

CA Criminal Law - Rape - Sentence - Plea of guilty
whether sentence of 9 years at hard labour excessive -
whether judge took into consideration 12 previous convictions
of which 10 were committed 10 years before.

JAMAICA

Application for leave to appeal refused - sentence "amplified
in facts", "can stand on its own".

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 19/88

✓comp

Its case referred to

BEFORE: The Hon. Mr. Justice Rowe, P.
The Hon. Mr. Justice Carey, J.A.
The Hon. Mr. Justice Forte, J.A.

Evidence
Sentence

R. vs. DANIEL LOWE

Norman Manley for applicant

Miss V. Grant for the Crown

June 14, 1988

CAREY, J.A.:

This applicant, Daniel Lowe, pleaded guilty to a charge of Rape in the Home Circuit Court before Gordon, J., sitting with a jury and was sentenced to imprisonment for 9 years at hard labour. He now applies for leave to appeal that sentence.

Mr. Manley has argued this morning that it appears that the learned trial judge, in assessing the appropriate sentence, took into account two previous convictions which this applicant undoubtedly has, for assault and he pointed out quite rightly that these offences were committed some 10 years before.

We do not think that the learned trial judge took those previous convictions into account. The sentence which was imposed is one which, as was stated in the course of the arguments, could stand on its own. This was a case where the applicant was caught, in the

picturesque language of learned counsel, "flagrante delicto". On the 4th of December, this young woman was walking on Roehampton Drive at about 9:30 p.m., when she was suddenly attacked by this applicant who, at knife point, assaulted her in some bushes along the road. It was disgraceful and certainly this Court must and does set its face against offences of this nature. The sentence of 9 years in our judgment was eminently warranted on the facts.

The application for leave to appeal will be refused, and the Court directs sentence to commence from the date of his conviction.