

CA CRIMINAL LAW - Unlawful Wounding - question of fact -
Positions clearly put to jury - no reason to interfere
+ amendment for leave to appeal dismissed.

JAMAICA

No Case referred to

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 236/87

✓ comp

Assault

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

REGINA

VS.

ROHAN BENT

- ✓ Applicant unrepresented
- ✓ Miss Antoinette McKain for Crown

July 11, 1988

ROWE P.:

Rohan Bent was convicted before a jury on the 16th of December, 1987 for unlawful wounding and was sentenced to serve a term of three years imprisonment at hard labour to begin at the expiration of a sentence he was then serving. The conviction arose out of an incident which is alleged to have taken place on the 24th of November, 1986 at Glenmuir Heights in Clarendon.

It appears from the crown's case that the applicant was in a friendly relationship with the sixteen year old daughter of a family in that same area. That the family objected quite strongly to the relationship between the applicant and the young girl and on the morning of the 24th of November the complainant, Mr. Winston Ellis,

and his mother went to the premises of the applicant intending to persuade the young girl to leave the applicant and come home with them. The prosecution's case was that Mr. Ellis had with him a bit of stick and when he got to those premises he wanted to enter the premises in order to see the girl, whereupon the applicant used a machete to inflict a severe injury to his left hand.

The defence was otherwise. The defence was that Mr. Ellis came to the premises along with some other people, threw stones upon the building, smashed up the building, used some implement to open or to force the lock of a door and then put his hand inside the house through a window. He said the complainant was trying to open the door in order to get in so as to attack him, the applicant, and in defence of his property and also apprehended defence of his person he struck the blow which caused the injury to Winston Ellis.

There was this very sharp division as to how the injury was inflicted. Both positions were very clearly put to the jury by the learned trial judge and in the end the jury by their verdict must have accepted that the incident occurred in the way described by the prosecution witness, and they mercifully came in with a verdict of guilty of unlawful wounding and not wounding with intent.

The learned trial judge inflicted the highest of the penalties available - three years at hard labour and we see no reason to disturb the finding.

The application for leave to appeal is refused.