

CA

Maintenance - R.W. Court - Order \$50 per week -
whether order excessive - CA finds " ample evidence
before the judge on which she could have made the order "

APPEAL DISMISSED

JAMAICA

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S MISCELLANEOUS APPEAL #. 1/87

COR: The Hon. Mr. Justice Carey, J.A.
The Hon. Mr. Justice White, J.A.
The Hon. Mr. Justice Downer, J.A. (Ag.)

BETWEEN STANFORD SHAW APPELLANT
AND ADURSAH SHAW

Mr. Sylvester Morris for Husband appellant
[wife not appearing nor represented]

May 21, 1987

CAREY, J.A.:

This is an appeal against an order of the learned Resident Magistrate of St. Mary sitting at Port Maria on the 9th of March, 1987, whereby in maintenance proceedings brought by the wife, she made an order of \$50. per week towards her maintenance.

Mr. Morris complains that the order is excessive. He says that these are two elderly people and the husband no longer lives in the matrimonial home which he has vacated and in which the wife resides, and that, altogether, he is not able to pay \$50. As we pointed out to Mr. Morris, the amount of the order made by the learned Resident Magistrate, was low, almost nominal; \$50. per week in these days hardly goes a long way. There was evidence which plainly the learned Resident Magistrate accepted, that this was a man described as a "big farmer", big, in the sense that he owns six cows. He is a man able, apparently, to give a gift of a cow and a

caid to his wife although in the event, she denied that that was so. The husband lives with another lady who has several children. This is a gentleman who has left a lady with, apparently, no children, for one with many. That is some basis for supposing that he considers himself well able to look after all these persons.

At all events, in so far as the evidence went, there was ample evidence. He was a farmer; he had some property from which he derived rental. The only point raised in the appeal really, is that the parties are from a poor part of the country and this man cannot really pay the order. But there is no basis for saying so. In our view, there was ample evidence before the judge on which she could have made the order. In the circumstances, we see no ground for interfering.

Accordingly, the order is affirmed and the appeal is dismissed.