

C.A. CRIMINAL NO. 30/89 - Magistrate's Court - R.M. Court S. 10/89
Three months imprisonment at hard labour - with the sentence
manifestly excessive on/offensive - J.A. R.M. Court S. 10/89
appeal for S. 10/89. Appeal for S. 10/89.

JAMAICA

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IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S CRIMINAL APPEAL NO. 30/89

BEFORE: THE HON. MR. JUSTICE CAREY, J.A.
THE HON. MR. JUSTICE WRIGHT, J.A.
THE HON. MR. JUSTICE GORDON, J.A. (AG.)

R. v. NOVLETTE WALTERS

Mr. Ravil Golding for appellant

Miss Cheryl Richards for Crown

25th May, 1989

CAREY, J.A.

In the Resident Magistrate's Court for the parish of Kingston before His Hon. Mr. Donald McIntosh, one of the Resident Magistrates for that parish, the appellant was convicted on an indictment which charged her with wounding one Naomi Davis maliciously. A sentence of three months imprisonment at hard labour was imposed upon her. The appeal is against that sentence only.

Mr. Golding argued that this was a first conviction and the learned Resident Magistrate did not consider alternative sanctions.

This was a domestic quarrel between two women fighting for the attention of a man - the proverbial lover's triangle. The victim was attacked by the appellant at her business place on the night of 13th November, 1988 and

received 2 injuries which left keloid scars, one 6" long on the chest and another 1" long on the chin. The weapon used at the time of the fracas was a broken bottle. The motive was sexual jealousy, the appellant having accused the other woman of having an affair with her boyfriend.

The learned Resident Magistrate made the following note of his reasons for sentence:-

"Court took into consideration the unsightly keloid scars resulting from the accused's action.

If the complainant does not undergo expensive plastic surgery, she will be grotesquely scarred for life.

The fact that this incident took place in the complainant's business place. The fact that accused went there armed with a dangerous weapon - the broken bottle.

The act was a wanton and brutal attack without any qualms about consequences. It was premeditated (the carrying of weapon).

The accused showed no remorse at anytime or seemed at anytime to regret her act. In fact when she was shown the scar she looked quite smug and self-satisfied.

This is another of the numerous cases of violence of this type among women. The sentence is intended to be a punitive.

It is intended to be a deterrent to the accused and others who would commit similar acts."

We do not think that it could properly be said that the learned Resident Magistrate had not considered alternative sanctions. He plainly rejected other alternatives in favour of a deterrent sentence. A custodial sentence of three months, demonstrates, in our view that the fact of this conviction being the first prompted such a short sentence. The factors which the learned Resident Magistrate enumerated in his note inclines us to think that he considered the

difficult question of sentence with care. These were factors which he could properly take into consideration and we cannot agree that he erred in principle. We are satisfied that sentence was neither "oppressive" nor manifestly excessive. It was warranted on the facts.

In the result the appeal is dismissed, and the sentence affirmed.