

JAMAICA

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S MISCELLANEOUS APPEAL NO: 1/88

BEFORE: THE HON. MR. JUSTICE ROWE, President  
THE HON. MR. JUSTICE CAREY, J.A.  
THE HON. MR. JUSTICE DOWNER, J.A.

ROSE WATSON

v

SYFORD STEPHENS

Mr. Michael Clarke for Appellant

Mr. John Moodie "Amicus Curiae"

April 11, 1988

CAREY, J.A.

In the Resident Magistrate's Court for St. Elizabeth held at Black River on the 9th of December, 1987 an affiliation order was made against this appellant adjudging him to be the putative father of a child called "Morlando" born to the complainant on the 6th of February, 1987. The parties in this case live at a place called Middle Quarters in St. Elizabeth, and both parties started a relationship in 1985 according to the complainant. At that time, she was living with her mother and the practice of the appellant was to visit her sometime after 9:00 o'clock in the night and so far as the complainant's evidence went, sexual intercourse took place, certainly until the child was born.

The corroborative evidence was given by the complainant's mother, Norah Watson, who confirmed that the appellant used to visit her daughter, and talked to her in the door-way. She also gave some very significant evidence. She pointed out that during the time the appellant visited her daughter, no one else ever visited her at that time, and when the young woman's pregnancy began to be observable,

he desisted from paying her any visit. In the course of cross-examination, the complainant's mother said that when she spoke to the appellant about her daughter's pregnancy, the appellant said that he heard it was not his.

This morning, Mr. Michael Clarke endeavoured to urge before us that the evidence of corroboration really was non-existent and that the learned Resident Magistrate indulged himself in speculation and therefore erred in making the order he did. On more mature reflection learned counsel did concede, as we think, correctly that the evidence was all one way. The evidence of corroboration was strong. The learned Resident Magistrate was eminently right when he made the following finding and we quote in extenso. He said this:

"If in Middle Quarters, St. Elizabeth a middle aged man turns up night after night on the doorsteps of a woman in her late teens or early 20s, reasons with her and then departs into the night and then close upon his footsteps, as if in hot pursuit, the young woman disappears into the darkness, it would be naive (sic) in the extreme to assume they had reasoned consensus to make their way to the village tea-meeting or to the nightly revival.

Furthermore, if following upon such visits and departures the woman's girth is seen to be engorged with pregnancy and she points her finger to the regular nightly visitor, it would demonstrate on our part total lack of understanding of the way of life and behaviour of some of our citizens and of the intrigue and footworks, as old as civilization, employed by men and women in matters of passion and romance, for anyone to ask where was the opportunity and the inclination.

The declaration made by the applicant that he hears it is not his own, when confronted by the applicant's mother when upon the birth of the child she asks for something for the child, is more than corroborative. Such a declaration is speculative on his part at a time when a complete reputation is the only expected response."

This court cannot improve on that statement by the learned Resident Magistrate. We entirely agree with his findings and observation. Accordingly, the appeal is dismissed and the order of the court below affirmed.