

JAMAICA

IN THE COURT OF APPEAL

**BEFORE: THE HON MR JUSTICE F WILLIAMS JA
THE HON MRS JUSTICE FOSTER-PUSEY JA
THE HON MR JUSTICE BROWN JA**

SUPREME COURT CRIMINAL APPEAL NO COA2021CR00001

Mrs Jacqueline Cummings for the applicant

**Ms Claudette Thompson, Mrs Nickeisha Young Shand and Kemar Setal for
the Crown**

MACHELL GOULBOURNE v R

25 and 26 September 2023

Endorsement read by Foster-Pusey JA

[1] On 20 July 2020, the applicant was convicted of one count of illegal possession of firearm and two counts of robbery with aggravation. He was sentenced on 18 December 2020 to 16 years and seven months' imprisonment at hard labour in respect of each count, to run concurrently and to commence at the expiration of the sentence he was then serving. On 8 March 2022, the applicant was refused leave to appeal by a single judge of appeal on the basis that there was nothing in the transcript of the proceedings to support his proposed grounds of appeal.

[2] Counsel for the applicant informed the court that she explained to the applicant that she could not identify any credible grounds to argue challenging the conviction. We concur with the decision of the single judge and accept the position of counsel. The convictions for one count of illegal possession of firearm and two counts of robbery with aggravation are supported by the evidence, and the proposed grounds of appeal have no prospects of succeeding.

[3] Counsel for the applicant, however, invited the court to order that the applicant's sentences for the offences related to this application, run concurrently with sentences imposed on 2 December 2020, that he was already serving for previous convictions, and not consecutively as ordered by the learned judge. In our view, the learned judge was empowered, pursuant to section 14 of the Criminal Justice (Administration) Act, to exercise his discretion to rule that the sentences for the convictions that are the subject of this application run consecutively to sentences that the applicant was serving for previous convictions.

[4] In addition, the sentences of 16 years and seven months' imprisonment imposed respectively for all three counts are not manifestly excessive. The court orders as follows:

1. The application for leave to appeal convictions and sentences is refused.
2. The sentences imposed are to commence at the expiration of the eight-year sentence imposed on the applicant on 2 December 2020 for previous convictions.