



# The Court of Appeal for Bermuda

## CRIMINAL APPEAL No 9 of 2014

Between:

**RAMANO MILLS**

Appellant

-v-

**THE QUEEN**

Respondent

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**Before:** **Baker, President**  
**Kay, JA**  
**Bernard, JA**

**Appearances:** Mr. Marc Daniels, Charter Chambers, for the Appellant  
Ms. Cindy Clarke, Department of Public Prosecutions, for the Respondent

**Date of Hearing & Decision:** **8 June 2015**

**Date of Reasons:** **8 June 2015**

### REASONS

1. On the 2<sup>nd</sup> June 2014, following an earlier plea of guilty, Ramano Mills, the Appellant, was sentenced to 14 years imprisonment comprised as follows:
  - i) for possession of a firearm and possession of ammunition, 12 years imprisonment concurrent on each count;
  - ii) for possession of cannabis with intent to supply in an increased penalty zone, 2 years imprisonment consecutive;
  - iii) for two offences of violently resisting arrest, 6 months imprisonment on each, concurrent with the other sentences making a total of 14 years.

2. The Court made an Order under section 70(P) of the Criminal Code (as amended) for the Appellant to serve at least 7 years, that is half of the total sentence, before being eligible for consideration for parole. The Judge, Justice Simmons, directed that time already spent in custody should be taken into consideration.

### **FACTS**

3. On the 13th of June of 2013 the police were conducting an operation to arrest somebody else and had placed themselves outside #8 Broome Street. Whilst they were there the Appellant emerged from the premises and appeared to be nervous. He was carrying a white plastic bag. He ran away from the police and refused to stop when asked to do so. As a result, he was tackled to the ground, a violent struggle ensued and he swung his arms wildly in an attempt to throw away the white plastic bag. Whilst doing so, he was continuously trying to reach down to his right lower leg and ankle region at the same time as the police were trying to restrain him. The police noticed that what he was reaching for appeared to be silver and they thought that it was a knife. One of the officers placed his foot over the Appellant's hand, but the Appellant got his hand free and again tried to reach the object. At this point the police discharged a Taser and the Appellant was temporarily immobilized but, as soon as the current stopped he again began to resist. He was tasered again and when the second cycle of current stopped he again reached for his lower right leg. It was at this point that an object fell to the ground from his right sock. It was a silver Smith and Wesson firearm. He was eventually subdued, restrained and arrested. After caution he said "You've got me now officer, I'm gone, I'm gone." The white plastic bag was examined and it was found to contain 35 clear Ziploc bags each containing a quarter of an ounce of cannabis. If they'd been sold in that form, they had a street value of \$4,375.00. The Appellant was also in possession of \$2,162.45 in cash. When examined, the firearm was found to be a semi-automatic pistol which was loaded with ten rounds of ammunition. It had been discharged in a number of previous incidents none of which were in any way related on evidence to the Appellant.

4. Justice Simmons in passing sentence said that she was in no doubt that the gun and ammunition were in the Appellant's possession as an adjunct to his intent to supply cannabis. She said: -

“That whilst no one was injured, the fact that the gun was loaded showed an intention to use it. The struggle with the police and his attempt to reach the gun indicated a starting point of 12 years imprisonment which was the statutory minimum for the firearms offence. The very late plea of guilty did not warrant any discount particularly as in the social inquiry report he had continued to deny any knowledge of the gun.”

The Judge went on that: -

“The appropriate sentence for possession of cannabis with intent to supply was 3 years imprisonment but would be reduced 2 years to take into account the point of totality. The resisting arrest, 6 months concurrent was appropriate and thus the total reach was 14 years imprisonment.”

5. The Appellant is 28 years of age and has previous convictions for assault occasioning actual bodily harm and fighting in a public place, both offences were some years ago and are in reality of no relevance to the present sentence.
6. The Crown said at the sentencing hearing that the Appellant was a member of the MOB Gang. This was denied by the Appellant and the Judge proceeded on the basis that he was not. This Court proceeds on the same basis. What however is material is that the firearm and ammunition are valuable commodities for criminal gangs in Bermuda and this gun had been used in seven offences over the previous three and a quarter years, including three offences of murder. The Appellant declined to say how he came into possession of the gun and the ammunition. It belies common sense that he did not know. Further, criminals who have possession of these guns do not readily let them out of their possession to others apart from to those whom they can trust.
7. The thrust of Mr. Daniels' submission is that the sentence of 14 years imprisonment is manifestly excessive. He submitted to us that the total sentence should be no more than 12 years. It will thus immediately become apparent that the ambit of this appeal is quite a narrow one. The statutory

range for possession of a firearm is 12 – 17 years. The learned Judge imposed a sentence of 12 years imprisonment which was the statutory minimum. Mr. Daniels complains about the two additional years. He advances his appeal in two ways. He says ‘first of all the Learned Judge could have reduced the statutory minimum from 12 years by one or two years and secondly, the Judge could have imposed a lower sentence for the offence of possession of cannabis with intent to supply.’

8. Mr. Daniel’s has advanced this appeal making every point that he could possibly make on behalf of the Appellant and it seems to us that no one could have done more on his client’s behalf. However, it is difficult to see how the Judge could appropriately have come to a lesser sentence than that of 14 years. The plea of guilty was very late in the day. The Appellant’s remorse was extremely limited. The sentence of 12 years for the firearms offence was the mandatory minimum and the Judge in the circumstances reduced what would otherwise have been a sentence of three years imprisonment consecutively for possession of cannabis with intent to supply in a prohibited zone to two years. In these circumstances we have reached the conclusion that although the sentence was a severe one, it was not manifestly excessive. Those who choose to possess firearms in circumstances such as the Appellant did in this case are inevitably going to face severe sentences. The Appeal is accordingly dismissed.

*Signed*

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Baker, P

*Signed*

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Kay, JA

*Signed*

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Bernard, JA