

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO: 144/87

BEFORE: The Hon. Mr. Justice Forte, J.A.
The Hon. Mr. Justice Downer, J.A.
The Hon. Miss Justice Morgan, J.A.

R. v. TREVOR KEANE

Dennis Morrison for Appellant

Hugh Wildman for the Crown

6th November, 1989

FORTE, J.A.

The appellant in this case was tried and convicted on the 18th of August, 1987 for the offences of illegal possession of firearm and shooting with intent. He was sentenced to a period of ten years hard labour.

In proof of his case the crown alleged that on the 20th of April, 1984 at about 12.00 in the afternoon Inspector Burey who was then Sergeant Burey acting upon a report drove in his private motor car to Lucky Hill in the parish of St. Mary. He was accompanied by other police officers all of whom were dressed in plain clothes. They proceeded to David Brown's gas station. There they saw a red triumph car parked. Inspector Burey instructed the other police-men to cover the red car. He got out of his car and went to the left side of it that is towards a road called the Barclay Town Road. There he saw the appellant and another man coming from the direction of the Barclay Town Road. At this time the appellant pulled a revolver from the left side of

his waist and fired shots at Inspector Burey. Fortunately for the officer, all the shots missed him. He returned the fire however and the appellant ran together with the other man into a banana plantation and escaped.

In his defence the appellant said that two days before the incident he had just returned from hospital where he had been for two months having been shot in February, 1989. He said that on the date of the offence, he was in bed at home very ill at the time and his illness was so serious that he was unable even to walk and certainly was not able to run and escape in the banana plantation as testified by Inspector Burey. He stated that as his excretory function had been destroyed and he has to use supplementary equipment to allow him to excrete and to pass urine and that he certainly could not have been out at any gas station on that day dodging bullets and running down the banana walk. That was the evidence in brief.

This being a Gun Court case it was tried before a judge sitting alone. The learned trial judge in his summation dealt with all the issues in great detail and examined all the necessary questions of law which he had responsibility to do. When the matter first came before this Court, leave to appeal was granted specifically to allow counsel to investigate the medical history of the appellant to determine whether or not an application to admit fresh evidence should be granted. This morning before us, Mr. Morrison has presented two reports indicating the results of those investigations.

In short, the investigations have not come up with any evidence which can support the applicant's claim to having been in hospital with a gun shot wound. That being so, Mr. Morrison quite rightly in the opinion of the court conceded that there was nothing in the appeal which he could

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advanced to the court in support of the appeal. The court entirely agrees and for those reasons the appeal is dismissed, the conviction and sentences are affirmed. The court orders that sentence should run from 18th of November, 1987.