

FOR REFERENCE ONLY

J A M A I C A

NORMAN MANLEY LAW SCHOOL
LIBRARY
U.W.I. MONA, JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 74/73

BEFORE: The Hon. President
The Hon. Mr. Justice Hercules
The Hon. Mr. Justice Robinson.

R. v. PAUL TAYLOR

Mr. Henderson Downer appeared for the Crown.

12th October, 1973

HENRIQUES, P.,

The appellant in this matter was convicted at the Home Circuit Court in Kingston on the 20th of June of this year of the two offences of shooting with intent and wounding with intent. He was sentenced by the learned trial judge to life imprisonment on both counts of the indictment.

It was a bad case of shooting with intent. The appellant, along with another man, went into the premises of the complainant and deliberately shot him in the chest and then made off. The complainant was seriously wounded and was, in fact, in hospital for a period of some nineteen days.

After the jury had returned their verdict, Sergeant Leonard Campbell gave evidence with regard to the history and antecedents of the appellant and in the course of his evidence stated that the appellant had, on the 8th of January, 1969, been convicted in the Juvenile Court of a charge of loitering, for which he had been placed on probation for a period of three years. He also stated that he had been convicted again in the Juvenile Court on the 29th of May, 1970, for possession of ganja and had been sent to the

/approved.....

approved school at Stony Hill, from which he had absconded. Detective Sergeant Campbell went on to say: "Accused is always associated with boys of known bad character in Western Kingston.

"His Lordship: Is that to your knowledge?

~~Sgt. Campbell~~: Yes, sir, to my knowledge. His name has been linked with many shootings in Western Kingston, that is how he derived the name of 'Scorcher'.

His Lordship: How come he has only been charged with this offence once?

Sgt. Campbell: His name was only linked, M'lord.

His Lordship: I will have to discard that; " and the learned trial judge then proceeded to pass a sentence of life imprisonment with regard to each count of the indictment.

The appellant, on the 22nd of June, sought leave to appeal against his conviction and sentence and the matter came before a single judge of this court for consideration on the 6th of July, 1973, when the learned single judge of the court refused leave to appeal against conviction but granted leave to appeal against the sentence.

Now, the appellant is a young lad. At the time that he was sentenced he was seventeen years and one week old. He had two previous convictions in the Juvenile Court, one of which was for a very minor offence.

It appears to us that although the learned trial judge had stated that he would discard the evidence of Detective Sergeant Campbell with regard to the fact that this appellant's name had been linked with other shootings in Western Kingston and that he was a member of a gang when imposing sentence, it can be inferred from the fact that he imposed the maximum sentence which the law permitted him to do, obviously that this piece of evidence had some influence albeit subconsciously on the mind of the learned trial judge. In the

/circumstances.....

circumstances, therefore, and on the fact that this is a very young man, we feel that that sentence ought not to be allowed to stand.

The court, therefore, first refuses the application for leave to appeal against conviction and allows the appeal in respect of the sentence; set aside the sentence imposed by the learned trial judge and imposes a sentence of fifteen years hard labour on each count, to run concurrently.