

No report 671

J A M A I C A

IN THE COURT OF APPEAL

R.M.C.A. No. 143/65

BEFORE: The Hon. Mr. Justice Duffus (President)
 The Hon. Mr. Justice Henriques
 The Hon. Mr. Justice Moody (Ag.)

R. v. J O E M O R R I S

Mr. E. L. Miller appeared for the Crown.
Mr. Z. Khan appeared for the Appellant.

4th November, 1965.

HENRIQUES, J.A.:

The appellant in this matter was convicted of the offence of the possession of ganja before the learned Resident Magistrate for the parish of Kingston on the 23rd of June and sentenced to imprisonment with hard labour for four years. According to the evidence which was adduced by the Crown at the trial, one Eric Walters, an Acting Corporal of Police, along with other police officers, went on the 12th of June this year, about 6 o'clock in the morning to certain premises in Industrial Terrace. Those premises were known to be occupied by the appellant. He found the appellant there, he admitted occupation of the premises and the police party proceeded to read a Search Warrant under the Dangerous Drugs Law which they had with them. The police then proceeded to search the premises and in the course of the search they came across a grip behind the bed in which they saw a dark cloth bag which the appellant proceeded to take up. He was then asked what were the contents of the bag and he, according to the police evidence, said: "Is me money I have in there." The bag was taken from him and opened and in it was found the amount of £22. 13. 9d, and also two paper packages which, when opened, revealed vegetable matter resembling ganja. The appellant was then informed by the police that it was ganja and according to the evidence he made no reply.

/The accused.....

The accused gave evidence and his evidence was to the effect: "Yes, this bag was on my premises," but he suggested that the bag was found under the mattress and not in the grip, and that it belonged to one Ferdinand McCarthy who had come there the previous night before nine o'clock and asked him to put up for him the bag with the money as he, McCarthy, was so drunk that he did not want to walk around with the money. Mr. McCarthy tended to support the evidence of the appellant by testifying that he had had a transaction with a certain Mr. Campbell over the purchase of some pigs and had been paid certain moneys in relation to that transaction; that he had been walking around with this money in a brown paper bag, and in the course of one of his visits to a bar that day the bag had broken. He then sought a safer protection for the money by enquiring if anyone had a bag to give him, and one 'Black-boy' who was present produced the bag, exhibit 4, and that he placed the money in it and that a good lady friend of his, whom he had invited to join him in the bar for drinks advised him that he should put up this money in safe keeping, and as a result of that, he had taken the money to the appellant's premises.

It seems to us that whatever the origin of this particular cloth bag might be, the important matter for consideration by the Resident Magistrate in resolving this matter was what he believed transpired in the room that morning at six o'clock. The evidence, when scrutinized carefully, reveals first of all, that a warrant under the Dangerous Drugs Law was read to the appellant; that he knew then that his premises were being searched for dangerous drugs; that in the course of that search the appellant took it upon himself to take up the bag when the police came across it; that he claimed the contents by saying: "is me money I have in there;" and then when it was opened these packets of ganja were found.

If the Magistrate accepted that evidence by the prosecution witnesses, then he was entitled to come to the

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conclusion that this appellant had this dangerous drug in his possession. In the circumstances we see no reason, after hearing Mr. Khan's careful analysis of the situation, to interfere with the verdict of the learned Resident Magistrate. The appeal is therefore dismissed.

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