

GA: CRIMINAL LAW — Robbery with Aggravation, assault with intent to rob, — Scientific — dock identification —  
straightforward case — issues dealt with fairly and adequately.  
Application for leave to appeal against conviction and sentence refused  
No Case referred to JAMAICA ✓ comp  
Evidence

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 211/87

BEFORE: THE HON. MR. JUSTICE CAREY, P. (Ag.)  
THE HON. MR. JUSTICE WRIGHT, J.A.  
THE HON. MISS JUSTICE MORGAN, J.A.

REGINA

v

PETER LUMLEY

Application for leave to appeal

Kent Pantry and Miss C. Malcolm for the Crown

November 28, 1988

MORGAN, J.A.:

This is an application for leave to appeal against conviction and sentence in this case tried in the Home Circuit Court on the 17th of November, 1987 before Gordon J. and a jury. The applicant was charged with another man and convicted for Robbery with Aggravation, Assault with intent to rob and sentenced to fifteen and nine years respectively.

The facts are, that a Miss Faulkner, a helper was at her employer's home in St. Andrew on the 11th of July, 1986 when the applicant Lumley, with a knife in his hand, and another man entered the home. She was thrown to the floor when she ran to the living room. Her screams attracted the attention of a Miss Brady who was the helper at the adjoining home, and when she came to investigate she was pounced upon by the applicant. She was held at knife point for fifteen minutes in broad daylight. She saw the full face of the intruder as he held her in her dress front. She was able to look him in the face for 2-3 minutes as they were of the same height. She subsequently pointed him out at an

identification parade.

Miss Faulkner was severely injured. She lay on the floor of the living room, ~~was~~ finally taken to the hospital and remained there for one month. She was not available to attend the identification parade, and consequently could only make a dock identification at the trial. However, a Mr. Bucknor who was on the road at the time of the incident saw the applicant whom he knew, run from the premises. He promptly took the police to the applicant who denied knowledge of the robbery and said he was at work.

The issue was one of identification. The learned trial judge dealt with the identification parade, he dealt with the dock identification and pointed out the dangers attendant on dock identification as well as visual identification. It was, indeed, a straightforward case and the issues were dealt with fairly and adequately. We see no reason to interfere. Accordingly, the application for leave is refused and the sentence will run from the date of conviction.