

**JAMAICA****IN THE COURT OF APPEAL****SUPREME COURT CRIMINAL APPEAL Nos. 29 & 39/06**

**BEFORE: THE HON. MR. JUSTICE SMITH, J.A.  
THE HON. MR. JUSTICE COOKE, J.A.  
THE HON. MS. JUSTICE SMITH, J.A. (Ag.)**

**GREGORY CESPEDES  
ROHAN JACKSON V REGINA**

**Mrs. Valerie Neita-Robertson, instructed by Robertson & Co. for the  
applicant Gregory Céspedes**

**Cecil Mitchell for the applicant Rohan Jackson.**

**Ms. Paula Llewellyn Q.C., D.P.P., and Ms. Sasha-Marie Smith for the  
Crown.**

**16<sup>th</sup> June, 2008**

**Oral Judgment****COOKE, J.A.**

1. In the year 2006, both applicants were convicted of murder in the Home Circuit Court in the parish of Kingston, before Ms. Justice Kay Beckford and a jury. Each applicant subsequent to his conviction, by order of the learned trial judge, is not eligible for parole until 30 years shall have elapsed. The Director of Public Prosecutions, Ms. Llewellyn has provided the court with a synopsis of the facts upon which these convictions were based. Essentially these are:

On the 30<sup>th</sup> August, 2004 the Campbell family was at home on Rasta Lane, Pleasant View, Eight Miles, St. Thomas. Mrs. Campbell was there with her son and a number of her grandchildren. Her deceased son, Craig Robinson, was in the kitchen cooking when an explosion was heard and as expected, apprehension gripped the family members. As a defence mechanism the gate was secured and the front door buttressed by some plywood. This, it was hoped, would prevent the murderers from kicking down the gate and bursting down the door. By this time the family members sought refuge under the beds in the room.

2. Both applicants entered the room while a third remained at the entrance to the bedroom. Conversations took place which clearly indicated that the applicants were on a mission to execute and the language that they used, which this court does not intend to repeat, clearly indicated that within their veins there was not even a drop or iota of humanity. The bed was lifted up and one fatal bullet to the right of the neck of Craig Robinson sent him to his grave.

3. The legal issues in this case were common design and identification. In respect of the issue of common design, the judge's summing up cannot be faulted. It is necessary to advert to this since there was a divergence in the evidence as between Shanae Wright, a granddaughter and the grandmother Mrs. Campbell. According to Shanae, it was Jackson who fired the shot, but according to Mrs. Campbell it was Cespedes who fired. In the circumstances, this discrepancy is quite immaterial since whoever fired the shot is irrelevant as both were ensnared by the concept of common design. In respect of the critical issue of identification, the evidence was clear that both men had what the

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witnesses called a thin pantyhose which did not prevent the recognition of the features of both men.

4. Cespedes had been known for some ten years and his familiarity to the Campbells' household cannot be denied. He would cook there. He lived just at the top of the street and his mother would send for the children when the plums were ripening and the mangoes were ready.

5. In respect of Jackson, he was known by both Shanae and her grandmother. He was particularly known by the grandmother from Shooters Hill from he was a little boy growing up.

6. In regard to lighting, there was adequate light. Light came from a street light and there was also light inside the house which was being used for the cooking exercise. In respect of the directions on identification, the learned trial judge cannot be faulted. She was at pains in repeatedly pointing out all the weaknesses, which she was obliged to do. She gave adequate directions in respect of the young Shanae Wright, who was at the time of the giving of her evidence, nine years old.

7. It is therefore not surprising that neither Counsel who appeared in respect of each applicant, with admirable candour, did confess that there was really nothing to argue. In regard to this view, this court is in total agreement.

8. It is only left to be said therefore, that the applications for leave to appeal are refused and the sentences will commence on 13<sup>th</sup> May, 2006.