

AMMOR LAW - R.M. Court - Police Officer - Bribery S4. Corruption Prevention Act
Evidence - Verdict ^{Sentence} whether verdict unreasonable and cannot be supported
having regard to the evidence - whether sentence of of two years
hard imprisonment each manifestly excessive - Ancillary Wilson least
experienced and influence by senior officers - Appeal of Walker against conviction
and sentence dismissed Appeal JAMAICA of Wilson against conviction dismissed
appeal against sentence allowed - sentence reduced to eighteen months

IN THE COURT OF APPEAL

Its Case referred to

R.M. CRIMINAL APPEAL NO: 1/89

COMP

EVIDENCE

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

CRIMINAL PRACTICE

(See below)

R. v. DERRICK WILSON
NOEL WALKER

Mr. Delroy Chuck & Miss K. Shelton-Mayne for Wilson

Mr. Bert Samuels for Walker

Miss Paula Llewellyn for Crown

January 16, 1989

FORTE, J.A.

The appellants were convicted in the Resident Magistrate's Court for the parish of Kingston by the learned Resident Magistrate for the offence of bribery, contrary to section 4 of the Corruption Prevention Act.

The facts of the case which need only be put simply, were that on the 4th of August, 1987 Mr. Bryan Lansky a United States Citizen along with another man described as Patrick Dunn who is also an American Citizen arrived in Jamaica. Having arrived they came into downtown Kingston for the purpose of getting transportation to take them to the resort city of Montego Bay. They decided before doing so, to have a meal, so they went to a restaurant in the downtown Kingston area. While they were there a jeep in which both appellants and another man Lester King who was also charged and convicted with the appellants, arrived on the scene. Just about then a man was seen to run from the restaurant, ran down a lane and went away. It appears then that one of the police officers, entered the restaurant where he found a red plastic bag. The officers ordered the two men to join them where they were at the jeep and eventually they accused them of having being in possession of this red

plastic bag which they said contained ganja. That being so, they ordered the men into the jeep and drove with them to the City Centre Police Station, where the Corporal in charge of the station was told by the appellant Walker that the men were to be charged for possession of ganja; asked to wait so that the charge could be recorded in the necessary station documents, the appellant Walker is alleged to have said they could not wait and they left saying that they were taking the men to the Central Police Station.

The incident out of which this conviction arose occurred during the time that the two American Citizens were being transported by the appellants in the jeep. Bryan Lansky who is the American who gave evidence at the trial alleged that during the course of that journey, there was an intimation from the police officers that the two men need not be charged with possession of ganja, that there was a way out and eventually payment to them of a sum of U.S. \$500.00 was suggested by the appellants in order to prevail upon them [police officers] not to carry out the execution of their lawful duty, that is, to prosecute the two men whom they said were in possession of the ganja. The witness Lansky said that after a discussion between all of them, i.e. the two American Citizens and the three police officers it was agreed that the amount should not be U.S. \$500.00 but instead U.S. \$300.00; U.S. \$200.00 of which he paid himself, the other U.S. \$100.00 paid by Patrick Dunn. After they had paid the money to the appellants they were conveniently driven to the Bus Stop where the bus to transport them to Montego Bay would be parked. They were left there by the appellants.

At the hearing of this appeal, one ground of appeal was argued by counsel for both appellants, Mr. Bert Samuels and Mr. Delroy Chuck i.e. that the verdict was unreasonable and cannot be supported having regard to the evidence. When Mr. Samuels proceeded with his argument, a particular passage of the evidence was pointed out to him and he, in the opinion of this court, rightly conceded and abandoned his appeal against conviction. Not so, Mr. Chuck who argued very strenuously that there was no evidence disclosed. In the notes of evidence against his client the appellant Wilson and that

indeed the learned Resident Magistrate in his finding of fact did not even refer to the name Wilson in coming to his finding of guilt. With those submissions we do not agree.

There was ample evidence upon which the appellant Wilson could rightly have been found guilty by the learned Resident Magistrate. There was evidence that the money was passed among all three men, the two appellants and Lester King, who apparently has not appealed. There was also evidence from Lansky that he spoke to all three men about paying money.

For those reasons therefore we cannot accede to the submissions of Mr. Chuck that the verdict is unreasonable and cannot be supported by the evidence. Mr. Chuck also argued for the appellant Wilson that the sentence was manifestly excessive. Having considered his submissions it appears to us on a careful examination of the notes of evidence that although there is sufficient evidence upon which the appellant Wilson could have been convicted, the evidence also shows that he might have been the least experience of all the officers and apparently was influenced by the more senior officers with whom he was travelling. For that reason we are of the opinion that he should not have been dealt with as harshly as his senior officers and therefore we will allow the appeal of Wilson in respect of sentence by reducing the period of imprisonment to eighteen months instead of two years. In other respects the sentence is affirmed. In relation to the other appellant Noel Walker, we do not find that any valid reason has been put forward or exist in the record why we should interfere with the sentence.

In the event therefore the appeals against conviction are dismissed, the conviction and sentence in relation to the appellant Walker are confirmed, the conviction in relation to the appellant Wilson is confirmed, the appeal against sentence in respect of Wilson is allowed and the sentence varied as already stated. The sentences are to run from the date of conviction.