

**JAMAICA**

**IN THE COURT OF APPEAL**

**SUPREME COURT CRIMINAL APPEAL NOS 139 & 142/2007**

**BEFORE:     THE HON. MR JUSTICE PANTON, P  
                 THE HON. MRS JUSTICE HARRIS, JA  
                 THE HON. MR JUSTICE BROOKS, JA (Ag)**

**ANDREW MURRAY  
DELVIN PHILLIPS v R**

**Terrence Ballantyne instructed by Richard Bonner & Associates for the  
applicant Murray**

**Applicant Phillips unrepresented**

**Miss Maxine Jackson for the Crown**

**19 April 2010**

**ORAL JUDGMENT**

**PANTON, P**

[1] The two applicants Mr Andrew Murray and Mr Delvin Phillips, pleaded guilty to the charge of murder in that they on 14 June 2007 in the parish of Westmoreland murdered Petal Murray.

[2] The learned trial judge, Mr Justice Hibbert, after hearing the facts and their antecedents imposed mandatory sentences of life imprisonment. In the case of the applicant Murray, it was specified that

he was not to be eligible for parole until he has served 30 years. In the case of Phillips, the specification is that he is not to be eligible for parole until he has served 20 years.

[3] The facts are rather gruesome, in that, the deceased was the sister of the applicant Murray and the applicants and others planned her death. They waited for her at her home at Waterworks, Westmoreland on the night in question. The applicant Murray had a crowbar, a knife and a hammer. The crowbar was used to hit the deceased in the back of her head. She tried to escape her fate but the applicant Murray held her and proceeded to cut her throat with a knife. She was then placed in the trunk of her own car. The car was driven to an area called Carawina District where the applicant Phillips cut her throat again. This was done because she was found to have been still breathing. Her body was then put under a tree, covered with bushes and the car was set ablaze and left burning there. The applicants also burnt some of their clothes that they had been wearing at the time. Eventually, they were arrested and charged. The applicant Murray, when cautioned said, "Officer, a mi kill her, because she robbed out our right". This was in relation to some family property.

[4] In the case of the applicant Phillips, under caution, he said, that he had been instructed by Andrew Murray to kill her.

[5] The learned trial judge took all the circumstances that were placed before him into consideration and after he had heard sufficient lengthy submissions by the learned attorneys on the principles of sentencing, he imposed the sentences which were mentioned earlier.

[6] Mr Ballantyne has today indicated that he sees no ground on which he can successfully advance any arguments as to the sentence in relation to the applicant Murray, being manifestly excessive. We note that in both cases, the single judge of appeal who reviewed this matter had refused leave to appeal against sentence. We are in full agreement with the single judge and also with Mr Ballantyne in the position that he has adopted. This was a most barbaric and gruesome act on the part of these two applicants. Indeed, it may well be said that they are quite fortunate to have received only 30 years and 20 years respectively so far as the specification is concerned; particularly when it is considered that in the case of the applicant Murray, the deceased was his sister.

[6] The applications are refused and the sentences are to commence from 25 January 2008.