

J A M A I C A

IN THE COURT OF APPEAL

R.M.C.A. No. 132/69

BEFORE: The Honourable Mr. Justice Shelley - Presiding
The Honourable Mr. Justice Eccleston
The Honourable Mr. Justice Edun

R. v. DOUGLAS McCARTNEY

Appellant appears in person
Mr. Courtney Orr for the crown

12th November, 1970

MR. JUSTICE SHELLEY:

The appellant was charged on several informations for charging one James Bennett for services in respect of registration under the Employment Agency Regulation Law, Law 43 of 1956, a fee which exceeded the sum of ten shillings fixed by the regulation under the law. He was also charged with operating an employment agency at 109 Orange Street, without being holder of a licence in force. As for the last mentioned charge the breach appears to have been a technical breach because while the transaction took place at 109 Orange Street, Kingston, in respect of which premises the appellant did not hold a licence, he, in fact, held a licence in respect of premises No. 14 Retirement Road, St. Andrew.

The learned Resident Magistrate who convicted him on this information appreciated this in that he 'admonished and discharged' the defendant.

As we see it the appeal raises two questions: firstly, does the term 'employment agency' in the law apply to an agency operating in Jamaica for the purpose of placing persons in employment overseas? We are of the view that it does apply to such an agency. The section of the law which defines 'employment agency' - section 2 sub-section 1 - makes that quite clear. It says: "'Employment Agency' means any agency or registry in the Island carried on or represented as being or intended to be carried on for or in connection with the employment of persons in any capacity."

The contention of the appellant is that the word 'employment' appearing in that definition must be limited to employment in Jamaica. We do not agree with that contention; we see no reason for so limiting the definition.

The second question raised is whether the appellant's business, known as "McCartney's Legal Services Bureau and Commercial Advertising Agency" includes the McCartney's Legal Services Bureau and Employment Agency. The answer, in our view, is contained in the Certificate of Registration tendered in evidence at the trial, issued to the appellant pursuant to section 8 of the Registration of Business Names Law, Chapter 338, which makes it clear that the statement furnished by the appellant under that law indicated that McCartney's Legal Services Bureau and Employment Agency of 109 Orange Street, Kingston, is being operated under the Business Name of McCartney's Legal Services Bureau and Commercial Advertising Agency. The learned Resident Magistrate found this to be so, that the employment agency was operated as an integral part of the business registered under the Business Names Law as "McCartney's Services and Commercial Advertising Agency".

Other than these two questions, there is no merit in the appeal and for these reasons the appeal is dismissed and the convictions affirmed.
