

CA CRIMINAL LAW - Gun Court - illegal possession of firearm -
robbery with aggravation - review of application for
leave to appeal.
Held - Judge considered matter very carefully and analyzed
facts and applied law correctly. - Application refused.

JAMAICA

✓ comp

No case referred to

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 64/87

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

R. v. PATRICK JAMES

Application for leave to appeal

Miss V. Bennett & Miss A. McKain for the Crown

May 30, 1988

CAREY, J.A.:

The applicant Patrick James was convicted in the High Court Division of the Gun Court for the offences of illegal possession of firearm and Robbery with aggravation and sentenced to concurrent terms of 5 years imprisonment at hard labour. The application for leave came before the single judge who refused the application and the applicant desires the full Court to review his application.

On the 27th of August, 1986 about 2 o'clock in the morning, Mr. Gladstone Dyer who is a Roast Fish vendor arrived home with his wife and six children, when he was set upon by two men one of whom he identified as being this applicant. He was robbed of \$300.00 which he had in his purse. It was the accused whom he said pointed a gun at him. The other man made off, but this applicant was somebody whom, he says, he had known before. He said he was able to see

"the whole of his body from his head come right down and he has a mark on his jaw here, he has a cut on his jaw and I know that is him." They live on the same road, said the victim, and he knew him well. There was a bright light at the gate and he could see. He was in his company for some five minutes so that there was ample time to observe the features of the assailant. Indeed, after the robbery he went to the applicant's home and demanded his money from him. The defence was of course a denial and an alibi, that he was at home all along.

The learned trial judge considered the matter very carefully and analysed the facts and applied the law correctly, and we see no reason whatever to disturb the judgment at which he arrived. In the circumstances, the application will be refused and the Court directs that the sentence commence to run from the date of conviction.