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IN THE COURT OF APPEAL

R.M.C.A. No. 14/65

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

R. vs JOEY ALLEN

Mr. E. L. Miller appeared for the Crown
Appellant appeared on his own behalf

29th September, 1965

HENRIQUES, J:

The appellant in this matter was convicted before the learned Ag. Resident Magistrate in the parish of Saint James on the 7th of June for larceny from the dwelling house of one Robert McDonnough of the sum of \$93. According to McDonnough, who was a guest at the Casa Montego Hotel, he retired to bed around 11.15 p.m. on the 29th of May this year, locking his door and leaving the other door which opened on the patio open. Before retiring he had placed the cash in his possession - some \$93 - upon the dresser. That was made up of one \$50 bill, one \$20 bill, two \$10 bills and three \$1 bills. When he awoke next morning he found that the cash had disappeared. One of the bills had a tear in the middle at the top.

Another witness who gave evidence in the trial was Detective Constable Miller, who stated that on the 29th of May he saw the accused at the Station and that he began to make a search of the person of the accused and requested him to take off his socks. The accused then proceeded to take off the sock on the left foot and at that time the Constable noticed that he removed certain notes - money - and pushed them in his left back

back pocket. These were removed by the Constable from his pocket and when counted, amounted to the amount of ninety-three American dollars. The accused was subsequently arrested.

At the trial the accused in his defence said that he was a guest at the hotel; that he had been visiting the bar on the 29th for some three hours and when he was refused drinks he retired to bed; that he heard certain peculiar sounds during the night; that he woke up and saw no one, and that he proceeded to go downstairs where he saw the guard; he made a complaint to the guard and the manager came on the scene and he was told that the police were coming, and eventually the police came and accused him of breaking into McDonough's suite. He said that he had in his possession at the hotel some \$19⁴ which were removed by the police from his person and that among these dollars there was one which had got torn. He denied that he ever took anything from his sock. So there were two versions for the learned Resident Magistrate to consider: he was entitled, having seen the witnesses, to accept that version he believed to be true. There was evidence before him upon which he was entitled to come to the conclusion to which he did, and therefore this Court sees no reason to interfere with the conviction or the sentence. The appeal is therefore dismissed.

