

C.A. CRIMINAL WOUNDING - Plea of guilty - Sentenced to three (3) years imprisonment at hard labour (sentence manifestly excessive). (Counselant charged with machete several times - inflicted two months - very serious injuries). Counselant another (K...)... with whom he had 4 children... maintained his character... no previous conviction.

JAMAICA

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S CRIMINAL APPEAL NO. 83/88

comp ✓

BEFORE: THE HON. MR. JUSTICE CARYE, P.(Ag.)
THE HON. MR. JUSTICE WRIGHT, J.A.
THE HON. MISS JUSTICE MORGAN, J.A.

REGINA vs. GLEN THOMPSON

Application for leave to appeal

Kent Pantry & Brian Sykes for Crown

September 23, 1988

CAREY, P.(Ag.):

In the Resident Magistrate's Court for the parish of Manchester, held in Mandeville on the 19th of May last, this appellant, Glen Thompson, pleaded guilty to a charge of unlawful wounding. He was sentenced to a term of three (3) years imprisonment at hard labour. He now appeals against that sentence on the ground that it is manifestly excessive.

The facts which were presented to the learned Resident Magistrate, shortly stated, were these: On the 27th July last year, about 5:30 in the morning, Joyce Daley, a housewife who lives at Bombay District in Manchester, was walking along the main road on her way home when she saw this appellant approaching her with a machete. She ran; the appellant was chased away by another man.

This lady went to her sister's home and while there, apparently relating her experience to her sister, the appellant again came towards her with a machete, and before she could escape, he chopped her on her left hand, presumably her left arm, she ran off, he chased her and chopped her in her head. She fell to the ground where he chopped her on

the right leg. Finally, he ran off.

She was hospitalised for some two months, which demonstrates the very serious nature of the injuries which were inflicted upon her.

When the appellant was arrested on the following day, upon being cautioned, he observed that it was his baby's mother. One supposes he believed that old common-law adage, viz., "it is in good poynte in law now and then for a man to bete his wife", but he forgot there is one added condition, namely, that he should use a stick no bigger than his thumb. But that notice was not satisfied because he resorted to a machete.

The appellant has no previous conviction; he is 40 years old and he had lived with the victim for some 12 years, and together, they had four children, aged 12, 11, 9 and 8 years, respectively. It was said that he maintained the children.

We note that the learned Resident Magistrate imposed the maximum sentence. Now, although the injuries were manifestly of a very serious nature, the appellant did show contrition by pleading guilty. This was a domestic fracas, the motive for which was not apparent. We think that the learned Resident Magistrate should have discounted the maximum sentence by ^{past} bearing in mind the absence of any/criminal record and the relationship between the parties.

In the circumstances, the Court is disposed to vary that sentence to one of eighteen (18) months imprisonment at hard labour. The order of the Court is that the appeal is allowed and the sentence varied in the manner stated. The sentence will run from the date of his conviction.