

JAMAICA

IN THE COURT OF APPEAL

**BEFORE: THE HON MISS JUSTICE P WILLIAMS, JA
THE HON MISS JUSTICE EDWARDS, JA
THE HON MISS JUSTICE SIMMONS, JA**

SUPREME COURT CRIMINAL APPEAL NO 16/2016

APPLICATION NO COA2024APP00058

HOGGARTH DILLON v R

Leroy Equiano for applicant Dillon

Andre Wedderburn and Ms Bryan for the Crown

13 March 2024

Endorsement read by Edwards JA

[1] In this matter, counsel for the applicant properly conceded that there were no arguable grounds on which the conviction, in this case, could be successfully challenged. In respect of the challenge to sentence, the learned judge, in sentencing the applicant, took account of all relevant factors and expressly referred, for her consideration, to the totality principle in sentencing and the options available to her, in the light of that principle. We found this to be a case which can be considered as falling within the category of exceptional cases, as referred to in **Kirk Mitchell v R** [2011] JMCA Crim 1. Accordingly, the decision of the court is that:

1. The application for leave to appeal conviction is refused.
2. The appeal against sentence is granted in part.
3. The sentence imposed on count 10 is affirmed.
4. The sentences imposed on counts 1 – 9 are set aside. Substituted therefor are sentences of 12 years and three months on each count to take account of one year and nine months for the time spent on pre-trial remand and

one year for the breach of the appellant's constitutional right to have his appeal heard within a reasonable time.

5. The sentences on counts 1 – 9 are to run concurrently and the sentence on count 10 is to run consecutively to counts 1 – 9.
6. The sentences are reckoned to commence on 5 February 2016, the date on which they were imposed.