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No report

27th September, 1965.

J A M A I C A

IN THE COURT OF APPEAL

CIRCUIT COURT APPEAL No. 59/65

BEFORE:           The Hon. Mr. Justice Henriques (Presiding)  
                  The Hon. Mr. Justice Waddington  
                  The Hon. Mr. Justice Moody (Acting)

R.     v.     E R I C     B R O W N

Mr. F. G. Phipps appeared for the Crown  
Mr. J. W. Kirlew appeared for the appellant.

HENRIQUES, J. A.,

This application arises out of a conviction for murder which took place at the Saint Mary Circuit Court on the 22nd of March, 1965, the applicant then being convicted of murder of one Ionie Lawrence and sentenced to death.

On this application coming on for hearing this morning, Mr. Kirlew of Counsel who appears for the applicant applies to the Court for leave to add an additional or supplementary ground of appeal to those which have been filed by the applicant sometime ago. The ground he seeks to add is "that the verdict of the jury is unreasonable and cannot be supported having regard to the evidence." It transpires that Counsel was assigned in this case as far back as the 15th of June of this year at which time he was supplied with the full transcript of the Notes of trial and the summing-up, and it is only this morning on the 27th of September that he is for the first time informing the Court that he wishes to argue this particular ground of appeal. This Court, time and time again, has been placed in a position where it has

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had to complain of the lackadaisical attitude which is adopted towards the Court by certain Counsel in regard to the transaction of the Court's business. We feel that Counsel owes a duty to the Court to assist in all respects the smooth running of the Court and to show consideration and respect for the work of the Court. In the circumstances the Court in exercising its discretion has not been disposed to grant the application.

With regard to the other two grounds of appeal which were filed by the applicant Mr. Kirlew candidly admitted that the learned trial judge directed the jury on all aspects of the case and he is therefore unable to argue the first ground. With regard to the second which dealt with conflicting statements in the evidence, he has pointed out that there were slight discrepancies in the evidence between certain witnesses and those discrepancies did not affect the fundamental issues which the jury had to determine. He therefore submits that he is unable to argue against the conviction.

This was a case of circumstantial evidence and we have read carefully the evidence which was presented at the trial. In our view, the circumstantial evidence was overwhelming and we have formed the opinion that the jury were correctly directed both on the law and on the facts. In the circumstances this application must therefore be refused.