

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO: 51/07

**BEFORE: THE HON. MR. JUSTICE PANTON, P.
THE HON. MR. JUSTICE HARRIS, J.A.
THE HON. MR. JUSTICE DUKHARAN, J.A. (Ag.)**

R v CAMESHA BLAKE

**K. Churchill Neita, Q.C. & Delano Harrison , Q.C. instructed by
K. Churchill Neita & Co. for the appellant**

**Miss Lisa Palmer, Senior Deputy Director of Public Prosecutions &
Mrs. Nadine Atkinson-Flowers, Ag. Crown Counsel, for the Crown**

29th October 2008

ORAL JUDGMENT

PANTON, P.

1. In this matter the record shows that on the 7th March 2007 Miss Camesha Blake pleaded guilty to illegal possession of firearm and not guilty to illegal possession of ammunition. However, the learned judge Miss Justice Gloria Smith imposed sentences in relation to both counts.

2. Having examined the record carefully we are of the view that there is an error in the recording of the verdict in relation to the ammunition and that it is obvious that she pleaded guilty on that too, given the circumstances of the case; the circumstances being that the police party armed with a search warrant went to premises occupied by her on the 1st of February 2007 at 2:20 in the

afternoon. These premises are at lot 216, 6 West Greater Portmore in St. Catherine. She was in the company of a young man. During a search of those premises a loaded firearm with six rounds of ammunition was found. In narrating the facts to the learned judge, Crown Counsel, Mrs. Icolyn Reid stated that the firearm was found in Miss Blake's waist. She however corrected herself and said that it was actually between Miss Blake's legs in a black plastic bag and that when she was arrested, the appellant said that she had bought the weapon to protect herself.

3. Having pleaded guilty, a social enquiry report was ordered and that report was submitted to the scrutiny of the judge, and the probation officer was cross-examined by learned Queen's Counsel Mr. Dennis Daley who then appeared for Miss Blake. The report indicated that, at the interview she appeared undaunted as she spoke frankly about the circumstances of the offence. She explained that while she was residing with her parents in Polly Ground, St. Catherine she was confronted by an individual who had attempted to rape her and consequently, she decided to arm herself to ensure her safety, as due to her social status she would not be qualified for a firearm's licence so she sought an alternate source.

4. According to her, in the interview with the social worker, she was acquainted with someone who had a connection to source the weapon. She made her "spouse" aware of this weapon and her "spouse" opposed her possession of the weapon. She told the social worker that on February 1 when

she was at home and became aware that police officers were in operation in the neighbourhood she removed the weapon from her dresser drawer and concealed it on her person. The house was searched and seven rounds of ammunition were found in a component set but the firearm was not recovered. It was when she was searched at the police station that the firearm was found loaded with six (6) rounds of ammunition on her person.

5. In imposing sentence, the learned judge said that she took into account Miss Blake's antecedents and the contents of the Social Enquiry Report. She took into consideration the plea in mitigation made by Mr. Daley. She said that she took into consideration the plea of guilty and the fact that Miss Blake had no previous conviction. She also said that she was bearing in mind that Miss Blake has a small child. However, the learned judge said that it would have been irresponsible of her, based on what is happening in the society, to contemplate a non-custodial sentence and she related the circumstances of the concealment of the weapon and the fact that it was found concealed in Miss Blake's underwear. The learned judge observed that there were too many guns in the society, too many guns in the hands of persons who have no right to have them and she said that Miss Blake ought to have gone the proper route to get a licenced firearm if she felt so strongly about protecting herself. She went on to say that there are certain consequences which come with certain actions if one decides to take the sort of risk that Miss Blake took.

6. Having said all that, the learned judge said that she was imposing a sentence of six years imprisonment on the possession of firearm charge and twelve months on the ammunition, both sentences to run concurrently.

7. The appellant was granted leave to appeal in respect of the sentence on count 1 by a single judge of this court and in pursuance of that leave, learned Queen's Counsel Mr. Delano Harrison has pointed to the ground that the sentence was harsh and excessive having regard to all the circumstances and the prisoner's previous good character. In written submissions on the sentence, learned Queen's Counsel has pointed to some relevant authorities from England and Jamaica. He has also reminded the court of the plea of guilty and the need for the sentencer to give due consideration to the circumstances of the individual offender.

8. We have taken into consideration all the circumstances that have been put before us in the record and by learned Queen's Counsel. We cannot say that the sentence of six years imprisonment on a plea of guilty for illegal possession of firearm in the circumstances of this case is manifestly excessive. We cannot say that; and that is the point on which we have to be satisfied before we could properly interfere with the sentence imposed by the learned judge. Where a trial has taken place for an offence of this nature, a proper sentence would be in the region of ten years imprisonment given all the circumstances of our society. The

learned judge has clearly taken into consideration the plea of guilty and the circumstances of the individual here.

9. Miss Blake is reported to have had good upbringing, steeped in the Christian faith. She ought to have been setting a better example to those around her. She has had the benefit of high school education within the walls of McGrath High School. Her behaviour is not one that can be recommended. She must pay the penalty and in this case the learned judge deemed it to be six years imprisonment and as we have said before there is no question of disturbing that sentence.

10. We have taken into consideration the fact that she has been in custody from the date of sentencing and we will give her credit for that time. Accordingly, we will direct that the sentence should run from 28th March 2007 which the record discloses as the date of sentencing. The appeal against sentence is dismissed. The sentences imposed are affirmed and are to run from 28th March 2007.