

CRIMINAL LAW - appeal from Circuit Court - Rape -
whether sentence excessive. Application for leave to
appeal refused. comp ✓

to case referred to.

J A M A I C A

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 27/88

BEFORE: THE HON. MR. JUSTICE ROWE, PRESIDENT
THE HON. MR. JUSTICE CAMPBELL, J.A.
THE HON. MR. JUSTICE WRIGHT, J.A.

REGINA

VS.

WESLEY GORDON

Applicant unrepresented

Mrs. Carol Lawrence-Beswick for the Crown

May 16, 1988

ROWE P.:

This is an application by Wesley Gordon who was convicted in the Circuit Court for St. Catherine for the offence of Rape which was alleged to have been committed on the 13th of June, 1987 and he was sentenced by the learned trial judge to serve twelve years imprisonment at hard labour.

He has applied for leave to appeal and the application was refused by the single judge. He has renewed it on a Form 6 in which he said the sentence is too harsh.

The case for the prosecution arose out of evidence which was given by a sixteen year old girl, who said that on the 13th of June 1987, she was walking along the road in Independence City at about 9 p.m. Three men whom she saw on the road spoke to her and the applicant said that she

looked like a wanted girl whom they wanted to kill. The girl protested that she could never be such a person. This applicant is alleged to have looked in her face and said that she was not in fact the girl they wanted but she walked like this girl. The applicant, she said, followed her and he stopped and spoke to an Indian lady, then he held the girl at knife point and drew her into some bushes. In those bushes there was a second man who was masked. That man threatened to kill her and he took something from his waist which she did not identify. She was kicked, then she was stripped of her clothes and at knife point she was raped, firstly, by this applicant, then by the second man and after that man had gone away she was raped a second time by the applicant. Then she was told that she should run away and threatened that if she reported the matter, she would be killed by a posse controlled by the applicant.

She said that the incident took about one hour twenty minutes from the time she was first accosted by the three men until the time that the applicant left her. She said that there was good lighting which came from the Caymanas Park and there were street lights and that she had numerous opportunities to see the face of the applicant and to be able to identify him. She made a report to the police and on the 10th of July she attended an identification parade where she pointed out this applicant as one of the men who raped her.

The applicant in his defence said that he was in the Independence City area on the 13th of June. He had indeed stopped and spoken to an Indian lady on that evening but he had left the area long before 9 p.m., and was indeed at his house at 9 p.m.

The learned trial judge in a concise but quite impeccable summing-up dealt with all the issues and the jury brought in a verdict of guilty.

The sentence of twelve years which the applicant complained of as too harsh, is we think, in the circumstances, absolutely appropriate.

Here was a case where the girl was terrorized by this man. He allowed another man to have intercourse with her, the two taking turns and the kind of threats which he issued afterwards indicated that he had absolutely no feeling for this young woman.

In the circumstances, the sentence of twelve years is entirely appropriate. The application for leave to appeal is refused and the sentence will run from the date of conviction.