

The Attorney General v Desmond Keith Congdon

Jurisdiction:	Jersey
Judge:	Bailiff
Judgment Date:	16 November 2001
Neutral Citation:	[2001] JRC 231
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Text

[2001] JRC 231

ROYAL COURT

(Samedi Division)

Before:

Sir Philip Bailhache, Bailiff, **and** Jurats de Potter, **and** Le Breton.

The Attorney General
and
Desmond Keith Congdon.

Advocate B.H. Lacey, **Crown Advocate**.

Advocate R. Juste **for the accused**.

Authorities

AG v Hudson (15th May 1998) Jersey Unreported; [1998/98]

AG v Ogilvie (29th May 1998) Jersey Unreported; [1998/110]

AG v Cooper (7th May 1999) Jersey Unreported; [1999/78]

AG v Buckley and Ors. (6th August 2001) Jersey Unreported; [2001/175]

Kirkland v AG (24th September 2001) Jersey Unreported C of A; [2001/200]

Channing v AG (26th October 2001) Jersey Unreported C of A; [2001/213].

R v Barrick (1985) 7 Cr. App.R (S) 142.

2 counts of: Forgery (counts 1, 3);

1 count of: Fraudulent conversion (count 2);

1 count of: Attempted fraudulent conversion (count 4).

Age: 47

Plea: Guilty.

Details of Offence:

Counts 1 and 2: On or about 9th July, 2001, while employed by Standard Bank Offshore Services Limited, Congdon forged the signatures of two authorised signatories on a cheque belonging to Standard Bank Unit Trusts Jersey Limited. Congdon made the cheque out in the amount of £5,750.00. This sum was subsequently credited to Congdon's personal bank account. Counts 3 and 4: On or about 6th September, 2001, while still employed by Standard Bank Offshore Services Limited, Congdon forged the signatures of two authorised signatories on a cheque belonging to Standard Bank Unit Trusts Jersey Limited. Congdon again made the cheque out in the amount of £5,750.00. Before the cheque cleared the offence was discovered.

Details of Mitigation:

Co-operated with employers and police as soon as the offences were discovered. Remorseful and in a stable relationship. Congdon was arranging for the value of his pension to be realised in order to repay his former employers. Congdon had found employment outside the finance industry.

Previous Convictions:

A number of relevant previous convictions. Previously served four months imprisonment for very similar offences (breach of trust by employee).

Conclusions:

Count 1: 2 years' imprisonment.

Count 2: 2 years' imprisonment.

Count 3: 2 years' imprisonment.

Count 4: 2 years' imprisonment, all concurrent.

Compensation order for £5,750 in favour of Standard Bank.

Sentence and Observations of Court:

Conclusions granted; no compensation order made. (Not appropriate.)

Congdon was placed in a position of trust. The offences were aggravated by the following factors:

- (a) Congdon deceived his employers on his application form for employment, he wrongly stated he had no previous criminal convictions;
- (b) Congdon was not a long-serving employee, who suddenly and out of character stole from his employers.
- (c) Congdon spent the money simply to make his life more comfortable; and
- (d) Congdon's criminal record.

Three years was the appropriate starting point. After taking into account the mitigating factors the Court agreed with the Crown's conclusions. The integrity of those in positions of trust in the finance industry is important. Such conduct must be deterred.

Bailiff

THE

- 1 This accused has pleaded guilty to four offences of dishonesty involving the fraudulent misappropriation or, attempted misappropriation of £11,500. The gravity of the offence lies in the fact that he was in a position of trust. It is aggravated furthermore by the fact that he was employed in the financial services sector — the integrity of which is of vital importance to the community.
- 2 Congdon deceived his employer from the very beginning. In his application for employment he falsely declared that he had no criminal record, whereas in fact he had several convictions for dishonesty, the last of which was in May, 1996. It may be surprising that his employer appears to have accepted his statements at face value, without making further

enquiries, but that does not excuse his deceit.

- 3 As the Crown Advocate rightly observed, the offences were committed within nine months of the commencement of his employment. This is not a case of a long serving employee suddenly falling prey to temptation. The forgeries of the cheques were undertaken with a certain amount of sophistication. We think that the appropriate starting point in this case is one of three years' imprisonment.
- 4 In mitigation, when confronted by his employer Congdon immediately admitted his offending and he confirmed those admissions to the police and cooperated and pleaded guilty to the indictment. He is entitled to credit for all those mitigating circumstances.
- 5 Congdon, the Court has listened very carefully to all the submissions made by your counsel and indeed your counsel has said everything which could reasonably have been said on your behalf. We think that the Crown Advocate has made the appropriate deductions for all the mitigating circumstances. The conclusions, so far as the imprisonment is concerned, are granted and you are sentenced to two years' imprisonment. So far as the question of compensation is concerned, we do not think that this is an appropriate case for making a compensation order. We consider that, in all the circumstances, the recovery of the debt due from the accused can be left to the ordinary civil process.