

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO: 80/88

BEFORE: The Hon. Mr. Justice Campbell, J.A.
The Hon. Mr. Justice Wright, J.A.
The Hon. Miss Justice Morgan, J.A.

R. v. DANIEL GRAHAM

Application for leave to appeal

Miss Paulette Williams for the Crown

3rd April, 1989

CAMPBELL, J.A.

On October 3, 1986 Detective Corporal Maurice Shirley and a raiding party forcibly entered a three apartment premises at 31 St. Johns Road in Saint Catherine after identifying himself as a Police Officer and demanding entry. The time was about 6.00 a.m. The appellant Graham was found in a room in the premises which he admitted was owned by him. There was a single divan bed in that room, underneath which one Glenford Gordon was found hiding. Also under this bed was found a paper bag in which was secreted one M10 Submachine Gun, one .38 Smith and Wesson revolver loaded with five rounds, one Magazine containing 7 rounds of 45 cartridges. The appellant was arrested with three others who were in the room. They were all tried in the High Court Division of the Gun Court by Mr. Justice Pitter on various dates ending on March 30, 1988 for the offences of illegal possession of firearm and illegal possession of ammunition. Fennell and Brown were discharged on a submission of no case to answer.

The appellant made an unsworn statement in which he admitted ownership of the room in which he was found, he however denied that any other person was in the room or that any firearm was found therein. A simple issue of credibility was involved and on the evidence the learned trial judge correctly in our view found the appellant guilty of the offences as charged. He sentenced the appellant to fifteen years imprisonment at hard labour. Leave to appeal against sentence was granted as it appeared then to the single judge that the sentence was excessive. On further and more critical consideration we have concluded that the learned trial judge must have taken into account the fact that the appellant was found in possession of not a single firearm, but rather, of two firearms and matching ammunition. One of these firearms was a highpowered automatic submachine gun.

The range of imprisonment for illegal possession of firearm where only one firearm is involved is between five and ten years, certainly in our view where the person is found in possession of more than one firearm coupled with magazine and ammunition, a more severe sentence can be justified. In the circumstances we do not consider that the sentence albeit, on the high side is so manifestly excessive as to warrant any disturbance by us. Accordingly the appeal is dismissed, the conviction and sentence affirmed, the sentences ordered to commence on the 30th of June, 1988.