

J A M A I C A

NO report 686

IN THE COURT OF APPEAL

R.M.C.A. NO. 153/65

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

R. v. OSWALD MIGNOTT

Mr. I. Ramsay, Q.C. appeared for the appellant.

Mr. E.L. Miller appeared for the Crown.

9th November, 1965

MOODY, J.A. (Ag.)

In this case the appellant was convicted before the learned Resident Magistrate for Kingston on the 2nd of July this year and fined £10, or in the alternative three months imprisonment. The circumstances are that the complainant, Lincoln Wallace, for a number of years - up to ten years, had been washing and cleaning cars at the Ministry of Education, and this happened to be in a period, on the 13th of April this year, when presumably some regulations on the use of water was in force. The complainant appeared to have been washing some mats, and the appellant approached him while the pipe was running and ordered him to turn off the pipe. At that time the complainant went to another pipe in the yard and fetched a pan of water from that pipe and returned to continue with the washing of these mats.

When that pan of water had been used, he again turned on the pipe with a view to filling the pan again. This time the appellant intervened, a struggle ensued, and in the course of this struggle the Sergeant was said to have delivered blows with a cane, one of which caught the complainant in his face, near to his eye and it caused a wound. The complainant was examined by a doctor

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and found to possess three injuries - one, ½" long and ¼" deep on the left maxillary region, the second - 6" abrasions over the right back, and the third, an ½" abrasion on the left shoulder.

The appellant at the trial said that it was the complainant who first aimed a blow with the pan at him, and that this blow caught him in his head, and then there was a struggle in which they grabbed on to each other, and he then at that stage took his swagger cane and hit^{-at}/the complainant, as he was coming towards him. The blow then caught the complainant across his left shoulder and that the complainant dropped the pan, pushed his hand in his right back pocket and came towards him; he again lifted his cane and kicked at him. Complainant ducked the blow and it caught him in the back.

Well, the learned Resident Magistrate who heard the witnesses and saw them give their evidence had before him to make up his mind which version he believed - a version given by the complainant and his witness or the version given by the appellant. It is the duty of the prosecution in all these cases to prove the guilt of an accused person beyond a reasonable doubt.

In our view, there was ample evidence that could have satisfied the learned Resident Magistrate beyond a reasonable doubt as to guilt of the accused. We see no reason to interfere with the verdict that he has come to. For those reasons the appeal is dismissed.