

C.A. CRIMINAL LAW - Gun Court - Trial (1) Illegal possession of
firearm (2) robbery with aggravation - visual
identification - circumstantial evidence - Sentence
Application for leave to appeal refused. ✓ comp

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 70/88

BEFORE: THE HON. MR. JUSTICE CAREY, J.A.
THE HON. MR. JUSTICE CAMPBELL, J.A.
THE HON. MR. JUSTICE FORTE, J.A.

REGINA

VS.

IAN ELLISON

Application for leave to appeal

Miss Paula Llewellyn for the Crown

January 16, 1989

CAREY, J.A.:

In the High Court Division of the Gun Court held on the 22nd March, 1988, before Marsh, J., sitting alone, this applicant Ian Ellison was convicted on an indictment which charged him for illegal possession of a firearm and robbery with aggravation. In respect of these counts, he was sentenced to terms of five years and four years at hard labour, the sentences to run consecutively. He now applies for leave to appeal against conviction and sentence.

The facts in this case, were that on the night of the 23rd October, 1987, a Mr. Renford Wright was at home watching television when a number of men broke in. They were armed with guns and knives. They came through the back door of his house. The witness asserted that this applicant was in possession of a "short" gun and he also

testified that he knew him before. He was robbed of a TV, a tape-recorder and money. He had about fifteen minutes to observe who the assailants were. The next morning a bag was seen outside the premises. It was one which the witness had seen in the possession of the applicant prior to that. The witness picked up this bag. Another witness was called who said that she had been sent by the applicant to fetch this bag. There was evidence that when the police went to a house at which this applicant stayed, they recovered Mr. Wright's tape and TV. The defence was a denial, the applicant saying that he heard that the place had been broken into.

The Crown's case did not depend wholly on visual identification, but on circumstantial evidence viz., the bag in which the applicant showed an interest following the breaking, the fact of stolen goods being found shortly thereafter in the possession of the applicant.

Having carefully examined the record, we can see no reason to interfere with the verdict at which the learned trial judge arrived. He applied his mind to the issues which fairly rose for his determination and in the result, the application for leave to appeal is refused, both as regard conviction and sentence which we thought was warranted on the facts. Sentence will run from the date of conviction.