

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO 105/2012

BAIL APPLICATION NO 10/2012

LEROY FEARON V R

**Ravil Golding instructed by Lyn-Cook, Golding and Company for
applicant**

Jeremy Taylor for the Crown

30 October 2012

IN CHAMBERS

HARRIS JA

[1] The applicant was convicted in the High Court Division of the Gun Court for the offences of illegal possession of firearm and shooting with intent. He was sentenced to three years imprisonment for the illegal possession of firearm and 15 years for the shooting with intent.

[2] The applicant now makes an application to be released on bail pending the hearing of the appeal.

The grounds of appeal are:

- "1. The verdicts of guilty of illegal possession of firearm and shooting with intent are against the weight of the evidence.
2. The Learned Trial Judge misdirected himself in law when he stated that based on Section 6 of the Firearms (Amendment) Act 2010 amending Section 25 of the Firearms Act (the Principal Act) he was obliged to sentence the Appellant to a minimum custodial sentence of 15 years on the count of Shooting with intent, thus infringing the Appellant's constitutional right.
3. That Section 25 of the Firearms Act as amended breaches the principle of proportionality enshrined in Section 17 of the constitution of Jamaica which states that "No person shall be subjected to torture or to inhuman or degrading punishment or other treatment".
4. The mandatory minimum sentence of fifteen years imposed by Section 25 of the Firearms

Act as amended infringes the principle of separation of powers between the judiciary and the legislature and is therefore unconstitutional and should be struck down as such.

5. the sentences imposed on the Appellant were manifestly excessive in all the circumstances."

[3] I am not empowered to give consideration to grounds 2 to 5. However, I will consider ground 1. There is evidence from the applicant, by his affidavit, that the driver of a motor car collided with his vehicle and did not stop. The applicant pursued him. He saw a passenger in the other car with a shine object, following which, he, the applicant shot at one of the rear tyres of that other car.

[4] There is also evidence that the applicant has serious medical challenges.

[5] It does not appear to me that he would have a good arguable appeal.

[6] The fact that he and his doctor speak to his deteriorating medical condition, this would not be an exceptional circumstance which would warrant this court granting him bail. Bail is refused.

[7] The court recommends that the applicant be hospitalized at a public hospital until the hearing of the appeal.

