

JAMAICA

IN THE COURT OF APPEAL

R. M. CRIMINAL APPEAL NO. 8/90

BEFORE: THE HON. MR. JUSTICE CAREY, J.A.
THE HON. MR. JUSTICE CAMPBELL, J.A.
THE HON. MISS JUSTICE MORGAN, J.A.

REGINA v. SOPHIA THOMAS

Mrs. Margarette Macaulay for appellant

Mr. Samuel Bulgin for the Crown

March 5, 1990

CAREY, J.A.:

This appellant pleaded guilty in the Sutton Street Resident Magistrate's Court for the offence of wounding one Janice Davis and was sentenced to a term of six months imprisonment.

The basis of the charge was a domestic fracas between herself and this young woman in which it is alleged that the appellant used a knife to inflict some serious injuries in the region of her victim's stomach, shoulder, chest, and hip. Those injuries required surgery and the victim was in hospital for some eight (8) days. The learned Resident Magistrate imposed a custodial sentence because, as he stated in his findings, "her manner when she

"spoke showed utter contempt for her victim and the Court. She demonstrated no feelings of sorrow or contriteness. It seem clear that only a sharp, harsh sentence could possibly punish this unrepentant, petulant and irresponsible youngster. The only mitigating factor was her unequivocal plea of Guilty."

Certain factors have come to light, which certainly were not before the learned Resident Magistrate and those tell in her favour. We have had the benefit of a very comprehensive report by Mr. W. Jackson, a Probation Officer, which shows that the appellant is mildly mentally retarded, which might well have explained the reason why she was quite unable to explain herself fully to the learned Resident Magistrate and might also explain the demeanour she displayed in Court to him. We also have before us the fact that she is the mother of a three year old child. We now know that she has spent some two months or more in incarceration either under remand or subsequent to the sentence imposed in the Court below.

We are impressed, as Mr. Jackson stated in his assessment, by the fact that the accused has had a short, sharp, shock because he acknowledges that she is certainly quite able to understand the gravity of the offence which she has committed, and he went on to say that that should act as a deterrent to her committing any future offence of this nature.

Because of this added information, we are minded to alter the sentence which was imposed by the learned Resident Magistrate. It has to be clearly understood that the use of lethal weapons in the course of

domestic brawls is not something the Court will view lightly, nor will the Court be impressed by the fact that it is dealing with someone who has no previous conviction or is a young person. Violence in the society is quite endemic and the court must make every effort it can to inhibit further acts of violence.

We propose then to allow the appeal against sentence, and we will impose such sentence as will allow her to be released on the rising of this Court.