

JAMAICA

IN THE COURT OF APPEAL

**BEFORE: THE HON MISS JUSTICE P WILLIAMS JA
THE HON MRS JUSTICE FOSTER-PUSEY JA
THE HON MISS JUSTICE SIMMONS JA**

SUPREME COURT CRIMINAL APPEAL NO 41/2020

KENNARD MCKANS v R

Ms Jacqueline Cummings for the applicant

Ms Ashtelle Steele and Ms Sharelle Smith for the Crown

1 May 2023

Endorsement read by Foster-Pusey JA

[1] No useful purpose would have been served in the holding of an identification parade for Constable Biggs to identify the applicant whom he knew for several years before the incident. Insofar as Constable Dale Morris' evidence was concerned, it was a matter for the learned judge to assess it and warn herself appropriately in the circumstances where the identification was not a fleeting glance. This the learned judge did as required.

[2] Although the applicant refers to glaring inconsistencies the Crown's case, the applicant has not brought any to our attention and we have not identified any. There is nothing to point to any failure by the learned judge to address inconsistencies and discrepancies. The learned judge identified omissions that existed in the Crown's evidence, addressed them, and found that they did not affect the overall credibility of the witnesses.

[3] In arriving at the sentences imposed the learned judge clearly demonstrated an appreciation of the principles of sentencing and followed the recommended guidelines in arriving at sentences which we find are not manifestly excessive.

Order

- (1) The application for leave to appeal conviction and sentence is refused.
- (2) The sentences are reckoned to have commenced on 3 July 2020, the date when they were imposed.