

JAMAICA

IN THE COURT OF APPEAL

APPLICATION NO COA 2023APP00192

**BEFORE: THE HON MISS JUSTICE P WILLIAMS JA
THE HON MR JUSTICE BROWN JA
THE HON MR JUSTICE LAING JA (AG)**

GERRARD LINTON v R

John Clarke & Isat Buchanan for the applicant Gerrard Linton who is present

Miss Donnette Henriques for R

23 April 2024

Endorsement read by P Williams JA

[1] It is undisputed that some eight years after his conviction in the Corporate Area Resident Magistrate Court (now 'Parish Court') on 23 March 2016, and the subsequent filing of his notice and grounds of appeal on 1 April 2016, the applicant is unable to have his appeal considered on its merit. This is due to the failure of the Clerk of Courts to comply with the provisions of section 299 of the Judicature Resident Magistrate Court Act (now 'Parish Court' Act) requiring the Clerk to forward to the Registrar of this court the record of the case together with the notes of evidence. Efforts over the years to obtain those notes of evidence from the Resident Magistrate (now referred to as a 'judge of the Parish Court') who heard the matter have proven futile.

[2] Accordingly, in these circumstances, the following orders are appropriate:-

- 1) Orders made in terms of paragraphs 2, 4 and 5 of the notice of application filed on 17 August 2023.

- 2) It is declared that the right of the applicant under section 16(7) of the Constitution of Jamaica to be given a copy of the record of the proceeding made by or on behalf of the Court has been breached.
- 3) It is declared that the right of the applicant under section 16(8) of the Constitution of Jamaica, to have his conviction and sentence reviewed by a superior court within a reasonable time has been breached by the excessive delay between his conviction and the hearing of the appeal.
- 4) (a) The appeal is allowed.

(b) As redress for those breaches of his constitutional rights in the circumstances, the convictions are quashed and the sentences are set aside and judgment and verdict of acquittal is entered for each count on the indictment.