

**Judgement 7/2006 Glen Andrew Abbott – Royal Court (Indictment 41/05) –
16th February, 2006**

Criminal Trial - Income Tax (Guernsey) Law, 1975 - Housing (Control of Occupation) (Guernsey) law, 1994 – false statements to the Income Tax Authority and the Housing Authority – 11 counts – 6 months’ imprisonment on each count, concurrent and suspended 2 years – in addition fines of £400 on each of the 3 housing offences

IN THE ROYAL COURT OF GUERNSEY

The 16th day of February, 2006 before John Russell Finch, Esquire, Lieutenant Bailiff; present:- David Charles Lowe, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, O.B.E., Esquires, The Reverend Peter Gerald Lane, Michael Henry de la Mare, Michael John Tanguy, Esquires, Susan Mowbray, Barbara Jean Bartie and David Osmond Le Conte, Esquire, Jurats.

2005 No. 41

In the action of THE LAW OFFICERS
OF THE CROWN against GLEN ANDREW ABBOTT to see the said Law Officers
present an Indictment containing eleven counts, copies of which Indictment was
annexed to the summons served upon the said accused and has been delivered to
Advocate J. T. Le Tissier, Counsel for the said accused;

And the said Law Officers claim costs;

The accused Abbott, having pleaded on the 5th day of January, 2006 before the
Lieutenant Bailiff sitting alone, Guilty to each of the eleven counts in the Indictment,
THE COURT recorded verdicts of Guilty;

THE COURT having heard Advocate G. D.
McKerrell for the Crown and Advocate J. T. Le Tissier Counsel for the accused

thereon, and having considered a Social Enquiry Report prepared by Ms. I. Richmond, Probation Officer:

- (1) SENTENCED the accused to six months' imprisonment on counts 2, 9 and 10, to run concurrently;
- (2) SENTENCED the accused to six months' imprisonment on counts 1,3,4,5,6,7,8, and 11, to run concurrently, such sentences to run concurrently to those imposed for counts 2, 9 and 10, giving a total of six months' imprisonment, suspended for a period of two years from this date;
and
- (3) FINED the accused FOUR HUNDRED POUNDS (£400.00) on each of counts 2, 9 and 10, giving a total of ONE THOUSAND TWO HUNDRED POUNDS (£1,200.00), to be paid forthwith, and in any event before the accused leaves the Island, or 60 days imprisonment in default of payment.

M. A. TOSTEVIN
Her Majesty's Deputy Greffier.

Sentencing Remarks

Glen Andrew ABBOTT (37)

16 February 2006

Background

You are a non-local man from the Isle of Wight, aged 37 years. You are a qualified chef who has worked in Guernsey since 1995 living in staff accommodation. You have no previous convictions recorded against you which entitles you to be treated as a person of previously good character.

You have been on bail throughout the course of these proceedings.

Offences

You have pleaded “guilty” at an early stage to an indictment containing eleven counts. There are 8 counts of knowingly making a false statement or representation to the States Income Tax Authority and 3 counts of knowingly making a false statement or representation to the States Housing Authority.

The maximum sentence for the Income Tax offences is 12 months’ imprisonment on each count plus the prescribed fine to a maximum of £32217.60. The imprisonment is below the usual sentence prescribed for the Royal Court, but under the Income Tax Law it is provided that only the Royal Court can deal with such offences. The Housing Law offences carry a maximum of 6 months’ imprisonment.

It has been made clear by the Prosecution that the indictment is designed to represent the overall picture of your course of conduct, but to bring in every offence would overload the indictment. The Court is fully aware that it can only sentence you in respect of matters set out in the indictment, but it was necessary to get a full picture of the circumstances.

The basis of these offences is that in order to avoid the requirements of the Guernsey Housing and Income Tax legislation, you created an alter ego, a false identity in the name of Glen Robinson. Therefore you were able to work in the Island of Guernsey without having to leave for a three-month period in every twelve months, a requirement of “short-term” Housing Licences. You also received tax rebates or repayments by the juggling of your identities to which you were not entitled. As a result over the period 2000 to 2004, you received £2,025.60 that you were not entitled to. This amount has now been repaid in full.

Count 1 deals with your initial registration with Income Tax in the false name of Glen Robinson.

Counts 3, 4, 5, 6, 7, 8 and 11 deal with this aspect of the case and show similar conduct with associated false representations.

Counts 2, 9 and 10 deal with housing offences. Count 2 is the application in 2000 resulting in a Housing Licence being issued in the name of Robinson. It was

necessary for you to make subsequent applications in that name in 2002 (Count 9) and 2003 (Count 10) to enable you to work as a chef in Guernsey.

On 20 May 2005 a representative of the Housing Authority, the Court has heard, spoke to you about his suspicion that you were using two names. You initially denied the allegation but later admitted you had submitted applications in both names.

Prior to that, on 4 May 2005 you had attended the Income Tax office by appointment and handed a typed statement which declared that you had been claiming tax back under the assumed name of Glen Robertson between the years 2001 and 2004. We have had our attention drawn to this document.

On 19 June 2005 you were arrested and interviewed by the Guernsey Police. You stated that you created the false identity of Robinson, which is your mother's maiden name in order to remain working in the Island.

You stated it was not your intention to defraud anyone, but the repayment of Income Tax was pointed out. You then conceded that you had submitted these applications with an intent to defraud (see pages 9 – 10 of your Police interview):

*“Q To get more money out of the Income Tax?
A Yes
Q I mean obviously that is a deliberate act
A Yes, that is yes”*

Your main motive was to continue working in Guernsey. You intended to (and as stated) did repay the money.

Starting Point

It is rare in our experience for cases of this nature to come before the Court. Each will depend on its own facts and general guidelines have not been laid down.

English cases reflect the variety of ways they can be charged, so that cheating the Revenue is a common-law offence and evasion of duty goes up to seven years. (See *Blackstone, paras B16.13 and 16.14*). These cases must be looked at in the light of the higher penalties laid down in England. There is no equivalent to our housing Control legislation in England.

Hence, we deal with this case on its own facts, but note the maximum penalties which the States have laid down in the legislation and, of course, operate within those parameters.

As a general principle, those who by false representations obtain public money to which they are not entitled, by a course of conduct over several years, are deserving of strict punishment. This was not a case of someone taking a harmless shortcut, or circumventing some administrative requirement. It was deliberate and deceptive. Also, the Housing Law fills a pressing social need in Guernsey and has to be obeyed. What you did was over a period of years and repeated.

Bearing in mind the number of offences, we consider the appropriate starting point is 12 months' imprisonment.

Reports

We have read a Probation Report from I Richmond. The general tone of this is sympathetic to you. You are assessed as having a low likelihood of re-offending, but it rightly draws attention to your "duplicious life" and that the custody threshold has been passed by this "protracted bout of offending". We note all your personal and family circumstances. Supervision is not indicated.

Mitigation

You pleaded "guilty" at the earliest opportunity and made early admissions to the authorities.

You are a person who works (indeed that is a part of the back-cloth to your offending). You are of previously good character. We note your mother's situation. We have considered fully the documentation provided by your Advocate and what has been said in detail by way of mitigation.

We have regard to the so-called "totality" principle in assessing the sentence for your overall criminality as represented in the indictment.

The mitigating factors are worthy of consideration. The timely "guilty" plea normally would attract a $\frac{1}{3}$ discount which we apply. The other matters, notably your good character, enable us to make this discount a total of 50% off the otherwise appropriate starting-point.

Sentencing

People must understand that obtaining money to which they are not entitled from the Income Tax Authority by a prolonged course of duplicity is serious and must be punished accordingly. Similarly, the housing legislation has to be enforced properly in cases of deliberate falsity such as this. It is an aggravating factor that if you created a false persona and persisted in this conduct over the period of time given. This is a serious set of offences but we pass concurrent sentences.

On each of Counts 1, 3, 4, 5, 6, 7, 8 and 11: 6 months' imprisonment, suspended two years, concurrent;

On each of Counts 2, 9 and 10: 6 months' imprisonment, suspended two years, concurrent, and fined £400 on each.

Total: 6 months' imprisonment, suspended 2 years and fined £1200 or 60 days imprisonment in default, payable forthwith.

J R Finch
16 February 2006