

JAMAICA

IN THE COURT OF APPEAL

**BEFORE: THE HON MISS JUSTICE STRAW JA
THE HON MRS JUSTICE FOSTER-PUSEY JA
THE HON MRS JUSTICE V HARRIS JA**

SUPREME COURT CRIMINAL APPEAL NO 109/2015

COY MORGAN v R

Mr Obiko Gordon for the applicant

Miss Ruth-Anne Robinson for the Crown

4 March 2024

Endorsement read by Straw JA

[1] The learned judge ought to have stated a pre-parole period for all three counts on which the applicant was convicted in keeping with section 6(2) of the Sexual Offences Act. This she failed to do.

[2] The learned judge also failed to credit the applicant for time spent in pre-sentence remand (10 months and 12 days) in accordance with the oft-cited case of **Callachand & Anor v The State of Mauritius** [2008] UKPC 49, and the multitude of authorities of this court.

[3] We do believe, however, that, in correcting these errors, it is more advantageous to the applicant that the pre-sentence remand period be deducted from the parole period to be set.

[4] In light of the foregoing, the court orders as follows:

1. The application for leave to appeal sentences is granted.
2. The hearing of the application is treated as the hearing of the appeal.

3. The appeal against sentence is allowed.
4. The sentences of 20 years' imprisonment at hard labour for the offence of rape (count one) and grievous sexual assault (counts two and three) are set aside; substituted therefor are:
 - (i) In relation to count one for the offence of rape, is a sentence of 20 years' imprisonment at hard labour with the stipulation that the applicant serve 14 years, one month and 18 days before being eligible for parole, the pre-sentence remand period of 10 months and 12 days having been deducted.
 - (ii) In relation to counts two and three for grievous sexual assault, the sentences of 20 years' imprisonment at hard labour are imposed for each count, with the stipulation that the applicant serve 14 years, one month and 18 days at hard labour before becoming eligible for parole, the pre-sentence period of 10 months and 12 days having been deducted.
5. The sentences shall be reckoned as having commenced on 17 December 2015, the date on which they were imposed and are to run concurrently.