

28, 1970

IN THE PRIVY COUNCIL

No. 13 of 1970

O N A P P E A L
FROM THE COURT OF APPEAL FOR JAMAICA

B E T W E E N

DENNIS HALL Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
6 - DEC 1971
25 RUSSELL SQUARE
LONDON W.C.1

T.L. WILSON & CO.,
6/8 Westminster Palace
Gardens,
London, S.W.1.

Solicitors for the
Appellant

CHARLES RUSSELL & CO.,
Hale Court,
21 ~~Stone~~^{Old} Buildings,
Lincoln's Inn,
London, W.C.2.

Solicitors for the
Respondent

(i)

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EXHIBITS

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DOCUMENTS TRANSMITTED
BUT NOT REPRODUCED

In the Resident Magistrate's Court

Notice of Appeal of Defendant,

Daisy Gordon

2nd December 1968

List of Exhibits

IN THE PRIVY COUNCIL

No. 13 of 1970

ON APPEAL
FROM THE COURT OF APPEAL OF JAMAICA

BETWEEN

DENNIS HALL

Appellant

- and -

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

No. 1

In the Resident
Magistrate's
Court

10

INFORMATION No.11338/68

On Saturday the 21st day of September, 1968, Dennis Hall, Daphney Thompson and Daisy Gordon of 31 Hope Town Road with force at Hope Town Road and within the jurisdiction of this Court unlawfully had in their possession Ganja.

No. 1.
Information
No.11338/68
(Undated)

Contrary to Section 7(c) of Chapter 90.

No. 2

No. 2.

INFORMATION No.11339/68

Information
No.11339/68
(Undated)

20

On Saturday the 21st day of September, 1968, one Daisy Gordon of 31 Hope Town Road in the parish of Saint Andrew with force at 31 Hope Town Road and within the jurisdiction of this Court unlawfully had in his possession Ganja.

Contrary to Section 7(c) of Chapter 90.

No. 3

Proceedings

15th November
1968

No. 3

PROCEEDINGS

IN THE RESIDENT MAGISTRATE'S COURT FOR THE PARISH
OF SAINT ANDREW HOLDEN AT HALF WAY TREE ON THE
15TH DAY OF NOVEMBER, 1968, BEFORE HIS HONOUR
MR. C.H.L. RAYMOND, RESIDENT MAGISTRATE FOR THE
SAID PARISH.

INFORMATION NO.11338/68

R E G I N A	}		
VS.		POSSESSION OF GANGA	10
HALL : DENNIS	}		
THOMPSON : DAPHNE	}		
GORDON : DAISY	}		

INFORMATION No.11339/68

R E G I N A	}		
VS.		POSSESSION OF GANGA	
GORDON : DAISY	}		

Mr. E.H. Brown for all Defendants on Information
11338/68. Does not appear on Information
11339/68.

20

Mr. Brown applies for separate trial of
Information 11339/68. Now offers no objection.
Joint trial may proceed.

Prosecution
evidence

No. 4

Leonard
Campbell
Examination

No. 4

LEONARD CAMPBELL

LEONARD CAMPBELL (SWORN):- Detective Sergeant
Matilda's Corner St. Andrew. 21.9.68 5;30 a.m.
armed with a Search Warrant under Dangerous
Drugs Law went to 31 Hope Town Road, St. Andrew
accompanied by Constable Grant and other
policemen. On arrival I went to a two apartment
building. I knocked on a door and called out to
Dennis Hall. I knew this building before and

30

Prosecution
evidence.

No. 4

Leonard
Campbell

Examination
(Contd.)

that the three defendants live there together. A female voice answered and told person to open door. This was done. I entered and saw Daisy Gordon lying on a bed. I told her I had a warrant to search for Ganja and told her to get out of bed. Daisy Gordon was alone in this room. A door opened from this room into another room. I looked into other room and saw Daphne Thompson lying on a bed. I told her to come into Daisy Gordon's room and watch search. She did so and I read Search Warrant. This is it - admitted exhibit 1 and started to search. Under a table in room I saw a blue brief case. In presence of both I opened it and in it I saw twenty four packets wrapped in white paper and twenty one wrapped in brown paper and one large carton wrapped in newspaper. I opened some of the parcels and saw vegetable matter resembling Ganja. I showed it to Defendants and told them it was Ganja. Daisy Gordon said "Me no know anything about it sah". Daphne Thompson said "A the first me see it". I then continued search. I saw a brown grip on floor. I asked whose. Daisy Gordon said "Is my grip is only clothes me have in it". I searched grip and at the bottom I found four white paper packets. I opened them and saw vegetable matter resembling Ganja. I showed it to Daisy Gordon and told her it was Ganja and she said nothing. I took Defendants to other room and in a corner of this room beside the bed I saw a Grace Shopping bag which I opened and saw seven white paper packets, fifteen brown paper packets and six parcels wrapped in newspaper. I opened some of the parcels and saw vegetable matter resembling Ganja, showed it to both Defendants and Daphne Thompson said "Ah fe Shaddow sah is him bring it come here". The accused Dennis Hall is called Shaddow. Daisy Gordon said nothing. A member brought Dennis Hall to the building. I don't know where he was found. I showed him all the parcels found in both rooms and told him that Daphne Thompson said the Ganja belong to him. He made no statement. I arrested all three Defendants for Possession of Ganja. Exclusive of that found in grip - Cautioned nothing said. I also arrested Daisy Gordon for Ganja found in the cardboard. Cautioned nothing said. Took them all the parcels

Prosecution
evidence.

No. 4

Leonard
Campbell
Examination
(Contd.)

of Ganja to Matilda's Corner Police Station where in their presence I made separate sealed parcels and marked them letters of the alphabet 'A' to 'B'. Parcel 'A' contained all the forty five packets and the carton found in the Blue Brief Case. Parcel 'B' contained twenty two packets and six newspaper parcels found in the Grace Shopping Bag. Unmarked parcel contained four white paper packets found in the cardboard grip. On 27/9/68 I took parcels to Government Chemist at Hope and handed them to Mr. Walsh the Analyst. On 11/10/68 I went back and I was handed these two Certificates signed by Mr. N.O. Walsh Government Analyst in my presence. These are the Certificates. Certificate No. C 792/68 admitted exhibit 2. Certificate No. C 795/68 admitted exhibit 3. I also received from N.O. Walsh three sealed parcels. I break of parcel marked 'A' in it I see the twenty four white paper parcels and twenty one brown paper parcels and the newspaper parcel. Admitted exhibit 4. I break off seal of parcel 'B' in it I see the twenty two packets and six newspaper parcels found in the Grace Shopping bag. Admitted exhibit 5. I break seal of unmarked parcel and in it I see the four white paper packets found in the cardboard grip. Admitted exhibit 6.

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Cross-
examination

XXD:- Search Warrant was obtained the day before the raid and at about 5.30 p.m.

LUNCH

30

I charged all Defendants with possession exhibits 4 and 5. (Newspaper parcel from exhibit 4 shown to witness). I do not know why Defendants had contents of this parcel. I entered house through door on eastern side of room to the South. Daisy Gordon was alone in that room and saw no one else in it. One double bed was in the room. Exhibit 4 found in a Blue Brief Case under a table. Exhibit 5 found in a Shopping bag beside the bed. Daphne Thompson was not asleep when I entered. She was in bed with two small babies seven to eight months old. Outer door of Daphne Thompson's room was closed. Don't remember seeing any lock or bolt on door. Can't say if door was locked. This door faces

40

West. Exhibit 5 not found in Daisy Gordon's room. I never checked windows. They were closed. Can't say if they were locked. It was Daisy Gordon who opened door. I kept exhibits in the Storeroom at the Police Station. I keep only key for this room. Saw about four other persons on the premises. Place where I arrested Defendants is in Saint Andrew. I know boundary but Saint Andrew St. Andrew.

Prosecution
Evidence.

No. 4

Leonard
Campbell
Examination
(Contd.)

10 Rexd:- Place is about half mile from University. The nearest adjoining parish to where I saw Defendant is parish of Saint Thomas.

Re-examination

No. 5

GLADSTONE GRANT

No. 5

Gladstone
Grant

Examination

20 GLADSTONE GRANT (SWORN):- Constable Matilda's Corner, St. Andrew. 21/9/68 5.30 p.m. I went to 21 Tavern Drive Saint Andrew along with Detective Sergeant Leonard Campbell who had a Search Warrant. On arrival at the premises Detective Sergeant knocked on door of premises and called "Dennis Hall". A female voice answered and on advice from Detective Sergeant door was opened. We entered. I saw Defendant Daisy Gordon in bed with two small children and Daphne Thompson it was who opened door. Detective Sergeant read Warrant to them and started to search. I saw him find under a table in the room where Daisy Gordon was a blue brief case. He opened it and I saw him count twenty four white paper parcels, twenty one brown ones and a large newspaper parcel. He opened some of the parcels and showed it to both Defendants. I saw vegetable matter resembling Ganja. This is it exhibit 4. In a brown cardboard grip in said room I saw Detective Sergeant Campbell find four white paper parcels. He opened them. I saw vegetable matter resembling Ganja. He showed it to Defendants. This is it exhibit 6. We went to next room and in a corner by the bed I saw a Grace Shopping bag. 40 Sergeant Campbell found in it seven white paper parcels, fifteen brown ones and six newspaper

Prosecution
Evidence

No. 5

Gladstone
Grant

Examination
(Contd.)

Cross-
examination

parcels. These are they exhibit 5. He showed them to both accused. Daphne Thompson "Is fe Shaddow is him carry them yah". Later one accused Dennis Hall who is known as Shaddow was brought to the room by a member of the party. Detective Sergeant Campbell showed him exhibits 4, 5 and 6 and told him what Daphne Thompson had said. He made no statement. They were all arrested.

XXD:- I went to No. 31 Tavern Drive which is to the eastern side of Saint Andrew. I don't know boundary between Saint Andrew and Saint Thomas. Where I went is in Saint Andrew. House has two doors. I saw Daphne Thompson first. She opened door and when we entered she was standing and Daisy Gordon lying on a bed. At least three policemen entered house. About four or five persons in yard. When we entered premises saw some people in a shack. House is a finished house.

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No. 6

Proceedings
15th November
1968

No. 6

PROCEEDINGS

20

CASE

BROWN:-

Re Dennis Hall - No evidence against this Defendant.

2. Inf. No. 11338/68 had Defendants charged with Possession of Ganja.

3. Inf. No. 11339/68 also had for same reason.

4. Exhibit 2 bad Analyst should state resin content etc.

40

5. Discrepancy in Crown's case.

CASE TO ANSWER Adjourned to 20/11/68.

20/11/68

BROWN OF COUNSEL ABSENT.

DENNIS HALL UNSWORN:- I have nothing to say.
I know nothing at all.

Prosecution
Evidence

CASE FOR DENNIS HALL.

No. 6

DAPHNE THOMPSON UNSWORN:- I know nothing at all
about it.

Proceedings

15th November
1968

CASE FOR DAPHNE THOMPSON.

(Contd.)

DAISY GORDON UNSWORN:- I wish to say nothing at
all.

CASE FOR DAISY GORDON.

No. 7

No. 7

Verdict and
Sentences

VERDICT AND SENTENCES

20th November
1968

Verdict:- All Guilty.

Record:- Dennis Hall - Six (6) previous
convictions admitted including one for
Possession of Ganja.

Thompson and Gordon - No Record.

HALL ON SENTENCE - Nothing.

THOMPSON ON SENTENCE - Nothing.

GORDON ON SENTENCE - Nothing.

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20

SENTENCE:-

On Information No. 11338/68- Hall, three (3)
years hard labour.

Thompson, Eighteen
(18) months hard
labour.

Gordon, Eighteen (18)
months hard labour.

Verbal Notice of Appeal by Hall & Thompson.

Prosecution
Evidence

No. 7

Verdict and
Sentences

20th November
1968

(Contd.)

On Information No. 11339/68 - Gordon - Eighteen
(18) months hard
labour concurrently.

No. 8

Grounds of
Appeal

4th December
1968

No. 8

GROUND OF APPEAL

IN THE RESIDENT MAGISTRATE'S COURT FOR THE PARISH
OF SAINT ANDREW HOLDEN AT HALF WAY TREE

REGINA

VS.

DENNIS HALL
DAPHNE THOMPSON
DAISY GORDON

10

FOR

POSSESSION OF GANJA

Take notice that the following inter alia are the
grounds upon which the appellants will crave leave
to apply.

1. That the findings of the learned Resident
Magistrate is unreasonable and cannot be
supported having regard to the evidence adduced.

20

2. That the information grounding the charge
against the appellants is bad or discloses no
offence whatsoever.

3. That the Analyst certificate as tendered in
evidence at the trial of the appellant is bad in
that the said certificate does not state raisin (sic)
constituent found or whether it was found at all,
as is necessary to substantiate the charge of
possession of ganja.

FURTHER THE APPELLANTS crave leave to file supplementary grounds of appeal on receipt of the notes of evidence.

Prosecution Evidence

No. 8

WHEREFORE THE APPELLANTS HUMBLY PRAY:

Grounds of Appeal

1. That the convictions against the appellants be set aside.

4th December 1968

2. That this Honourable court may grant such relief as may seem just.

(Contd.)

DATED this 4th day of December, 1968.

10

E.K. Brown

Filed by E.K. Brown, esq., of 85½ Church Street, Kingston, counsel for and on behalf of the above appellants.

No. 9

In the Court of Appeal

SUPPLEMENTARY GROUNDS OF APPEAL

No. 9

(Filed 20/1/69)

Supplementary Grounds of Appeal

IN THE COURT OF APPEAL OF JAMAICA

20th January 1969

R.M.C.A. 2/69

20

REGINA VS DENNIS HALL
DAPHNE THOMPSON
DAISY GORDON

1. Possession of Ganga

TAKE NOTICE that the following are the Supplementary Grounds of Appeal on which the Appellants will crave leave to rely, inter alia, at the hearing of the Appeal herein:-

1. (a) The Learned Resident Magistrate knew that Counsel appeared in the case.
- (b) The case was part-heard with Counsel

In the Court
of Appeal

No. 9

Supplementary
Grounds of
Appeal

20th January
1969

(Contd.)

having appeared on the first day and
to appear for the completion of the
case.

(c) Having regard to the serious nature of
the charge and the mandatory
consequences it was wrong of the
learned Resident Magistrate to deprive
the Appellant of the final assistance
of Counsel for the sake of a few hours
or even a day.

2. That it was the intention of Counsel to
apply for a visit to the Locus in quo; and
that Counsel did in fact visit the Locus in
quo himself; 10

It is submitted that a visit to the Locus
in quo, may have made all the difference
between the verdict of Guilty and Not
Guilty.

WHEREFORE YOUR APPELLANTS HUMBLY PRAY:-

1. That their convictions and sentences be
set aside. 20
2. That this Honourable Court may grant them
such other and further relief as may be
just.

Dated the 20th day of January, 1969.

(Sgd.) E.K. Brown

Counsel for the Appellants.

FILED BY Mr. E.K. Brown, Barrister-at-Law of
No. 85½ Church Street, Kingston.

No. 10

JUDGMENT

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S CRIMINAL APPEAL NO. 2/69

In the Court
of Appeal

No. 10

Judgment

21st January
1969

B E F O R E : THE HON. MR. JUSTICE WADDINGTON,
PRESIDING
THE HON. MR. JUSTICE SHELLEY
THE HON. MR. JUSTICE FOX

R E G I N A

v.

DENNIS HALL, DAPHNE THOMPSON, DAISY
GORDON

10

Mr. E.K. Brown for the appellants

Mr. C. McCalla for the Crown

21st January, 1969

WADDINGTON, J.A.,

20

This is an appeal against convictions recorded by the learned Resident Magistrate for the parish of St. Andrew on the 20th of November, 1968, in which he convicted the three appellants on Information No. 11338/68 of being unlawfully in possession of ganja. The appellants Thompson and Gordon were each sentenced to eighteen months imprisonment at hard labour, while the appellant Hall was sentenced to three years imprisonment at hard labour. The appellant Daisy Gordon was also convicted on a separate Information No. 11339/68 of being in possession of ganja, and on that Information she was sentenced to eighteen months imprisonment at hard labour, to run concurrently with the sentence on Information No. 11338/68.

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The appellant Gordon subsequently filed Notice of Abandonment of Appeal.

In the Court
of Appeal

No. 10

Judgment

21st January
1969

(Contd.)

The case against the appellants briefly was that on the 21st of September, 1968, at about 5.30 a.m., Detective Sergeant Leonard Campbell, Constable Grant and other policemen went to premises at 31 Hope Town Road, St. Andrew with a Search Warrant under the Dangerous Drugs Law. There was a two apartment building there, and having knocked on the door, they called out to Dennis Hall. Detective Campbell said that he knew the building before and he knew that the three appellants lived there. The door was opened and when they entered Daisy Gordon was seen lying on a bed in one room, and in another room Daphne Thompson was also seen lying on a bed. Daphne Thompson was told to come into the room in which Daisy Gordon was, and that room was searched after the Search Warrant was read to the two appellants. In Gordon's room under a table was found a blue brief case, and when it was opened, twenty-four packets wrapped in white paper and twenty-one parcels wrapped in brown paper were found, and also a large carton wrapped in newspaper. Some of these parcels were opened and in each was seen ganja. When shown to the appellants, Gordon and Thompson, Gordon said: "Me no know anything about it sah," and Thompson said: "A the first me see it."

10

20

The search continued and a brown grip was found on the floor which Gordon admitted was hers. It was searched and in it was found four white paper packets, which when opened was seen to contain ganja. This was shown to Gordon and she was told it was ganja and she said nothing.

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The two appellants Thompson and Gordon were then taken into the other room, and in that room a Grace shopping bag was found in a corner of the room, which when opened was found to contain seven white paper packets, fifteen brown paper packets and six parcels wrapped in newspaper. Some of the parcels were opened and in each was found ganja. This was shown to both appellants and Daphne Thompson said: "A fe Shaddow, sah, is him bring it come here." There was evidence that the appellant Dennis Hall was called 'Shaddow'.

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At this stage another member of the raiding party brought the appellant Dennis Hall to the

building. The parcels which were found in Daphne Thompson's room were then shown to him, and he was told that Daphne Thompson had said that the ganja in those parcels belonged to him, and to this he made no statement.

In the Court
of Appeal

No. 10

Judgment

21st January
1969

(Contd.)

10 At the end of the case for the Crown a submission was made that there was no case for the appellants to answer. The learned Resident Magistrate rejected this submission and the case was adjourned to another day when the appellant Hall in an unsworn statement said he had nothing to say, he knew nothing at all. The appellant Daphne Thompson in an unsworn statement said she knew nothing at all about it, and the appellant Gordon said she wished to say nothing at all.

20 Learned Counsel for the appellants has submitted that the findings of the learned Resident Magistrate was unreasonable and could not be supported having regard to the evidence adduced. Learned Counsel has been through the evidence with the Court, and has directed the Court's attention to several instances of discrepancies between the evidence which was given by Sergeant Campbell and Constable Grant. The Court has considered these discrepancies but has come to the conclusion that there was nothing really material in these discrepancies, and do not consider that they would in any way affect the decision of the learned Resident Magistrate.

30 The chief submission, however, which was made by learned Counsel was that in so far as the appellant Dennis Hall was concerned that it could not be said on the evidence that he was found in possession of ganja. It was submitted that he was not there when the police arrived, and that the Crown had not established any knowledge or possession in him. It was submitted that what Daphne Thompson had said in Hall's absence "Ah fe Shaddow Sah, is him bring it come here" did
40 not amount to evidence against Hall, and that his silence in the circumstances could not fix possession of the ganja in him. In other words, it could not be said that he had adopted what Daphne Thompson had said by reason of his silence.

In the Court
of Appeal

No. 10

Judgment

21st January
1969

(Contd.)

With regard to the appellant Daphne Thompson, it was submitted that all the evidence against her was that she was found lying in bed with two small children and as there was no evidence that the room belonged to her it could not be said therefore that she was in possession of this ganja. It was submitted that mere knowledge that ganja was there was not sufficient to give rise to possession. It was also submitted that although she may have known that the shopping bag was there, that did not necessarily mean that she knew what is contained.

10

Learned Counsel for the Crown submitted that the evidence which had been led by the Crown established that the three defendants had lived in the building together, and therefore that all three defendants were joint occupiers of the building. With regard to Daphne Thompson, he submitted that the evidence established knowledge on her part that the ganja was there, and he cited in support of his submission the case of R. v. Peach, (1960) Criminal Law Review, 134. He submitted that Daphne Thompson by her admission to the police officer had clearly established that she knew that there was ganja in the shopping bag, and that she was at least jointly in possession of it with the other occupier of the room, Dennis Hall.

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With regard to Dennis Hall, learned Counsel submitted that there was evidence of joint occupancy of the entire house, and that when shown the ganja found in the house and told that Daphne Thompson had said that the ganja belonged to him, and he made no statement, that in those circumstances it was reasonable for the learned Resident Magistrate to infer that he was adopting the statement which he was told had been made by Daphne Thompson.

30

Dealing first with Daphne Thompson, the Court is of the view that the evidence against her was at the highest equivocal. The evidence showed that a bag, a shopping bag, was found in a corner of the room, and when this bag was opened and found to contain ganja, she immediately said: "Ah fe Shaddow Sah, is him bring it come here."

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Two inferences could be drawn from that evidence, one being that she knew that a shopping bag was in the room which contained something, the contents of which she did not know until the bag was opened in her presence, and the other that she did know before that the bag contained ganja.

In the Court
of Appeal
No. 10
Judgment
21st January
1969
(Contd.)

10 In these circumstances, the inference favourable to the appellant ought to have been drawn, and therefore it could not be said that it was established beyond a reasonable doubt that Daphne Thompson knew what was in this shopping bag. Furthermore she had immediately disclaimed ownership of the bag. For these reasons we are of the view that the conviction of Daphne Thompson was unsafe and that her appeal should be allowed.

20 With regard to Dennis Hall, the Court is of the view that there was some evidence of joint occupancy of the house, but if the matter had rested on that alone the Court would be of the view that the conviction would be unsafe as that evidence would have been too tenuous on which to have founded a conviction for possession of the ganja found in the house. The important bit of evidence so far as the incrimination of Dennis Hall is concerned, rests on the accusation or statement which Daphne Thompson had made, when the ganja was found in her room - 'Ah fe Shaddow
30 Sah, is him bring it come here.' Dennis Hall was then brought into the room, and this accusation was repeated to him by the police and to this accusation he made no statement. The question arises, whether the silence of Dennis Hall in these circumstances could amount to an adoption by his demeanour of the truth of the statement which Daphne Thompson had made.

40 In this respect it is perhaps helpful to refer to Archbold Criminal Pleading Evidence & Practice, Thirty-Six Edition, paragraph 1125 headed "Accusations made in the presence of accused persons." The learned author says this:

" A statement made in the presence of an accused person, accusing him of a crime,

In the Court
of Appeal

No. 10

Judgment

21st January
1969

(Contd.)

upon an occasion which may be expected reasonably to call for some explanation or denial from him, is not evidence against him of the facts stated, save in so far as he accepts the statement so as to make it in effect his own. If he accepts the statement in part only, then to that extent alone does it become his statement. He may accept the statement by word or conduct, action or demeanour, and it is the function of the jury which tries the case to determine whether his words, action, conduct or demeanour at the time when the statement was made amount to an acceptance of it in whole or in part, "

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and then further down in the paragraph a reference is made to the case of R. v. Norton, (1910) 2 K.B. 496, in which the following passage from the judgment of the Court of Criminal Appeal is quoted:

20

" When the statement is admitted, the jury should be directed that if they come to the conclusion that the prisoner acknowledged the truth of the whole or any part of the facts stated they may take so much of the statement as was acknowledged to be true (but no more) into consideration as evidence in the case generally, not because the statement, standing alone, affords any evidence of the matter contained in it, but solely because of the prisoner's acknowledgement of its truth; but they should also be told that unless they find as a fact that there was such an acknowledgment they ought to disregard the statement altogether."

30

Here it was the function of the learned Resident Magistrate (as a Jury) to say whether or not from the silence of Dennis Hall, in these circumstances, he accepted that as being an acknowledgment by Hall of the truth of the statement which Daphne Thompson had made. It was entirely a matter for the learned Resident Magistrate and it appears from his verdict that he accepted that Dennis Hall had by his silence in the

40

circumstances accepted the truth of Daphne Thompson's statement.

In the Court of Appeal

We cannot say that the learned Resident Magistrate was wrong in so treating Dennis Hall's silence in the matter, and we cannot say therefore that the conviction was wrong. In the circumstances, the Court dismisses the appeal of Dennis Hall.

No. 10
Judgment
21st January 1969
(Contd.)

10 In the final analysis, the appeal of Daphne Thompson is allowed, her conviction quashed, and her sentence set aside. The appeal of Dennis Hall is dismissed.

Sg. G.E. Waddington, J.A.
H.G. Shelley, J.A.
L.B. Fox, J.A.

No. 11

ORDER GRATING SPECIAL LEAVE TO APPEAL IN FORMA PAUPERIS TO HER MAJESTY-IN-COUNCIL

In the Privy Council

No. 11

20 AT THE COURT AT BUCKINGHAM PALACE

The 25th day of February 1970

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

Order granting Special Leave to Appeal in forma pauperis to Her Majesty-in-Council

25th February 1970

Lord President Mr. Secretary Thomas

Lord Beswick Mr. Hoy

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 23rd day of February 1970 in the words following viz.:-

30 "WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council

In the Privy
Council

No. 11

Order granting
Special Leave
to Appeal in
forma pauperis
to Her Majesty-
in-Council

25th February
1970

(Cont.)

of the 18th day of October 1909 there was referred unto this Committee a humble Petition of Dennis Hall in the matter of an Appeal from the Court of Appeal of Jamaica between the Petitioner and Your Majesty Respondent setting forth that the Petitioner prays for special leave to appeal in forma pauperis to Your Majesty in Council from the Judgment of the Court of Appeal of Jamaica dated the 7th April 1969 dismissing the Petitioner's Appeal against his conviction in the Resident Magistrate's Court for the Parish of St. Andrew of being unlawfully in possession of ganja: And humbly praying Your Majesty in Council to grant him special leave to appeal in forma pauperis against the Judgment of the Court of Appeal of Jamaica dated the 7th April 1969 and against his conviction and sentence by the Resident Magistrate's Court for the Parish of St. Andrew and for further or other relief:

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"THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal in forma pauperis against the Judgment of the Court of Appeal of Jamaica dated the 7th April 1969:

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"AND Their Lordships do further report to Your Majesty that the authenticated copy of the Record produced by the Petitioner upon the hearing of the Petition ought to be accepted (subject to any objection that may be taken thereto by the Respondent) as the Record proper to be laid before Your Majesty on the hearing of the Appeal."

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HER MAJESTY having taken the said Report into consideration was pleased by and with the

advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

In the Privy Council

No. 11

Whereof the Governor-General or Officer administering the Government of Jamaica for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

Order granting Special Leave to Appeal in forma pauperis to Her Majesty-in-Council

10

W.G. AGNEW.

25th February 1970

(Contd.)

EXHIBIT 1

Exhibits

SEARCH WARRANT

Exhibit 1

JAMAICA SS.

Search Warrant

To any Lawful Constable of the Parish of St. Andrew

20th September 1968

WHEREAS it appears to me N.A. Powell Esquire, one of Her Majesty's Justices of the Peace in and for the Parish of St. Andrew by the Information and Complaint on oath of Leonard Campbell Det. Sgt. that there is good reason to believe that Dangerous Drugs to wit: Ganja is kept and concealed on the premises of Dennis Hall of 31 Hope Town Road in the Parish of St. Andrew

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THESE ARE THEREFORE in Her Majesty's name, to authorise and command you with proper assistance, to enter the said premises of the said Dennis Hall in the day or night time and there diligently search for the said Dangerous Drugs and if any articles of Dangerous Drugs be found after such search, that you will bring the Dangerous Drugs so found and the body of the said Dennis Hall before me, or some other of Her Majesty's Justices of the Peace for the said Parish of St. Andrew to be disposed of and dealt

30

Exhibits

with according to Law.

Exhibit 1

Search Warrant
20th September
1968

Given under my hand and seal at Hermitage
in the Parish aforesaid, this 20th day of
September one thousand nine hundred and 68

(Contd.)

(Sgd.) N.A. Powell

Justice of the Peace for the
Parish of St. Andrew

Exhibit 2

Certificate,
No. C.792/68

11th October
1968

EXHIBIT 2

CERTIFICATE NO. C.792/68

CERTIFICATE

10

No. C. 792/68

The Dangerous Drugs (Amendment) Law.
1954 Law 28 of 1954.

I, the undersigned, Government Analyst, do
hereby certify that I received on the 27th day of
September 1968, from Det. L. Campbell exhibits
for analysis contained in two sealed envelopes
marked 'A' & 'B' respectively.

The seals were intact on delivery.

Regina vs. Dennis Hall Et Al for Breach of the
Dangerous Drugs Law

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The envelope marked 'A' contained:-

a newspaper parcel with Ganja and forty
five (45) paper packets with Ganja.

The total amount of Ganja was about 2½
ounces in weight.

The envelope marked 'B' contained:-

six (6) newspaper parcels with Ganja, and

twenty two (22) paper packets with Ganja.

The total amount of Ganja was about 10 ounces in weight.

As Witness my hand this 11th day of October, 1968.

At the Government Laboratory, Kingston 6.

(Sgd.) N.O. Walsh
Government Analyst

appointed under the provisions of Section 12 of the Adulteration of Food and Drugs Law.

Exhibits

Exhibit 2

Certificate No. C.792/68

11th October 1968

(Contd.)

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EXHIBIT 3

CERTIFICATE No. C.795/68

CERTIFICATE

No. C.795/68

The Dangerous Drugs (Amendment) Law.
1954 Law 28 of 1954

Exhibit 3

Certificate No. C.795/68

11th October 1968

20

I, the undersigned, Government Analyst, do hereby certify that I received on the 27th day of September, 1968, from Detective Sergeant L. Campbell exhibits for analysis contained in a sealed envelope.

The seals were intact on delivery.

Regina vs. Daisy Gordon for Breach of the Dangerous Drugs Law

The envelope contained four (4) paper packets with Ganja.

The total amount of Ganja was about 40 grains in weight.

Exhibits

Exhibit 3

Certificate
No. C.795/68

11th October
1968

(Contd.)

As witness my hand this 11th day of October, 1968.

At the Government Laboratory, Kingston 6.

(Sgd.) N.O. Walsh

Government Analyst

appointed under the provisions
of Section 12 of the Adulteration
of Food and Drugs Law.

IN THE PRIVY COUNCIL

No. 13 of 1970

O N A P P E A L
FROM THE COURT OF APPEAL FOR JAMAICA

B E T W E E N

DENNIS HALL Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

T.L. WILSON & CO.,
6/8 Westminster Palace
Gardens,
London, S.W.1.

Solicitors for the
Appellant

CHARLES RUSSELL & CO.,
Hale Court,
21 Stone Buildings,
Lincoln's Inn,
London, W.C.2.

Solicitors for the
Respondent