

CRIMINAL LAW - appeal from Gun Court - Illegal possession of firearm
Question of fact - Application for leave to appeal against conviction refused.
Re Sentence: Reduced from 10 years (Ten) h/c (hard labour) to 7 (seven) years h/c.

JAMAICA

✓ comp.

No case referred to

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 155/87

BEFORE: The Hon. Mr. Justice Carey, J.A.
The Hon. Mr. Justice Wright, J.A.
The Hon. Mr. Justice Downer, J.A.

REGINA vs. GRANVILLE WHYTE

No appearance for appellant

Miss V. Bennett & Miss A. McKain for the Crown

May 30, 1988

CAREY, J.A.:

In the High Court Division of the Gun Court held on the 28th August, 1987 in Westmoreland, this appellant, Granville Whyte was convicted on a single count charging him with illegal possession of firearm and sentenced to a term of 10 years imprisonment at hard labour.

The matter comes before the Court by leave of the single judge as regards the sentence of 10 years imprisonment at hard labour.

The short facts are, that on October 13, 1985 the police had reason to visit the home of this appellant, who made off upon their arrival. When his house was searched, the officers found a home-made firearm therein. The ballistics report showed that it was in proper working order and capable of discharging deadly missiles through its barrel. His defence was that he personally knew nothing about it but was told something about it by some other youth.

This was a question of fact for the learned trial judge, and he did not believe the story given by the appellant and accepted the Crown's case. So that insofar as conviction is concerned, the application for leave will be refused.

As regards this question of sentence, we note that the firearm which was recovered is a home-made firearm and we think that some differentiation should be made between these home-made firearms and what we may describe as a regular firearm. Quite often these home-made firearms are more of a danger to the possessor than to the person at whom they are pointed. Nevertheless, this is not to minimize the seriousness of the offence, but we feel that a sentence of 10 years imprisonment can be said to be excessive and we propose to reduce that to one of 7 years hard labour. We so order. The Court directs that this sentence begins to run from the date of his conviction.