

# *R v Andrewes (Respondent)* – [2022] UKSC 24: “But everyone lies on their CV!”

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## YFLA Newsletter Case Summary

On 18 August 2022, judgment was handed down in *R v Andrewes*, a case concerning a decade-long CV fraud. The case raised an important question on the application of the [Proceeds of Crime Act 2002](#) (“POCA”) to CV fraud: where a defendant obtains a job through lying on their CV, should there be a confiscation order stripping that defendant of their full earnings? Or could such an order be disproportionate under the proviso in [Section 6\(5\)](#) of POCA?

Towards the end of 2004, Jon Andrewes applied for the position of Chief Executive Officer at St Margaret’s Hospice, Taunton. The job posting required various qualifications and experience, including a first-class degree and ten years of management experience. For the purpose of his application to the role, Mr Andrewes invented or inflated several previous positions on his CV, as well as a first-class degree. Upon being offered the job and starting in the position, he also claimed to be studying for a PhD. In 2006, he told colleagues that he had successfully obtained the PhD, and thereafter insisted on being referred to as Dr Jon Andrewes. This, along with much of the content on his CV, was not true.

Mr Andrewes’ performance in his role as CEO was regularly appraised as either strong or outstanding. However, Mr Andrewes’ deceit was eventually uncovered in 2015, and his employment, along with two other appointments at healthcare bodies which he had secured whilst in the role, was terminated.

In January 2017, Mr Andrewes pled guilty to one count of obtaining a pecuniary advantage by deception under Section 16 of the [Theft Act 1968](#), and two counts of fraud under Section 1 of the Fraud Act 2006 (which came into force after his appointment at the hospice). He was sentenced to a term of two years’ imprisonment, and a confiscation order (the “**Order**”) was made against him to the entire value of the available amount (which came to around 15% of his entire earnings from the hospice and his other appointments).

Mr Andrewes appealed successfully to the Court of Appeal to have the Order overturned, which it was in full. The Court of Appeal agreed with Mr Andrewes that the Order was disproportionate, on the basis that he had carried out the requirements of the role and had therefore given full value for the remuneration he had received. With the Order on top of that, the Court of Appeal held, the hospice would therefore be earning a “double recovery”, which was disproportionate.

On appeal to the Supreme Court, the prosecution argued that Mr Andrewes’ work for the hospice was “equivalent to the costs of [a] criminal enterprise”, and therefore according to the case law should not be taken into account when assessing proportionality. The Court did not agree with this, finding

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(consistently with the Court of Appeal) that by performing services, Mr Andrewes had essentially restored value to the hospice, so that the Order (confiscating the entire available amount) gave rise to a double recovery. However, it also held that a failure to make any confiscation order at all would allow a fraudster to profit from his fraud (as he would not have received the role had he told the truth). It therefore held that the proportionate remedy was to confiscate an amount equal to the difference between what the defendant earned, and what he would have earned had he not committed the fraud and obtained the particular job (or of course, the available amount, if less).

The Court also noted (i) that the position would be different where performance of the services was itself criminal (for instance, an airline pilot operating without a licence); and (ii) that the burden of proving proportionality, given the criminal context, lies with the prosecution.

In short, this case is a reminder that it is indeed a crime to lie on your CV, and that the inflated earnings you obtain by doing so will be liable to confiscation.

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