

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE CRIMINAL APPEAL NO. 46/88

BEFORE: The Hon. Mr. Justice Rowe, P.
The Hon. Mr. Justice Carey, J.A.
The Hon. Mr. Justice Forte, J.A.

R. vs. COURTNEY HYLTON

R. Philpotts-Brown for appellant

Miss V. Grant for the Crown

June 14, 1988

CAREY, J.A.:

This appellant Courtney Hylton was convicted before one of the Resident Magistrates in St. Andrew, sitting at Half-way-Tree on the 14th of April, 1987 on an indictment that charged him for larceny of a motor vehicle. The property of Practical Rent-A-Car Limited, and in respect of this conviction, he was sentenced to pay a fine of \$3,000.00 or to serve 3 months imprisonment at hard labour.

We note, in passing, that the appellant refunded to the owners of the motor car a sum of \$17,000.00 which represented the value of the motor car and rental which was outstanding.

We have come to the view, having considered the evidence very carefully, that this appeal should be allowed, because we are not satisfied that the evidence led on behalf of the prosecution

reached that standard required in a criminal charge. Put very shortly, the appellant hired a motor car from this car rental company sometime in April. He phoned around 5:20 p.m., during the currency of the hireage to say that the car was missing. But when the police officer interviewed him, he said that he had left the car parked with the key in the ignition and gone off to buy gas and when he returned the car had been stolen. When he was arrested and charged, he said, "is not tief mi tief the car."

On the prosecution case, he had been reporting and paying the hireage for the car over some period and it would seem that the learned Resident Magistrate convicted him really for the lies he told. In his findings of fact, the learned Resident Magistrate noted "defendant clearly untruthful and from the circumstances I conclude that he stole the car."

We do not consider that to be adequate to convict as we have indicated, and in the circumstances, the order which we indicated we would make is that the conviction be quashed and the sentence set aside.