

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 65/89

BEFORE: THE HON. MR. JUSTICE CAREY, J.A.
THE HON. MR. JUSTICE WRIGHT, J.A.
THE HON. MR. JUSTICE GORDON, J.A. (AG.)

REGINA

VS

CHARLES HENDRICKS

Applicant not represented

Mr. Robert Brown for Crown

1st October, 1990

CAREY, J.A.:

On the 18th of April, 1989 after a trial which had begun on April 12, this applicant was convicted of an indictment which charged him for illegal possession of a firearm and he was sentenced to a term of seven years imprisonment at hard labour. He now applies for leave to appeal that conviction.

The short facts in the case are that on the 10th of November, 1988 at about 2:30 in the afternoon, police officers were dealing with offences under the Road Traffic Act at Creek Street in the parish of St. James. A police officer, Constable Simeon Hamilton, observed this applicant pushing a cart against the One Way direction arrow. He was therefore stopped and told to push his cart towards a police vehicle which was parked on that road. The applicant asked to be allowed to take his bag from the cart. The applicant did take off a travelling bag but, as he must have thought that the police officer was not paying him particular attention, he handed it to a little boy who was standing a little way off but the police officer did observe this strange activity and ordered him to

hand over the bag. Instead of complying, he took to his heels. He was chased and caught after a fifteen yard dash. He was relieved of the bag in which was found a firearm. The officer said "I saw there an implement which I recognized to be a gun." It is plain that this was no ordinary gun and must have been a home-made firearm. For reasons which are difficult to appreciate, the ballistic expert's certificate is not with our records but the evidence demonstrates that this must have been a home-made shotgun because the colour was described as "red and brown" which is hardly the colour of a traditional firearm.

The applicant, in explanation of his possession of this weapon said that "Driff" gave him to give Tyrone. The police did endeavour to find "Driff" and did find Driff who was also put in custody but what became of him no one seems to know. That certainly was not vouchsafed in the evidence.

So far as the defence went, the applicant who gave evidence on oath acknowledged that he was on the street, that he was pushing the cart against the one way arrow and that he had this bag with him. He did admit telling the police that "Driff spoke to him leaving the bag on the cart to be given to Tyrone. He denied however, that he had run and he acknowledged also that Driff was eventually picked up by the police.

The issue before the learned trial judge, was, in our view, quite simple. He had to be satisfied that this applicant knew about the contents of the bag and in our view, there was evidence capable of supporting that conclusion. The prosecution evidence showed that when the police requested him to hand over the bag he took to his heels and the inference

which the learned trial judge could draw from that was that he knew he had in his possession a prohibited implement. In our view really, this is a wholly unmeritorious application and ought to be refused. It is accordingly refused.

In the circumstances the court directs sentence to commence on the 18th of July, 1989.