

SAINT CHRISTOPHER AND NEVIS

IN THE COURT OF APPEAL

CRIMINAL APPEAL NOS. 3 & 4 of 1992

BETWEEN:

(1) BERNARD RICHARDS and
(2) RONALD BROWNE

Appellants

and

THE QUEEN

Respondent

Before: The Honourable Chief Justice Floissac - President
The Honourable Mr. Justice Byron J.A.
The Honourable Miss Justice Joseph J.A. (Ag.)

Appearances: Mr. Lee L. Moore, Dr. Henry Browne with him for the
Appellants
Mr. Malcolm Holdip, DPP for the Crown

1992: March 24.

JUDGMENT

FLOISSAC, C.J.

On the 11th April 1991 after a trial by a Jury presided over by Singh J., the appellant, Ronald Brown~~e~~ was convicted of murder of Viola "Bessy" Claxton and was sentenced to death.

On the 22nd May, 1991 after a trial by a Jury presided over by Singh J., the appellant, Bernard Richards, was convicted of the murder of Mervyn Walters and was also sentenced to death.

Both appellants failed to appeal against their convictions within 14 days thereof as required by Section 47(1) of the Eastern Caribbean States Supreme Court Act, (St. Christopher and Nevis) No.17 of 1975. Both appellants now apply for an extension of time within which to appeal.

The hearing of both applications was consolidated by consent.

The jurisdiction of this Court is essentially statutory. The jurisdiction to grant extension of time for an appeal against conviction is governed by Section 47(2) of the said Act which provides that - "Except in a case of a conviction involving sentence of death, the time within which notice of an application for leave to appeal may be given, may be extended at any time by a Court of Appeal."

Section 47(2) specifically denies this Court the jurisdiction to entertain these applications. Counsel for the appellants so concede.

In **R v Twynham** 15 Criminal Appeal Reports at p.39. The Court of Criminal Appeal, England said:-

"There is very good reason for the Legislature making this provision, because the mere giving of a notice of appeal or a notice of application for leave to appeal against a conviction for murder or high treason, has the effect of postponing the date of the execution. Once that notice has been given, the execution cannot take place until a certain time after the hearing of the appeal. If it were possible to extend the time, it would be open to a murderer, having failed in one appeal, to give notice asking for an extension of time in order to bring some other matter before the court, or not give the notice until the last moment, in order to provide for a further extension of time. Consequently, the Legislature deliberately declared that an appeal from a conviction involving a sentence of death must be made within the prescribed time. Therefore, this court has no jurisdiction to extend the time for appealing or applying for leave to appeal against such a conviction".

These are words equally applicable to Section 47(2) of the Supreme Court Act No.17 of 1975.

For those reasons these applications are dismissed.

(Sgd.) V.F.FLOISSAC
Chief Justice

(Sgd.) C.M.D.BYRON
Justice of Appeal

(Sgd.) M. JOSEPH
Justice of Appeal (Ag.)