to three months' imprisonment; on counts 2 - 7 inclusive to three months' imprisonment, concurrent with each other and concurrent also with count 1. On count 8, to six months' imprisonment consecutive and on counts 9 - 13, six months' imprisonment, concurrent with each other and with the sentence on count 8.

We now come to the Probation Orders made in October, 1987. We have been told that all but three hours of the Community Service under the first Order has been completed and therefore we discharge that Order. So far as the second Order is concerned, where there were 90 hours of Community Service, we have been informed that no part of that Order has been completed. Therefore, we are going to discharge that Order, but we

substitute in the place of that sentence, six months' imprisonment, however in order not to extend the total term, we make that six months' imprisonment concurrent with all the other sentences. There will therefore be a total sentence of nine months' imprisonment.

Authority referred to:-

Current Sentencing Practice by D. Thomas (1982 edition), at p.2328 -
B6-3.3(F) re. Benefit frauds - the case of R. -v- Stewart and others
(1987) 9 Cr. App. R.(S).