

JAMAICA

IN THE COURT OF APPEAL

R.M. CRIMINAL APPEAL NO. 29/88

COR: The Hon. Mr. Justice Rowe, P.
The Hon. Mr. Justice Carey, J.A.
The Hon. Mr. Justice Downer, J.A.

R. vs. TREVOR DUNCAN

Appellant not presented nor represented
Miss Y. Sibble for Crown

April 25, 1988

CAREY, J.A.:

This is an appeal against a conviction for the offence of being armed with an offensive weapon, with intent to commit a criminal act under the Vagrancy Act, in respect of which the appellant was sentenced to pay a fine of \$100.00 in default 10 days hard labour.

The appellant has not appeared this morning nor has his counsel to whom notice was issued and the appeal will of course be dismissed for want of prosecution.

The short facts in the case were that on the 22nd of September last year at about 10:30 in the morning, a security guard was at the entrance to the Jamaica Public Service power station in Old Harbour Bay in the parish of St. Catherine, when the appellant approached him and asked for water. When the guard declined to comply, the appellant used a deal of indecent language. The guard summoned the supervisor who spoke with the appellant who pulled a

knife and it had to be taken away from him.

The defence in the case was, that, to the contrary, when the supervisor intervened, he the supervisor came, grabbed him in his chest; drew a knife from his pocket with a firearm and boxed him down, and the supervisor and other persons made efforts to drag him inside the premises. He was beaten and kicked. So that, that was a complete denial of the charge.

The learned Resident Magistrate wholly disbelieved the defendant, accepted the evidence given by the witnesses for the prosecution. That evidence constitutes, if accepted, the charge of being armed with an offensive weapon.

The appeal is dismissed for want of prosecution.