

CA: CRIMINAL LAW - Wounding with intent - Trial - Self defence - Straight
question of fact - no reason to interfere with
conviction or sentence.
Application for leave to appeal refused.
No case referred to JAMAICA ✓ comp

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 50/88

BEFORE: THE HON. MR. JUSTICE CAREY, P. (Ag.)
THE HON. MR. JUSTICE WRIGHT, J.A.
THE HON. MR. JUSTICE GORDON, J.A. (Ag.)

REGINA

v

OSMOND EDWARDS

Applicant was not represented

Mr. G. McBean for the Crown

October 24, 1988

WRIGHT, J.A.:

On the 1st of March, 1988 Osmond Edwards was convicted on an indictment containing two counts for Wounding with Intent at a trial in the Circuit Court for the parish of St. Elizabeth held at Black River before Patterson, J. and a jury. In count 1 the victim was Garfield Morris and in count 2 the victim was Nosbert Powell. Both offences were committed on the 3rd of November, 1987.

The simple facts are that on that day these two gentlemen were in search of goats which had been lost. Coming from different directions, they both came in the region of the applicant's father's property. Powell was the first to see the applicant and his father and when questioned as to why he was there he told them that he was looking for goats. The father is alleged to have told the applicant that he did not want any of them there and he (the applicant) should chop off their heads. Thereupon the applicant chased Powell and chopped him on the right side of his forehead and thereafter as Powell tried to escape he administered two further chops to him. He ceased only when the victim

cried out. After this, Morris turned up from a different direction but did not see the father. The applicant is alleged to have said, "All you deh ya to" and he set out after Morris who ran but unfortunately stumbled and fell. The applicant then went down on him at which time Morris heard the father say, "must chop up anyone of them you see in the place". Thus egged on the applicant administered chops to the hapless victim. Chopped in his head, Morris raised his hand to ward off a second blow and that blow took off two of his fingers. Thereafter, the applicant chopped him in his knee and upon Morris's bawling out for murder he turned and left him.

The defence was presented in an unsworn statement in which the applicant denied the allegations against him and raised self-defence by saying that the two victims and a group of other men came down on him in their property charging him with having stolen their herb and when he protested they attacked him; he swung his machete and Morris got his cut on his knee but he did not explain how the fingers were chopped off nor did he offer any explanation at all for injuries to Powell.

It was a straight question of facts and the learned trial judge presented the relevant aspects of law for the consideration of the jury who rejected the defence, accepted the Crown's case and convicted the applicant on both counts. He was thereafter sentenced to four (4) years imprisonment on each count to run consecutively. We can find no fault in the summing-up which was adequate and fair nor is there any mitigating factor which would induce us to interfere with the sentence. The leave to appeal is refused and the sentence is ordered to run from the date of conviction.