

J A M A I C A

IN THE COURT OF APPEAL

CRIMINAL APPEAL NOS. 94, 95/1979

B E F O R E: The Hon. Mr. Justice Zeeva - President (Ag.)
 The Hon. Mr. Justice Carberry - J.A.
 The Hon. Mr. Justice Carey - J.A. (Ag.)

R. v. RANDY DISTANT
 PRINCE HAMILTON

Mr. Horace Edwards, Q.C., for Hamilton
Mr. Sylvester Morris for Distant
Mr. L. Heywood for Crown

5th June, 1980

CAREY, J.A. (Ag.)

These are applications for leave to appeal against convictions and sentence in the Home Circuit Court on the 26th of April and 11th of May, 1979 respectively, on two counts of Murder. Both these applicants are juveniles and were sentenced to be detained during Her Majesty's Pleasure.

At the hearing of these applications, learned counsel who appeared for each of the applicants quite candidly conceded, having carefully considered the facts in the case and the summing up of the learned trial judge, that there was no point which could properly be argued. With that view this court is in entire agreement

The facts in the case show that on the 12th of October 1976, these two applicants among others carried out a commando style raid, knocked down the door of the house where the two deceased, two youths, lived and the applicant Randy Distant shot and killed both of the deceased.

Prince Hamilton's conviction was based on the principle of common design. According to the eye witness just prior

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to the shooting he used certain words, namely, "Any coolie a coolie, kill the bwoy and come."

The applicants were known to the occupants of the home who gave evidence, namely, Worthington Cousins, Peter Cousins and the mother, Mrs. Thelma Cousins, and there was no disagreement as to that fact. Insofar as lighting in the house was concerned, this came from a candle that was lit in the house, but having regard to the relative distance between the witnesses and the assailants, it was quite clear there was no question of the witnesses being unable to identify these applicants. At all events the issue of identification was correctly and ~~adequately~~ put to the jury by the learned trial judge. The applicants' defence of alibi was obviously rejected. The jury arrived at the only possible verdict on the evidence that was in our view overwhelming.

The applications are therefore refused and the convictions and sentences affirmed.

CAREY, J.A. (Ag.)