

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 189/65

BEFORE: The Hon. Mr. Justice Henriques, Presiding  
The Hon. Mr. Justice Moody  
The Hon. Mr. Justice Eccleston (Actg.)

R. vs. ARTHUR RHOOMS

Mr. H. Small for the applicant  
Mr. F. Phipps for the Crown

APPLICATION FOR LEAVE TO APPEAL

7th June, 1966

HENRIQUES, J.A.,

This is an application for leave to appeal in respect of a conviction for murder which took place at the Clarendon Circuit Court on the 18th of November last year, in which the applicant was sentenced to death.

On the 22nd of November, the applicant sought leave to appeal in respect of sentence only. This is rather unfortunate, in view of the fact that from certain particulars given in the body of his application, the applicant raised matters which affect his conviction.

According to the provisions of section 15(1) of Law 15 of the Judicature (Appellate Jurisdiction) Law, 1962 -

" Where a person convicted desires to appeal under this Part to the Court or to obtain the leave of the Court to appeal, he shall give notice of appeal or notice of his application for leave to appeal in such manner as may be directed by rules of court within fourteen days of the date of conviction."

Mr. Small who appears on behalf of the applicant has drawn our attention to these provisions, and has sought the leave of the Court to extend the time during which the applicant should  
/have appealed....

have appealed, so that he will now be able to proceed to seek leave to appeal against conviction. The Court, however, has drawn to the attention of Counsel the clear and precise terms of subsection 3 of section 15 of Law 15 of 1962. They are to the following effect:-

" Except in the case of a conviction involving sentence of death, the time within which notice of appeal or notice of an application for leave to appeal may be given, may be extended at any time by the Court."

It would seem, therefore, Counsel's application in this case is caught by the provisions of subsection 3, and the Court has no power in such a case to extend time in the particular instance.

It might be of interest to observe that in construing a similar section in the Court of Criminal Appeal Act of 1907, in England, the Court in the case of R. v. Twynham, 15 C.A.R. at page 39, had this to say in its judgment:-

" It follows, therefore, that this Court has power to extend the time within which notice of appeal or notice of application for leave to appeal may be given, except in the case of a conviction involving sentence of death; and it equally follows that in the case of a conviction of murder and a sentence to death this Court has no power to extend the time. There is a very good reason for the Legislature making this provision, because the mere giving of a notice of appeal or a notice of application for leave to appeal against a conviction of murder or high treason, has the effect of postponing the date of the execution. Once that notice has been given, the execution cannot take place until a certain time after the hearing of the appeal. If it were possible to extend the time, it would be open to a murderer, having failed in one appeal, to give notice asking for an extension of time in order to bring some other matter before the Court, or not give the notice until the last moment, in order to provide for a further extension of time....

" of time. Consequently, the Legislature deliberately declared that an appeal from a conviction involving a sentence of death must be made within the prescribed time. Therefore, this Court has no jurisdiction to extend the time for appealing or applying for leave to appeal against such a conviction."

This Court has in the circumstances no jurisdiction to entertain the application which has been made to it, and the application is therefore refused.