JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 1/73

BEFORE: The Hon. President
The Hon. Mr. Justice Robinson
The Hon. Mr. Justice Grannum

R. v. CHENSEL JOHNSON

Mr. P.T. Harrison appeared for the Crown.

28th September, 1973

HENRIQUES, P.

The appellant in this matter was convicted at the St. James Circuit Court on the 18th of December of last year on an indictment which contained two counts, one for larceny in a dwelling house of a watch and the other for robbery with aggravation of the sum of thirteen dollars. He has applied for leave to appeal against his conviction and also against the sentences which appear to have been imposed upon him. His application came on before a single judge of this court on the 21st of July, 1973, when leave to appeal against his conviction was refused, but leave to appeal against sentence was granted.

So far as his application for leave to appeal against conviction is concerned, the Court is of the view that there is no merit in that application and accordingly refuses it. So far as his appeal against sentence is concerned, it appears on the first page of the record that the sentences to which the appellant was sentenced were fifteen years hard labour on the first count and ten years hard labour on the second count to run concurrently with that on the first. The sentence of fifteen years hard labour on the first count would obviously be illegal because, according to the section under which the appellant was

convicted....

convicted, the maximum sentence which could be imposed would be one of ten years. There is no doubt that owing to the appearance of this obvious error on the face of the record, that the single judge was minded to give the appellant leave to appeal.

This Court has delved in detail into the matter, considered what transpired before the learned trial judge when the matter of sentence was being considered and also considered the documents in the case, the indictment and the endorsement on the back of the indictment by the learned trial judge and is satisfied that the sentence which appears as fifteen years hard labour on the first count is incorrect; that in fact, the learned trial judge passed a sentence of five years hard labour on the first count and on the second count a sentence of ten years hard labour, the sentences to run consecutively.

In the circumstances, therefore, this Court sees no reason why it should interfere with the sentences imposed and the appeal against sentence is therefore dismissed.