

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 106/87

COR: The Hon. Mr. Justice Carey, J.A.  
The Hon. Mr. Justice White, J.A.  
The Hon. Mr. Justice Wright, J.A.

R. vs. NORMAN HUIE

Glen Cruickshank for applicant

Canute Brown for the Crown

21st March, 1988

CAREY, J.A.:

This applicant stood his trial in the Trelawny Circuit Court between the 15th and 16th of June, 1987, when he was convicted for murder and sentenced of death was passed upon him. He now applies to this Court for leave to appeal against that conviction.

Having regard to the conclusion to which we have arrived, it is not necessary to say anything about the facts. The two grounds which were filed, in sum, amount to this, that the learned trial judge had withdrawn the issue of provocation from the jury. Learned counsel who appears for the Crown this morning, has stated, as we think, rightly, that the learned trial judge fell into error when he omitted to leave that issue which clearly arose on the Crown's case and also, on the case for the defence.

We would note, in passing, that this was a case where the main line of defence was self-defence. But there is little doubt that there were other facts related by the applicant in his statement,

which should have been left to the jury for them to consider how this issue should be resolved.

We would also add that the directions in regard to self-defence were defective, having regard to the totality of the evidence given by the applicant. Of course, at the time of the summing-up, Beckford had not yet been decided. But even so, the summing-up committed a serious omission in regard to the applicant's reaction or conduct in regard to his apprehension of danger. No directions, in that regard, were left to the jury, as we think, ought to have been done.

What the Court intends to do, is to quash the conviction, set aside the sentence imposed and in the interests of justice, the Court orders that a new trial be had at the next session of the Trelawny Circuit Court.