

Firearms Act S21 (b) - illegal possession of ammunition.
- Act provides for summary trial before RM -
Tried on indictment - Held trial a nullity -
appeal allowed - new trial ordered.

J A M A I C A

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S CRIMINAL APPEAL No. 10/87

BEFORE: The Hon. Mr. Justice Rowe, P.
The Hon. Mr. Justice Carey, J.A.
The Hon. Mr. Justice White, J.A.

R. v. CLAUDIUS GREENFIELD

Miss Ola-Mae Edwards for the appellant.

Miss Jennifer Straw for the Crown.

16th March, 1987

ROWE, P.:

This is an appeal in which Claudius Greenfield was convicted before the resident magistrate for the parish of Hanover on the 2nd October, 1986, and he was sentenced to serve 3 years imprisonment at hard labour. He appealed.

Before us, Miss Ola-Mae Edwards appearing for the appellant, has supplied us, and we are very grateful to her, with written submissions which she has repeated orally and the first ground is that:

"The learned resident magistrate assumed a jurisdiction by trying the appellant on indictment for illegal possession of ammunition contrary to section 21 (b) of the Firearms Act in circumstances where the only provision for trial of this offence by a resident magistrate is in a summary manner."

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We have had our attention drawn to section 20, subsection 4 (c)(i) of the Firearms Act and this section simply says:

"Every person who contravenes this section shall be guilty of an offence and shall be liable on summary conviction before a resident magistrate to a fine not exceeding one thousand dollars or to imprisonment with or without hard labour for a term not exceeding three years." (emphasis added)

We have had the opportunity to examine the records of the appeal which have been sent up by the court from Hanover and we have noticed that the learned resident magistrate made an order for indictment in the case, and proceeded to try the appellant on indictment. We do not think, as the Crown rightly concedes, that there was any jurisdiction in the resident magistrate to proceed in that fashion and, therefore, we are constrained to say that the appeal must be allowed, as the trial on indictment was in excess of jurisdiction and consequently a nullity.

In the circumstances, however, we think that there should be a new trial before a different resident magistrate in the parish of Hanover.