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J A M A I C A

IN THE COURT OF APPEAL

C.A. No. 187/64.

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

R. vs. CURTIS DOUGLAS

Mr. F. M. Phipps appeared for the Crown.

Messrs. K. Douglas and L. Cowan appeared for the Appellant.

4th October, 1965.

DUFFUS, P.:

The applicant was found guilty of the offence of shooting with intent to do grievous bodily harm. The facts very shortly, as presented on behalf of the Crown, were that the applicant and a woman named Linnette Bowers had been friendly - living together, and the woman decided to leave the applicant, and on the night of the offence - the 30th of May, 1964, she was going out with another gentleman when the applicant came on the scene; words passed between the woman, Bowers, and the applicant, and according to the Crown's case, the applicant drew a revolver and fired at the complainant. The Crown said that the intention of the applicant was to shoot the complainant and to do her grievous bodily harm.

The case for the defence was that the applicant came across the woman in the street and there was some talk with her and that the complainant's sister took a bottle and hit him on the head. He stated that it was not a severe blow; the bottle was held in the hand of the woman and he was hit on the head with the bottom of the bottle; he had a thick head of hair and he sustained no injury. Another man who was

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Another man who was present on the scene took up a brick and the result of this was that the applicant thought that the persons present intended to attack him and he thereupon drew the revolver and fired it into the air to scare off what he termed a 'hostile crowd.'

The applicant has put forward two grounds of appeal. The first ground of appeal is that the verdict was unreasonable having regard to the evidence and learned counsel who argued that ground, Mr. Kipling Douglas, pointed out to this Court what he stated were weaknesses in the Crown's case and inconsistencies he found in the evidence given by the various witnesses. The Court has given consideration to the matters pointed out by learned counsel and is of the view that there was evidence which, if accepted by the jury, which clearly they did accept, warranted the verdict that they delivered. It is correct that the complainant did not say that the revolver was pointed at her at the time it was discharged, but she had said that the revolver was pointed at her, just about the time when the applicant was about to discharge it but she turned her head downwards, perhaps expecting to be shot at any second, and therefore she did not see the position of the revolver when it was actually discharged. There were two other witnesses who gave evidence that when the revolver was discharged it was pointed at the complainant and it may only have been good fortune or perhaps bad aiming by the applicant why she was not hit by any of the bullets discharged from the revolver, and as I say, the Court feels that there was, undoubtedly, sufficient evidence on which the jury, properly directed, could have arrived at the verdict they did.

The second ground of appeal was with regard to the learned judge's direction ^{ON} of self-defence. It was submitted that the directions given by the learned judge were likely to have confused the jury and could have caused them to apply the wrong principles. The Court has considered the directions

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which were given and it is unnecessary to repeat them. We are of the view that the directions, though perhaps not expressed in the choicest of language, were sufficiently clear and plain, and adequately expressed the law of self-defence which the jury had to apply in the circumstances of this particular case. In the circumstances the application for leave to appeal is refused.

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