

CA (P) Prisoners Gun Court Illegal possession of firearm, assault.
trial: also — weapon firearm — Its reason to
interfere with functioning of police —
Application for leave to appeal refused.

JAMAICA

Its Case referred to.

✓ comp

Evidence

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 53/88

BEFORE: THE HON. MR. JUSTICE CAREY, P. (AG.)
THE HON. MR. JUSTICE WRIGHT, J.A.
THE HON. MR. JUSTICE GORDON, J.A. (AG.)

REGINA

VS

BARRY CAMPBELL

Application for leave to appeal

Garth McBean for the Crown

October 24, 1988

GORDON J.A. (AG.):

The applicant was convicted before Patterson J, sitting in the High Court division of the Gun Court at Black River in St. Elizabeth on March 2, 1988, on an indictment which contained two counts. The first count charged illegal possession of a firearm and the second, common assault.

The incident giving rise to these charges occurred in the parish of St. Elizabeth on the 19th June, 1987. The complainant Henry Christopher was searching on Back Bush property for a cow which had gone astray some three days before, when he was confronted by the applicant. The applicant questioned his presence there and the complainant indicated the purpose, viz, that he was searching for a cow. The applicant said that he did not want them in the area because he had his property there to protect.

2.

The complainant and his colleague, Henry Jones, who were both searching for the cow, protested and the applicant pulled a firearm, pointed it at the complainant and told them to leave. They backed away from the menace of the gun and at a safe distance they made their escape and the matter was reported to the police in Black River. The applicant was subsequently arrested and charged with the offences indicated.

The applicant's defence was an alibi and in support of his alibi he called two witnesses.

The learned trial judge had no difficulty in resolving the issues. He found that the defence was one of convenience and that the witnesses called by the defence and the applicant himself were ~~not~~ witnesses of truth. He rejected the alibi, accepted the prosecution's case and also accepted that the implement which was described by the witnesses for the prosecution satisfied the definition of a firearm as given in the Firearms Act and found the counts proved against the applicant.

We have considered the matter carefully and we find no reason to interfere with the findings of the learned trial judge. The application is refused, and the court directs that the sentence is to commence from the date of conviction.