

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 109/86

BEFORE: THE HON. MR. JUSTICE CAREY, P. (Ag.)
THE HON. MR. JUSTICE WRIGHT, J.A.
THE HON. MISS JUSTICE MORGAN, J.A.

R. vs. ANTHONY BROWN

Application for leave to appeal

Garth McBean for Crown

October 24, 1988

CAREY, P. (Ag.):

In the High Court Division of the Gun Court, held on the 18th of December, before Gordon, J., sitting alone, this applicant, Anthony Brown, was convicted on an indictment which charged him for illegal possession of firearm and illegal possession of ammunition. He now applies for leave to appeal that conviction and the sentence of concurrent terms of four (4) years imprisonment at hard labour on each count.

The circumstances which gave rise to this charge are quite uncomplicated. On the 14th of January, 1986, police officers, round about 8 o'clock in the morning, saw this applicant and accosted him somewhere on the causeway. He was observed to have under his arm a red plastic bag. A police officer went up to him; he attempted to escape but was held. Rather peculiarly, he was taken into the police vehicle and transported from there to Denham Town Police Station where this plastic bag was opened and found to contain a parcel which when opened, revealed a gun. The firearm was a

.38 Smith & Wesson and contained in the chamber some six live rounds of ammunition. So far as the prosecution evidence went, when this was pointed out to him, he observed that he had it to protect himself.

The defence was wholly different. The applicant said that it was a fact he was held by a police officer but he did not have any bag and really, the weapon was foisted upon him.

There were two wholly conflicting or irreconcilable stories. The learned trial judge who heard and saw the police witnesses and as well the applicant, believed the evidence given by the police officer. If he did, there was evidence sufficient to convict the applicant. This Court cannot interfere in the absence of any factors which will persuade us that there was some error in the approach of the learned trial judge to the law or in his apprehensions of the facts. We were quite unable to detect any such defects in his summation.

For these reasons, the application for leave to appeal will be refused. The Court directs that the sentences imposed begin to run from the date of conviction.