

IN THE COURT OF APPEAL
SAINT LUCIA



Magisterial Criminal Appeal
No. 6 of 1974.

BETWEEN: COLLINS ANTHONY Appellant
 and
 PATRICK AGDOMA Respondent
 CPL. 259

Before: The Honourable the Acting Chief Justice
 The Honourable Mr. Justice St. Bernard
 The Honourable Mr. Justice Peterkin (Ag.)

Mr. K. Foster for Appellant
Mr. P. Husbands for Respondent

1974, July, 16.

JUDGMENT

PETERKIN, J.A. (Acting)

The Appellant was convicted on 2 separate and distinct complaints of inflicting wounds. On one complaint he was charged with unlawfully inflicting wounds on Francis Emanuel, and on the second complaint with unlawfully causing wounds to Francis Thomas.

In short, the facts and circumstances are as follows:-

The Appellant was seen by the Constable on the night of 23rd December, 1972, on the Trinity Church Road in Castries, and he was heard to make use of very obscene language. He was spoken to and asked to behave but he paid no heed to his warning and continued, whereupon he was arrested by the Constable who told him that he was under arrest. He resisted and escaped, and they gave chase - the Constable, along with another Constable.

The Appellant armed himself with a bottle, and he broke that bottle, and in the course of further resisting

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arrest when the Constables caught up with him, he inflicted injuries on both of them.

He was convicted by the Learned Magistrate and sentenced to peremptory imprisonment of 6 months on each of the two complaints.

Learned Counsel in arguing the appeal, has first argued that the cases were wrongfully heard and determined jointly without the consent of the Appellant. The section in the Criminal Code of St. Lucia which deals with this point is section 1078(2) and that reads as follows:-

"Where there are similar separate complaints by one and the same complainant against separate defendants in respect of the same matter the Court may, if it thinks fit, hear and determine them at one and the same time."

It would appear to this Court that the Learned Magistrate had jurisdiction to take these complaints together if he thought fit to do so, i.e., if he thought that there would be no prejudice done to the Appellant. This he has recorded in his reasons.

By way of contrast, I would like to mention the relevant section in the Grenada Criminal Procedure Code which makes it obligatory in the circumstances for the defendant to be informed of his right and to consent to the cases being taken together. I mention this only by way of contrast.

This Court then takes the view there was nothing wrong with the cases being heard and determined together.

Learned Counsel has abandoned the other 2 grounds, namely, ground 2 and ground 3.

On the question of sentence, we have been asked to vary the sentences on the ground that the Appellant is 26 years of age and that he has no previous convictions. Learned Counsel has asked that he be given a chance to pay a fine.

The Court however, takes a rather serious view of the behaviour of this Appellant on the night in question

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and we feel the sort of sentence that should be passed should be such as would act as a deterrent to others who may be similarly minded. We say this particularly because the persons who were wounded were Police Constables, and they were wounded in the course of their duty in effecting an arrest. Merely however, because of the fact that this Appellant is a young man and this is his first offence, the Court proposes to reduce the sentence in each of the complaints to a sentence of imprisonment of 3 months. The conviction is therefore confirmed in both of the complaints and the sentences in both of them varied from 6 months to a term of 3 months imprisonment with hard labour. The sentences will run concurrently, that is to say, at one and the same time.

NEVILLE PETERKIN,
Justice of Appeal (Ag.)

LEWIS, C.J.

I agree.

P. CECIL LEWIS
Chief Justice (Ag.)

ST. BERNARD, J.A.

I agree.

E.L. ST. BERNARD
Justice of Appeal.