

C A CRIMINAL LAW — Gun Court — Trial @ Illegal possession  
of firearm @ Wounding with intent — Evidence — Sentence  
Application for leave to appeal against [Shed sharp  
question of fact for trial judge] JAMAICA

IN THE COURT OF APPEAL

No case referred to

SUPREME COURT CRIMINAL APPEAL NO: 82/88

✓ comp

BEFORE: The Hon. Mr. Justice Carey, J.A.  
The Hon. Mr. Justice Campbell, J.A.  
The Hon. Mr. Justice Forte, J.A.

R. v. CURTIS THOMAS

Application for leave to appeal

Miss Paula Llewellyn for the Crown

January 16, 1989

CAREY, J.A.

In the High Court of the Gun Court, held on the 7th October, 1987, before Harrison J, sitting alone, this applicant was convicted on two counts which charged him for illegal possession of firearm and wounding with intent. He was sentenced to concurrent terms of eighteen years imprisonment at hard labour on each count. He now applies for leave to appeal against that conviction and sentence.

The facts need only be given in outline. On the 14th of February 1987, at about 9.00 p.m., there was a party in progress on Duke Street at a nurses' school at which the applicant was present as also a Michael Samuels who was the brother of the victim of the attack, Courtney Samuels.

It appeared that there was some fracas between the applicant and Courtney Samuels, in the course of which Michael Samuels intervened, he apparently pulled a knife. The applicant made a strategic withdrawal at that stage, but upon his departure used some rather ominous words that, "That was not an end of it", and indeed it was not. He returned with a firearm and shot Michael Samuels in his hand and in his chest which resulted in the unfortunate

2.

man being hospitalised for some fifteen days.

The defence was a denial; he was never present at the shooting. He was somewhere on Mark Lane.

This was a very, short, sharp question of fact for the learned trial judge; there were two wholly inconsistent stories. Having seen and heard the rival stories from witnesses before him, an advantage denied to this court, he came to a decision adverse to this applicant. We can see no reason whatever having looked at the evidence and having considered the approach of the learned trial judge, to interfere either with the conviction or with the sentence. In the result the application for leave to appeal will be refused, and the court directs sentence to commence from the date of his conviction.