

J A M A I C A

IN THE COURT OF APPEAL

R.M. COURT CRIMINAL APPEAL No. 16/66

BEFORE: The Hon. Mr. Justice Lewis (Presiding)
 The Hon. Mr. Justice Henriques
 The Hon. Mr. Justice Moody

R. vs SYDNEY WHITE

Mr. A. Campbell for the appellant

Mr. M. Wright for the Crown

30th March, 1966.

HENRIQUES, J.A.,

The appellant was convicted by the learned Resident Magistrate for the parish of St. Catherine on the 23rd day of November, last year, of the offence of the possession of ganja and sentenced to eighteen months hard labour. He has appealed against his conviction.

According to the evidence which was tendered at the trial, an Acting Corporal of police along with other policemen on the ninth of October at about six o'clock in the morning went to Mount Moreland in St. Catherine, the premises occupied by the appellant and the woman with whom he was living at the time and who had been tried along with the appellant. Corporal James read a Search Warrant under the Dangerous Drugs Law to the appellant after entering the premises, and then started to search. When the warrant was read the appellant said "You could search for you will find what you want." The bedroom was searched and nothing was found in the bedroom. Adjoining the bedroom was a shop, and as the police entered the shop and searched, and behind some aerated water bottles on a shelf, they found a sweet box which they opened, and inside of which was a plastic

bag....

bag containing a brown paper parcel. The parcel was opened, and in it there appeared to be vegetable matter resembling ganja. He the Corporal informed the defendants of his belief that it was ganja; whereupon the woman, Smith said "me noh no nothing about it. It must be fe him," pointing to the appellant. The appellant did not make any reply to that accusation.

From the shop the police party went to a kitchen about eight yards from the house. The kitchen was opened by a key which the woman, Smith obtained, and with which she opened the padlock. A search was made of the kitchen and under a shelf a carton box which contained a crocus bag was found; and when the bag was opened, it was seen to contain vegetable matter resembling ganja. These articles were shown to the appellant, and he made no statement.

Further on a shelf the police found a pipe which they took possession of, and in an old show-case they found two baby-feed tins which when they opened contained a match box and inside the match box were some seeds resembling ganja seeds. Neither of the two accused said anything when these were found. The appellant along with the woman was then arrested. He was cautioned and the appellant is alleged to have said "since you find it with me and she have the pickney them me claim it a fe mi." They were both taken to the Police Station and subsequently the articles were submitted to the Government Analyst and a certificate obtained to the effect that they contained the dangerous drug, ganja.

The appellant gave evidence to the effect that the police had come to his premises; that nothing was found in the first room, nothing was found in the shop but that when they went outside the Corporal was heard to say

∟ "come....."

"come back here man. Someone find the thing, how it take me so long to find it, needless open because I know what in there"-- at the same time throwing out a parcel to a Policeman. In other words, his defence was that this was a plant by the police who had been unsuccessful in the search which they had carried out.

The learned Resident Magistrate by his verdict rejected the appellant's evidence and accepted that of the witnesses for the prosecution.

Learned Counsel on behalf of the appellant has submitted two grounds of appeal, the first is, that the learned Magistrate was wrong in holding that access was enough to establish possession in law. That ground cannot be supported when the reasons which the learned Magistrate gave at the end of the trial are perused. Those reasons showed clearly that the learned Magistrate did not act purely upon the fact of the access of the appellant to the room in which the large quantity of ganja was found, but also upon the utterances which the appellant had made from time to time. So there is no merit in that ground at all.

In our view, there was abundant evidence before the learned Resident Magistrate upon which he was entitled to draw the inference, that the appellant was in possession of the ganja found. The appeal is therefore dismissed.