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IN THE COURT OF APPEAL

C.A.# 156/65

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

R. vs G E O R G E E V A N S

Mr. K. Simmonds for the Crown

Appellant not represented.

1st March, 1966.

HENRIQUES, J.A.,

The appellant in this matter was convicted in the Home Circuit Court of three offences of robbery with aggravation. He has sought leave to appeal against his convictions. We have considered carefully his applications and the applications to appeal against convictions are refused.

So far as the sentence is concerned, the learned trial judge imposed on the first count which the appellant was convicted, a sentence of five years hard labour and also ordered him to receive six lashes. On the second, he imposed a sentence of five years hard labour and ordered him to receive eight lashes, and on the third he imposed a sentence of seven years hard labour and ordered him to receive ten lashes. The record goes on to state that the learned trial judge then said 'so you understand the sentences will run concurrently and you will receive twenty-four lashes.' It appears that the total of twenty-four lashes was obtained by adding together the number of lashes in respect of each

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offence. That would be to make the sentences, so far as the lashes were concerned consecutive. We are certain that was not the intention of the learned trial judge. A sentence is one and indivisible and if the sentences were ordered to run concurrently, then it would appear that the proper method of ascertaining the total punishment to be undergone would be to have regard to the period of seven years hard labour which was the longest term of imprisonment to which the appellant was sentenced, and to ten lashes which would be the greatest number of lashes which had been imposed in any one sentence. The sentence as recorded will therefore be altered so far as the lashes are concerned, and the applicant will be ordered to receive a total of ten lashes.