

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

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ANN MARIE SEELEY, :
Plaintiff :
vs. : CIVIL NO. 58/1981
THE FRUIT BOWL, INC., DAVID :
GOLDBERG, STEVE SESSA, and JOHN :
DOE Severally and Individually, :
Defendants :

STEDMANN HODGE, ESQ.
P. O. Box 9910
St. Thomas, Virgin Islands
(Attorney for Plaintiff)

JAMES L. HYMES, III, ESQ.
40A Norre Gade
St. Thomas, Virgin Islands
(Attorney for Defendants)

MEMORANDUM OPINION AND ORDER
(February 24, 1982)

FEUERZEIG, J.

Plaintiff Ann Marie Seeley has filed a motion for a new trial on the sole issue of damages pursuant to Rule 59 of the Federal Rules of Civil Procedure or, in the alternative, for an additur. Plaintiff states that the court by permitting the plaintiff to be impeached by her conviction for robbery, which is presently being appealed, misled the jury into making an erroneous award and that the amount awarded by the jury was grossly inadequate. The court will deny ~~both of~~ plaintiff's motion..

Rule 609(a) of the Federal Rules of Evidence provides that in a criminal case for impeachment purposes a court may admit evidence of a defendant's conviction if the crime was punishable by imprisonment in excess of one year. If the crime involves dishonesty or false statements, it is automatically inadmissible. Rule 609(e) further provides that the pendency of an appeal does not render the evidence of a conviction inadmissible. The defendants, in this civil case, introduced as Defendants' Exhibit No. 1

a December 23, 1981 judgment and commitment of the plaintiff by the District Court for the offenses of second degree robbery and petit larceny. Clearly, therefore, the admission of plaintiff's conviction in this civil case was permissible.

Furthermore, the court is of the opinion that the jury's verdict was based on the evidence submitted to it and that the instructions submitted to the jury were clear and precise. Accordingly, it is

ORDERED that plaintiff's motion for a new trial or, in the alternative, an additur, is denied.

DATED: February 24, 1982


HENRY L. FEUERZEIG
Judge of the Territorial Court