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JAMAICA

No Grounds of Appeal

comp

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 137/88

BEFORE: THE HON. MR. JUSTICE CAREY, J.A.
THE HON. MR. JUSTICE CAMPBELL, J.A.
THE HON. MR. JUSTICE GORDON, J.A. (Ag.)

REGINA

v

FRANK BECKFORD

*EVIDENCE
CRIMINAL RECORD*

D. Chuck for Applicant

C. Stamp for Crown

February 13 and 20, 1989

GORDON, J.A. (Ag.):

This was an application for leave to appeal against conviction on 9th June, 1988 for the offence of murder before Langrin J. sitting with a jury in the Home Circuit Court. Mr. Chuck for the applicant with his usual candour said that no grounds of appeal had been filed as on a perusal of the file the only issue was that of identification and the learned trial judge had dealt adequately with it and there was no meritorious ground that could be urged on the Court.

The facts supporting the conviction were given by the chief prosecution witness, Delroy Walker. He said that at about 9.30 p.m. on the 15th October, 1986 he was on the road by premises Penwood Place, St. Andrew with Andrew Jackson and Johnny Mills. Andrew Jackson and Mills left the witness and Jackson entered premises nearby. After waiting for Jackson to return and not seeing him, the witness was about to enter the premises Jackson had gone into when he was approached by one Wayne Smith who came out of the said premises. Smith was armed with a M16 rifle. Smith held the witness and took him into the premises. In the yard he saw Andrew Jackson being held by two other men, one of

whom was the applicant. Each man had a short gun. He said he had known the applicant who went by the name 'Prentice' for twenty-two years. The witness said that for some time there had been gang-warfare between rival areas designated 'Moscow' and 'Havanna'. The applicant and Smith lived in Havanna and Jackson lived in Moscow.

The witness pleaded with Wayne Smith for their release and eventually success attended his efforts. They were released and they entered the house on the premises, leaving the applicant and Wayne Smith at the gate. The witness further said there were street lights by the gate and domestic electric lights on the premises which illuminated the yard. They had remained in the yard about half an hour with their captors.

While inside the house the witness looked through a window and he saw the applicant and Smith at the gate, about five yards from the window where he was, discharging shots from their firearms. While these shots were being fired, he heard a voice say 'Ah mi, man! Ah mi, man'. The voice he recognised to be that of Eddie Curniffe - a cousin of Andrew Jackson. The shots fired by the applicant and Wayne Smith were directed through the gate towards the road. He could not see the person who spoke. Curniffe lived in 'Moscow' and had been a life-long friend of the witness.

He remained in the house until the next morning when he went to the gate and there he saw the corpse of Eddie Curniffe. Curniffe's death was due to multiple gun-shot wounds.

Wayne Smith and the applicant were both charged with murder. Smith has since died. The applicant's defence was an alibi.

The learned trial judge in his summation dealt fairly with all the issues raised and we entirely agree with Mr. Chuck's assessment of the lack of merit in the application. In keeping with the practice we have developed, we have outlined the facts and expressed our view on them. The application was accordingly refused.