

CA. CRIMINAL LAW - Gun Court. These steps are for the  
as rape identification - Corroboration - Sentence  
Whether judge directed self on identification and  
Corroboration - whether sentences of 6 years for first  
and 12 years on second count, to run concurrently or consecutively  
JAMAICA  
Dundee was for leave to appeal refused

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO: 87/88

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

R. v. DELROY DONEYGON

Application for leave to appeal

Miss Paula Llewellyn for Crown

January 16, 1989

CAMPBELL, J.A.

The applicant was convicted in the High Court Division of the Gun Court on April 18, 1988 by Wolfe, J, of the offences of illegal possession of firearm and rape. The offences were committed on November 3, 1987. Sharon Nesbeth a mature woman and mother of four children lived at 25 Rousseau Road, St. Andrew. At about 4.00 a.m., on November 3, 1987, she was at her home with her baby father and children. There was a knock on the door; the baby father responded by asking "who is there?" He turned off the light which was on, after arming himself with a machete. The person outside apparently was able to see within the room and he ordered this gentleman to put down the machete, turn on back the light and to go under the bed. The gentleman did as he was ordered. The lady Sharon Nesbeth was then ordered to get off the bed and open the door. She complied, and the accused whom she did not know before, came up to her at the doorway armed with a gun. He demanded money. She was staring in his face, she could see him clearly by the light from the room, she told him she had no money. The invader then told her to take off

her ear-ring and go before him. He marched her from the door way into the adjoining yard and there he sexually assaulted her in a most reprehensible manner.

The main issue raised was that of identification, the learned trial judge directed himself on the issue of corroboration and also on the issue of identification. On the evidence before him, after critically analysing the same he resolved this main issue adversely to the applicant. On the evidence he was entitled and justified in doing so, and in the conclusion to which he came. The sentences imposed were 6 years on the first count and 12 years on the second count, the sentences to run concurrently. We are of the view that the sentences imposed were justified and appropriate having regard to the circumstances of the case. For those reasons we see no justification for disturbing the conclusions arrived at by the learned trial judge or the sentences imposed. For those reasons the application for leave to appeal is refused, we order that the sentences do run from the date of conviction.