

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO: 41/89

BEFORE: The Hon. Mr. Justice Campbell, J.A.
The Hon. Mr. Justice Forte, J.A.
The Hon. Mr. Justice Gordon, J.A. (Ag.)

R. v. PAUL SMITH

Application for leave to appeal

Miss Paulette Williams for Crown

11th December, 1989

CAMPBELL, J.A.:

At about 4.00 a.m. on July 10, 1988, the complainant Michael Campbell was lying on a bench in Coconut Park, St. Andrew. The applicant came along. The Complainant Campbell had known him for about four years. He enquired of the applicant where the latter was coming from to which he responded that he was coming from a dance. The applicant who then had a cup in his hand, poured the contents thereof over the right side of the face of Campbell. The content of the cup was a corrosive substance like acid. The complainant screamed and one Samuels responded. Complainant immediately said in the presence and hearing of the applicant that "the boy throw acid on me" and pointed at the applicant.

The applicant's version is that he was in the vicinity of Coconut Park. He heard the scream, he also responded. He saw Samuels. He heard Samuels ask the complainant what was

2.

the matter to which complainant said someone threw acid on him but he did not know who had done it.

The issue was solely one of credibility, the learned trial judge in a very detailed manner analysed the divergent evidence of the Crown and the defence. The jury by their verdict demonstrated that they accepted the crown's version. In this they acted eminently reasonably. There is no merit in the application which is accordingly refused. Sentence is ordered to commence on June 7, 1989.