

CA Criminal - Gun Court - Illegal Possession of firearm - robbery with  
aggravation - Crown's Case overwhelming - no reason to  
disturb finding of Judge - Application for leave to  
appeal refused ✓ conf

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO: 53/87

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

R. v. MICHAEL PALMER

No Case referred to

No appearance for Applicant

Miss V. Bennett & Miss A. McKain for Crown

May 30, 1988

CAREY, J.A.:

This applicant, Michael Palmer was convicted in the High Court Division of the Gun Court on the 30th of March for the offences of Illegal possession of firearm and robbery with aggravation. He was sentenced to concurrent terms of 5 years imprisonment at hard labour and 7 years imprisonment at hard labour.

The short facts are; on the 26th of June, 1986, Mr. Donovan Malcolm returned to his home at about 9.45 in the evening in his car and there he was set upon by some gunmen who robbed him of his motor car. However, when these men tried to drive the car away they had an accident so that they had to run and leave the car. One of the two men who had attacked him made off on a motor cycle. The other, this applicant, took to his heels. The hue and cry was raised; there was a chase through Zaidie Gardens and he was finally caught hiding up in a tree, the tree of the National Fruit an ackee tree, from which he was taken down and handed over to the police. His defence was that he was an innocent passerby chased by persons and he had therefore to run and take refuge where he did.

The Crown's case, in our view, was overwhelming. The owner of the motor car was a most indefatigable pursuer of his assailant, and lost sight of him for only a short period of time. At all events the applicant was found within a very short distance and within a very short time after the incident of the robbery.

We see no reason whatever, having carefully considered the facts and the summation, to interfere or disturb the finding of the learned judge. In the circumstances, the application for leave to appeal will be refused and the Court directs sentence to commence to run from the date of conviction.