

JAMAICA

Judgement Book

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S CRIMINAL APPEAL NO. 21/89

BEFORE: THE HON. MR. JUSTICE ROWE - PRESIDENT
THE HON. MR. JUSTICE WRIGHT, J.A.
THE HON. MR. JUSTICE GORDON J.A. (AG.)

REGINA

VS.

RUDOLPH SAUNDERS

No Appearance for the Appellant

Miss C. Richards for the Crown

April 26, 1989

ROWE P.:

Rudolph Saunders was convicted in the Resident Magistrate's Court, Clarendon, for unlawful wounding and he was fined \$800.00 or three months hard labour and from his conviction and sentence he has appealed on the basis that the verdict is unreasonable having regard to the evidence. He has not appeared this morning, neither is he represented.

The Court has reviewed the evidence in the case. The appellant, Rudolph Saunders and the virtual complainant, Audley Dobson, were both employed to the Elite Protective Services at Spring Plains in Clarendon, as Security Guards, with the appellant being the Supervisor.

On the 3rd of February, 1988 in the late evening, about 6:30 p.m., the virtual complainant turned up for work and when he did so, he was told by the Supervisor, the appellant, that the owner of the Protective Services had dismissed the virtual complainant and therefore he had no right to be on the premises; he had no right to sleep on the premises; he ought not to report for duty and he should take his things and leave.

This enraged Mr. Dobson and a quarrel ensued between the two men. The point of departure in relation to the accounts given by the virtual complainant and the appellant is as to what was the behaviour of the virtual complainant during the course of the quarrel.

The learned Resident Magistrate accepted on credible evidence that it was the virtual complainant who first drew what is called a 'rambo' knife and attacked the appellant with it. At that time the appellant had his baton. The learned Resident Magistrate was convinced on the evidence that the appellant used his baton to disarm the complainant and that after the complainant was so disarmed the appellant continued to use the baton to inflict a series of blows upon the virtual complainant, at a time when he was on the ground in a defenceless position. The learned Resident Magistrate concluded that in those circumstances the continued retaliation bore no resemblance to the possible harm which could come to the appellant from the earlier attack and that those additional blows to the head, to the face (fracturing a bone), to the thigh and to the waist of the virtual complainant were not done in self-defence.

We entirely agree with those findings of fact and to the inferences drawn therefrom. Consequently we do not think that there is any merit in the appeal which is accordingly dismissed.