

J A M A I C A

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 130/73

BEFORE:

The Hon. President
The Hon. Mr. Justice Hercules
The Hon. Mr. Justice Swaby

R. v. VICTOR FISHER

Miss Joyce Bennett for the Crown
Mr. Patrick Atkinson for the Appellant.

6th December, 1973.

HENRIQUES, P:

The applicant in the case was convicted in the Home Circuit Court on the 3rd October this year of the two serious offences of shooting with intent and wounding with intent and sentenced by the learned trial judge to a sentence of 10 years hard labour on each count, sentence to run concurrently.

The applicant sought leave to appeal against his conviction and sentence to a single judge of the Court and his application was refused but the question of sentence was referred to the Court.

It appears from the circumstances which was given in evidence at the trial that this was not a case of very serious nature in that it appears that the applicant was as it were, committing a kind of prank in shooting as he did at this young girl. Unfortunately, it turned out that this prank of his had very serious consequences in that this girl sustained a very serious injury to her thigh.

Evidence of character was given and from that evidence it appears that the applicant is a young lad of some 17 years of age. He has had no previous conviction and the evidence of the police officer as to character was supported by evidence given by his mother who testified that he was a well behaved lad, though it appeared he seems to have been associating with bad company recently.

The question of sentence has caused the Court some anxiety in that it appears to be on the excessive side in view of the circumstances of the case and the applicant's previous good character.

Therefore his application so far as leave to appeal against conviction is concerned, is refused; his application for leave to appeal against sentence is treated as the hearing of the appeal and the appeal is allowed.

.. The sentence of 10 years hard labour is quashed and the Court imposes in lieu thereof a sentence of 7 years hard labour.