

ROYAL COURT  
(Samedi Division)

26

2nd February, 1996

Before: The Deputy Bailiff, and Jurats  
Coutanche and de Veulle.

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The Attorney General

- v -

John Edward Strzelecki.

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1 count of           fraudulent conversion (count 1);  
1 count of           larceny (count 2).

Plea: Guilty.

Age: 39.

Details of Offence/s:

Count 1:    Fraudulent conversion of £11,069.64 from La Motte Hotel Thrift Club.  
Count 2:    Larceny as a servant of £2,816.02 from C. Le Masurier Limited.

Details of Mitigation:

Gambling addiction. Readily admitted guilt and co-operated with Police. Effectively first offender.

Previous Convictions:

21.02.78 - breach of the peace and criminal damage. Before Woodstock Magistrates. Fines of £20 and £30 and £13.50 compensation and £20 costs.

Conclusions:

Count 1:    2½ years' imprisonment.  
Count 2:    9 months' imprisonment, concurrent.

Sentence and Observations of the Court:

Conclusions granted. Breach of trust case. No special circumstances to justify non-custodial sentence (even though Court expressed sympathy for accused's predicament).

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J.G.P. Wheeler, Esq., Crown Advocate.  
Advocate D.M.C. Sowden for the accused.

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**JUDGMENT**

THE DEPUTY BAILIFF: John Edward Strzelecki is a long-time employee of C. Le Masurier Limited. For the last nine of the fifteen years of his employment, he has worked as a manager of the La Motte Hotel in La Motte Street.

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Sadly, he is a compulsive gambler and on 16th October, 1995, he admitted to the company's tied trade manager that he had stolen money from the weekly bar takings and from the Thrift Club Fund. The amounts stolen were considerable. The bar takings stolen amounted to £2,816.02 and the money stolen from the Thrift Club amounted to £11,069.64.

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When the police called, his words to them were "*I was expecting you; I thought you would have been sooner*". Undoubtedly the theft of the bar takings would have been discovered.

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Being a compulsive gambler - and there is no doubt about his addiction - he has apparently bet on cars, horses, pool, or anything upon which he could gamble. Living above his means he had taken out loans where the monthly repayments were about £700, whereas his earnings were about £650.

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He is 39 years old. He is married with four children, aged 9, 6, 2 and 4 weeks. The family have now been moved to accommodation at Le Geyt Flats by the Housing Department.

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To compound his problems the accused is apparently also a heavy drinker and in one of the reports it appears that he was in the habit of getting drunk every day.

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We must remind ourselves that he is charged with two offences; fraudulent conversion and larceny as a servant. In writing of the offence of larceny as a servant in his work Aspects of Sentencing in the Superior Courts of Jersey, Whelan said: "*This offence is the classic breach of trust*".

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In A.G. -v- Picot (29th May, 1990) Jersey Unreported; (1990) JLR N.19, the Superior Number said:

5 "We do not think that policy should be changed. We note  
in passing that although we use the word 'exceptional' in  
fact in R. -v- Barrick (1985) 7 Cr.App.R.(S) 142 Lord  
Chief Justice Lane uses the words 'very exceptional' and  
therefore we think that it is right that we should repeat,  
if it requires repeating, that only in exceptional, or  
very exceptional, circumstances should a person who  
commits a breach of trust expect not to receive a prison  
10 sentence".

15 In A.G. -v- Pagett (1984) JJ 57, the Court of Appeal  
described these offences as being "of a serious character  
involving a flagrant breach of trust by an employee in whom full  
confidence was reposed. The Court went to analyse the differences  
in sentencing policy between England and Jersey and the reasons  
underlying those differences, and went on to confirm the propriety  
of the Royal Court's pursuit of its own sentencing policies".

20 The learned Crown Advocate gave us some examples from p.60 of  
the Whelan monograph. He showed us Dodd (2nd December, 1988)  
where £2,000 was stolen and the accused received a sentence of  
eight months; Bennett (2nd August, 1991) where, again, £2,000 was  
stolen and the accused received a sentence of nine months.

25 The Thrift Club offences Whelan says: "form a discrete  
**group**". His work cited, for example, Goodsir (29th February,  
1984) at p.72 and Fitzpatrick (24th April, 1992) at p.73.

30 As we have said it appears obvious - and very sadly - that  
the accused is a compulsive gambler. But this Court has given a  
clear indication in A.G. -v- Hanley (14th October, 1993) Jersey  
Unreported, that it does not regard addiction to gambling as a  
mitigating factor at all. We have no doubt, although we  
35 sympathise very much with the family situation in which the  
accused finds himself, that that is right.

40 We have to consider also that thefts of this nature from an  
employer while in a position of trust and from 36 members of a  
Thrift Club are deliberate, calculated, and mean, particularly so  
when they take place over a period of time.

45 The real question we have to ask ourselves today is: are  
there exceptional circumstances? He has readily admitted to his  
guilt and he is acknowledged to be a man of good character.

50 We must say this: we are not particularly moved by the  
petition signed by some 60 of the patrons of the La Motte Hotel of  
whom, apparently, 13 were members of the Thrift Club. We recall  
that there were 36 members of the Thrift Club. We are not  
particularly moved because we really know nothing of the  
circumstances in which the petition was signed, nor of course of

the feelings of those who did not sign and had money stolen which they had faithfully paid in for their Christmas festivities, both for themselves and for their families. The loss to each of those persons was substantial, both financially and personally.

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We cannot - because the law does not allow us - have regard to the family circumstances and although we have every sympathy with the accused and we have read very carefully the background and psychiatric reports that have been prepared, we will follow the conclusions of the Crown Advocate.

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Strzelecki, will you stand up, please. You are sentenced to 2½ years' imprisonment on count 1; and, on count 2, you are sentenced to 9 months' imprisonment, concurrent.

### Authorities

Whelan: "Aspects of Sentencing in the Superior Courts of Jersey":  
pp. 55-63; 72-74.

Whelan: Ibid, Notes up May 1994-1995: pp. 27-28.

A.G. -v- Pagett (1984) JJ 57.

A.G. -v- Picot (29th May, 1990) Jersey Unreported; (1990) JLR  
N.19.

A.G. -v- Blackmore (12th July, 1988) Jersey Unreported.

A.G. -v- Hanley (14th October, 1993) Jersey Unreported; (1993) JLR  
N.9.

Ryall -v- A.G. (1st May, 1995) Jersey Unreported CofA.