

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 34/90

BEFORE: THE HON. MR. JUSTICE ROWE - PRESIDENT
THE HON. MISS JUSTICE MORGAN, J.A.
THE HON. MR. JUSTICE GORDON, J.A. (AG.)

REGINA

VS.

RODERICK SAMUELS

Leonard Green for Appellant

Lloyd Hibbert, Deputy Director of
Public Prosecutions for Crown

July 30, 1990

ROWE P.:

Early on the morning of March 30, 1989 Daphne Robinson went to tether her goat along the Heathfield Parochial road in Westmoreland. She carried her machete in her hand. Observing a young-man bending down in the road with his back to her, in a moment of playfulness, she smote him on his rump with the machete, and used words to the effect "boy what you doing here". The response was unexpected. To use her language: "Without no hesitation he was up with a knife". She received a cut on her left hand which required ten stitches and has left a scar. The appellant who was that man said: "What the b... c... you hit me with a machete for, mi and you is no friend". To this the complainant said: "Ah joke ah making and you cut mi with the knife". In defence the appellant said he received a hard

slap from behind. He had a knife in his hand and he became frightened and jumped up. He said further that when he saw the complainant with the machete he thought someone was about to attack him.

The learned Resident Magistrate found the appellant to be of low intelligence and quick temper who would resort to violence instantaneously to settle domestic disputes. On the evidence he found inter alia:

- (a) that the complainant smote the appellant on his buttocks in a jocular manner;
- (b) that there was a short interval between the slapping and the infliction of the wound during which there was a verbal exchange wherein the complainant sought a peaceful understanding for her action;
- (c) that the appellant inflicted the wound when he was in a temper and with the motivation to retaliate, well knowing that there was then no threat to himself from the complainant.

These findings of fact were not supported by the evidence contained in the Record. Ms. Robinson outlined an instant reaction by the appellant in the course of which she received her injury, and not a delayed reaction which came after a short conversation. Although the learned Resident Magistrate had in mind the decision in Beckford v. R. [1987] 3 All E.R. 425 by his reference to "honest belief", he manifestly failed to apply the principles of self-defence to the evidence. Had the complainant's narrative not been misunderstood by the learned Resident Magistrate, it is inconceivable that he would have convicted.

One should hesitate to frighten another as the consequences, as in this case, might be quite bizarre. The appeal is allowed, the conviction quashed and the sentence set aside. Verdict of acquittal entered.