

C.A. CRIMINAL LAW — Unlawful Wounding — Sentence 12 (two) years imprisonment at hard labour — Appellant had no previous conviction for which he received suspended sentence — offence committed while under supervision — offence unprovoked
Counsel for appellant advises Court he cannot pursue the appeal and asks that sentence be allowed to run from date of conviction. JAMAICA
IN THE COURT OF APPEAL

RESIDENT MAGISTRATE COURT OF APPEAL NO. 116/88

An appeal dismissed — ordered sentence runs from date of conviction

BEFORE: THE HON. MR. JUSTICE WRIGHT, J.A.

THE HON. MR. JUSTICE DOWNER, J.A.

THE HON. MR. JUSTICE GORDON, J.A. (Ag.)

REGINA

v

PAUL MCGOWAN

K.D. Knight for Appellant

Vinette Grant for Crown

December 12, 1988

GORDON, J.A. (Ag.):

On the 26th June, 1988 the appellant was convicted on an indictment for the offence of unlawful wounding in the Resident Magistrates' Court for the parish of St. Thomas, held at Yallahs. Sentence was postponed to the 12th July, 1988 pending the report of a probation officer. After receiving the report, the learned Resident Magistrate Mr. D.O. McIntosh, imposed a sentence of imprisonment at hard labour for two years.

From this conviction and sentence the appellant appealed and Mr. Knight at the hearing informed the Court he could not pursue the appeal and asked that the sentence be allowed to run from the date of conviction.

The facts supporting the conviction are these — on the 14th May, 1988 at 3.00 p.m. Mr. George Bryan the complainant left the sea-side at Baileys Bay, Yallahs with a bucket of water on his head. He was followed and verbally abused by the appellant whom he ignored right up to the time he arrived at his home. The appellant then flung a stone hitting the complainant on the right forehead 'behind' the right eye.

The injury caused thereby, bled. Mr. Bryan went to Yallahs Police Station to make a report and was sent to the doctor at Morant Bay. Continuing his violence the appellant followed him on the bus he took threatening to kill him.

The defence to these allegations was a denial.

The learned Resident Magistrate in imposing sentence considered the probation report which showed that the appellant had a previous conviction for which he received a suspended sentence of eighteen months. The report further showed that having been placed on supervision he showed no regard to the order. This offence was committed while under supervision. Coupled with that, the offence was committed in circumstances calculated to terrorise and intimidate the complainant. The assault was unprovoked and was followed by threats.

We appreciate the candour of Mr. Knight in not seeking to challenge the conviction and sentence.

The appeal is dismissed and we order that the sentence run from the date of conviction.