

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 101/2007

BEFORE: THE HON. MR JUSTICE PANTON, P
THE HON. MR JUSTICE HARRISON, J.A.
THE HON. MR JUSTICE MORRISON, J.A.

DEMPSTER WITTER v R

Applicant unrepresented

Mrs Lisa Palmer- Hamilton and Alwayne Smith for the Crown.

22 March 2010

ORAL JUDGMENT

MORRISON, J.A.

[1] In this matter the applicant Mr Dempster Witter pleaded guilty in the St. Elizabeth Circuit Court before Mr. Justice McIntosh on two counts of an indictment charging him with burglary and wounding with intent. He was sentenced to 10 years imprisonment on count one and 15 years imprisonment on count two. The sentences were ordered to run concurrently.

[2] The victim of the applicant was his former girlfriend or common-law wife who had a child for him. There was a falling out, and she, having left the home, he went to the place where she was now renting a room and subjected her to a terrible attack. She was chopped up very badly and even while the case was before the court she was due to return to the hospital for yet another operation to mitigate the damage which he had done to her.

[3] The learned trial judge obviously considered it to be a brutal and completely unwarranted attack, a view which we share. The applicant has eight previous convictions recorded against him. The trial judge in sentencing, nevertheless took into account the fact that he had pleaded guilty and said that he was applying a discount for that reason. The application for leave to appeal is against sentence only and we have looked at it very carefully. We cannot say that the sentences of 10 years imprisonment on count one and 15 years imprisonment on count two, the sentences to run concurrently, are in any way excessive and certainly they are not manifestly excessive. While we may not go as far as the learned trial judge did, to say that the sentences would have been twice as long, if it was not for the guilty plea, we do think that in all the circumstances of this case, a severe sentence was called for.

[4] In the circumstances, the application for leave to appeal against sentence is refused and the sentences are to run from 13 October 2007.