

CA. CR 1 minute LHM - Murder - Conviction for manslaughter - Summing-up
Counsel concedes nothing to challenge - Application for leave to
appeal refused; sentence to commence on 10/7/92
No case referred to

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JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO: 45/92

Criminal Practice

COR: THE HON. MR. JUSTICE CAREY, P. (AG.)
THE HON. MR. JUSTICE DOWNER, J.A.
THE HON. MR. JUSTICE GORDON, J.A.

R. v. MAURICE BENT

Ernie Smith for Applicant

Cheryl Richards for Crown

8th & 22nd March, 1993

GORDON, J.A.

On 10th April 1992, at the Home Circuit Court before Wolfe J, and a jury the applicant was convicted of the crime of manslaughter, on an indictment for murder, arising from the death of Enos Cooke on 14th April 1991, in Montego Bay St. James. He was sentenced to 8 years imprisonment at hard labour. His application for leave to appeal was heard and refused on 8th March 1993, and we directed that the sentence should commence on 10th July 1992.

Mr. Ernie Smith who appeared before us and also at the trial submitted with commendable frankness that he had scanned the transcript and found no areas that he could challenge. We agree that the learned trial judge had indeed done a thorough summing-up.

The deceased Enos Cooke and the applicant were in a bar in Montego Bay at about 4.00 p.m. on Sunday 14th April 1991, when an altercation developed followed by the exchange of blows. They were parted. Shortly thereafter the applicant, who was a policeman walked up to the deceased, placed a gun against his left chest and discharged a shot therefrom. The deceased went through the door to the road and collapsed and died. This was the evidence on which the prosecution relied.

The defence claimed that after the fight the deceased suddenly pounced on the applicant, grabbed for his gun, and they wrestled. In the course of the wrestling the gun was somehow unsheathed and a shot was discharged. The applicant testified he did not know how this happened.

The learned trial judge in his summation dealt with all the issues that arose on the evidence. The defences of accident and provocation were properly left for the jury's consideration.

This is but one of many cases that have come before this court in recent months in which off-duty policemen have been convicted of serious crimes committed with a firearm. It behoves us to observe that the practice of policemen who have been issued with a firearm to enable them to carry out their dangerous duties retaining them after their tour of duty has ended, is one which should be positively discouraged.