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26th September, 1986.

A.G. -v- Rosemary Lopez-Rubio

BAILIFF: Without doubt this is the sort of case that if we had the ability to do it we would impose a prison sentence as suspended, but we do not and therefore we have to decide whether the principle which this Court has laid down in many occasions, that in general terms breach of trust of this nature deserves imprisonment should be tempered by the particular circumstances of this accused. Mr Whelen has suggested that there is a discernible pattern of an alternative to prison, and that's quite true, and he has suggested that the Attorney General in moving for Prison has gone against that discernible pattern. We disagree. The Attorney General is entitled to take the general principle as applicable to this case, and move for the Prison sentence. However, because of the exceptional mitigating circumstances, the fact that the accused brought the main offences to the attention of the authorities herself, that she is unlikely to offend again, and that there is an absence as counsel has said of the usual aggravating factors, that is to say the destruction of evidence, the effect on small savers, through thrift clubs and so on, and that the money was not spent on luxuries, though we are bound to say that it is not an excuse that the money was taken to pay the Income Tax Department, because that after all was another branch of the employing authority, the States, and we do not accept that as an excuse. However, under all the circumstances we think that justice will be done if we place you on probation for 2 years, which has certain effects, you will have to live and work where the Probation Officer directs you, you will have to be of good behaviour during that period, and you will have to come up for sentence here if you offend during that period again, and to be sentenced not only for any further offence (which we trust will not occur), but for this offence also, and you will work 200 hours Community Service.