JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 44/89

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

REGINA

VS

WINSTON HINDS

Application for leave to appeal

Miss Cheryl Richards & Mr. Patrick Cole
for the Crown

22nd October, 1990

CAREY, J.A.

On the 10th of March, 1989 in the High Court Division of the Gun Court held in May Pen in the parish of Clarendon, this applicant was convicted on an indictment which charged him for illegal possession of firearm and robbery with aggravation. In respect of these offences, he was sentenced respectively to 5 years and 7 years imprisonment at hard labour. He now applies for leave for the full court to review his conviction but the single judge did grant leave to appeal the sentence.

Insofar as the conviction is concerned, the facts for the prosecution were these. On the 15th of August, 1988 at about 7:30 in the morning, the applicant presented himself at a shop when a clerk, Miss Carmen Anderson had entered the shop, grabbed her bag, pointed a gun at her and made his escape. The citizens chased him, he dropped the bag which another of the clerks picked up and some five minutes later

the police brought him back to the betting shop where Miss Anderson pointed him out as being her assailant. Her evidence was corroborated by the witness Merlena Wright another clerk at the time, and a police officer Detective Corporal Garrick who gave evidence that he saw the applicant being chased with the handbag over his shoulder, but that he dropped the bag before he was caught by the mob from which the officer eventually rescued him.

The defence to the charge essentially was a denial. The issue before the court was quite simple and the learned trial judge who had the advantage of seeing and hearing the witnesses came to a view with which we cannot disagree. It was really a question of fact, there were no issues of law which fell to be determined and his approach, in our view, was entirely correct.

Insofar as the sentence is concerned, the single judge's concern was that having regard to a social enquiry report, the court should review the sentence with respect to count 2 namely, sentence of 7 years imprisonment at hard labour. When we refer to the social enquiry report however, we are quite unable to see in what way we ought to alter the sentence except perhaps to increase it. The probation officer who gave evidence before the learned trial judge said that the applicant who was offered trade training, showed no interest. He aspired towards owning his own business and

> "living easy so he indulges in gambling and other shady dealings with the hope of acquiring adequate means. His attitude towards the offence is not characterized by any form of penitence or remorse. He seems to be concerned mainly with securing his release. However, the gravity of the offence committed seems to warrant stringent sanctions."

In our view, the learned trial judge harkened to the opinion of the probation officer and we can see no reason to interfere. We see no error in principle and the sentence which was imposed was well within the spectrum which is imposed for offences of this nature.

The appeal accordingly is dismissed. We affirm the sentence and direct the sentences to commence on the 10th of June, 1989.