

J A M A I C A

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 70/69

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BEFORE: The Hon. Mr. Justice Waddington
The Hon. Mr. Justice Luckhoo
The Hon. Mr. Justice Hercules

R. v Christine Patrick

Mr. P. L. Robinson for the Crown

6th October, 1969

WADDINGTON, J. A.:

The court does not consider that there is any merit at all in this application.

The court observes, however, that the applicant was charged with the offence of school house breaking and larceny in respect of count one, and on count two he was charged with receiving a dictionary, and on count three he was charged with receiving a blanket, which were alleged to have been stolen from the school house.

There was no evidence of a breaking into the school house, and the jury quite rightly were directed by the Learned Chief Justice that they could not find a verdict of guilty on count one of school house breaking and larceny. It appears, however, that the applicant had made a confession in which he admitted having broken into the school house and stolen the blanket and the dictionary. In spite of this, however, the applicant was found guilty of receiving in respect of counts two and three and the learned Chief Justice discharged the jury from giving a verdict in respect of count one. The result is that the applicant, now has two convictions recorded against him for receiving, and on each of these counts he was sentenced to two years imprisonment at hard labour, the sentences to be concurrent.

It seems to this court that on the evidence, particularly having regard to the confession of the applicant, the correct verdict should have been guilty of larceny in respect of count one, and then the jury would

have been discharged from giving verdicts in respect of counts two and three. The result would be, that instead of having two convictions recorded against him, the applicant would only have one. In the circumstances, the court will set aside the convictions of receiving in respect of counts two and three and will substitute instead, a verdict of guilty of larceny in respect of count one and impose a sentence of four years imprisonment at hard labour, to run concurrently with the sentences imposed on counts four and six.

The sentences which were imposed in respect of counts 2 and 3 were made to run concurrently with sentences of 7 years and 3 years imprisonment at hard labour respectively, imposed in respect of counts 4 and 6. A sentence of 7 years imprisonment at hard labour was also imposed in respect of count 8 which was made to commence at the expiration of the longest of the sentences on the other counts. The applicant was thus sentenced to a maximum term of imprisonment of 14 years. In the result therefore, this court has not interfered with the maximum term of imprisonment which the applicant will serve.

In all other respects the application is refused.