

**JAMAICA**

**IN THE COURT OF APPEAL**

**COURT OF APPEAL CRIMINAL APPEAL NO 136/09**

**BEFORE: THE HON MRS JUSTICE HARRIS JA  
THE HON MR JUSTICE MORRISON JA  
THE HON MR JUSTICE HIBBERT JA (Ag)**

**JOHN MORRIS v R**

**The applicant is unrepresented**

**Miss Sasha-Marie Smith for the Crown**

**24 May 2011**

**ORAL JUDGMENT**

**HIBBERT JA (Ag)**

[1] This is an application by the applicant John Morris for leave to appeal against his conviction and sentence. He was convicted for the offences of illegal possession of firearm and two counts of shooting with intent. A previous application for leave was refused by a single judge on 16 February 2011 and he now renews his application before this court.

[2] These convictions arose out of an incident which took place in the vicinity of the Denham Police Station in Kingston on 12 October 2006. Police officer Gilbert Brown and others were returning from operations and, on reaching the vicinity of the Denham Town Police Station, they saw a Hiace mini bus. Constable Brown said he observed the manner in which this bus was driving and this aroused his suspicion. He started to approach this bus and on his approach, the bus started coming towards him. He signalled to the driver to stop, but the bus increased its speed and came at him. He said while the bus was coming towards him he saw two persons from the left hand side of the bus pointing firearms at him and they opened fire. He took evasive action and returned the fire with the firearm that was in his possession. Another officer who was nearby in another vehicle observed what was happening and he also fired at the bus. The bus entered Spanish Town Road where it came to a stop. After the bus came to a stop, three persons alighted from it. They ran toward Tivoli Gardens, each one with a firearm in his hand. It was then observed that the driver was still in the bus and he was ordered from it. This driver turned out to be the applicant Mr John Morris. He was injured and was taken to the Kingston Public Hospital.

[3] The evidence was led from two witnesses for the prosecution as to what they said transpired. The applicant gave an unsworn statement in which he said he was given the bus to wash and was driving it along the road when he picked up a friend. He said no one fired at the police. It was while he was driving pass the police officers that they opened fire at the bus, injuring him.

[4] The learned trial judge, in reviewing the evidence, took into consideration all the evidence that was led by the prosecution and the statement of the applicant. He also took into consideration any discrepancies that existed and warned himself correctly. This is a matter which turned on the credibility of these two police officers. The learned trial judge also took into consideration the provisions of section 20 (5) of the Firearms Act which deals with persons being in control of articles or objects in which a firearm was found. The learned trial judge also took into consideration the question of common design, and from the evidence, found that this applicant was a part of a group of persons who opened fire at the police. On that basis of he was found guilty in relation to the three counts for which he was charged. We find no reason to disturb these findings.

[5] In relation to the count for illegal possession of firearm he was sentenced to imprisonment and kept at hard labour for a period of eight years. In relation to the other 2 counts of shooting with intent at the police officers, he was sentenced on each count to be imprisoned and kept at hard labour for 15 years. It is our view that the learned trial judge dealt with all the issues adequately, and that the sentences which were imposed in the circumstances of this case cannot be said to be manifestly excessive. For these reasons we refused the application for leave to appeal against conviction and sentence. The sentences will therefore run from 20 February 2010.

