J A M A I C A

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL No. 2/83

BEFORE: The Hon. Mr. Justice Zacca, President
The Hon. Mr. Justice Carberry, J.A.
The Hon. Mr. Justice White, J.A.

REGINA v. REGINALD REDWOOD

Miss J. Nosworthy and Mr. Michael Lorne for applicant.
Miss V. Hylton for Crown.

15th December, 1983

ZACCA, P.:

The applicant, Reginald Redwood, was convicted for the murder of Willard Marcus on the 15th December, 1982, in the St. Catherine Circuit Court.

The facts very briefly are that the applicant had been living with one Eunice Williams up to the year 1981. She then left the applicant and commenced living with the deceased, Willard Marcus. She had borne three children for the applicant.

On the 12th April, 1982, Eunice Williams and the deceased, Willard Marcus, were walking along an interval in a canefield in the Caymanas area. She was at that time pregnant for the deceased. The applicant was alleged to have suddenly emerged from the canefield and pushed a knife into the left lower chest of the deceased. Eunice Williams then ran and made a report to the police station. The body of the deceased was

subsequently found dead in an area in the canefield.

In his defence the applicant made an unsworn statement in which he said that he had gone into the canefield to "wring" cane as he had no sugar at home and his son had requested a cup of tea. He stated that suddenly the deceased appeared and gave him a blow which knocked out a tooth. He also received three other blows from the deceased. He then became giddy and backed away from the deceased who was armed with a stick. He slipped and fell on the ground on his back, whereupon the deceased came over him and whilst he was trying to get the deceased off him the knife caught him.

The defence put forward at the trial was one of accident. The learned trial judge in his summing-up to the jury left for their consideration, one, accident; two, self-defence; and, three, provocation, based on the account given by the applicant.

On appeal it has been urged that the learned trial judge withdrew the question of provocation from the jury and, therefore, the applicant was denied a verdict of manslaughter. It was also submitted that the learned trial judge had misdirected the jury on the issue of provocation.

We have carefully read the summing-up of the learned trial judge, the transcript of the evidence, and given consideration to the submissions made by the attorney for the applicant, and we are of the view that whilst the learned trial judge expressed strong views as to the verdict which the jury might wish to return, he did in fact leave the issues of accident, self-defence, and provocation for the consideration of the jury. The learned trial judge's view was in effect that if the jury believed any part of the applicant's statement then they should acquit him and find him not guilty of any offence; that they should only return a verdict of guilty of murder

if they rejected the applicant's statement and accepted the evidence of Eunice Williams. The view expressed by the learned trial judge was in some respects over-generous and was certainly in favour of the applicant. It cannot be said that the applicant was in any prejudiced.

The jury returned a verdict of guilty of murder and it is clear from that verdict that the jury must have accepted the evidence of Eunice Williams. Having accepted the evidence of Eunice Williams, there was no scope for any other verdict.

We are of the view that the summing-up of the learned trial judge was adequate and that there was no misdirection with respect to the issue of provocation and also that he had not withdrawn the issues of provocation from the jury.

The application is treated as the hearing of the appeal. The appeal is dismissed. The conviction and sentence is affirmed.