

JAMAICA

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S CRIMINAL APPEAL NO. 45/86

BEFORE: THE HON. MR. JUSTICE ROWE, P.
THE HON. MR. JUSTICE CAREY, J.A.
THE HON. MR. JUSTICE DOWNER, J.A.

REGINA

VS.

OWEN HIGGINS
DELOY LITCHMORE
TREVOR EVANS
EWART McBEAN

R. Carl Rattray, Q.C. for the Appellants

Miss Y. Sibble and Miss P. Llewellyn for the Crown

April 28, 1988

ROWE P.:

This is an application by Owen Higgins, Delroy Litchmore, Trevor Evans and Ewart McBean for leave to appeal to Her Majesty in Council under Section 110 of the Constitution of Jamaica following upon their convictions in the Resident Magistrate's Court, Half-Way-Tree, on a number of counts of conspiracy and the dismissal of their appeals in this Court in September, 1987.

The application was made on the basis that this Court should certify the questions set out herein as fit to be determined by Her Majesty in Council, viz:

-2-

Whether the documentary evidence including the records of the Ministry of Construction amounted to hearsay evidence and was inadmissible and if the answer to that question is 'yes' whether there was sufficient evidence adduced against the appellants to establish the elements of the offence of conspiracy?

We have looked along with Mr. Rattray at the Judgment of the Court of Appeal, especially at pages 13-15 and all the points in relation to the admissibility of the documentary evidence raised by the appellants were determined in their favour by the Court of Appeal and the Court then proceeded to base their convictions on other evidence in the case.

We are therefore of the view, and in this Mr. Rattray joins us, that on the motion itself there is insufficient basis shown for this Court to certify that a point of law of exceptional public importance arises which requires further appeal to Her Majesty in Council.

The application is therefore refused.