

ANGUILLA

IN THE COURT OF APPEAL

MAGISTERIAL CRIMINAL APPEAL NO. 6 OF 1992

BETWEEN:

DANIEL ROSENBLATT

Appellant

and

THE COMMISSIONER OF POLICE

Respondent

Before: The Rt. Hon. Sir Vincent Floissac - Chief Justice
The Honourable Dr. Nicholas J.O. Liverpool- Justice of Appeal
The Honourable Mr. Justice Satrohan Singh - Justice of Appeal

Appearances: Mr. I.D. Mitchell & Miss B. Stephenson for the
Appellant
Hon.K.deFreitas (Attorney General), Mr. P. Patterson
and Mr. A. Richardson for the Respondent

1993: May 13;

JUDGMENT

SIR VINCENT FLOISSAC, C.J.

The appellant was charged with the offence of being armed with an offensive weapon (to wit a piece of pipe) with intent to commit a criminal act contrary to section 51(b) of the Small Charges Act (Cap. 75) of the Revised Edition 1961 of the Laws of Anguilla. The offence is alleged to have been committed on the 21st May 1992 at Sea Feathers in the island of Anguilla.

On the 13th October 1992, Magistrate H.D. Blackman tried and convicted the appellant of the offence charged and imposed upon him a fine of \$250.00 to be paid in 14 days and a sentence of imprisonment for a term of 14 days in the event of default in payment of the fine.

It is evident from the grounds of appeal and from the tenor of the arguments of counsel for the appellant that the appellant's complaint is directed principally towards the appellant's classification as a rogue and a vagabond. The classification is

the result of the fact that section 51(b) deems a person to be a rogue and a vagabond if he commits the offence of being armed with an offensive weapon with intent to commit any criminal act. This complaint may be valid as a criticism of section 51(b) but not as a condemnation of a conviction of an offence thereunder.

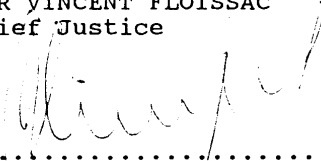
The learned magistrate believed the evidence of Calvin Davis that the appellant emerged from his porch with a piece of pipe and told the virtual complainant that he would burst open his head. This was sufficient evidence from which it could reasonably be inferred that the appellant was armed with an offensive weapon with the intent (aim or object) or for the purpose of committing a criminal act (i.e. an assault) against the virtual complainant.

We agree with counsel for the appellant that it is regrettable that the legislature saw fit to deem a person a rogue and a vagabond merely because he has committed an offence under section 51(b) and notwithstanding circumstances of the offender and the offence. Unfortunately, the court is not concerned with the wisdom or policy of legislation. The court is required to assert an unambiguous law with all its philosophical imperfections.

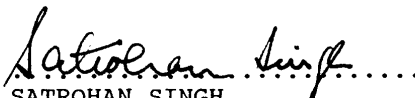
For these reasons, this appeal must be and is hereby dismissed.



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SIR VINCENT FLOISSAC
Chief Justice



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NICHOLAS J.O. LIVERPOOL
Justice of Appeal


SATROHAN SINGH
Justice of Appeal