

**COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL**

**ADVOCACY PROGRAMME**

**YEAR II**

**CRIMINAL BRIEF**

**R. v. RITA SMITH**

**MODIFIED HUGH WOODING LAW SCHOOL BRIEF**

**NORMAN DAVIS**

**IN THE RESIDENT MAGISTRATE'S COURT FOR THE CORPORATE AREA.  
PRELIMINARY EXAMINATION HOLDEN AT HALF WAY TREE ON JANUARY 12,  
2010 BEFORE HER HONOUR MISS MARY CAREY, RESIDENT MAGISTRATE FOR  
THE SAID PARISH.**

**Inf. No. 2686/09**

**Regina**

**Vs**

**Rita Smith**

**For Wounding with Intent**

**Mr. N. Buchanan for Accused**

**Mr. Watt for Crown**

**AND THIS DEPONENT: TREVOR SMITH:** On his oath saith as follows - I am 40 years old. I am married with two children. I work as a manager for an outlet of Spectacular Cellular Company, a well known cellular service provider in Jamaica. My wife's name is Rita Smith. I live at 45 Marley Road, Kingston 6. My wife and I are now separated. She lives with her sister now. I am living in an apartment with my girlfriend. Her name is Rosie Flores.

On Sunday September 06, 2009 I took the children to Hellshire beach for the day. So as to avoid traffic on Hagley Park Road, after exiting Portmore via Causeway, I took a right and proceeded to drive the downtown route instead. My wife and I have 2 children. I went to the beach with my girlfriend, her sister and the children. Her sister is 20 years old. After leaving the beach at about 5 pm I went to drop off the children by their grandmother. That is where my wife is staying since we lost the house to the bank. My girlfriend and her sister were in the car with the children. As we got there, my wife came up to the car. She was screaming and shouting insults at us. She was saying, "How

you could bring that “sketel” to mi house to fling it in mi face”. I had just come out of the car to hand the children over to her.

She came up to me and scrambled me and grabbed on to my shirt. She pulled it and tore it. She started to scratch me. She was kicking and hitting me about my body. She was hitting me real hard. “She dug into my flesh and tore my shirt. She was like a mad woman behaving hysterically”. She was screaming and out of control.

I tried to grab on to her hands to restrain her. I had to hit her to restrain her. She also bit me on my left arm.

Suddenly she let go of me and went to a stone heap at the entrance of the yard. She picked up a stone and flung it at me. It caught me on the left side of my head. It was a hard blow and I fell down. I felt my head and blood was running down from my head. I must have blanked out. I later realised that I was at the University Hospital.

I remained three days in the hospital.

The stone was a small stone, about 15 cm in diameter.

I later made a report to the police and (handed over the cutlass) and the torn shirt. Cutlass shown to witness. This appears to be the same cutlass. Cutlass marked “A” for identity. The shirt admitted as Exhibit 1.

My wife was later charged for wounding me.

#### Cross-examination Mr. Buchanan

We were married about 8 years ago. We have been separated one year now. The relationship was always rough. My wife behaves like a crazy woman. Our children are now 8 and 6. The boy is Jack. He is 6. The girl is Jill. There is a maintenance order for them. I pay forty thousand dollars (\$40,000.00) per month which is deducted from

my salary. This is an interim order. My wife and I have an application pending at the court for custody of the children. She has them during the week and I have them on weekends. I and my wife are both seeking custody of the children.

My girlfriend was not cursing her. She did not take out the cutlass from the car to hit Rita. I did not slap her just so. Cutlass is kept in the car only for protection from thieves or gunman given the nature of the Jamaican crime situation.

Signed: *Trevor Smith*

Date: 12/01/2010

*Mary Carey*  
Resident Magistrate  
Corporate Area

12/01/2010

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**AND THIS DEPONENT: ROSIE FLORES:** On her oath saith as follows - Trevor Smith is my boyfriend. I am 25 years old. We have been seeing each other for the last three years. I am a secretary where he works. We live together since he left his wife. After he and his wife broke up, she called me blaming me for the break up and told me to stay away from her. I told her that she did not have to worry and that Trevor and I would not bother her ever again.

On Sunday September 06, 2009 Trevor, my sister and his children went to the beach. We had a nice time there bathing and playing about in the water. That evening we went to drop off the children. We thought we would go there directly so we would not have to drop us off and then go back.

As we got to drop off the children, his wife came out like a mad woman. She was threatening me saying that if she got hold of me she would run a knife through my chest. She was calling me all kinds of filthy names such as "slut" and "home-wrecker". I did not take her on because she always behaves like that. I was in the car.

Then she attacked Trevor as he was standing outside the car. She scratched him and was kicking and cuffing him. I could not tell exactly where she was hitting him. She threw a stone at him and it hit him on his head. After a little while a girl came up and held on to her and told us to get out. My sister and I came out of the car and we dragged Trevor into the car and I went and drove off.

The children had come out of the car by then.

I then drove to the Papine Police Station, which was on the way, where I met Officer Roger Speedy. I made a report to him and then drove Trevor to the UHWI for medical attention. I then went back to the Police Station and gave a statement to constable Speedy.

Cross-examination: Mr. Buchanan

I know Speedy from the village, where we grew up. I know him over 10 years. Yes we are friends. We were once lovers. I was never coming at her with the cutlass to hurt her when she threw the stone.

Signed: *Rosie Flores*

Date: 12/01/2010

*Mary Carey*  
Resident Magistrate  
Corporate Area

12/01/2010

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**AND THIS DEPONENT: ROGER SPEEDY:** On his oath saith as follows - My name is Roger Speedy. I am a Police Constable No.4567 attached to the Papine Police Station. I am the investigating officer. On September 07, 2010, Rosie Flores, whom I have known for several years, came to the police station and made a report. I investigated that report and obtained a medical report from Dr. Barnsfield in relation to one Trevor Smith. I went to the home of Trevor Smith and Rosie Flores. When questioned about the alleged cutlass Mr. Smith indicated that it was his and that he kept it for his own protection. He said it had not been used in this incident neither by him nor by Rosie Flores. I then took the cutlass from the car. Cutlass marked "A" for identity shown to witness. This is the cutlass. Cutlass admitted as Exhibit 2. He also submitted a torn shirt which he said he was wearing the day. Exhibit 1 shown to witness. This is the shirt.

I subsequently charged and arrested Rita Smith for this offence on September 10, 2009. After being cautioned she said "He and his woman attacked me!"

Cross-examination

I had gone to visit her twice before charging her but she could not be located at her mother's home. She came to the police station and spoke to me. I never took a statement from her before arresting and charging her.

Ms Flores and I have a good relationship to this day. She was once my girlfriend but that did not affect my investigation of the matter.

Signed: *Roger Speedy*.

Date: 12/01/2010

*Mary Carey*  
Resident Magistrate  
Corporate Area

12/01/2010



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**AND THIS DEPONENT: RONALD BARNSFIELD:** On his oath saith as follows - I am a Registered Medical Practitioner. On Sunday 6<sup>th</sup> September, 2009 I examined Trevor Smith at Accident & Emergency, University Hospital of the West Indies and found him to be suffering from the following injuries.

Patient said that his wife had attacked and beat him.

1. Head injury. 5 cm jagged wound to left side of head. Wound sutured and patient kept for observation.
2. Scratches to the chest area
3. Contusion of chest area
4. Swelling and tenderness of the groin area
5. Bite marks on the left arm

Patient complained of pains about body.

Injuries 1, 3, 4 were likely caused by blunt object(s) with moderate force.

Injury 2 was likely caused by sharp object with slight to moderate force.

Injury 5 was caused by teeth.

Signed: *R. Barnsfield*

Date: 12/01/2010

*Mary Carey*  
Resident Magistrate  
Corporate Area

12/01/2010

## **STATEMENT OF RITA SMITH**

Rita Smith states:

I am 38 years old. I have been married to Trevor for 8 years. I am a secretary with the legal firm March, French and Griffiths. We first met when I was 16 years. He told me he loved me and we started going around then. He was the first real boyfriend I ever had. I got pregnant for him and then we got married.

After we got married we bought a house in Evergreen Park, Eltham where we lived for some years. Trevor used to pay the mortgage. After we broke up he stopped paying it and the bank eventually took it earlier this year since I could not afford to pay for it with the income I earn. I now live at 45 Rose Avenue, Mona, Kingston 7.

He had been unfaithful to me with this girl Rosie. I once caught them in bed together.

On September 6<sup>th</sup>, 2009 I was at home waiting for the children to come back. About 5 pm he drove in with Rosie and her sister in the car. I went up to get the children and Rosie started laughing scandalously saying "look the mad woman coming". She was making provocative statements about me such as "look the hag". My husband was laughing too. He was also saying that I am an unfit mother and he was going to get the children.

I said nothing. I was going to take Jill out of the car. He was standing behind the car door and I went between the door and the car on the left side to get Jill. He suddenly pushed the door on me and it hit me. I almost fell to the ground. I turned to him and grabbed his jersey. He slapped me. Before that he was saying "you see how she attacking me, I'll have to make a report against her". He was laughing and so too was Rosie. He grabbed my left hand and began twisting it. His grip was very powerful.

Then I saw Rosie Flores come out of the other side of the car with a cutlass. She said she would finish me today. In order to escape the pending danger I kicked and scraped

at Trevor in desperation. I may have bitten him. When I finally broke free I fell near a stone heap. I flung a stone at her. By that time she was next to Trevor and still approaching to attack me and he got hit.

Eventually my sister came up and she took me inside. I was crying and my sister led me away. I can't understand why he would humiliate me in that way.

I went to make a report to the Papine Police Station 2 days later. I met Constable Speedy who said a report was already made and I would hear from him. I then left. I later found out from my sister that Rosie and Speedy were a couple some years ago.

I have never been charged with any offence. I do a lot of charitable work with the law firm's Sports and Welfare Club.

Signed: *Rita Smith*

## STATEMENT OF PETRA MARKS

Petra Mark states:

I live at 45 Rose Avenue, Mona, with my sister. I am a bank teller. Rita is my sister.

On 6<sup>th</sup> September 2009 about 5 pm I was at home in the evening watching TV. I heard a car pull up and then I heard some voice laughing loudly. These were male and female voices.

I then heard my sister bawl out "Lawd God, yuh lick mi!" Then she said, "Oh God, look she coming". I was wearing a top and boy shorts underwear so I quickly went to put on a skirt which I had on the bed in my room. I then went outside and saw my sister. I then saw Trevor's girlfriend was holding a cutlass and putting it in the car. I know her from her coming in the bank. I later found out that she was Trevor's girlfriend. I saw Trevor in the car leaning up in the back seat. I then took her inside the house. Rita was crying.

We calmed her down and then she went to bed. When I went outside the children were also there. I took them inside too and stayed with them. They too were crying.

I know Constable Speedy. He went to school with me. I did not know him well. Many times a few years ago he would come into the bank holding Rosie's hand.

Signed: *Petra Mark*