

CA - Criminal Law - RM Court - Larceny of cow - Evidence -
Appeal dismissed - Appeal - Delay - no finding of
fact by RM - Conviction of CA
to be considered
JAMAICA

IN THE COURT OF APPEAL

R.M. CRIMINAL APPEAL NO: 11/89

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

R. v. ALCOTT PALMER

Appellant in person

Miss Marcia Hughes for Crown

February 20, 1989

CAMPBELL, J.A.

The appellant Alcott Palmer was convicted in the Resident Magistrates Court for the parish of Saint Elizabeth for the offence of larceny of cattle. He was sentenced on August 7, 1987 to 2 years imprisonment at hard labour. The evidence is that the appellant on March 14, 1986 stole a cow namely a red pole steer belonging to his employer and sold it to Hubert Dunkley who operated a meat shop at Goshen. Four days later the appellant reported to his employer that the aforesaid cow was missing and together with his employer engaged in pointless search for this missing cow. The evidence in our view was very clear and cogent and in the light of the same there is no conclusion to which the learned Resident Magistrate could have come other than that the case against the appellant had been fully and sufficiently established. The only significant aspect of this case is the inordinate delay in submitting to the Registry of this Court the record of appeal. The case was heard and determined on August 7, 1987 some 17 months

ago and the record was only received on February 7, 1989 and even then the record is incomplete because there are no findings of fact by the learned Resident Magistrate.

The appellant, as we have said, was sentenced to 2 years imprisonment at hard labour, had the record been received within the conventional period of six weeks from the date of conviction i.e., on or before September 17, 1987 the appeal would have been heard and concluded shortly thereafter and the term of imprisonment would then have commenced to run with the likelihood that the appellant would by now have been out of prison. Such inordinate delay is highly to be deprecated. In the present circumstance the best we can do is to order that the term of imprisonment commence to run from a date which will ensure that the appellant is released from prison on February 21, 1989. Accordingly the appeal is dismissed the sentence affirmed but we order that the term of imprisonment commence on a date which will ensure the release of the appellant on February 21, 1989.