

No. 669

J A M A I C A

IN THE COURT OF APPEAL

R.M.C.A. No. 129/65

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

REGINA v ALFRED TAYLOR

Mr. D. Muirhead appeared for the applicant.

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

2nd November, 1965.

HENRIQUES, J.A.:

The appellant in this matter pleaded guilty before the learned Resident Magistrate of Kingston to the offence under Section 4 of the Firearms Law, Cap. 129. The facts of the case were stated to the learned Resident Magistrate and it transpired that the appellant was a farm worker who, on the evening of the 3rd of May, had arrived at the Palisades Airport from the United States and there he was searched and found to be in possession of a 32 calibre revolver which was concealed in a powder tin, and one hundred rounds of ammunition. The section of the law which deals with the imposition of a sentence is Sub-section 2, and is to the following effect:

" Every traveller who contravenes the provisions of sub-section 1 of this section," (and that is, the particular offence to which the appellant pleaded guilty) "shall be guilty of an offence and on summary conviction before a Resident Magistrate shall be liable to a fine not exceeding £50 or to be imprisoned for any term not exceeding six months or to both such fine and imprisonment."

It was stated to the learned Resident Magistrate that the appellant was hitherto of good character and that that was

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a circumstance which should be considered in the imposition of the penalty. Detective Sergeant Robertson of the Flying Squad gave evidence to the effect that between May, 1964 and May, 1965, the police had recovered seventy revolvers which had been involved in crimes throughout the island and that none of these had been licensed. The authorities were unable to trace the source of entry of these revolvers, and as a result had been keeping a close check on the farm workers returning from the United States, and between the 30th and 31st of May this year ten revolvers and nine hundred rounds of ammunition were seized from farm workers returning to Jamaica. In most cases they had been ingeniously concealed. Upon those facts before him, the learned Resident Magistrate proceeded to sentence the appellant to a term of imprisonment of four months at hard labour

Mr. Muirhead, on behalf of the appellant, has submitted that that sentence is manifestly excessive and that it obviously failed to take into consideration the fact of his previous good character. It is unquestionable that in imposing the particular sentence in this case the learned Resident Magistrate had in mind and considered the evidence by Detective Sergeant Robertson. He therefore proceeded to act upon the principle of a deterrent sentence and in so proceeding, it may be said that the question of the appellant's good character is hardly a material factor.

We have considered this matter carefully, and we cannot say that in all the circumstances this particular sentence of four months hard labour was manifestly excessive. The appeal is therefore dismissed.

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