

JAMAICA

*Incomplete*

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 15/87

BEFORE: THE HON. MR. JUSTICE ROWE, PRESIDENT  
THE HON. MR. JUSTICE WHITE, J.A.  
THE HON. MR. JUSTICE BINGHAM, J.A. (AG.)

REGINA

VS

GERALD WRIGHT

No Appearance on behalf of the Applicant

Mr. Courtney Daye for the Crown

June 29, 1987

ROWE P.:

The applicant was convicted in the Home Circuit Court before Mr. Justice Ellis and a jury for the offence of wounding with intent. The allegation was that, he on the 29th of June, 1985, exactly two years ago, wounded Elsie Wisdom with intent to do her grievous bodily harm. The incident is alleged to have taken place just outside the Tahiti Bar on Windward Road in Kingston.

The Crown led evidence that Miss Wisdom went into this bar somewhat around midnight and she was sitting at the counter having a beer; that the applicant came up and wanted her to buy him a drink and she refused. He used insulting words to her and she in turn called him a 'homosexual'. She said that he hit her in her face, he slapped her, and in retaliation she used the bottle from which she had been drinking to hit him on the head and she ran from the bar, went outside and stood up talking to a friend. She said while she was outside of this bar talking to this lady, the applicant came out of the bar, came towards where she was, crouched as if he was going to sit on the wall and then rushed at her with something

in his hand and delivered a blow to her in the region of her waist which caused her injury.

No medical evidence was called but the evidence from the police officer was that he found this lady on the ground, in the gutter, bleeding from the waist. She was unconscious. She was hospitalized and she remained in hospital for fifty-eight days. Her unconsciousness lasted for a very long time because the constable made a number of trips to the hospital before he was able to speak with her. Unfortunately, as I say, no medical evidence was tendered as the doctor had left Jamaica before the preliminary enquiry was held.

In his defence the applicant said that he was in the bar sitting down having a drink on his own. He had got his pay on the day before and he was having a quiet drink when this lady came up to him and wanted him to buy her a drink. He told her that he wasn't looking for female company and thereupon she called him a 'homosexual'. This upset him and so he decided to leave the bar when she tried to take money from his pocket. He pushed away her hand and that was the only physical encounter which he had with her.

The learned trial judge left to the jury the issue of self-defence, although the applicant had said absolutely nothing in his unsworn statement about how this lady could have received her injuries.

In the course of the investigation however, the applicant had gone to the Police Station and when told by a police officer that the complainant had been seriously wounded, had replied that they had ganged upon him. At the trial however, he made no reference to such an event.

After he was convicted, the applicant said he was unduly provoked and asked for leniency. It could well be that the applicant was saying that the complainant's reference to him as a homosexual was grave provocation. In fact the complainant did admit that she had no evidence that the applicant was a homosexual but since he had been rude to her she decided to be rude to him too.