

831
LW
17/6

J A M A I C A

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL No. 153/65

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

R. vs L E O P O L D B U R R E L L

Mr. K. Simmonds for the Crown

Appellant appeared in person

1st March, 1966.

HENRIQUES, J.A.,

The appellant in this matter was convicted at the Home Circuit Court on the 22nd day of September, last year, of the offence of the larceny of some £17, the property of one Jasper Holmes, and sentenced by the learned trial judge to three years with hard labour.

On the 26th day of September he filed a notice of appeal, or application for leave to appeal against his conviction, and he filed certain grounds - five grounds. His application was considered by a single judge of this Court on the 16th of November, 1965, and leave to appeal was given, not on any of the grounds which the applicant had filed but in relation to whether or not there was evidence before the jury to support the substantive offence of larceny.

According to the evidence that was given at the trial, Mr. Holmes, a restaurant keeper, on the 24th day of June, heard a sound in his bread shop which adjoins the restaurant. He looked through a door between the two shops and he observed the appellant helping himself to money which was resting on a

/ table behind....

table behind the counter. He called to him, the appellant jumped at him with a knife, whereupon, Mr. Holmes discharged two shots at the appellant, one of which apparently wounded him. The appellant then ran away outside, and he was subsequently apprehended and brought back to the shop, and according to the evidence, Mr. Holmes had a look at the money which he had left on the table, and he there observed that some of the money had been scattered, and according to this particular passage in the summing-up on page 2 'and some of it was missing.' So it appears from what the appellant has stated here, that it was alleged at his trial that £17 was missing by Jasper Holmes,, when read together with the evidence of money missing as appears from the learned trial judge's summing-up, that there must have been evidence before the jury to constitute the substantive offence of larceny. This appeal will therefore be dismissed.