

CA. CRIMINAL LAW - Robbery ^(2 counts) - Convicted in R.M. Court - 2 years
on each count to run concurrently, appeal against
"Conviction abandoned - appeal against sentence
"Refused".

JAMAICA

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE CRIMINAL APPEAL NO: 93/87

BEFORE: The Hon. Mr. Justice Rowe - President
The Hon. Mr. Justice Carberry, J.A.
The Hon. Mr. Justice Downer, J.A. (Ag.)

R. v. DONALD MATTIS

Walter Scott for Appellant

Winston Douglas for Crown

30th November, 1987

ROWE: P.

The appellant Donald Mattis was convicted by the Resident Magistrate for Kingston for robbery. The findings of the Magistrate were that on the 2nd of March this year two Jamaican women who came in from Miami to visit Jamaica went down to parade downtown Kingston on their lawful business at about 7.45 p.m. in the evening of the 2nd of March. This appellant walked up to the complainant Belinda Wilson, touched her on her shoulder and started a conversation with her on the basis that she was the female friend of somebody called "Maxie." This lady told him "no, I am not Maxie's woman!" Then this appellant applied a rather sinister method of approach, in the sense that he whispered in her ear "Is me and me two friends, and we have our guns, we want you gold them, call you friend." This woman must have been terrified because she called her friend Marcia Harris who was just a little ahead of her, and this accused man said to this lady Marcia, also whispering in her ear, "Me and my two friends have gun, and a want all you jewellery." There were some other people in the vicinity and yet the appellant without alerting their attention systematically removed from each of these women

every scrap of jewellery that they had, their rings, their bangles, their ear-rings. Some he pulled out, some he took out gently, and as one of the ladies plead with him he allowed her to keep her wedding ring. In the process he took off all the other rings from both hands, took up the hands and systematically stripped each woman. When he had walked away he saw one of them still wearing knobs in her ears and he turned back and demanded these knobs. Then he said rather uncharitably "cool, fatty - I will tell my friends to be cool" and with that he conversationally bid the women goodbye. Next day both ladies went back into that same area. They saw the appellant, went for the police, came back and he was arrested and charged. Predictably his defence was "I know nothing about these robberies." The learned Resident Magistrate on abundant evidence of identification of high quality convicted him of the offences and he was given a sentence of two years on each count to run concurrently.

Before us Mr. Scott abandoned the appeal against conviction and he made some submissions in relation to sentence. This is a case which in the view of the court is one of the most impertinent, is one of the most sinister that we have come across in recent times, because nobody looking on having regard to the modus operandi adopted by this appellant could have thought anything wrong was taking place. The appellant created an atmosphere of fear in his victims by whispering and then stripping them systematically of all that they had and then giving them leave to proceed under his protection. What impertinence? This is the kind of case which if it had attracted the maximum sentence which a Resident Magistrate can give, that is to say of five years hard labour this court would not have interfered with it. However, with reluctance, we will not interfere with the sentence imposed by the Resident Magistrate.

The appeal against sentence is refused.