

C.A. CRIMINAL LAW — Larceny from the person — Identification — Sentence
whether identification adequate — whether confrontation
at police station — whether sentence of 3 years years
imprisonment to be followed by one year police supervision excessive.
Appeals against conviction and sentence dismissed [abundant
evidence on which Resident Magistrate could convict — appellant
had seven previous convictions for dishonesty — four relating to larceny
from the person.]
JAMAICA
IN THE COURT OF APPEAL Comp

RESIDENT MAGISTRATE'S CRIMINAL APPEAL NO. 75/88

No case referred to

BEFORE: THE HON. MR. JUSTICE ROWE, PRESIDENT
THE HON. MR. JUSTICE WRIGHT, J.A.
THE HON. MR. JUSTICE FORTE, J.A.

REGINA

VS.

DONALD WILSON

Appellant appeared in person

Miss Antoinette McKain for Crown

July 13, 1988

ROWE P.:

This appellant Donald Wilson was convicted of Larceny from the person and he was given three years imprisonment at hard labour to be followed by one year Police Supervision.

The prosecution's case was that on the 25th of February, 1988 at 6:30 p.m. Mr. Vincent Cross was travelling in a bus at Kitson Town in St. Catherine. He felt somebody putting a hand in his pocket. He braced against this person and tried to have the hand extricated and he noticed that the hand belonged to this appellant. He and two other men then ran from the bus. Mr. Cross discovered that his bill-fold with his driver's

licence and money, one hundred dollars, were gone.

Mr. Cross said he knew this appellant for some six years before as Milton Douglas. He chased after the men, caught the appellant who still had his bill-fold in his hand. Mr. Cross was attempting to retrieve the bill-fold when one of the other men offered the appellant a knife. The appellant didn't take it but the appellant passed over the bill-fold to this man who ran away. Mr. Cross continued to wrestle with the appellant who eventually backed off his shirt and left it in the hands of Mr. Cross and escaped. A third man grabbed the shirt and off he went too.

Mr. Cross reported to the Police Station his loss. He went to the Police Station a month later, on the 25th of March, when he saw the appellant and he pointed him out to the police as the man whom he knew for six years as Milton Douglas and as the man who had stolen his wallet with money.

The appellant denied any knowledge of the robbery. He said he happened to have been at the Police Station for another completely unrelated matter and he was pointed out by the complainant Mr. Cross whom he, the appellant, had never known before.

In the ordinary case, had there been an allegation that there was no proper identification parade, the Court would have frowned upon the confrontation at the Police Station, but in this particular case the evidence was that the appellant was well known to Mr. Cross and it was only a question of his identifying a person whom he well knew before. So had there been an identification parade it would be a farce.

We therefore think that the identification was sufficient and that there was abundant evidence on which the learned Resident Magistrate could come to her conclusion that the appellant was guilty as charged.

The sentence of three years imprisonment at hard labour, although appearing somewhat excessive at first blush, when looked at in the light of the fact that the appellant has seven previous convictions, all of them for dishonesty and certainly four of them relating to Larceny from the person, we think that the learned trial judge's comment that:

"In view of the high incidence of Robbery and Larceny from the person in the parish and defendant's previous convictions I sentenced the accused to 3 years at Hard Labour to be followed by 1 year Police Supervision not only to punish him but also in the hope of deterring him and others who might be tempted to try similar offences to get easy money."

is appropriate.

The appeal is dismissed, the sentence will run from the date of conviction.