



COURT OF APPEAL
Public Building West,
King Street, Kingston
Telephone# (876) 633-7201
Email registry@courtofappeal.gov.jm
Website www.courtofappeal.gov.jm

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

SUPREME COURT CRIMINAL APPEAL NO COA2023CR00007

APPLICATION NO COA2026APP00043

LESHAWN LESLIE v R

TAKE NOTICE that this matter was heard by the Hon Mr Justice F Williams JA, the Hon Mr Justice Laing JA, and the Hon Mrs Justice Shelly-Williams JA (Ag), on 27 March 2026, with Peter Champagnie KC and Miss Samoy Campbell for the applicant, and Miss Kathy-Ann Pike, Miss Sharelle Smith and Sean Nelson for the Crown.

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

[1] On 3 March 2020, the applicant was convicted after a trial by a judge ('the learned trial judge') and a jury in the Home Circuit Court, located on King Street, Kingston. The conviction was for the offence of rape. On 21 September 2020, he was sentenced to 17½ years' imprisonment at hard labour, with the requirement that he serve 12 years before being eligible for parole. His application for permission to appeal both his conviction and sentence was refused by a single judge of this court.

[2] The following is a summary of the facts leading to the conviction: on 16 March 2018, the complainant was at her mother's house when the applicant, whom she knew previously, arrived, spoke to her, and then left. Soon after, the applicant returned, entered her room, and had sexual intercourse with her without her

consent. During the incident, the complainant told the applicant she was going to report what happened to her mother. Hearing this, the applicant stopped the sexual activity and left. The complainant reported the incident to her mother the next day, and she was taken to the Centre for the Investigation of Sexual Offences and Child Abuse.

[3] The applicant made an unsworn statement indicating that he was at the house in question but denied having raped the complainant.

[4] The original grounds on which the application for permission to appeal was based are reflected in the applicant's Criminal Form B1 and were as follows:

- "a. Unfair trial
- b. Insufficient evidence to support a conviction.
- c. sentence is manifestly excessive in the circumstances
- d. Further grounds to be filed on review of the trial transcript."

[5] On 17 June 2022, counsel for the applicant filed a notice of appeal from the single judge's refusal. That notice sought: -

- a. leave to appeal against conviction and sentence
- b. extension of time within which notice of appeal or of application for leave to appeal may be given.

[6] On 28 June 2022, the applicant filed a notice of appeal from the refusal of the single judge, wherein he sought the following orders: -

- "a. leave to appeal;
- b. extension of time within which notice of appeal or application for leave to appeal may be given;
- d. permission to me to be present during the hearing of any proceedings in my appeal;
- e. admission to bail."

[7] Mr Champagnie filed a notice of abandonment of the appeal on 18 March 2026. Counsel later withdrew that notice on 20 March 2026. The case was adjourned from 23 March 2026 to 25 March 2026, and then to 27 March 2026. On 25 March 2026, Mr Champagnie requested permission in court to withdraw the notice of abandonment. The need for the court to make directions on the filing of a notice of abandonment rather than an appellant only filing a notice of abandonment, has been addressed in several decisions. In **Tafari Williams v R** [2015] JMCA App 36, Morrison P (Ag) (as he then was) provided guidance regarding sections 31(1) and 31(3) of the Judicature (Appellate Jurisdiction) Act, as well as rule 3.22(3)(a) of the Court of Appeal Rules 2002. This judgment clarifies the difference between the mere filing of a notice of abandonment, which results in the appeal being dismissed as of the date of filing, and seeking the court's leave to file a notice of abandonment with the benefit of the court's directions as to what is to occur upon the abandonment of an appeal. In the latter approach, the court can specify when the sentence commences. This approach was affirmed in **Sheldon Pusey v R** [2016] JMCA App 26, among several other cases.

[8] The procedure to be adopted in relation to such applications was detailed in the cases of **Leroy Shaw v R** [2017] JMCA App 13 and **Donovan Archer v R** [2021] JMCA App 20. Brooks JA (as he then was), in the case of **Archer**, indicated the procedure to be adopted in such applications. The procedure is two-pronged, that is, the court should:

- a. allow the applicant to withdraw his filed abandonment; and
- b. order the applicant to file a new notice of abandonment, wherein the sentence would be calculated from the date it was imposed.

This approach was adopted in this case.

Orders

Accordingly, the court issues the following orders: -

1. The applicant is allowed to withdraw his application to withdraw the notice of abandonment.

2. The notice of abandonment filed on 18 March 2026 is hereby set aside, and the applications for leave to appeal filed on 17 June 2022 and 28 June 2022 are reinstated.

3. It is hereby directed that, upon the applicant filing a fresh notice of abandonment of the applications for leave to appeal, his sentence shall be reckoned as having commenced on the date on which it was imposed, namely 21 September 2020.