

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 242/88

BEFORE: THE HON. MR. JUSTICE CAREY, PRESIDENT (AG.)
THE HON. MR. JUSTICE CAMPBELL, J.A.
THE HON. MR. JUSTICE FORTE, J.A.

REGINA

VS.

LARKLAND GRANT

Jack Hines for Appellant

Samuel Bulgin for the Crown

October 9, 1989

PRESIDENT (AG.):

On the 1st of December 1938 in the Portland Circuit Court held in Port Antonio before Mr. Justice Harrison sitting with a jury, the appellant was convicted on an indictment which charged him with Burglary and Larceny, whereupon he was sentenced to seven years imprisonment at hard labour.

The matter comes before the Court by leave of the single judge on the question of sentence only. The appellant did renew his application for leave to appeal against his conviction but that was not maintained by learned counsel who appeared before us and we agree entirely that there would be no basis for putting forward any arguments of merit.

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The short facts are that in the early morning of the 8th of August, 1988, the house of Mr. Canute Jones was broken into by two men, one of whom was armed and Mr. Jones was robbed of money and electrical appliances - a television and a radio. The evidence which linked this appellant to the case was derived from the fact that he endeavoured to sell this television set to a witness who gave evidence of the purported sale.

What has been argued before us is that the sentence is manifestly excessive and the basis for that is the previous good character of the appellant. We are however, wholly unimpressed by that argument.

The learned trial judge paid attention to that fact and said so in terms. He said this:

"I take into consideration that neither of you have any previous convictions. That in itself will go in your favour."

When one bears in mind that the maximum penalty for Burglary and Larceny is considerably in excess of seven years to wit twenty-one years, it is difficult to see how one-third of that maximum can in these times be regarded as being manifestly excessive.

The Court must take into consideration the seriousness of the offence. In this case, the victim of the offence, Mr. Jones, is an elderly gentleman of eighty-six years who was awakened at 3:30 in the morning of find men breaking into his house. That in itself was terror. There is no other term that fitly describes that sort of situation, because it meant that the intruders did not have the slightest regard

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for the householders, whosoever they might be, because they were all well aware that they had the necessary power to deal with the opposition within. That profound contempt cannot be tolerated. If people wish to play for very high stakes then they must expect very serious and heavy penalties.

Therefore this penalty of seven years could even be regarded as lenient. Be that as it may, we think it is eminently warranted in the circumstances and for these reasons the appeal will be dismissed. The Court directs the sentence to commence on the 1st of March 1989.