

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL No. 153 of 1973

BEFORE: The Hon. Mr. Justice Edun, presiding
The Hon. Mr. Justice Hercules
The Hon. Mr. Justice Swaby

R. v. DENZIL CROOKS

Mt. P. Harrison for Crown
No appearance on behalf of Applicant.

MAY 1, 1974

HERCULES, J.A. :

On the 22nd of October, 1973, the Applicant herein, having been charged with murder, pleaded guilty to manslaughter by reason of diminished responsibility, in the Hanover Circuit Court. He was sentenced by Wilkie, J., to life imprisonment with psychiatric care. The matter has been referred to the Court by a single judge.

When the matter was called on before the learned judge of first instance, the following exchanges took place:

" Mr. Hamaty: I appear, may it please you m'lord.

I intend to adopt a certain course m'lord, with the concurrence of my learned friend for the Crown,

Mrs. Walcott,

Mrs. Walcott: M'lord, the course my learned friend intends to adopt is predicated on the existence of the medical certificate of Dr. Williams. I don't know if your lordship has a copy.

His Lordship: I have not even got the bundle. Yes,

Mrs. Walcott?

Mrs. Walcott: Since your lordship has not got the bundle, maybe you would like to be seized briefly of the

/ facts:

facts: it is a charge of murder against the accused person. One night, the accused who was living with one Suzette Brown for a period of six months, and during that period he apparently was building a one-room house a couple of chains from where he was living with this woman. On the date of this offence, the woman Suzette Brown and her young son were assisting the accused to carry boards whilst he was building the house, and she thought that her son was working too hard in the sun, so she continued assisting until the sun had set, when she spoke to the accused about the child working too hard. He apparently took objection, slashed at her with his machete. She was badly injured and he slashed at the boy who succumbed to the injury received.

That briefly m'lord is what took place on that day. Subsequently he was declared unfit and you had this certificate.

On that strength we will accept the course which Mr. Hamaty expects to take. May he be pleaded now on the murder? "

After a few more exchanges the applicant was pleaded and pleaded guilty as aforesaid. At the end of the day the learned trial judge in passing sentence stated:

" Due to the medical report, I think it would be in the accused's own interest if proper psychiatric attention is given to him and that would leave the competent authority free when he has recovered, to arrange for his release. The sentence of the court is that he be imprisoned for life with psychiatric care."

The Applicant now appeals against that sentence and we propose to deal with his appeal, although it is merely mentioned on p.1 of the Criminal Form 1 and without any grounds as called for on p.3. We make no point of this since a ground could not elucidate the matter of sentence any further, and it is a non-compliance that can well be waived.

The latest statement of the law in a matter of this nature is to be found at para.2470 of the 37th Edition of Archbold, Criminal

Pleading, Evidence and Practice -

" On an indictment for murder, if the medical evidence shows plainly that a plea of diminished responsibility can properly be accepted, it is perfectly proper to accept a plea of guilty to manslaughter on that ground if such a plea is tendered."

R. v. Maurice George Cox, (1968) 1 Weekly Law Reports, p.308
or (1968) 52 Criminal Appeal Reports, 130.

There was no medical evidence before the learned trial judge. The certificate or report upon which action was taken was not evidence and indeed it does not even form part of the record. The single judge in referring the matter to the Court, has indicated that Dr. Williams should attend and give evidence so as to enable the Court to decide how to deal with the appeal as to sentence.

This court stated in R. v. Valerie Witter, Supreme Court Criminal Appeal 53 of 1973, dated 20th December, 1973 (unreported):

" It appears that it is of vital importance that medical evidence should be taken so that the trial court can be in a position to ascertain what sentence it should impose, and also that this court should be equipped with the necessary material to determine whether in all the circumstances the sentence passed by the learned trial judge was or was not appropriate. "

Dr. Williams has given evidence today. Having heard that evidence and in the light of all the circumstances we are of the view that the sentence passed by the learned trial judge was an appropriate one. The application is accordingly refused.

Before parting with the case we would express the hope that the procedure laid down in Valerie Witter (supra) in dealing with matters of this sort, will at all times in the future be observed by trial judges.
