

SUPREME COURT CRIMINAL APPEAL NO. 227/88

REGINA

DELROY OSBOURNE

Messrs. Kent Pantry and Hugh Wildman for the Crown

CAREY, J.A.

The facts which gave rise to the charge may be shortly stated: On the 20th of November, 1985, round about 11 o'clock in the morning, a Mr. George Pottinger who is a Teacher at Calabar High School and an undergraduate at the University of the West Indies, arrived at home. Shortly thereafter a taxi pulled up at the gate and he went out to investigate. There were three men in the car, one of whom

asked him for one Mr. Atkinson who apparently is the Headmaster of Calabar. That somehow aroused the suspicions of Mr. Pottinger. After some conversation, guns were produced and he was marched back into his house at gun point. While he was there, he was robbed of several electrical articles and also some groceries. He was tied up and gagged. He managed to escape and alerted his neighbour who called 119. The police were early on the scene and by 3:30 that same afternoon when he was summoned to the Marverley Police Station he was able to identify all the articles taken from his house. There was evidence given by the prosecution that on that very day, having received a call from their control, the police intercepted a taxi answering the description of that which had pulled up at Mr. Pottinger's house and therein they saw one person who was eventually charged and convicted. That person gave them certain information which led them to certain premises and at those premises, among others, this applicant was seen. At that house, goods which were stolen from Mr. Pottinger's house were recovered. The defence of this applicant is somewhat interesting. He said that he was playing domino at a house that morning and the police came there, took him to another house and asked him what he knew about the articles.

This was a very simple straight-forward case. The case did not depend wholly on visual identification; it depended as well on the fact that shortly after the goods were stolen, they were found in the possession of this applicant. There was overwhelming evidence on which the learned trial judge would have come to the decision adverse to this applicant and we see no reason whatever to interfere either with the verdict which was returned or the sentences which were imposed.

In the circumstances, the application for leave to appeal is refused and the Court orders that the sentence commence to run from the 11th of March, 1988.