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NOTICE TO PARTIES OF THE COURT'S
MEMORANDUM OF REASONS FOR DECISION

SUPREME COURT CRIMINAL APPEAL NO COA2021CR00049

SHAWN PENNANT v R

TAKE NOTICE that this matter was heard by the Hon Miss Justice Edwards JA, the Hon Mrs Justice Dunbar-Green JA, and the Hon Mrs Justice G Fraser JA (Ag) on 9 and 13 October 2023, with Mr Cecil J Mitchell for the applicant and Ms Alice-Ann Gabbidon for the Crown.

TAKE FURTHER NOTICE that the court's memorandum of reasons, as delivered orally in open court by the Hon Mrs Justice Dunbar Green JA, is as follows:

[1]   Upon this application coming on for hearing, counsel for the applicant, Mr Mitchell, frankly admitted that having perused the record, he could advance no ground for a successful appeal as to conviction.

[2]   We agree with counsel's position. The issues in this case are identification and credibility, which the learned trial judge adequately dealt with.

[3]   As it pertains to the sentences, counsel also frankly admitted that the sentences were not manifestly excessive, and were well within the range of sentences for these offences. He also admitted that the learned trial judge had taken into account the relevant aggravating and mitigating factors. He, nevertheless, argued that it was not necessary for the learned trial judge to have applied a higher starting point in considering the sentences in both counts. He maintained that had she not done so, the applicant would have benefitted from lower sentences.

[4] Counsel for the Crown, Ms Gabbidon, submitted that the learned trial judge dealt with each offence independently in arriving at the sentence on each count, and applied an independent mechanism with respect to the factors she considered in each set of circumstances. She also maintained that even if the learned trial judge had not moved the starting point, she would have, of necessity, considered those same factors in the assessment of the aggravating and mitigating factors. Ultimately the sentences would have been the same.

[5] With that, we agree. In the circumstances, the sentences imposed by the learned trial judge were not manifestly excessive. Therefore, we order that:

1. The application for leave to appeal convictions and sentences is refused.
2. The conviction and sentences are affirmed.
3. The sentences are reckoned to have commenced on 10 May 2021, the date on which they were imposed.