

CA - QM v. L.M. - Appeal - R.M. Court - London -
Scientific - Identification - Identification made - whether
appellant prejudiced by earlier aborted parade
JAMAICA

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S CRIMINAL APPEAL NO: 17/89

BEFORE: The Hon. Mr. Justice Campbell, J.A.
The Hon. Mr. Justice Wright, J.A.
The Hon. Mr. Justice Downer, J.A.

R. v. PAUL LIVINGSTON

C.J. Mitchell for appellant

Ms. Paula Llewellyn for Crown

March 14, 1989

CAMPBELL, J.A.

The appellant in this case is a police officer, he was sent on patrol duty on the 30th day of September, 1986. His area of patrol was Spanish Town in Saint Catherine. He apparently concluded his duties around 11.30 p.m. and returned to Mobile Reserve but instead of either leaving the vehicle or returning to his home with the aforesaid vehicle, he proceeded to Harbour View round-about on a frolic of his own. He there saw one Autherine Bowen who was returning from work. He offered her a lift, but instead of taking her to her home he took her to a place in the vicinity of Bay View in some deserted area and there unsuccessfully endeavoured to assault her sexually. She put up a strenuous fight which apparently angered this police officer who set upon her and gave her a sound beating which resulted in actual bodily harm to her. A report was made to the police and the complainant subsequently identified him on an identification parade. The appellant complained that he was prejudiced by an earlier aborted parade because he had been exposed to the complainant.

The learned Resident Magistrate found as a fact that the appellant committed the acts and inflicted the injuries which were related by the complainant. He also found that the identification on the identification parade was a positive one.

Before us Mr. Mitchell has with candour intimated that having carefully perused the record of the evidence adduced, he could find no useful submissions which could be made in support of the appeal. We agree with him. We considered that there was sufficient evidence on which the appellant could be and was properly convicted. The appeal is accordingly dismissed, the conviction and sentence are affirmed. We order that the sentence of imprisonment commence to run from date of apprehension. Bond estreated.