

**JAMAICA**

**IN THE COURT OF APPEAL**

**SUPREME COURT CRIMINAL APPEAL NO. 193/2006**

**BEFORE: THE HON. MR. JUSTICE PANTON, P.  
THE HON. MR. JUSTICE COOKE, J.A.  
THE HON. MR. JUSTICE DUKHARAN, J.A.**

**GARETH HINES  
V  
REGINA**

**Applicant unrepresented.**

**Ms. Kamar Henry, Assistant Director of Public Prosecution (Ag.) for the Crown**

**May 11, 2009**

**Oral Judgment**

**COOKE, J.A.**

1. On the 2<sup>nd</sup> October, 2006, there was an indictment before the court charging Gareth Hines and Andrew Shaw with 2 counts, namely, illegal possession of firearm and illegal possession of ammunition. On that date both were found guilty in the Western Regional Gun Court.

2. Mr. Hines who has chosen to challenge the correctness of his conviction and sentence, applied for leave to appeal against same. This matter first received the attention of a single judge, who not surprisingly refused the

application. He has sought to renew his application before the full court and thus, this matter now has our attention.

3. The facts are that on the 9<sup>th</sup> May 2005, a police party armed with a search warrant went to the specific premises at Tank Road, Cambridge in St. James. At these premises there was, what the learned judge described as, a split-level house. On the lower level there was a kitchen, and on the kitchen counter was a home-made firearm. Seated, within 2<sup>1/2</sup> feet of the kitchen counter on stools, were both accused, (as the court chooses to call them). Then the police ventured to the upper level and in a room in a drawer at the base of the bed, they found two more firearms. These two were also home-made.

4. There can be little doubt, if any at all, that this room was occupied by the applicant Hines, as just about before he was escorted to the police station, he asked to be allowed to put on his shoes which were in that room. Also, there was a shirt which he claimed. So the case put forward by the prosecution was simple and straight-forward, bereft of the slightest degree of complexity. This court finds that the approach of the learned trial judge in respect of applying the appropriate judicial principles and demonstrating that he was faithful to the application of these principles to the evidence, which he accepted as true, is unobjectionable. However, the court misinformed itself in respect of counts on the indictment. The court will now correct itself. There was a count of illegal possession of firearm, in respect of the firearm which was found in the kitchen,

on the kitchen-counter, and which contained a round of ammunition, and then there was another count for illegal possession of firearm pertinent to the firearms found in the bedroom and the ammunition in respect of those firearms in the bedroom.

5. The sentences were - count 1 five years at hard labour and on count 2 one year at hard labour. These were in respect of the firearms found on the kitchen counter. He was sentenced to 10 years at hard labour in respect of the firearms found in the drawer at the base of the bed, and 3 years at hard labour in respect of the ammunition. The sentences were to run concurrently. The convictions and the sentences imposed are hereby affirmed and the sentences are to commence on the 2<sup>nd</sup> January, 2007.