

BARBADOS

[Unreported]

IN THE SUPREME COURT OF JUDICATURE

COURT OF APPEAL

Criminal Appeal No. 25 of 2005

and

Criminal Appeal No. 29 of 2005

BETWEEN:

VENSLOW ORLANDO SMALL *Appellant*

AND

THE QUEEN *Respondent*

Before: The Honourable Sherman R. Moore, Acting Chief Justice, The Honourable Peter D.H. Williams and The Honourable Sandra P. Mason Justices of Appeal.

2010: September 14, 15 and December 14

The Appellant in person

Mr. Charles Leacock, Q.C., Director of Public Prosecutions, for the respondent

DECISION

INTRODUCTION

MOORE CJ (Ag): These two appeals were heard together. They arose out of 14 offences with which the appellant was charged in five indictments.

[2] Appeal No. 25 of 2005 arose out of an indictment in which the appellant was charged with one count of aggravated burglary and two counts of rape. Those offences were committed on 2 March 2004. On 4 May 2005 the appellant pleaded guilty and on 15 July 2005 he was sentenced to ten years imprisonment on the count of aggravated burglary and 20 years imprisonment on each of the two counts of rape.

- [3] Appeal No. 29 of 2005 arose out of four indictments containing a total of 11 counts. He was charged that -
- (a) on 18 December 2003 he committed one offence of aggravated burglary and one offence of rape;
 - (b) on 3 April 2004 he committed one offence of aggravated burglary, one offence of assault occasioning actual bodily harm, contrary to section 26 of the **Offences Against the Person Act, Cap. 141** and one offence of rape;
 - (c) On 2 May 2004 he committed one offence of aggravated burglary and two offences of rape;
 - (d) on 4 July 2004 he committed one offence of aggravated burglary and two offences of rape.
- [4] The offences of aggravated burglary were contrary to section 25(1) of the **Theft Act, Cap. 155** and the offences of rape were contrary to section 3(1) of the **Sexual Offences Act, Cap. 154**.
- [5] On 8 December 2005 the appellant pleaded guilty to three counts of aggravated burglary and six counts of rape and not guilty to one count of aggravated burglary and one count of assault occasioning actual bodily harm. The Director of Public Prosecutions (DPP) offered no evidence in respect of the charges to which the appellant pleaded not guilty. The following sentences were imposed:
- (a) in respect of the offences committed on 18 December 2003, he was sentenced to 15 years' imprisonment on the count of aggravated burglary and 25 years' imprisonment on the count of rape;
 - (b) in respect of the offences committed on 3 April 2004, he was sentenced to 15 years' imprisonment on each of the two counts of rape;
 - (c) in respect of the offences committed on 2 May 2004, he was sentenced to 25 years' imprisonment on each of the two counts of rape; and
 - (d) in respect of the offences committed on 4 July 2004, he was sentenced to 15 years' imprisonment on the count of aggravated burglary and 30 years' imprisonment on the count of rape.

The Facts

- (1) Appeal No. 25 of 2005
- [6] Two females who occupied a room at a resort in Maxwell, Christ Church were awakened about 2:30 a.m. on 2 March 2004 by the appellant. He had entered their room and put his hand over the mouth of one of the females and threatened her with a knife. He then proceeded to rape each one in turn, repeatedly.
- (2) Appeal No. 29 of 2005
- [7] On 18th December 2003, a female and her 11 year old son went to bed. She was awakened during the night by the appellant who was standing next to her holding a knife to her throat. He then raped her.
- [8]