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IN THE COURT OF APPEAL

CAYMAN ISLANDS CIVIL APPEAL 39/64

BEFORE: The Hon. Mr. Justice Lewis, Presiding
The Hon. Mr. Justice Henriques
The Hon. Mr. Justice Moody

BETWEEN: K A R L B R A N D O N - Plaintiff/
Respondent
AND E R I C B E R G S T R O M - Defendant/
Appellant

Mr. D. Thompson, Q.C.
and Mr. C. Rattray for the Defendant/Appellant

Mr. R. Mahfood, Q.C. and
Mr. D. Muirhead for the Plaintiff/Respondent.

29th March, 1966.

HENRIQUES, J.A.,

This appeal arises out of an action for assault which was tried by the learned judge in the Grand Court, Cayman with a jury on the 18th of May, 1964, in which the jury awarded the plaintiff/respondent general damages amounting to £100 and special damages amounting to £5.8/-.

According to the evidence which was tendered at the trial of the action, the plaintiff/respondent was a Barrister-at-Law, who had been practising for some time in the island of Grand Cayman, and on the evening of the 13th of October, 1963, he was at the Seaview Hotel, where apparently he had been a guest for some time. At about 8.15 p.m. he was sitting at a table along with some friends, leaning with his back up against the wall near to the exit to the dining room, when the defendant/appellant came up to him, used certain words to him in a hostile and rude manner. The plaintiff/respondent then made an attempt
to get up and...

to get up and to leave the room and the defendant/appellant then blocked his passage. The plaintiff/respondent tried to pass him, whereupon the defendant/appellant held him by the head and bumped it against the wall. He then grabbed him by the shirt, put his hand around his neck and tripped him to the ground. He then proceeded to raise his head a few times and bang it against the raised foot of the bar counter.

Further, according to the plaintiff/respondent's evidence, he started to choke him, and eventually two men came and pulled the defendant/appellant off the plaintiff/respondent. As a result of what had transpired, the plaintiff/respondent consulted his doctor, and the doctor examined him and he found certain injuries which might be said to have been of a minor nature.

The defendant/appellant has appealed on the grounds that the general damages of £100 awarded by the jury is manifestly excessive, having regard to all the evidence, and learned Counsel on his behalf has submitted that the sum of £100 awarded in the circumstances of the case is entirely disproportionate and ought not to have been awarded by any reasonable jury. He points to the fact that the plaintiff/respondent has suffered no serious injury from the assault; that may be true, but in my view this was indeed a serious assault, in that a member of the Bar, in a semi-public place was exposed to considerable indignity by the conduct of the defendant/appellant.

In the circumstances, I see no reason why this Court should be disposed to interfere with the sum of £100 awarded as general damages. I would therefore dismiss the defendant/appellant's appeal with costs.

At the outset...

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At the outset of the case, the Court was informed that the plaintiff/respondent's appeal has been abandoned, and in those circumstances that appeal will be dismissed with costs.

LEWIS, J. A.,

I agree.

MOODY, J.A.,

I agree.