

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

ADVOCACY PROGRAMME

YEAR II

CRIMINAL BRIEF

R. v. RICKY ROWE

MODIFIED HUGH WOODING LAW SCHOOL BRIEF

NORMAN DAVIS

my face to him asking me for a kiss to start the friendship, and I pulled my face away from him and he told me don't be afraid. Then he put his hand in the area of my vagina.

I was about to open the car door when he threatened me with a knife. He had taken it from the glove compartment. It was a ratchet knife. "I asked him if he was going to keep me there or take me to the plaza where I was going". And he said, come in the back seat and when we are finished I will take you to the plaza. He again threatened me.

I went into the back seat. He grabbed me by my blouse tearing it. He ordered me to take off my pants and I did so because I was afraid. He held my hands by the wrists. He then had sex with me by pushing his penis inside of my vagina. He was 'whining' on me. When he finished he said he would take me to the plaza. He used a condom. I was crying. He offered me money. I refused.

He dropped me at the plaza about 10 a.m. I did not go to the plaza but waited around for a taxi to go back home. I reached home about 11:00 a.m. There was no one at home. My boyfriend who I live with was at work.

My boyfriend came home at 8:00 p.m. As he reached home I told him what happened. I went to the police station the next morning and made a report. The police took me to the scene and I showed them where the incident happened. I did not give the accused permission to touch me or have sexual intercourse with me. I went home after making the report and giving a statement.

On March 2, 2008 I got a phone call and I went to the police station. As I got there, I walked in and I saw the accused sitting on a bench. I showed the police the man and I told him that is the man who took me into the lonely road and stopped the car and raped me. The accused could have heard. He got up from

the bench and said "lady, you know me?" I didn't answer. The police told him to sit down.

My boyfriend is Brian French. The pants I was wearing was a low cut hipster. I was not wearing any panty. It is usual not to wear a panty with that kind of outfit. I submitted the torn blouse to the police. This is the torn blouse. Blouse admitted into evidence as Exhibit 1. This knife resembles the ratchet knife he used. Knife marked "A" for identity.

Cross-examination

"I didn't go to the plaza often. I don't go to the Portmore Plaza often". I had gone to the Portmore Plaza before. My boyfriend is a bus driver. I didn't like what the accused did to me. I was distressed and annoyed. I returned home immediately did not stay at the plaza. I thought the best person to tell was my boyfriend. The accused raped me. In the car he told me his name was Jones, I was afraid to shout or bawl because of the knife he had. He did not hold onto to me all the time but I was afraid of the knife and the threat. It is a lonely spot. I could not see houses from there. It is by the beach. I assumed he was going to the Portmore Plaza. I did not agree to have sex. I did not make any bargain with him. I did not agree with him to take money for sex. I do not know how much money he offered me. I know he had money in his hand. Don't know how much. Can't remember if it was 100 or 500 or 1000 dollar bills. It was notes, bills.

It is not true either that I agreed for \$1,500 or that when he offered me \$1,500 I said was it \$2,000. Did not threaten that I would report the accused for rape if he did not give me the \$2,000. I am speaking the truth. Not true after I dropped off I told him he would be hearing from the police. I did not ask the accused to stop by the beach. Did not offer to show him a good time.

Signed: *Sheila Hayes*
Date: 9/4/09

Signed: *Fayline Ferguson*
Resident Magistrate
for the parish of

St. Catherine
Date: 9/4/09

AND THIS DEPONENT: BRIAN FRENCH
ON HIS OATH SAITH AS FOLLOWS:

I am a bus driver. I live at Greater Portmore with my girlfriend Sheila Hayes.

I recall the night of February 7, 2008. I come home at about 9:00 p.m. from work.

Sheila appeared distressed. I asked her what happened. She told me that she took a taxi to go to Portmore Plaza when the taxi driver took her to a lonely road where he threatened to kill her unless she had sex with him. She said she submitted out of fear and he raped her. She showed me her torn blouse.

Sheila started to sob uncontrollably and I did not press her for details. We did not report the matter that night as I wished Sheila to regain her composure.

We reported the matter the next day at the Portmore Police Station.

Signed: ***Brian French***
Date: 9/4/09

Signed: *Fayline Ferguson*
Resident Magistrate
for the parish of
St. Catherine
Date: 9/4/09

AND THIS DEPONENT: BETTY MORRIS,
ON HER OATH SAITH AS FOLLOWS:

My name is Betty Morris. I am a Constable attached to the Portmore Police Station which is situated in the Portmore Plaza. My number is 2200. I recall 8/2/08. I was stationed at the Portmore Police Station when Sheila Hayes accompanied by her boyfriend made a report at the said station. The report was made about 12 midday.

As a result I interviewed Miss Hayes and she told me something. I took her to the scene and she showed me where the incident happened. It was on a lonely beach off the Port Henderson Road. I also took her to be examined by Dr. Loft. I was present at the examination. Miss Hayes also submitted a torn blouse to me. Exhibit 1 shown to the witness. This is the torn blouse.

As a result of what she told me, I left on enquiries endeavoring to locate vehicle number PP 1234. I did not see that car on that day. I continued my enquires and on March 2, 2008 at around 12:45 p.m I saw taxi PP 1234 parked in the Portmore Plaza taxi stand. The accused was seated behind the steering wheel. At the time I was dressed in plain clothes.

I went up to the accused and identified myself to him as a police officer. I told him of the report made by Sheila Hayes. I asked him for his name and address. He said Ricky Rowe and he lives at 15 Bridgeview Ave, Braeton and people call him Jones. I then cautioned him and told him of his rights. I told him I was of the opinion that he could assist me in my enquires. He told me he knows nothing of the report but that he is the owner of PP 1234 and he had sex with a woman by agreement and he is the only person who drives that car.

I asked him to accompany me to the police station and he agreed. When I went to the station with him I searched him and he had a ratchet knife in his pocket.

This is the ratchet knife. Ratchet knife previously marked "A" for identity now admitted as exhibit 2. Later that day, the accused was seated on a bench at the station when Sheila Hayes walked into the guardroom. She pointed out the accused and said, "Constable this is the man who raped me in a lonely road in taxi PP 1234". I asked her if she is sure about what she is saying. She said she was sure. The driver said: "Woman you know me? But you agree to have sex with me and refuse the money afterwards". I again cautioned the accused and he said nothing. Later that day I arrested the accused and charged him for the offence of rape. I cautioned him and he said nothing.

Cross-examination:

On March 2, 2008 after the woman said this is the man who raped her, I did not go on with enquiries. I charged the accused at 4:15 pm. The victim came to the station at 1:00 p.m. I did go on enquiries after that. The accused mentioned a name. The accused was very co-operative. He agreed with me to go to the station. I did not charge him for having an offensive weapon in his possession.

Signed: *Betty Morris*
Date: 9/4/09

Signed: *Fayline Ferguson*
Resident Magistrate
for the Parish of
St. Catherine
Date: 9/4/09

AND THIS DEPONENT: VICKY LOFT,
ON HER OATH SAITH AS FOLLOWS:

My name is Vicky Loft. I am a registered medical practitioner. On February 8, 2008, I was at the Spanish Town Hospital where I worked when Constable Grass and a young lady named Sheila Hayes came to my examination room. I was told something and given a history.

I examined her in the presence of Constable Morris. Her vagina was normal except that there was some slight bruising at the entry of the vagina. There was slight bruising to the inner thighs. The hymen was not present. Her vagina admitted two fingers. I formed the opinion that she was sexually active and she had sexual intercourse within the last 48 hours. She complained of having pain in the vaginal area. There was some tenderness to her lower back and there was a small blue black mark on her left hand just above the wrist. There was slight bruising to the inner thighs. Those were my findings.

No cross-examination.

Signed: *Vicky Loft*
Date: 9/4/09

Signed: *Fayline Ferguson*
Resident Magistrate
For the Parish of
St. Catherine
Date: 9/4/09

STATEMENT OF RICKY ROWE

My name is Ricky Rowe. I live at 15 Bridgeview Ave, Braeton. I am a taxi driver aged 24 years. On February 7, 2008, I was driving my taxi PP 1234 from Braeton. I had passengers in the back seat, one of them I call Winnie, and one passenger in the front seat. The one in the front seat came out just before Forum Secondary School and right there the girl who made the false report against me got in the front seat.

We, she and I talked on our way to Portmore Plaza. I did not know her before that day. The passengers in the back seat got out by the Forum Secondary School. Winnie asked me where I was going and I said to the Plaza but I passing by Port Henderson Road. On the way the lady and I talked. She told me she was a stranger. She didn't know Portmore.

We stopped by the beach because she said she wanted to go there. We got to talking in the car. After making romance and so on she agreed to have sex with me. I promised to give her \$1,500. We went in the back seat. We had sex. I used a condom. After having sex I was giving her the money and she said it was \$2,000 and not \$1,500 that I promised her. She refused to take the \$1,500 and she said to take her to the plaza. I did. I asked her again to take the money but she said she would not. She said "it's alright" in a vexatious tone. As she was leaving the car she said, "You will hear from the police".

I did have a knife, a ratchet knife. I do not keep it in the glove compartment. I do not keep it there because it was not close enough for self defence. Driving a taxi can be dangerous in Jamaica. I keep it on the floor by the driver's seat for protection. I did not threaten the lady. I did not force her. I asked her for sex and she said yes. We made out by degrees and then she agreed to have sex. She willingly consented to give me sex for the \$1,500.

Signed: *Ricky Rowe*

WINNIFRED SAM STATES:

My name is Winnifred Sam. I am called Winnie. I live at Elizabeth Crescent, Portmore. I have known the accused very well for some years. I am a teacher at the Forum Secondary School. I remember February 7, 2008. About 9 am I travelled in the accused's taxi PP 1234 from Braeton. It was morning time. I was going to school.

While on our journey a young lady came in to the taxi. She was wearing (a) tight fitting pants. She sat in the front passenger seat. The other passengers in the car got out by the Forum Secondary School. As I came out I remember asking the accused where he was heading and he told me he was going to the Portmore Plaza and passing by Port Henderson Road.

As he drove off the lady was still in the car. She seemed comfortable at that time.

While in the car she was chatting and very friendly with Ricky. She sat close to him and she was laughing and giggling and touching him on his shoulder. It is a full seat car not the bucket seat. She was sitting close to him, not to her door but almost next to him. He was making jokes with her. She seemed very flirtatious to me.

I later heard that the lady, Sheila Hayes, made a report of rape against Ricky. I did not believe it. I have seen a ratchet knife on the floor of the car before.

Signed: *WINNIFRED SAM*