

C.A. CRIMINAL LAW —? appeal against the person — Complainant
student at school — appellant — Vice Principal —
No analysis of evidence by learned Magistrate.
Appeal allowed, conviction quashed, sentence set
aside. Conviction not founded on any credible
evidence.

No case referred to

JAMAICA

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IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S CRIMINAL APPEAL NO. 71/88

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

REGINA

VS.

JOHN LAWRENCE

Mr. G. Soutar for the appellant

Miss V. Bennett for the Crown

July 21, 1988

ROWE, P.:

The appellant was at the time of his conviction in the Resident Magistrate's Court, St. Andrew, on the 14th of October, 1987, the Vice-Principal of the Donald Quarrie Secondary School.

The prosecution's allegation is that on the 19th of September, 1986, at about 12 midday, a boy, Errol Williams, was engaged in a fight with a girl at the school because he alleged that the girl had taken away his chair. In this fight the girl's blouse was torn off. The Guidance Counsellor approached them and could not separate them in this fight, by simply calling to them. She had to push herself between them and one or some boys restrained the instant complainant in that fight.

The complainant was then taken to the Principal's office and it is alleged by him that the Vice-principal, the appellant in this case, boxed him in his face, thumped him in his chest and then scratched him on his left elbow, so that he received an injury, viz, a scratch on his left elbow.

The defence was a denial that the Vice-principal had roughed up this boy in the way that he alleged. There was this brawling in the classroom and the Vice-principal intervened and ordered the boy into the Principal's room so that an enquiry could take place.

The Headmaster gave evidence that he was present throughout the enquiry and that the Vice-principal did not strike the boy in any way. The Guidance Counsellor gave evidence that she was present both at the time of the fight and during the enquiry and she did not see the Vice-principal strike the boy in any way. So there were at least three witnesses for the defence, whom the learned Resident Magistrate saw as they gave their evidence. She nevertheless found in a one-line decision:

"Accept that accused hit complainant as alleged to face and chest,"

and did not in any other way comment upon the evidence given by the defence, except to say, that she found that there were ~~discrepancies among the defence~~ witnesses.

In this case a boy of school age engaged himself in a fight in a Secondary School, with someone of the opposite sex. The fight was so strenuous that the girl's blouse was torn off. It was such a fight that in order to have the students separated the Guidance Counsellor had to put herself physically between the boy and the girl. In this fierce fight the boy could have received the injury of which he complained and yet on his word alone the learned Resident Magistrate, without any analysis whatsoever, rejected the evidence of the Principal, the Vice-principal and the Guidance Counsellor of the school. This seems to us to be quite preposterous. ~~This~~ is the kind of boy whose conduct should have been ~~reputated~~ ~~by all~~ reasonable persons. This is the kind of boy who should have been subjected to a very serious disciplinary regime both by the school authorities and his parents.

This Court has absolutely no hesitation in holding that this conviction cannot stand. It is not founded on any credible evidence. The appeal is allowed, the conviction quashed, and the sentence set aside. A verdict of acquittal is entered.