

Hydes

IN THE COURT OF APPEAL OF THE CAYMAN ISLANDS

APPEAL NO. 26 OF 2008  
IND No. 28(B)/08  
C# 02018/08

2/9/09

BETWEEN:

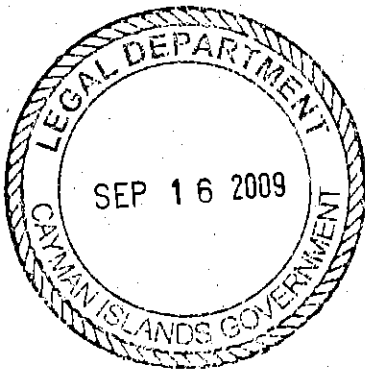
LEON HYDES

Appellant

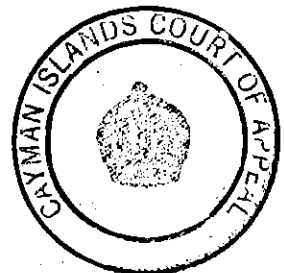
and

HER MAJESTY THE QUEEN

Respondent



BEFORE: THE RT. HON. SIR JOHN CHADWICK P.  
THE HON. MR. JUSTICE MOTTLEY J.A.  
THE HON. MR. JUSTICE VOS J.A.



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Reasons for Judgment delivered orally on 2 September 2009

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APPEARANCES:

Mr. N. Dixey

for the Appellant

Ms. N. Moore

for the Respondent



## Ruling -- Chadwick P.

1 principle that, on a guilty plea, the offender  
2 can expect a discount from the sentence that  
3 would have been passed on a conviction after a  
4 contested trial. That statutory discount on  
5 the minimum sentence is three years off ten;  
6 some thirty percent. But that, of course, is  
7 subject to two qualifications. First of all,  
8 there is no automatic discount of  
9 thirty percent, or any other proportion; and,  
10 second, the ten-year sentence is, itself, a  
11 minimum sentence and not necessarily an  
12 appropriate starting point in the circumstances  
13 of any particular case.

14 In this case, the firearm was found hidden  
15 in a sock in the defendant's possession. It  
16 was a handgun and it was loaded. The defendant  
17 said that it had been given to him to look  
18 after in a box and that he had thought that it  
19 was ganja. But we were told by the Crown that  
20 examination of the weapon showed DNA traceable  
21 to the defendant on the weapon; in particular,  
22 on the grip of the pistol, the slide, on the  
23 magazine.

24 The defendant has not volunteered  
25 information to identify the person whom the gun

Ruling -- Chadwick P.

1 was given into his possession. He has offered  
2 no explanation as to why, having discovered a  
3 gun which was loaded, he did not immediately  
4 turn it in to the police.

5 In those circumstances, it seems to us  
6 that on a guilty plea this defendant could  
7 appropriately have been sentenced to a term of  
8 eleven or twelve years. There were aggravating  
9 circumstances which remained unexplained; or,  
10 to put the point another way, the defendant did  
11 not choose to put the Court in possession of  
12 all that it needed to know in order to pass a  
13 minimum sentence.

14 It is accepted by his counsel that, had  
15 the starting point been eleven years, a  
16 sentence of eight years could not be  
17 criticized. Even if the starting point were  
18 ten years, the statutory minimum, it seems to  
19 us impossible to say that a sentence of eight  
20 years was manifestly excessive in circumstances  
21 where the statutory minimum on a guilty plea  
22 was seven years. But, as I have indicated, it  
23 seems to us that on the facts of this case the  
24 judge was fully entitled to impose a sentence  
25 of eight years and there is no ground on which

## Ruling -- Chadwick P.

1           this Court would interfere on the basis that  
2           that sentence was excessive; let alone  
3           manifestly excessive.

4           For those reasons, this appeal will be  
5           dismissed and the sentence of eight years is  
6           confirmed. Time served to be taken into  
7           consideration in the case.

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## REPORTER'S CERTIFICATE

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12           Certified correct to the best of my skill and  
13           ability, dated the 4th day of September 2009.

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16           CAROL ROUSE

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