

C.A. CRIMINAL LAW - Trial - Larceny in the dwelling - Evidence -  
Summing up - Issues clearly dealt with - Sentence  
Application for leave to appeal refused.

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 58/88

BEFORE: THE HON. MR. JUSTICE CAREY, P. (Ag.)  
THE HON. MR. JUSTICE DOWNER, J.A.  
THE HON. MISS JUSTICE MORGAN, J.A.

R. Vs. CECIL REID

Application for leave to appeal

Miss Yvette Sibble for the Crown

November 7, 1988

CAREY, P. (Ag.) :

In the Home Circuit Court on the 10th of March, before Walker, J., and a jury, the applicant was convicted for the offence of larceny in the dwelling and sentenced to a term of 10 years imprisonment at hard labour. He now applies for leave to appeal against that conviction and sentence.

Mr. & Mrs. Reid lived at Rockhampton Drive in St. Andrew. According to the prosecution's version of this rather unusual case, Mrs. Reid testified that early in the morning she noticed the figure of a man at the doorway of her bedroom. At that time she was under the impression that it was her husband who, having left for work earlier in the morning, had just returned. She was quickly to be disabused of that because when she recognized or was able to make out the features of the person; it was not her husband. That person a man told her not to make an alarm. He told her that he was desperate, he wanted money; She got her purse and handed over to him some \$85.00. He was wholly dissatisfied by

that "drop in the bucket", so to speak, and demanded that she produce more money. She noticed that he was armed with a knife and he threatened that he intended to keep her as a ransom for additional money; she was eventually trussed up by this intruder. While he was engaged in securing her to a chair the helper arrived. He let the helper into the house and she was also trussed up similarly as her employer. The man having completed that activity, began to search for more funds; he searched in the husband's trousers pockets; he searched the house, he searched the drawers, he went all over the house trying to find money. Thereafter, the husband came into the room and he was marched into the room and also tied up. Another helper arrived but she made an alarm which precipitated the departure of the intruder.

We should point out that, the parties in the house were subject to a rather terrifying ordeal, because Mr. & Mrs. Reid had a one-year old daughter. At one time in the proceedings, at the time when the husband arrived home, he observed that the applicant was holding a knife at his daughter's throat. As we have said, when the alarm was given, and this man ran, the husband chased after him and grappled with him. In the course of the struggle he was able to tear the mask from the intruder's face; they rolled down the hillside and Mr. Reid was able to bang the man's head against the front steps. Eventually, the man was able to struggle free and ran off. Mr. Reid got into his car and made another endeavour to catch up with the intruder, but was unsuccessful. A police car arrived, a search was made by those police officers, but their search was unsuccessful. Subsequently, Mr. Reid went to the police station at Constant Spring and upon his arrival was just in time to see a policeman taking the intruder out of the police car. He was able to identify this applicant as being the intruder. When Mr. Reid recognized the intruder, he said, you are the man who was in the house, and to this the applicant responded, yes. The applicant went on to ask him to have pity on him as he had not hurt either his wife or child.

The defence was, as we indicated, unusual. The applicant did not deny his presence. He said in fact he had been invited to the house by Mrs. Reid with whom he was having an affair. Unfortunately for him, when the accused was searched, a sum of \$496.00 was found on him also a calculator which came

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This was a very uncomplicated, straightforward case, and the learned trial judge, a very experienced judge, dealt with all the issues very clearly, carefully and fairly. We are quite unable, having examined the transcript, to detect any misapprehension of the facts or any defects in a summing-up which we would characterize as impeccable. In the circumstances, we are disposed to refusing this application for leave to appeal, and we will direct that the sentence commence at the date of his conviction.