

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CIVIL APPEAL NO: 69/89

BEFORE: The Hon. Mr. Justice Campbell, J.A.
The Hon. Mr. Justice Forte, J.A.
The Hon. Mr. Justice Gordon, J.A. (Ag.)

R. v. ADOLPHUS YORK

Application for leave to appeal

Miss P. Williams for Crown

11th December, 1989

CAMPBELL, J.A.:

The appellant was convicted of wounding with intent before Orr J., and a jury in the Home Circuit Court on April 18, 1989 and sentenced to 10 years at hard labour.

The evidence was that the appellant had been living with the complainant for some 18 months. They separated about two months prior to the incident which was in the early hours of October 31, 1988. A few days before, the appellant had threatened to "wipe the complainant off the map." At about 5.00 a.m. on October 31, 1988 the complainant was on her way to work when she was accosted by the appellant who held onto her hand causing her to fall to the ground. He went on top of her and inflicted some nine wounds on her with a knife. Some of the wounds were very serious, a finger was nearly amputated. The appellant denied that he was the attacker. The learned trial judge gave proper directions on visual identification including the danger of mistaken identification. There is no merit in the application for leave to appeal against

The trial judge had before him a medical certificate in which the doctor opined that the physical wound to the child would heal but that the psychological damage done would have serious consequences. In fact the child had had to remain away from school for four months due no doubt to the nature of the injuries which he suffered. The trial judge took into consideration the applicant's guilty plea but felt compelled to pass a sentence of five years imprisonment due partly to the criminal record of the applicant and partly to the seriousness of the offence. We can see no reason to ameliorate this sentence. This applicant had been given an opportunity to amend his ways after his initial conviction for buggery. Instead of putting his good fortune to advantageous use, he hoodwinked the innocent boy. It is for the benefit of the society that this applicant should receive imprisonment for a fairly protracted period.

The application for leave to appeal against sentence is refused. Sentence is to commence on December 22, 1989.