

CH, CRIMINAL LAW - Trial - Rape - Consent

Issue clearly and adequately put to jury - no evidence to support consent - Application for leave to appeal refused

His Case referred to

JAMAICA

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Evidence

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 1/88

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

R. vs. LINDEN GRAHAM

No appearance for applicant

Miss V. Grant for the Crown

June 6, 1988

CAREY, J.A.:

On the 3rd of December, 1987 this applicant was convicted for Rape and sentenced to 7 years imprisonment at hard labour. He now applies for leave to appeal his conviction and sentence.

The facts in the case are altogether simple and straightforward: On the 12th of May, 1986 the victim, a young girl, was given permission by her neighbour to come over and listen to the radio. When she went next door, she was confronted by this applicant who is the neighbour's son, and he proceeded to make advances to the girl. They were repulsed. He resorted to violence. But in the upshot she was raped. She was even able to use his own knife to inflict an injury to her assailant. His defence was consent. Unhappily for him, there was evidence of injury to her person; she was boxed; she had a swelling to the left side of her face; a swelling to the anterior aspect of her neck

and there were abrasions to the vaginal walls. The leg of her shorts were torn. The issue of consent was clearly and adequately put to the jury, who rejected that defence.

There was evidence to support that finding, and we can find no reason whatever to interfere. The application for leave to appeal is, accordingly, refused and the Court directs that sentence commence on the date of conviction.