

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 135/06

**BEFORE: THE HON. MR. JUSTICE COOKE, J.A.
 THE HON. MR. JUSTICE MORRISON, J.A.
 THE HON. MRS. JUSTICE M^CINTOSH, J.A. (Ag.)**

KEVON WILLIAMS v. REGINA

Leroy Equiano for the Applicant

Miss Sanchia Burrell for the Crown

July 20, 2009

Oral Judgment

COOKE, J.A.

1. The applicant, whose application is solely in respect of sentence, was convicted in the Circuit Court in the parish of St. Ann on 3 counts, namely, illegal possession of firearm, rape and robbery with aggravation. This conviction took place on the 27th July 2006, and the sentences were as follows: 10 years at hard labour in respect of illegal possession of firearm; 20 years at hard labour in respect of the charge of rape and in respect of robbery with aggravation, it was seven years at hard labour.

2. Before this court embarks on the factual circumstances, we think we are obliged to note that we were very impressed with the comprehensive treatment of the case by the learned trial judge Brooks J. It was a summing up that scarcely could have been improved upon. The circumstances briefly are that on the 24th January 2004 at about 9:45 the virtual complainant was in Ocho Rios. She was waiting to take a taxi, and she was waiting near the entrance to the Ocho Rios Market, when what she describes as a "white deportee" pulled up. Three men were in this vehicle. Among them was the applicant Kevon Williams whom she knew as 'Blacks'.

3. There is no dispute that Kevon Williams and the virtual complainant knew each other very well. They had in fact been at school together. The applicant forcibly dragged her into the motorcar, blindfolded her and drove to some undisclosed place where the three men, (to use the language of the judge) "in a depraved manner" sexually assaulted her. The applicant was armed with a firearm and he used this instrument as a weapon of terror. He warned her not to reveal what had happened, otherwise she would be harmed. Not surprisingly, the fear kept her mouth closed. But, eventually, she made a report to the police on the 6th February 2004. In October of the following year, she saw the applicant at a "casino". The police was summoned and the applicant was reduced into custody. It would appear that after he was properly convicted, prior to his sentencing hearing, he confessed to the person who had conducted the social enquiry report. Now the sole issue before the court is whether or not the

sentence of 20 years on count 2, in the circumstances, is manifestly excessive. No complaint is made in respect of the sentences imposed on counts 1 and 3.

4. We have listened to Mr. Equiano and we are persuaded that in all the circumstances the appropriate sentence is one of 15 years at hard labour. The order of the court is as follows:-

Leave to appeal against the sentences on counts 1 and 3 is refused. Leave is granted to appeal against the sentence of 20 years. The application for this leave is considered as the hearing of the appeal. The sentence of 20 years is set aside and in substitution therefor, the sentence of 15 years at hard labour is imposed. The sentences are to run as of the 27th October 2006.