

J A M A I C A

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL No. 118/75

BEFORE: The Hon. Mr. Justice Luckhoo, P. (Ag.)
The Hon. Mr. Justice Robinson
The Hon. Mr. Justice Watkins (Ag.)

REGINA vs VINCENT HAYLES

V. Gayle for the Crown.

Norman Wright for the applicant.

February 11, & March 3, 1976

ROBINSON, J.A.:

The applicant was convicted in the Home Circuit Court on the 21st October, 1975 of the murder of Celeste Adams and was sentenced to death. We refused his application for leave to appeal and promised to put our reasons therefor in writing at a later date. This we now do.

The case for the prosecution rested mainly on the evidence of Special Constable Sergeant George Sharpe. He was travelling westward in a police patrol car along Port Royal Street in Kingston at about 8.30 in the morning of the 9th June, 1975 when about forty feet away he saw the applicant grab the deceased in her back at the top of her blouse and hit her in her back. She spun around and started to wrestle with him. As Sharpe approached, he saw the applicant dealing her blows in her chest. The deceased fell to the ground on her bottom with the applicant still holding her at the back of the neck with his left hand. The applicant went down on her belly with his knee and the police car was brought to a halt about five feet from them. Sharpe said that the applicant dealt the deceased two more blows on her chest and that he then saw that there was an icepick clenched in the applicant's right hand which hand he had been using to deliver all the blows. The

deceased was by then lying on her back and the applicant was still kneeling on her belly. Another special constable (who could not be located at the time of the trial) kicked the icepick from the applicant's hand and in the meanwhile the witness released the applicant's "hold" from the back of the deceased's neck. Sharpe said the applicant inflicted about seven blows on the deceased. The icepick which was some 4" long was recovered and the applicant taken to the City Centre Police Station. The deceased was not seen with anything in her hand at anytime. She was taken to the Kingston Public Hospital where she died within fifteen minutes of her arrival there.

Dr. Ramu gave evidence to the effect that he found eleven stab wounds on the deceased's body. Both lungs were punctured and collapsed. There were three puncture wounds in the right lung, two in the left lung, another through the kidney and spleen and five other wounds over the left shoulder. All the injuries penetrated to a depth of two and one half to three inches. Death was due to shock and haemorrhage as a result of the multiple injuries to the organs of the chest and abdomen.

The applicant made a statement from the dock in which he gave a long history of his friendship with the deceased since 1973. He alleged inter alia that the deceased misappropriated his money and by her conduct towards him took him for a fool. They had had quarrels and she left him sometime in May, 1975 taking with her various articles of household effects. He made various attempts to recover these which included the making of reports to the police and to her employer, but failed. In this regard, he said (at p. 227 of the script):

"Well, the following week, I bought a race horse bet and won, so I replace back the things that she had stolen from me and some more things, so I decided not to interfere with her again, let she go with them."

In the meantime, he had taken onto himself another girl friend. During the week before the events of the 9th June on Port Royal Street, he met the deceased on three occasions when she

asked him for lunch and money which he refused to give her.

On Monday 9th June, whilst returning to his work place, he again met the deceased who again asked him for money which he again refused to give her. The deceased then said "No woman nah come between me and she and any woman that I have, me and she going to be in worries." He said "She went in her bag and took out an icepick and spit in my face and start with the icepick and stab at me and I prevent the blow with my hand the icepick dont catch me. I tried to ward off the ice pick and my hand met her hand, and a struggle started between I and she and she held on to my balls, and I knew nothing more until I found myself at the City Centre police station charged for murder."

Learned attorney for the applicant sought leave to appeal on two main grounds. Firstly, he submitted that the jury should have found, on the facts, that there was provocation sufficient to ground a verdict of manslaughter. He did not seek to attack the directions to the jury on this issue. Indeed he said he had no quarrel with the judge's directions or the way in which "provocation" was left to the jury; with this, we are in complete agreement. The summing-up in this regard was thorough, fair and just. Counsel contended that no reasonable jury should have found that provocation had been negatived bearing in mind the history of the relationship between the deceased and the applicant coupled with the other matters stated in the defence. The jury by their verdict rejected this aspect of the defence. We cannot say that their conclusion is unreasonable or cannot be supported having regard to the evidence.

On the second limb of his submission, learned counsel argued that, on the issue of self defence, the learned trial judge should not have dealt with the question of "retreat", as it did not arise on the defence and only served to confuse the jury. In our view, one has only got to look at the relevant directions where it is clear that in as much as this aspect of

self defence was dealt with, the learned trial judge told the jury that retreat did not arise on the applicant's case.

We found the arguments devoid of substance or merit and refused the application for leave to appeal.