

CRIMINAL NO - Appeal from Gun Court. (1) Illegal possession of firearm
(2) Shooting with intent. HEND - question of fact for trial
Judge who considered all points in his summing-up.
Application refused.

JAMAICA

No cases referred to -
IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO: 85/87

BEFORE: The Hon. Mr. Justice Carey, J.A.
The Hon. Mr. Justice Wright, J.A.
The Hon. Mr. Justice Downer, J.A.

R. v. KENNETH BLAKE

No appearance for Applicant

Miss A. McKain for Crown

May 30, 1988

CAREY, J.A.:

The applicant Kenneth Blake was convicted in the High Court Division of the Gun Court on the 20th of May, 1987 for illegal possession of firearm and shooting with intent. He was sentenced in respect of the first count, to a term of 5 years imprisonment at hard labour, and in respect of the second count, to 8 years imprisonment at hard labour. He now applies for leave to appeal conviction and sentence.

The short facts are; that on the early morning of the 2nd July the police who were on patrol duty in the area of Prince of Wales Street accosted some men who were seen running from a place which subsequently was discovered to have been broken into, and a fridge motor stolen. Upon being fired on, the police returned the fire, and when they searched the neighbourhood, they found the applicant. His defence was that he was returning to his house when he saw this unmarked, unlit motor car, so he ran because he was near his house and he was shot.

This was a plain question of fact for the learned trial judge who saw and heard both witnesses in the case. He gave the matter very careful consideration in his summing-up which occupied a great number of pages; and he considered all the points which were urged in favour of the applicant. But his verdict was adverse to the applicant.

We see no reason to interfere with the conclusion which he arrived which was supported on the evidence and accordingly the application will be refused, and the Court directs the sentence to commence to run from the date of his conviction.