

JAMAICA

IN THE COURT OF APPEAL

R.M. CRIMINAL APPEAL NO. 142/77

BEFORE: The Hon. Mr. Justice Zacca J.A. - Presiding
The Hon. Mr. Justice Kerr J.A.
The Hon. Mr. Justice Melville J.A.

CARLTON DAVIS v. REGINA ATS.

JOYCELYN RUMBLE

Miss Lightbourne for Defendant/Appellant

Mrs. V. Gayle for Crown

November 21, 1977

ZACCA J.A.

Well, it is clear that this appeal has to be allowed. This was a complaint which was made under Section 3(1) of the Affiliation Act. It is a complaint made more than twelve months after the birth of the child. In order to lay such an information there must have been proved that payment of money was made to the complainant with respect to the child within twelve months of the birth of the child, that is, payment is a condition precedent to the laying of the information.

The evidence in this case is that no money was paid by the defendant to the complainant. In fact, no money was paid by the defendant with respect to this child. The complainant in her evidence went even further in stating that at no time did she tell the clerk of the courts that any money had been paid to her. There is, therefore evidence that in fact no money had been paid and therefore there was no jurisdiction for this complaint to have been heard by the Resident Magistrate. There is no jurisdiction in the Resident Magistrate to hear this complaint and it is for these reasons that the appeal is allowed.

The order of the Resident Magistrate is set aside.