

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO:128/01

**BEFORE: THE HON. MR. JUSTICE PANTON, P.
 THE HON. MR. JUSTICE COOKE, J.A.
 THE HON. MRS. JUSTICE HARRIS, J.A.**

R V CLIVE CAMPBELL

Mr. Kenneth Ferguson for the applicant

**Mr. Dirk Harrison Acting Deputy Director of Public Prosecutions
and Miss Claudette Thompson, Assistant Crown Counsel** for the Crown

July 18, 2007

ORAL JUDGMENT

PANTON, P.

In this matter the applicant was convicted and sentenced on the 8th of June, 2001 for the offences of illegal firearm, and robbery with aggravation. In respect of count 1 the illegal possession of firearm, he was sentenced to 7 years imprisonment and on count 2, 10 years imprisonment. Both sentences are to run concurrently.

The transcript was received at the Court of Appeal on the 4th December, 2006. It is necessary to put that into perspective to indicate that this was not a matter which was lying in the Court of Appeal or

anything of that nature. The single judge which considered this matter refused the applicant's application for leave to appeal indicating that the issues had been adequately dealt with by the learned trial judge.

As narrated by the acting Deputy Director of Public Prosecutions, Mr. Harrison, the facts indicate a simple situation where at night – at 27 Gilcrist Street, Rollington Town in the parish of Kingston the applicant, on the 26th September, 2000, had entered a shop operated by Miss Irene Porter along with another person and having placed his firearm on the counter proceeded to relieve Miss Porter of items listed in the indictment which were \$500 in cash, 5 packs of cigarette all to the total value of \$1,000. The applicant was identified on an identification parade which was held one month after the robbery.

In his defence he raised an alibi but the learned judge rejected the alibi and accepted the evidence given by Miss Porter. Before us, Mr. Ferguson has indicated that having viewed the 5 grounds of appeal that were filed by the applicant and he himself having filed 3 supplemental grounds, having reviewed the situation, we came to the conclusion that we could not find no useful arguments to put forward to support any of the grounds.

We have read the transcript and the summation and we are in the agreement with Mr. Ferguson that there is nothing useful that we could have urged from what we see here. As the learned trial judge

appropriately, and adequately dealt with the question of identification and alibi. We observe from the antecedent report that the applicant had previous convictions recorded on the same day for the offence of assault at common law and illegal possession of firearm. That means 7 years ago prior to the time that he was sentenced to 9 months imprisonment. The sentences here are therefore quite appropriate.

We find ourselves with nothing more to do than to refuse the application for leave to appeal and to order that the sentences run from the 8th September, 2001.