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JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO: 163/05

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

JERMAINE DAVY V R

Mr. Leroy Equiano for the appellant

**Mrs. Caroline Hay, Senior Deputy Director of Public Prosecutions (Ag.)
& Ms. Dahlia Findlay, Crown Counsel (Ag.) for the Crown**

23rd March 2009

ORAL JUDGMENT

PANTON, P.

1. The appellant Mr. Jermaine Davy pleaded guilty to the offence of manslaughter before Mr. Justice Daye in the Manchester Circuit Court on the 11th day of November 2005. He was sentenced to eighteen (18) years imprisonment at hard labour. He applied for leave to appeal and a single judge of the Court of Appeal on the 5th day of March 2007 granted him leave on the basis that it was felt that it was arguable that in the circumstances the term of eighteen (18) years may be regarded as manifestly excessive.

2. Mr. Equiano, in his usual efficient style filed skeleton arguments to support, he feels, the view expressed by the single judge and in his conclusion

he said that there are no aggravating factors that would justify a sentence outside of the range as illustrated. The mitigating factors if weighed in favour of the appellant would help to indicate that the sentence of eighteen (18) years imprisonment is manifestly excessive. He asked that the appeal be allowed and that the sentence be made to reflect the normal and appropriate sentence of the court. The range to which Mr. Equiano referred in his skeleton arguments indicates somewhere in the nature of twelve (12) years imprisonment. He was making reference to three cases in the Home Circuit Court. During his presentation, we reminded Mr. Equiano that the Court of Appeal does not pattern the Supreme Court of Jamaica.

3. The circumstances here are that the appellant was requested by men in his district while they were at a dance, to shoot his uncle to death. He protested, saying he could not do it. These same men then told him, to use the words of Crown Counsel at the hearing, "to hold down his uncle." He obliged and thereafter the men proceeded to stab his uncle several times. After this stabbing, which resulted in the death of his uncle, Rayan Williams, the appellant calmly returned to the dance to enjoy himself. The next morning he got the report of the death. It strikes us as being very callous, to say the least. The appellant has no basis to challenge this sentence of eighteen (18) years imprisonment. We therefore dismiss the appeal and order that sentence is to run from 10th of February 2006.