

**JAMAICA**

**IN THE COURT OF APPEAL**

**SUPREME COURT CRIMINAL APPEAL NO 93/2013**

**APPLICATION NO 28/2016**

**COLLIN COYLE v R**

**Ms Melrose Reid for the applicant**

**Jeremy Taylor and Mrs Laron Montague-Williams for the Crown**

**27 June, 12 December 2016, 7 April, 3 May 2017 and 24 November 2020**

**IN CHAMBERS**

**MORRISON P**

[1] This matter first came before me in June 2016 as an application for a review of sentences, pursuant to section 42L(1) of the Criminal Justice (Administration) (Amendment) Act 2015 ('the CJAA'). (For the basis of the jurisdiction of a single judge of appeal to hear this application, see **Curtis Grey and Toussaint Solomon v R** [2018] JMCA App 30.)

[2] The application was subsequently adjourned on a number of occasions awaiting receipt by the registry of the transcript of the evidence at the applicant's trial in the court below.

[3] The transcript was finally received in the registry on 15 September 2017. By notice dated 29 September 2017, counsel for the parties were advised of the receipt of the transcript.<sup>1</sup> However, due to an unfortunate oversight, the application for a review of the sentences was not relisted before me, with the result that the hearing was never formally completed.

[5] Having now had an opportunity to consider the transcript, I have come to the clear conclusion that the application for a review of the sentences imposed by the sentencing judge must be granted.

[6] The applicant was found guilty of the offences of illegal possession of firearm (contrary to section 20(1)(b) of the Firearms Act) and robbery with aggravation (contrary to section 37(1)(a) of the Larceny Act). In sentencing the applicant, the sentencing judge considered that minimum sentences of 15 years' imprisonment for each of these offences were mandated by the provisions of the Firearms (Amendment) Act 2010 ('the FAA').

[7] However, it is clear from the decisions of this court in **Leon Barrett v R** [2015] JMCA Crim 29 and **Michael Burnett v R** [2017] JMCA Crim 11 that sentences for illegal possession of firearm and robbery with aggravation remain unaffected by the minimum

---

<sup>1</sup> The court's records indicate that a copy of the notice was delivered to the office of the Director of Public Prosecutions on 2 October 2017 and a copy was collected on behalf of the applicant's attorney-at-law on 3 November 2017.

sentence provisions in the FAA (see also Sentencing Guidelines for use by Judges of the Supreme Court of Jamaica and the Parish Courts, December 2017, paragraph 5.22).

[8] The applicable sentences in this case were therefore, as set out in the respective statutes, a maximum of life imprisonment for illegal possession of firearm and 21 years' imprisonment for robbery with aggravation.

[9] For the offence of robbery with aggravation, it appears to me that, even before the FAA, a sentence of 15 years' imprisonment was not uncommon, albeit at the high end of the normal range (see Sentencing Guidelines, page A – 13). Accordingly, if the sentencing judge had sentenced the applicant to 15 years' imprisonment without reference to the mandatory minimum sentence regime, it might have been difficult to say that he had exercised his discretion on some erroneous basis, particularly given the fact that the applicant had four previous convictions.

[10] Similarly, as regards the offence of illegal possession of firearm, although the sentence of 15 years' imprisonment was also at the high end of the normal range of sentences (Sentencing Guidelines, page A – 15), I think it may equally have been difficult to say that the sentencing judge exercised his discretion on an erroneous basis.

[11] However, the applicant pleaded guilty to both offences. In 2013, even before the guilty plea discount was put on a statutory basis by section 2 of the CJAA, it was an established rule of the common law of sentencing that a defendant who pleaded guilty was entitled to consideration of some form of discount on account of the guilty plea. In **Meisha Clement v R** [2016] JMCA Crim 16, this court considered that, based on the

range of sentences established by the authorities, a discount of up to 30% might be appropriate in a proper case.

[12] In this case, it appears that the applicant pleaded guilty at the earliest reasonable opportunity. Accordingly, in all the circumstances of this case, I consider that a discount of 30% would be appropriate on account of the applicant's timely pleas of guilty, thereby making the total sentences each offence 10 years and six months' imprisonment respectively.

[13] On this basis, I therefore conclude that the sentences of 15 years' imprisonment for illegal possession of firearm and robbery with aggravation respectively were manifestly excessive and unjust. In keeping with section 42L(3)(a) of the CJAA, I accordingly impose a sentence of 10 years and six months' imprisonment on the applicant for each offence, both sentences to run concurrently. Further, in keeping with section 42L(3)(b), I hereby specify that the applicant should serve a minimum period of seven years in prison before being eligible for parole.

[14] In accordance with the usual practice of the court, these sentences are to be reckoned from 15 November 2013, which is the date on which they were originally imposed.