

JAMAICA

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S CRIMINAL APPEAL NO. 51/90

BEFORE: THE HON. MR. JUSTICE CAREY, J.A.
THE HON. MR. JUSTICE WRIGHT, J.A.
THE HON. MR. JUSTICE GORDON, J.A. (Ag.)

REGINA vs.
PETER PLUNKETT
STANFORD BOYD &
PETER ROBINSON

Mr. L. L. Cousins for Plunkett

Mr. B. E. Frankson for Robinson

Mr. A. Pearson for Boyd

Mr. L. Hibbert for the Crown

November 19, 1990

WRIGHT, J.A.:

On Sunday the 19th March, 1989, these three appellants were manning road checks on a road in South Manchester, known as Busso Lane, when at about 8:30 a.m. a motor car driven by a gentleman called "Tan Tan" arrived. In it were one Charlton Gregory and another gentleman, who was picked up on the way. The car was on its way initially to Clarendon, conveying Mr. Gregory. The car was stopped and searched. The occupants had nothing on them but on the back seat of the car was a jacket which Mr. Gregory claimed. It was searched and at first nothing was found but subsequently, in an inside pocket, a small packet of ganja was found. The police said that Mr. Gregory claimed both the jacket and the

ganja. Upon the finding of the ganja by the appellant Robinson, Boyd took over and declared that Gregory was going to prison and then he asked whether Mr. Gregory had any money. Mr. Gregory said he had a hundred dollars Jamaican (J\$100) and Boyd is alleged to have said, "Go away boy you are an idiot and that won't help you". The other two appellants said nothing but they laughed. Boyd insisted that Gregory, who was obviously by his speech a foreigner, had money. Whereupon Boyd asked how could he get hold of that money and Gregory said that the money was left at home. The driver of the car was sent back home for the money while Mr. Gregory and the other passenger were detained. The driver returned conveying a wallet with a fifty pound (£50) note in it. Boyd took possession of the money and then demanded the hundred dollars. This was done in the presence of all three. Thereafter, no prosecution took place and they were sent away. Mr. Gregory lodged a complaint out of which has emerged this charge.

Each appellant has denied any involvement. It has been urged very strongly on behalf of Robinson that he being the least of the three, being only a Special Constable, Plunkett a Corporal and Boyd a Constable, he could do nothing to prevent anything that may have transpired. In any event, it is contended, on his behalf, that he was moving up and down and was not even aware of any impropriety which may have taken place. None of the appellants advanced any evidence which cast any doubt on the evidence which the learned Resident Magistrate accepted from Mr. Gregory and in the event, he found all three guilty of this charge under the Corruption Prevention Act, and sentenced them accordingly. Plunkett was fined \$1,000 or three months; Boyd was sentenced to imprisonment for six months at hard labour because the learned Resident Magistrate, on the evidence, found that he was the

moving figure, and Robinson was fined \$1,000 or three months.

Before us this morning, the appeal of Boyd was withdrawn by Mr. Pearson and in the circumstances, there is nothing to fault the conviction of any of these appellants and accordingly the appeals are dismissed. The convictions and sentences are affirmed. The sentence of Boyd will commence from the 24th September, 1990.