

*St. Catherine Pen - Gun Court (illeg. possession of firearm, robbery with aggravation, wounding with intent, shooting with intent of travel)  
Evidence - Identification - visual identification - St. Catherine Pen  
Application for leave to appeal against conviction - sentence refused.  
JAMAICA  
St. Catherine Pen*

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 131/88

BEFORE: THE HON. MR. JUSTICE ROWE, PRESIDENT  
THE HON. MISS JUSTICE MORGAN, J.A.  
THE HON. MR. JUSTICE GORDON, J.A. (Ag.)

REGINA

VS.

FRANKLYN CAMPBELL

Applicant unrepresented

Miss Carol Malcolm for the Crown

June 5, 1989

ROWE, P.:

This is an application by Franklyn Campbell for leave to appeal against his convictions and sentences in the Gun Court on the 2nd of June, 1988.

He was convicted on four counts of an indictment charging him with illegal possession of firearm; robbery with aggravation; wounding with intent and shooting with intent.

The single judge refused the applications for leave to appeal and those applications have been renewed before this Court. The applicant is unrepresented.

Mr. Everaldo Ramsay, a businessman of Herring Hill Lane, Church Pen in St. Catherine, lives on premises which contain his home, as well as spirit licensee premises. He and certain workers of his, his step-son and the step-son's family, all occupy this house and they retired to bed on the 23rd of March, 1985, having locked up their premises securely.

Sometime in the early morning of the 24th, about 3 o'clock, the household was awakened when a gang of men descended on the premises and put all the occupants of those premises in great fear. The windows were shot out; one man stood guard at the window while another entered the premises. Those who were hiding under beds or in particular rooms were all taken from their hiding places and put to lie down on their faces. Money was demanded and \$1,000 was handed over; several gun shots were fired into the house, in the course of which Mr. Everald Ramsay was severely wounded.

The only issue at trial was the question of the identification of the people who invaded the premises. Much more harm might have come to Mr. Ramsay and those who lived there had the police not come on the scene. The police fired at the robbers who were about to escape from the premises. One of them was shot and killed and he was identified as the person who actually entered the house, searched the rooms and received money from Mr. Ramsay's home. Some of the robbers fired at the police but the police officers were not injured.

I repeat that the live issue at trial really was the issue of identification. The witnesses for the Crown were all very familiar with Franklyn Campbell, who had for a time been employed by Mr. Ramsay and Mr. Ramsay well knew his voice. During the robbery the applicant is alleged to have spoken on several occasions, giving orders, such as, whom to shoot, in order that they might be more gainfully rewarded from the proceeds of the robbery and his lurid language throughout was quite unforgettable. At one time he issued a threat to the life of Mr. Ramsay.

Another witness, Mr. Richards, said he was able to see the face of Franklyn Campbell, because Campbell was a matter of feet away from him at the window as Mr. Richards lay or sat on the bed in a room. There was electric light in the room and Mr. Richards had absolutely no difficulty in being able to see and recognise the applicant Campbell.

Although the trial took a very long time and thousands of questions were asked there seems not to have been the slightest doubt

in the minds of the witnesses, nor in the mind of the trial judge that Franklyn Campbell was one of the marauders who terrorized the Ramsay family on that morning.

There was abundant evidence on which the trial judge could say that the applicant was properly identified as one of the robbers who invaded the Ramsay's home and committed the several atrocities there.

The sentence of fifteen years for wounding Mr. Ramsay is, we think, an appropriate sentence in the light of the kind of attack which the applicant and his cohorts made upon the Ramsay household on that night.

The application for leave to appeal is, therefore, refused and the convictions and sentences confirmed. The sentences will run from a period three months after conviction.