

CA. CRIMINAL LAW — Shooting with intent — Evidence — Sentence —
clear question of fact — (applicant a district constable) —
Sentence of 3 years imprisonment at hard labour lenient —
amercement refused.

No case referred to

JAMAICA

✓ comp

Evidence
Sentence

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 44/88

BEFORE: THE HON. MR. JUSTICE CAREY, P. (Ag.)
THE HON. MR. JUSTICE WRIGHT, J.A.
THE HON. MISS JUSTICE MORGAN, J.A.

REGINA vs. LLOYD MURRAY

Application for leave to appeal

Kent Pantry & Brian Sykes for Crown

20th September, 1988

CAREY, P. (Ag.):

In the Westmoreland Circuit Court on the 8th of February, 1988 before Walker, J., and a jury, the applicant was convicted for the offence of Shooting with Intent and sentenced to a term of three (3) years imprisonment at hard labour. He now applies for leave to appeal both that conviction and sentence.

The applicant, sad to say, is a district constable and on the day in question had been despatched on duty to guard a post office in Montego Bay, but found himself in Savanna-la-mar where he involved himself in a domestic dispute between a friend of his and the victim, and in the result, used his service revolver to shoot at a young man called Paul Robinson. Paul Robinson had apparently had a dispute with the applicant's friend.

The applicant, in his defence, gave some rather lengthy explanation as to why he found himself in Savanna-la-mar. He said that he saw a man whom he knew trafficked in ganja in Montego Bay and pursued him to the

Savanna-la-mar market. He accomplished a most remarkable feat. The car in which he was travelling sustained a puncture which he had to repair. Having repaired this puncture he, nevertheless, was able to resume the chase. The reason for discharging his weapon was that when accosted this fleeing law-breaker, the latter pulled a knife and in the result, that caused him to fire in the air. But the physical evidence showed that there was a mark on one of the stalls which was at odds with his story that he fired in the air.

This was a clear issue of fact. There were two conflicting stories. The jury rejected the version given by the applicant and favoured that given on behalf of the prosecution. There was adequate evidence to support that view of the facts and further we see no reason whatever to impugn the summing-up of the learned trial judge. In so far as sentence is concerned, we think if error there be, it was on the side of leniency.

The application is refused. The Court directs sentence to begin on the date of conviction.