

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 8/89

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

REGINA vs. ANTHONY ROBERTSON

Glen Cruickshank for the applicant

Miss Sheryl Richards and Patrick Cole for the Crown

October 22, 1990

WRIGHT, J.A.:

On the 10th January, 1990, the applicant was convicted in the High Court Division of the Gun Court and sentenced on four counts which charged him with illegal possession of firearm, shooting with intent and wounding with intent. On the count for illegal possession, he was sentenced to five years imprisonment at hard labour; on each of the two counts for shooting with intent, he was sentenced to five years imprisonment at hard labour and on the fourth count for wounding with intent, he was sentenced to ten years imprisonment at hard labour. He now seeks leave to appeal against conviction and sentence.

The brief facts of the case are that on the 4th May, 1988, following upon a fuss the previous evening at a gas station where the applicant worked, he turned up at the shop belonging to the mother of the virtual complainant,

Radcliffe Currie, armed with a gun and started shooting. At the time Radcliffe was seated outside when the first shot was fired at him and then he sought sanctuary inside the shop where his mother, Joyce Baker, and his brother, Desmond Currie, were. The applicant pursued him into the shop and kept shooting at a time when Radcliffe was hiding behind his mother and as a result the mother received some three shots, two of which were still in her body at the time of the hearing.

This case demonstrates how much violence prevails in the society because the genesis of the whole problem was that on the previous evening Radcliffe had gone to the gas station, where the applicant worked, and purchased gas for his motor cycle. The applicant wished to borrow the cycle and when Radcliffe denied his request the applicant sprayed gasoline on him and the next morning, as a result of the fuss they had, he came to shoot his way out.

His defence, which was quite rightly rejected by the learned trial judge, was that it was Radcliffe who did the shooting and as a consequence the injury sustained by his mother were laid at the door of Radcliffe. Radcliffe only managed to bring the shooting to an end when he called out to the applicant, telling him that the police were coming. He then looked around and ran off.

Identification was not an issue in the case because they were all well-known to each other and this was 11:30 in the morning.

Mr. Cruickshank, in seeking leave to appeal, sought to argue a ground based on the fact substantially that the summation of the learned trial judge was too brief. It was not his contention that there was not evidence that could lead to the conviction but he would have wished a more lengthy

summation. That we do not think to be a ground that can be entertained. In the result, the leave to appeal is refused and the sentences will run from the 10th April, 1990.