

86

IN THE COURT OF APPEAL

JAMAICA

SUPREME COURT CRIMINAL APPEAL No. 85/1974

BEFORE: The Hon. Mr. Justice Luckhoo, Ag. P.  
The Hon. Mr. Justice Hercules, J.A.  
The Hon. Mr. Justice Zacca, J.A.

R. v. RAINFORD THOMAS

Chester Orr Q.C. and R.A. Stewart for the Crown.

Noel Edwards Q.C. for Applicant.

27th January, 1975  
21st February, 1975

HERCULES, J.A.:

This Applicant was convicted of the murder of Phillip Johnson before Melville J. and a jury in the Home Circuit Court on Tuesday 30th April, 1974.

The evidence for the Crown disclosed that the Applicant and five other men fired several shots at the deceased as he approached a van near to his beer joint and in the vicinity of Nuttall Street, Kingston. The deceased having fallen, the six men all ran away.

The evidence as to the facts came from Madelyn Gayle and her 13 year old son Donovan Jarrett. Dr. Martin gave evidence of at least six bullet wounds and found that death was due to shock, haemorrhage, due to punctured right lung, ruptured right kidney and liver, caused by the bullets. The Applicant's defence of an alibi was rejected by the jury.

Mr. Edwards at first adverted to conflicts in the evidence of the Crown witnesses Madelyn Gayle and Donovan Jarrett but when the Court reminded Mr. Edwards that those matters were fully dealt with by the learned trial judge on pages 70, 71, 75, 78 and 80 of the record, Mr. Edwards desisted and passed on to another ground on the issue of identification. He contended that the directions on the identity of the Applicant were inadequate. He submitted that the question of identity was really the only point in the application. Even on this

however Mr. Edwards conceded that there were ample directions by the learned trial judge. (See pages 69, 73, 74, 82, 86, 91 and 94 of the summing-up.)

No further complaints were made and we on our part apprehended no other, so we refused the application for leave to appeal.