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

SUPREME COURT CRIMINAL APPEAL NO 24/2018

ANTHONY ADAMS v R

TAKE NOTICE that this matter was heard by the Hon Mr Justice F Williams JA, the Hon Mr Justice Brown JA, and the Hon Mrs Justice Shelly-Williams JA (Ag), on 5 February 2024, with Ms Jacqueline Cummings for the appellant, and Miss Kathy-Ann Pike and Miss Alice-Ann Gabbidon for the Crown.

TAKE FURTHER NOTICE that the court's memorandum of reasons, as delivered orally in open court by the Hon Mr Justice F Williams JA, is as follows:

[1] On 7 November 2017 the appellant was convicted by a judge ('the learned trial judge'), sitting without a jury, in the High Court Division of the Gun Court, at King Street, Kingston for the offences of (i) illegal possession of firearm (count one); and (ii) assault with intent to rob (count two). On 8 March 2018, he was sentenced to the following terms of imprisonment: (i) illegal possession of firearm; count one – nine years; (ii) assault with intent to rob – count two – five years. The sentences were ordered to run concurrently. His application for permission to appeal against conviction and sentence was granted by a single judge of appeal on 14 February 2023. No reasons were given for the grant of permission.

[2] A summary of the facts found by the learned trial judge, resulting in the convictions, were that the appellant, on 1 April 2017, around 2:00 am, approached a

motorist who was parked on the Dyke Road, Portmore, Saint Catherine waiting for someone. On the motorist's testimony, the appellant, armed with a firearm and in the company of another man, approached him, pointed a gun at him and demanded that he hand over his money and telephone, after ordering him not to move. The motorist, a licensed firearm holder, drew his weapon and fired two shots in the direction of the person he says was the appellant. The motorist further testified that he ran from his motor car and went across the road to seek cover and safety.

[3] The police arrived on the scene within a matter of a few minutes. The appellant was found, suffering from gunshot wounds, about 120 or 150 feet from where the motor car had been parked.

[4] In an unsworn statement, the appellant indicated that he was walking to his mother's house, when he saw the motor car parked in the darkness. He said he stopped to enquire if the driver was all right and was met with gunfire from the driver who appeared, as he approached him, to have been sleeping.

[5] The appellant's unsworn statement was rejected by the learned trial judge, who attached no weight to it.

[6] The grounds on which the application for permission to appeal was based were as follows:

"Misidentity by the Witness: - That the prosecution witness wrongfully identified me as the person or [among] any persons who committed the alleged crime.

Lack of Evidence: - That the prosecution failed to present to the court any 'concrete' piece of evidence (material, forensic or scientific) to link me to the alleged crime.

Unfair Trial: - that the evidence and testimonies upon which the learned trial judge relied on [sic] for the purpose to convict me lack facts and credibility thus rendering the verdict unsafe in the circumstances.

Conflicting Testimonies: That the prosecution witness present to the court conflicting and contrasting testimonies which amount to perjury [sic] thus call into question the soundness of the verdict.

Miscarriage of Justice: - That the prosecution failed to recognize [sic] the fact that I had nothing to do with the alleged crime for which I was wrongfully convicted for [sic].”

[7] However, page 1 of the appellant’s criminal form B1, dated 23 March 2018, indicates that he was appealing only against sentence. In fact, in the plea in mitigation, the appellant’s then attorney-at-law seemed to indicate that the appellant was, even at that late stage, admitting his guilt and indicating his remorse.

[8] In brief oral submissions before the court today, Ms Jacqueline Cummings, counsel for the appellant, frankly conceded that she was unable to formulate any meritorious arguments in respect of the original grounds of appeal or to formulate any sustainable supplemental grounds of appeal. She said that she had confirmed this position with the appellant and had gotten his written instructions to make the concession.

[9] The Crown, through Miss Kathy-Ann Pike, agreed with the position taken by Ms Cummings.

[10] On our perusal of the transcript, the main issue that arose in the trial was credibility, which was adequately addressed by the learned trial judge. Although, at the start of the trial, identification appeared likely to have loomed large, its possible significance diminished, as the appellant, in his unsworn statement, placed himself at the scene and spoke of approaching the motorist, by whom he was shot. The issue was whether he was shot when he attempted to rob the motorist; or whether he was shot when he simply enquired of the motorist whether he was all right.

[11] Similarly, in respect of the sentences imposed, it cannot fairly be said that they are manifestly excessive, as they fall within the range of sentences imposed for the

relevant offences. We formed the view, therefore, that Ms Cummings' concession was quite correctly made and in the best traditions of the bar.

[12] In the result, we make the following orders:

1. The appeal is dismissed.
2. The convictions and sentences are affirmed.
3. The sentences, which are to run concurrently, are to be reckoned as having commenced on the date on which they were imposed, that is, 8 March 2018.