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**NOTICE TO PARTIES OF THE COURT'S  
MEMORANDUM OF REASONS FOR DECISION**

**SUPREME COURT CRIMINAL APPEAL NO 77/2018**

**TRAVIS GRAHAM v R**

**TAKE NOTICE** that this matter was heard by the Hon Miss Justice Edwards JA, the Hon Mrs Justice Foster-Pusey JA and the Hon Mrs Justice Dunbar Green JA on 18 December 2023, with Mrs Ann-Marie Feurtado-Richards for the appellant and Mrs Kelly-Ann Murdock for the respondent.

**TAKE FURTHER NOTICE** that the court's memorandum of reasons, as delivered orally in open court by the Hon Mrs Justice Dunbar Green, is as follows:

[1] The appellant was tried and convicted by Wint-Blair J ('the learned judge') in the high court division of the Gun Court on 24 May 2018 on one count of illegal possession of a firearm and one count of illegal possession of ammunition. On 12 September 2018, he was sentenced by the learned judge to concurrent terms of 12 years' imprisonment at hard labour for both counts.

[2] Two police witnesses testified that, on 21 August 2015, being armed with a warrant under the Firearm's Act ('the Act'), to search for wanted men, among other reasons, they visited premises in Cooreville Gardens, Kingston 20, where the appellant was observed dropping a plastic bag. On searching the bag, the police found the prohibited weapon. On close examination of the firearm, three .762 cartridges were revealed. In the result, the appellant was found to be in possession of an AK 47 rifle and three rounds of ammunition, contrary to the provisions of the Act.

[3] In his original grounds of appeal, the appellant challenged his conviction and sentences. A single judge of appeal refused his application to appeal his conviction but granted permission for him to appeal his sentence on the basis that the learned judge had failed to apply a credit for time spent in custody, although she had adverted to the appellant's entitlement in her sentencing remarks. In his renewed application before us, the appellant only seeks to challenge that aspect of his sentences.

[4] Although the sentence imposed for the illegal possession of ammunition was not challenged in a ground of appeal, counsel for the Crown conceded that the sentence of 12 years' imprisonment was manifestly excessive in light of other similar cases. Counsel for the appellant agreed with that position and submitted that a sentence of five years imprisonment would be more appropriate. We agree.

[5] Having considered the submissions made on behalf of the appellant and the Crown's response, we are of the view that the appellant is entitled to a credit of one year and eight months for time spent in pre-sentence remand on both counts. Several authorities from the Privy Council and this court, including **Callachand & Anor v The State** [2008] UKPC 49, and **Meisha Clement v R** [2016] JMCA Crim 26, make it plain that the sentencing judge must give full credit for time spent on remand, and this must be clearly shown as an arithmetical deduction.

[6] As a result, we have decided to allow the appeal and set aside the sentences imposed on counts one and two.

[7] In the light of the above, we make the following orders:

1. The appeal against sentence is allowed.
2. The sentence of 12 years' imprisonment imposed for count one is set aside. Substituted therefor is a sentence of 10 years and four

months' imprisonment (having taken into account credit of one year and eight months for time spent in pre-sentence remand).

3. The sentence of 12 years imprisonment on count two is set aside. Substituted therefor is a sentence of three years and four months imprisonment (having taken into account credit of one year and eight months for time spent in pre-sentence remand)
4. Both sentences are to run concurrently.
5. The sentences are reckoned as having commenced on the date on which they were imposed, that is, 12 September 2018.