



Neutral Citation Number [2025] CICA (Crim) 10

IN THE CAYMAN ISLANDS COURT OF APPEAL ON APPEAL FROM THE GRAND  
COURT OF THE CAYMAN ISLANDS CRIMINAL DIVISION

CICA (Crim) APPEAL No. 0011 of 2024  
(SCA# 0010 of 2024)  
(SC#00191 of 2022)

BETWEEN

LOVELL FAY MARRIOTT

Applicant

V

HIS MAJESTY THE KING

Respondent

**BEFORE:**           The Rt Hon Sir John Goldring, President  
                  The Hon Sir Richard Field, Justice of Appeal  
                  The Hon Sir Michael Birt, Justice of Appeal

**Appearances:**    Appellant in person

Ms Sarah Lewis of the Office of the Director of Public Prosecutions  
for the Respondent

**Date of Appeal:**   9 May 2025

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Transcript of oral judgment dated 9 May 2025  
Approve for Release 27 November 2025

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**Field JA.**

1.       This is an application by Ms. Lovell Fay Marriot for leave out of time to appeal to this  
*Criminal Appeal 11 of 2024 Lovell Marriott v The King – Transcript of Oral Judgment*

court against her conviction in the Summary Court on the 6th of February 2024 on a charge of resisting arrest and two charges of disorderly conduct, and against the sentence there and then imposed upon her of a conditional discharge and an order to pay costs in the sum of \$100.

2. The chronology of the criminal proceedings against the Applicant begins on the 16th of February 2022, when the Applicant first appeared in the Summary Court charged with five offences arising out of an incident that occurred in George Town on the 14th of February 2022. There were two charges of assaulting a police officer, a charge of resisting arrest and two charges of disorderly conduct.
3. The Applicant was tried summarily by the Honourable Magistrate Philippa McFarlane on the 6th of February 2024 and at trial the Applicant represented herself.
4. The background facts can be briefly stated:
5. At around 8:15 hours on Monday the 14th of February 2022, the Applicant was observed placing pieces of wood and debris including an old door onto the Linford Pearson Highway which was obstructing traffic flow. She was asked to desist by PS Montaque but failed to do so. PS Montaque started removing the items from the roadway, but as fast as he was removing them, the Applicant was putting them back. Eventually, PS Montaque took hold of the Applicant and attempted to place her under arrest. In response, the Applicant walked off in the direction of George Town. Approximately an hour and a half later, the Applicant was observed near the small roundabout close to the Royal Bank of Canada RBC. She was again seen dragging debris into the road such as tree branches and a cardboard box. As a result, traffic was at a standstill. The Applicant was approached by PC Hales and PC Palmer. The Applicant grabbed a piece of white metal pipe and swung it at the officers. In response, the officers disarmed her and placed her under arrest.
6. At the trial, evidence was heard from five police witnesses; PS Montaque, PC Hales, DC Savory, DI Taylor and PC O'Connor.
7. The two charges of assaulting police were dismissed at half time. The Crown, in effect,

offered no evidence.

8. The Applicant gave evidence on her own behalf stating that she was peacefully protesting and did not in any way resist the police's effort to arrest her. She contended that the police acted disproportionately and over aggressively.
9. At the conclusion of the evidence and submissions, the magistrate gave brief reasons for finding the Applicant guilty of the remaining three charges; namely, the charge of resisting arrest and the two charges of disorderly conduct.
10. Sentence followed immediately thereafter, and as already related, the applicant was conditionally discharged for 12 months and ordered to pay costs in the sum of \$100.
11. A formal note entitled "Summary Court Verdict and Reasons for Sentence" was produced by the learned magistrate on the 24th of June 2024. In this impressive document, the magistrate set out in considerable detail the evidence she had heard from each of the witnesses. Her note of the Applicant's evidence records that she testified that she was grabbed by each hand by a police officer, which shook her up, and she fell to the ground saying repeatedly that she was not resisting arrest. She complained that the handcuffs were too tight and the officers then squeezed the cuffs even tighter. She ended her evidence in chief by saying she had been brutalised by the police. Upon being given the opportunity of clarifying her case following her cross examination, the Applicant said that the officer who had squeezed the handcuffs PC Taylor had watched her with "*hatred, jealousy and lust*". The Applicant called no further witnesses.
12. When setting out her findings of fact, the magistrate noted that the case against the Applicant was strong. She went on to observe that the Applicant had failed to challenge the evidence that she had been seen throwing debris onto the road at both Linford Pearson Highway and at the vicinity of the offices at RBC. There was also clear evidence that the Applicant had been spoken to by PS Montaque at the Linford Pearson Highway and asked to stop placing the unwanted items on the roadway and that the Applicant had seen PC Hales and PC Palmer approach her in the vicinity of RBC. In the magistrate's view, the Applicant's picking up of the white metal pipe was not coincidental. On the contrary, the

Applicant picked up the white pipe intending to resist arrest and thereafter failed to comply with the officers' directions for an extended period of time.

13. The magistrate was not persuaded by the Applicant's account that she was assaulted by the police. This evidence, said the magistrate, was either entirely untruthful or at a minimum greatly exaggerated. It was more likely that any injuries sustained by the Applicant were caused by her significant resistance to the police seeking to arrest her.
14. When giving her reasons for passing sentence, the magistrate stated that she imposed the sentence considering the provisions of section 41(1) of the Penal Code and because it would be inexpedient to inflict further punishment on the Applicant, having regard to the overall nature of the offences, the Applicant's lack of relevant antecedents, her limited means and her age and the possibility of a mental health condition.
15. By Notice of Appeal filed on the 26th of February 2024, the Applicant appealed her conviction to the Grand Court on the ground of "*unfair trial*." Leave to appeal out of time was not opposed by the Crown and was granted by the Grand Court. The Applicant filed an Affidavit in support of appeal dated the 15th of May 2024.
16. The subsequent Summary Court Appeal SCA 10 of 2024 was heard by Justice Richards on the 28th of June 2024, who dismissed the appeal for reasons given in a written judgment delivered on the 11th of July 2024.
17. In the Affidavit in support of appeal to the Grand Court, the Applicant referred to an earlier incident in 2017 when she was arrested during a protest and the misdiagnosis of her by Dr. Marc Lockhart. She went on to say that on the 14th of February 2022 at the Scotia Bank building downstairs from the police headquarters in George Town, she was accosted by three police officers who attacked her from behind and forcibly restrained and handcuffed her without explanation. Despite her pleas for medical attention and the loosening of handcuffs, she was taken to and detained at the Fairbanks Detention Centre for three days. She deposed that she suffered injuries to her feet and knee during the altercation which continue to cause her pain and discomfort.

18. The Applicant's ground of appeal to the Grand Court were:
  - i. She was subjected to extreme bail conditions for two years.
  - ii. Her arrest for participating in a protest that violated her human rights.
  - iii. During her trial before the magistrate, she was denied the opportunity to present evidence, including photographs of her injuries and CCTV footage contradicting the allegations against her.
  - iv. The trial was unfair and lacked evidence of resistance to arrest.
  - v. PC Montaque, who was a witness at the trial, was removed from the trial upon the magistrate raising concerns - this ground raising concerns about the integrity of the proceedings.
  
19. Justice Richards dismissed the Applicant's appeal for the following reasons:
  - i. It was evident that the magistrate was mindful of the standard of proof in assessing the evidence of the witnesses, and that the same fair standards should be applied to all witnesses. Having heard and seen all the witnesses, the magistrate's conclusion that the police witnesses were reliable and credible and had given truthful testament was a finding well within the purview of the tribunal of fact and, accordingly, there was no sustainable ground for overturning her findings of fact.
  - ii. There had been no breach of the Applicant's human rights. She had not been arrested for protesting but for throwing garbage onto roadways and blocking the free flow of traffic. The question for the magistrate would be whether there was a sufficiency of evidence to the required standard to establish this fact. While there was no burden on the defendant to prove anything, the magistrate noted that the evidence was unchallenged on this aspect and the Applicant's response was that she had no recollection of this occurring at all.
  - iii. As to the magistrate's decision not to adjourn the trial to allow the Applicant to produce pictures of her injuries and CCTV footage said to contradict the case against the

Applicant, the magistrate had a discretion whether to grant the adjournment sought. In reaching her decision, the magistrate took into account the age of the allegations, the lack of any indication on the case management form or any endorsement on the file that the Applicant intended to adduce evidence of injuries cause, Practice Direction 2015 in relation to trial management in the Summary Court, and the possible limited bearing of the pictures on the triable issue. At the same time, the magistrate had made it abundantly clear to the Applicant that she, the magistrate, would be prepared to hear the applicant's sworn account of what occurred. Given this range of matters considered, there was nothing to suggest that the magistrate fell into error in the exercise of the discretion. Further, there was no evidence as to the existence of CCTV footage. The suggestion by the Applicant that there must have been such footage could not prove that there was, much less, that anyone had obtained such footage. The case had to be considered and determined on the basis of the evidence that was put before the court.

- iv. As to the contention that Police Officer Montaque had been removed from the trial, raising concerns about the integrity of the trial, the magistrate's written judgment recorded that this officer had in fact given evidence in the trial and that the Applicant had twice been offered an opportunity to cross examine him, but had refused to do so. Having considered all the material and the submissions before her, Justice Richards concluded that there was nothing to suggest that the trial process before the magistrate had been unfair. The Applicant had been assisted by the Summary Court as an unrepresented defendant. She had been told by the court that her failure to cross examine the witness, Police Officer Montaque, would amount to tacit acceptance of his evidence. The Applicant had cross examined the witnesses PC Hales and Savory and Taylor. Her case was put to them that there had been no resisting arrest and that they had run up behind her, grabbed her arm and kicked her to the ground. She had chosen to give evidence in her own defence. The Applicant had not established any error on the part of the magistrate and the conduct of the trial and/or the magistrate's reasons and findings expressed in the Summary Court Verdict and Reasons for Sentence document. It followed, held Justice Richards, that the appeal to the Grand

Court failed and must be dismissed.

20. On the 24th of July 2024, the Applicant applied to the Cayman Islands Court of Appeal for leave to appeal against conviction and sentence. In her notice of application for leave to appeal, the Applicant states that her grounds of appeal are "*unfair trial.*"
21. Today the Applicant has been unrepresented and has made submissions to the court. It was pointed out to her that for an appeal to succeed in this court from a conviction in the Summary Court, an error of law on the part of the Summary Court had to be demonstrated.
22. We have listened carefully to what the Applicant had to say to us but our conclusion is that she has failed to identify any arguable grounds of appeal against her conviction or sentence, bearing in mind that on an appeal to this court from the Summary Court, the Appellant must establish an error of law.
23. The findings on the evidence reached by the magistrate were findings that the magistrate was fully entitled to come to for the reasons she gave and her decision not to adjourn the trial to allow the introduction into the evidence of photographs of the Applicant's injuries and the CCTV footage was a fair exercise of the discretion vested in her, which was beyond sustainable challenge.
24. For these reasons, this application for leave to appeal out of time must be, and is, dismissed.