

CA. Criminal Law - Gun Court - Trial (Blood from scene of firearm robbery with aggravation) - Identification - Visual identification with inadequately described by page.
Application for leave to appeal refused
JAMAICA
No leave referred to

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 111/87

BEFORE: THE HON. MR. JUSTICE CAMPBELL, J.A.
THE HON. MR. JUSTICE WRIGHT, J.A.
THE HON. MISS JUSTICE MORGAN, J.A.

REGINA

VS.

LLOYD RICHARDS

Application for leave to appeal

Miss P. Williams for Crown

April 3, 1989

MORGAN, J.A.:

The applicant, Lloyd Richards, stood his trial on the 4th of December, 1986 and the 22nd June, 1987 before Panton J. in the High Court Division of the Gun Court held at Montego Bay on an indictment containing three counts. The first count charged him with illegal possession of firearm and counts 2 and 3 with robbery with aggravation. He was actually convicted on the 4th December, 1986 when sentence was postponed to December 9 but in the interim he escaped from custody and was not before the Court again until June 22, 1987. He now seeks leave to appeal against his conviction and sentence.

The facts are that on the 8th of October, 1984, Mr. Goulbourne, the Branch Manager of Leonard DeCordova Limited at Church Street in Montego Bay was with his staff and customers at his business place. At about 9:00 a.m. while attending to the customers he saw a man standing in a manner blocking the front door. As he was about to speak to him this man pulled a gun from his waist, presumably as a show of force because he pushed the gun back into his waist.

Mr. Goulbourne looked around and saw another man inside the store pulling a similar gun from a pouch. Then a third man, whom he later identified as the applicant at an identification parade, came from the rear with a ratchet knife and said to him "this is a hold-up". This man demanded money and jewellery from Mr. Goulbourne and relieved him and others in the store of these items. The applicant left the store but not before he had slashed Mr. Goulbourne with a knife which he had in his hand.

This applicant was not known before so the issue turns on the identification of the accused. The evidence is that the place was well lit, it was daylight. Mr. Goulbourne was with this man for fully fifteen minutes during which time he was seeing his face as he was no more than a foot away on one occasion and he was able to view him from all angles. He said he saw him sideways, frontways and what he emphasized was that apart from all that, he had a mental picture of the applicant as he made it a point to look on him good when the applicant was in the office. There was ample opportunity for Mr. Goulbourne to have seen him to be able to identify him at the parade and this issue was adequately dealt with by the learned trial judge.

In the circumstances the application for leave to appeal is refused and the sentence is ordered to run from the 22nd of September, 1987.