

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NOS. 77 & 78/01

**BEFORE: THE HON. MR. JUSTICE DOWNER, J.A.
THE HON. MR. JUSTICE BINGHAM, J.A.
THE HON. MR. JUSTICE PANTON, J.A.**

**CARLOS HAMILTON
JASON LEWIS v R**

Applicants unrepresented

**Mrs. Georgianna Fraser, Asst. Director of Public Prosecutions (Ag.) for the
Crown**

March 24, 2003

ORAL JUDGMENT

PANTON, J.A.

1. The applicants were tried in the Home Circuit Court, Kingston, before Reckord, J. and a jury for the offence of murder, the particulars being that they on February 4, 1998, in the parish of Saint Andrew, murdered Saleem Hines. The trial commenced on March 26, 2001, and verdicts of guilty were returned by the jury on April 2, 2001. The learned judge after receiving evidence of their antecedents, and pleas in mitigation by their counsel, sentenced each applicant to imprisonment for

life with a specification that each should serve twenty-five years before being eligible for parole.

2. A single judge of this court refused leave to appeal on the basis that the evidence led by the prosecution supports the verdicts, and the learned trial judge had accurately and adequately dealt with the issues of self-defence and provocation.

3. Both applicants indicated on the "Criminal Form 1" that they did not wish to be assigned legal aid by the Court of Appeal. However, at the hearing before us today they were unrepresented by counsel.

4. We have perused the transcript of the evidence and the summation of the learned trial judge, and have seen nothing that would warrant the quashing of the convictions or the setting aside or variation of the sentences. There were two witnesses as to the circumstances of the murder, and the applicants were well-known to these witnesses as they all lived in the same community. The witnesses were the mother and thirteen year old brother of the deceased. In the case of the applicants, they lived in the same yard.

5. The facts accepted by the jury were that the applicants used machetes in a joint attack on the deceased who was unarmed. The attack took place at about 6.15 a.m. in a gutter near a pathway at

Cottage Hill, Gordon Town. Death was due to multiple sharp force injuries, which numbered no less than twelve, and were inflicted on vital parts of the body such as the neck, liver and lung. The jury clearly rejected the statement of the applicant Hamilton that he was the only person involved in the incident with the deceased. They also rejected the evidence of the applicant Lewis that he was not present at the scene.

6. The learned trial judge gave full directions on every relevant aspect of the facts and the law. There is no merit in any of the grounds filed by the applicants. The applications for leave to appeal are refused, and the sentences are to commence as of July 2, 2001.