

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 19/2002

**BEFORE: THE HON. MR JUSTICE PANTON, P.
THE HON. MRS JUSTICE HARRIS, J.A.
THE HON. MR JUSTICE DUKHARAN, J.A.**

WAYNE CAMPBELL v R

Ravil Golding for the appellant

Mrs Suzette Whittingham-Maxwell for the Crown

12 February 2010

ORAL JUDGMENT

PANTON, P.

[1] This appellant Wayne Campbell was convicted of the offence of capital murder on 31 January 2002 and sentenced to suffer death in the manner authorized by law.

[2] The particulars of the offence were that he, on 27 September 2000 in the parish of Saint Catherine, murdered Lorna Baker in the course or furtherance of a robbery. The sentence of death was commuted by the Governor-General on behalf of Her Majesty. This commutation which was done on 12 November 2007 was communicated to the Registrar of the Supreme Court by letter dated 15

November 2007. It was then authorized and commanded that the Commissioner of Corrections was to receive and keep the appellant imprisoned for life.

[3] The matter is before us now for it to be specified as to how long he should serve before becoming eligible for parole.

[4] On 7 May 2007 when this matter came before us we had instructed that it be taken out of the list for psychological evaluation, which had been recommended in the report of Dr Terrence Bernard, to be done and that this evaluation was to be undertaken as a matter of urgency. Notwithstanding the urgency that was indicated then, it took nearly two years for us at the Court of Appeal to receive a psychiatric report, which report is under the hand of Dr Myo Kyaw Oo. Dr Oo, having examined the appellant, found him to be alert and oriented. His speech was fluent, rational and coherent. The doctor observed no feature of thought disorder. The appellant denied having any feelings of depression, suicidal thoughts and any homicidal ideas. Indeed, the doctor found that there were no obvious features of psychotic symptoms. The doctor concluded that the appellant did not show any features of psychosis, that there was no evidence of past history of psychiatric illness reported by the appellant before and at the time of the offence, and although the appellant had mentioned the receipt of a head injury sometime during his earlier life, the doctor said that there was no medical report presented to him to confirm that. However, the appellant was not hospitalized on that occasion and so the doctor concluded that this head injury was not one that could have been presumed to be serious. The

doctor did note however, that the appellant who was born on 16 October 1970 had admitted being a ganja smoker from age 16, and as a ganja smoker he smoked one to six spliffs per day and he smoked even while he was working at a construction site.

[5] We have considered the report and also the factual circumstances which gave rise to the conviction. The circumstances, though quite regular in Jamaica, were awful. The deceased was in the comfort of her home on the night of 27 September 2000. The appellant breached that comfort and robbed and killed her. The deceased suffered death by the slashing of her throat, a most painful way for a retired teacher to die. The appellant then had the nerve to be wearing her wedding ring the very next day while having in his house items such as the deceased's passport that had been removed from her residence.

[6] The psychiatric report indicated quite clearly that the appellant was a regular consumer of ganja and that this was, as the doctor puts it, "consumed willfully with his own judgment." We feel that, in the circumstances of this murder, the appropriate sentence which we now impose is that he is to be imprisoned for life and we specify that he is not to be eligible for parole before serving 30 years. The sentence is to commence from 30 April 2002.