

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 116 of 1986

BEFORE: THE HON. MR. JUSTICE ROWE, P.
THE HON. MR. JUSTICE CAREY, J.A.
THE HON. MR. JUSTICE DOWNER, J.A.

RANDOLPH DIXON

v

REGINA

Mr. John Moodie for the Crown

April 11, 1988

CAREY, J.A.

In the High Court Division of the Gun Court on the 9th of December, 1986, this applicant was convicted on an indictment which charged him for illegal possession of a firearm and there were two counts of robbery with aggravation. In respect of these convictions, he was sentenced to concurrent terms of six years and nine years imprisonment at hard labour in respect of each of the counts charging robbery with aggravation. He now applies for leave to appeal against these convictions. The facts are comparatively straightforward.

On the 13th of January, 1986, early in the morning about 2:40 a.m., Princess Smith was in a vehicle which broke down in Waterford. While she and her companions were engaged in repairing the car, suddenly two men armed with firearms appeared on the scene and robbed herself and one of her companions of bangles, rings, chains - jewellery to a value of \$25,000.00. The incident took place under a street light, and therefore, the victim was properly able to observe the features of her assailant. Later that day, round about 2:30 p.m., while this young lady was still in the area of Waterford,

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she saw the applicant whom she recognized as one of her assailants. Apparently, he too observed her and he made off in the far distance. She attended at the Waterford Police Station and there, she saw this applicant. So this is a case where the victim carried out her own investigations and identified her assailant to the police.

The defence was a denial of the charge.

The learned trial judge, in our view, considered the relevant issue of identification and he was satisfied as we are, that the evidence fulfilled the test of cogency which is ordained in the case of Whyllie 14 J.L.R. 35. He said this at p. 25:

"I accept her evidence on the identification. Of course, the accused said he wasn't there, he didn't know about it; he said he had gone to the police station on another mission when he was held, but I am satisfied that he was one of those that held up and robbed both Princess Smith and Sandra Smith, and as such I find him guilty."

We have found no reason which would induce us to interfere with the verdict of the learned trial judge which, in our view, was eminently warranted on the facts.

The application for leave to appeal is accordingly refused and the Court orders sentence to commence on the date of his conviction.