

ROYAL COURT  
(Samedi Division)

204.

1st November, 1996.

Before: P.G. Blampied, Esq., Lieutenant Bailiff  
and Jurats Herbert and Vibert.

The Attorney General

-v-

Howard Edward Frank Thorne,  
Patricia Ann Cavanagh.

HOWARD EDWARD FRANK THORNE

2 counts of conspiracy to defraud (Counts 1,2).

Plea: Guilty.

Age: 57.

Previous Convictions: Long record, mostly involving crimes of dishonesty, dating from 1948 to 1973. Several terms of imprisonment imposed. Between 1973 and 1986 no convictions. Then a conditional discharge for theft in September 1986. Nothing further until the facts of the present offences.

Conclusions: Count 1: 1 years' imprisonment.  
Count 2: 2 1/2 years' imprisonment, concurrent.

Sentence: Count 1: 1 years' imprisonment.  
Count 2: 2 years' imprisonment, concurrent.

PATRICIA ANN CAVANAGH

2 counts of conspiracy to defraud (Counts 1,2).

Plea: Guilty.

Previous Convictions: None relevant.

Conclusions: Count 1: 2 years' imprisonment.  
Count 2: 2 1/2 years' imprisonment, concurrent.

Sentence: Count 1: 1 years' imprisonment.  
Count 2: 2 years' imprisonment, concurrent.

Details of Offences (Both accused):

CAVANAGH worked as Probate Manager in law firm. Will left specific legacies to two parties and the residue to Charities. She misrepresented the amount in deceased's Current Account and passed a cheque to THORNE for £4,300. Two months later she paid the entire residue of the Estate, not to the Charities, but to THORNE. This amounted to £85,559.56. In breach of the agreement to share the spoils, THORNE disappeared with the entirety. CAVANAGH did not benefit at all.

THORNE: not financially sophisticated. No relatives were cheated. His son stole £10,000 of the money which THORNE had obtained. Ordinary man with a basic lifestyle presented with a "once in a life-time" opportunity. Out of trouble, with one minor exception, for nearly twenty years. Guilty plea.

CAVANAGH: At time of offence, extremely turbulent relationship with boyfriend. Drinking very heavily and very distressed. Remorse (appeared genuine). Some Community Service activity. Guilty plea.

Observations of the Court (Both accused):

This was an unusual case inasmuch as CAVANAGH had not benefited financially and THORNE had cheated her. Whilst CAVANAGH's part was at first sight the more serious, Court acceded to Crown's submission that it was impossible to distinguish between them. A serious and mean offence involving a breach of trust and a substantial amount of money. There were no circumstances in the facts, or disclosed in either of the Social Enquiry Reports or the Psychiatric Report which had been obtained in respect of CAVANAGH, which led the Court to any conclusion other than that a custodial sentence was inevitable. The Conclusions would, however, be reduced slightly.

A.J. Olsen, Esq., Crown Advocate.  
Advocate J.D. Melia for H.E.F. Thorne.  
Advocate R.G. Morris for P.A. Cavanagh.

JUDGMENT

THE LIEUTENANT BAILIFF: It is frequently difficult to compare one case with another, and the circumstances that surround this case are unusual.

This is a case where Mrs. Cavanagh was charged by her employers with administering an estate. She was in a position of trust and took advantage of that position to defraud the charitable beneficiaries of the estate of their entitlement, which amounted to a total of £89,859.00.

What is unusual is that she did not receive any of the proceeds of the fraud which she perpetrated. She and Thorne are charged with conspiracy to defraud. We were told by Advocate Morris that Thorne disappeared after he had received the money from Cavanagh.

As we have said, we find the circumstances that surround this case unusual. It was urged upon us by Advocate Melia that Thorne was naive - as she put it, "not commercially astute". Nevertheless, we find that we cannot distinguish between Cavanagh and Thorne in their conspiracy when establishing the sentence. We observe that the fraud could only have been done in its early stages by Cavanagh but nonetheless, they conspired together.

We have taken account of all that has been put to us in mitigation; we have considered the long record of Thorne, and we treat Cavanagh as a first offender. We have taken note of the guilty pleas and we have read carefully the Probation Reports, Cavanagh's psychiatric report and the letters from her sister and her previous employer.

This is a serious and mean offence, involving a breach of trust and a considerable amount of money. We have listened carefully to what Advocate Morris has said for Cavanagh but we find that a custodial sentence is unavoidable. We are going to reduce the conclusions of the Crown slightly. You are both sentenced on Count 1, to one years' imprisonment and on Count 2, to two years' imprisonment, concurrent.

Authorities

A.G. -v- Sinclair (30th January, 1995) Jersey Unreported.

Sinclair -v- A.G. (6th June, 1996) Jersey Unreported CofA.

A.G. -v- Ryall (14th October, 1994) Jersey Unreported.

A.G. -v- Godfrey (5th March, 1992) Jersey Unreported.

Haydn -v- A.G. (10th July, 1985) Jersey Unreported (1985-86) JLR N.23.

Barrick (1985) Cr.L.R. 142.