

People v. Lebron

Supreme Court of New York, Appellate Division, First Department

May 25, 1999, Decided ; May 25, 1999, Entered

Counsel: For Respondent: Gregory H. Mansfeld.

For Defendant-Appellant: Gregory Antollino.

Judges: Concur--Ellerin, P. J., Williams, Tom and Wallach, JJ.

Opinion

[*291] [**418] Judgment, Supreme Court, New York County (Colleen McMahon, J.), rendered March 25, 1997, convicting defendant, after a jury trial, of seven counts of robbery in the first degree, four counts of robbery in the second degree, one count of criminal possession of a weapon in the second degree, one count of criminal possession of a weapon in the third degree, and one count of criminal possession of a controlled substance in the first degree, and sentencing him, as a second felony offender, to four consecutive terms of 25 years on four of the convictions of robbery in the first degree, to run concurrently with concurrent terms of 25 years on each of the three remaining convictions of robbery in the first degree, 15 years on each of the four convictions of robbery in the second degree, 15 years on the conviction of criminal possession of a weapon in [***2] the second degree, 7 years on the conviction of criminal possession of a weapon in the third degree, and 25 years to life on the conviction of criminal possession of a controlled substance in the first degree, unanimously modified, as a matter of discretion in the interest of justice, to the extent of reducing the sentence on each conviction of robbery in the first degree to 15 years, reducing the sentence on the conviction of criminal possession of a controlled substance in the first degree to 15 years to life, and directing that all sentences run concurrently, and otherwise affirmed.

[**419] Defendant has not established that the court's comments indicating that it had been the victim of crimes on several occasions, as part of its general address to the panel of prospective jurors, displayed any bias or otherwise caused any prejudice.

We find the sentences to be excessive to the extent indicated. In view of our direction that all sentences run concurrently, defendant's argument that imposition of consecutive sentences was unlawful is academic.

Reargument granted, and upon reargument, the prior unpublished [*292] decision and order of this Court entered on February 2, 1999 is [***3] recalled and vacated, and a new decision and order substituted therefor.

Concur--Ellerin, P. J., Williams, Tom and Wallach, JJ.