

In the Grand Court of the Cayman Islands  
Held at George Town on 20th July, 1979  
Before His Lordship, Sir John Summerfield, C.B.E., Q.C.

Cr. Appeal No. 4 of 1979

Marie Ebanks vs. Regina

Mr. Barrow for Petitioner  
Mr. Martin for Respondent

JUDGMENT

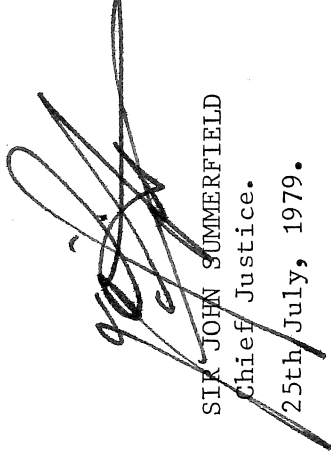
This is an appeal against conviction and sentence for an offence contrary to section 7(5) of the Liquor Licensing Law 1974. The record discloses sufficient evidence to support the learned Magistrate's conclusions and I can see no grounds for disturbing the conviction. The main issue was the time at which the police officers entered the licensed premises and found thereon persons other than the licensee or employees thereof during prohibited hours. While I agree with Mr. Barrow that, where time is the essence of the offence, police officers investigating infringements should rely on independent and reliable timepieces I cannot say that it was wrong for the learned magistrate to base his finding on the evidence before him. The police officers relied on the clock in the bar they had entered. The appellant admitted that this was about five minutes fast and her admission was sufficient to support the findings. In my view there is no merit in the appeal against conviction.

As to sentence it was pointed out that the persons were found on the premises only twenty minutes after permitted hours, namely, at 1220 a.m. on the Sunday morning. Licensing laws in this regard are enforced strictly although the degree to which there has been an infringement should be reflected in the sentence. More important was a point taken with regard to the wording of the licence. The learned Magistrate took the view that the licence was clear and unambiguously worded. With respect, I am unable to share that view. While the Law itself is clear and terminates permitted

hours at midnight on a Saturday, in my view the licence was capable of the construction that permitted hours extended until 1.00 a.m. on Sunday. This could well have misled the licensee and, although it does not excuse this infringement of the letter of the Law, it is a factor which can properly be reflected in the sentence if there was a bona fide belief that permitted hours extended until 1.00 a.m. on a Sunday. Here the licensee had so operated her premises in that belief for some time. She should, however, have taken steps to clarify any ambiguity and it is to be hoped that the Licensing Authority will reword licences so as to remove any cause for misunderstanding. The sentence was a fine of \$200. or six months imprisonment in default.

Bearing these factors in mind I feel that the justice of the case requires that the sentence be reduced. Accordingly, I reduce the fine to \$50. or 14 days imprisonment in default.

The appeal is allowed to that extent but is otherwise dismissed.

  
SIR JOHN SUMMERFIELD  
Chief Justice.  
25th July, 1979.