

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO: 140/07

**BEFORE: THE HON. MR. JUSTICE PANTON P.
THE HON. MR. JUSTICE HARRISON, J.A.
THE HON. MR. JUSTICE MORRISON, J.A.**

FITZROY MORTGAGE v R

Applicant unrepresented

**Miss Paula Llewellyn, Q.C., Director of Public Prosecutions
& Ms Sasha-Marie Smith for the Crown**

26th January 2009

ORAL JUDGMENT

PANTON, P.

1. Mr. Fitzroy Mortgage was convicted on the 13th November 2007 for the offence of wounding with intent in the Westmoreland Circuit Court presided over by Mr. Justice Hibbert. He was sentenced to 10 years imprisonment.
2. The applicant was refused leave to appeal by the single judge. The circumstances therein indicate that the complainant Mr. Calvin Kessnor, according to the Particulars of Offence, was wounded by Mr. Mortgage on the 27th February 2006 with intent to do him grievous bodily harm. Sometime during the morning, he approached the complainant and made an enquiry as to the whereabouts of his bicycle. The complainant indicated that he had no

knowledge of the whereabouts of this bicycle. Later in the night while the complainant was in a shop, according to the transcript, rolling a splif, the applicant proceeded to inflict several injuries on him with a knife. These injuries were in the region of the chest and the leg. They were serious injuries which required hospitalization for four weeks.

4. The learned judge was very careful in his summation and the jury, indeed, took three minutes to return the verdict of guilty. The evidence was clear, so there is good reason, for the applicant not to have bothered the court in relation to this conviction. He had a previous conviction for illegal possession of firearm for which he had been sentenced to a mere three years imprisonment and at the time of this conviction he was serving that term.

5. We, considering all the circumstances, do not see anything to suggest that there is any question of this sentence being manifestly excessive. That being so, the application for leave to appeal against sentence is refused and the sentence is to run from the 13th February 2008.