

CA - CRIMINAL LAW - Gun Court - Trial (Illegal possession of firearm,  
robbery with aggravation) - Seven years imprisonment  
at hard labour - Application for leave to appeal  
refused - No case - JAMAICA ✓ comp

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 13/88

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

REGINA

VS.

WINSTON BLAKE

Application for leave to appeal

Mr. Brian Sykes for the Crown

May 1, 1989

CAREY, J.A.:

On the 18th of January, 1988, in the High Court Division of the Gun Court, the applicant was convicted of the offences of illegal possession of a firearm and robbery with aggravation. He was then sentenced to concurrent terms of seven years imprisonment at hard labour.

The short facts in the case are that on the morning of 20th of January, 1987, a soldier one Lance Corporal Rudyard Williamson was on his way to work, walking along Albion Avenue, when he was held up by three men who were all armed. He knew of these men before, one he identified as the applicant; another man called "Speedy" and he said he recognised them because these are people whom he knew before as living in the same neighbourhood as he did. He gave evidence as to the nature and quality of the lighting which was available to him and which emanated from the street lights around. So far as distance between the applicant and the witness, he said that was about one yard. The time elapsed for

the robbery for some ten minutes. Lance Corporal Williamson was robbed of his billfold and travelling bag with the contents which appeared to be his army paraphernalia. The Lance Corporal acted as his own detective agency and had assistance from the Military Police and also from police patrols and in that way he was able to apprehend the applicant. The defence was that this was a case of mistaken identity.

This is another of those interminable cases where visual identification is the only issue for the learned trial judge. What we had to consider very carefully was whether the lighting which was available to the victim was sufficient to enable a recognition to take place. The learned trial judge found the evidence credible. He believed Lance Corporal to be a truthful witness and we can see no reason ourselves, having examined the approach of the learned trial judge and the evidence adduced before him to come to a decision contrary to his.

In the circumstances, the application for leave to appeal is refused. The Court directs sentence to commence on the 18th April, 1988.