

CRIMINAL LAW - Appeal from Circuit Court (1) Rape (2) Robbery
with aggravation - Alibi - Identification. H&S - Jury
properly directed - Application for leave to appeal
refused.

JAMAICA

✓ comp.

No cases referred to

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO: 45/86

BEFORE: The Hon. Mr. Justice Rowe - President
The Hon. Mr. Justice Carey, J.A.
The Hon. Mr. Justice Forte, J.A.

R. v. WINSTON HUNT

Ian Ramsay for Appellant

Ms. J. Straw for Crown

June 13, 1988

FORTE, J.A.:

In this case the applicant was convicted in the Home Circuit Court on two counts in an indictment. The first count charged him with rape of Juliet Clarke on the 2nd of May, 1985 and the second with robbery with aggravation of Juliet Clarke of three gold rings, a pair of gold earrings and a chaperita valued at \$2,000.00.

On the 2nd of May, 1985 the complainant was walking on University Crescent, on her way home, when nearing her gate the applicant jumped a fence, came in front of her and asked her for fifty cents. The time of night was 11.30 p.m., She turned away from the accused, looked into her purse, closed it back and then told him she had no money. She walked along, entered her yard whereupon the applicant held her in her blouse and said "wey you going" she was then in her yard and he said "you no hear me a beg you money gal." She said she had no money. He still held her blouse, and told her that he didn't want to call his friend next door, who he alleged had a gun. Upon saying that, he put his hands in his pants waist and took out a knife which he put to her throat. She became

terrified, and said to him "don't interfere with me. Take anything I have but don't trouble me." The applicant rejected her request, pushed her towards the lawn in the yard, and gave her an order to take off her panties. The lady was trembling, crying pleading for him to leave her alone. In fear of him, she drew down her panties. Still armed with the knife, he finished pulling it off, put her to lie on the ground and came on top of her and had sexual intercourse with her. When he had completed his deed, he searched her handbag, took from it \$4.75¢ which she had therein. He then took from her person, a chaperita three rings and a pair of earrings. While he was doing so, a neighbour, Mr. Dixon on seeing movement in the yard came towards the fence, threw a stone and it is upon that stone being thrown that the applicant came off the complainant and made his escape jumping over the fence unto the road then jumping over another fence.

The complainant then described to Mr. Dixon what had happened and subsequently also complained to her employer who lived in the house in the same yard in which this offence took place. Two days later, the complainant made a report to the Papine Police Station. About two months thereafter, the complainant saw the applicant in Papine and acting upon instructions she had got from the police, she shouted "thief." A crowd came down upon the applicant, held him, and commenced beating him. While this was taking place, the complainant telephoned the Papine Police Station, as a result of which Corporal Scott came on the scene, took the applicant into custody and took him to the police station.

The issue in the case was that of identification, the applicant saying that he was at the time of the incident, at his job at Hope Gardens as a Security Guard, he called witnesses to support this, a Supervisor who visited him, he says on the very night in question and saw him on the job.

He also called his colleague who worked with him to support his alibi that he was at work that night and was certainly not at 24 University Crescent where this offence occurred. The jury properly directed, rejected that alibi and accepted the evidence of the complainant. On examination of the summing-up by the learned trial judge, we can see no complaint that could be successfully made against it. In the event, we find that there is no merit in the application for leave to appeal. The application is therefore refused. We however order that the sentence should run from the date of conviction.