

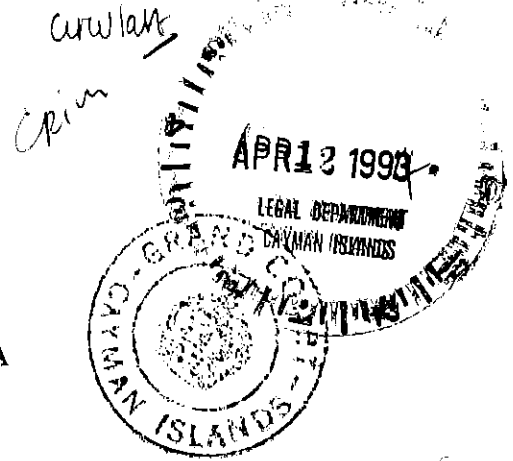
legal

IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

SCA #89/93

JIMMY DILBERT v. REGINA

Mr. Roberts for the Crown
Appellant in person



JUDGMENT

Schofield J.

James Oliver Dilbert ("the appellant") was convicted by the learned Magistrate of an offence of possession of an unlicensed firearm, contrary to Sections 15 (1) and 3 (f) of the Firearms Law. He appeals against that conviction and against the nine month prison sentence imposed upon it.

Police Constable Belafonte and Special Constable Caputo were called to a party in Washington Boulevard, George Town, to quieten down the music emanating from the party. While they were there they received a report about the appellant who they approached in the street nearby. The appellant was with a man called Dougmore Wright. P.C. Belafonte concentrated on Wright and searched him. Constable Caputo testified that he approached the appellant who he noticed was acting nervously. As constable Caputo spoke to him the appellant started to run off and the constable tripped him. As the appellant stumbled the officer saw a gun in his hand so the officer hit him in the back with a flashlight. The gun fell out of the appellant's hand and he made



off over a fence. P.C. Belafonte saw the appellant run away, pull the gun from his waist and fall. He produced the appellant's hat, which he said fell off as the appellant ran away.

The gun was identified as a firearm by Sergeant Franklin who is the firearms instructor for the Royal Cayman Islands Police Force. Evidence was led that the appellant had no firearms' licence for the weapon.

The appellant testified that he saw the police car with the officers in it as it passed himself and Dougmore Wright. The vehicle returned and the officers searched both men. He heard no more of the matter until two days later when he was arrested on suspicion of possessing an unlicensed firearm. Another case was brought against him and he was only questioned about the firearms' case four months later, when he was in prison on the other matter. On cross-examination the appellant admitted that the hat produced in Court was his and said he was wearing it that night and had taken it home.

The learned Magistrate had the opportunity of seeing and hearing the witnesses, including the appellant. He correctly reminded himself of the burden and standard of proof. He preferred the evidence of the two police officers as he was entitled to do. The officers gave evidence which was not discredited on cross-examination. The appellant admitted he was

on the scene and that the hat produced in court was his own. That the officers subsequently recovered the hat from his house was a suggestion disbelieved by the learned Magistrate. From the written word I cannot fault his findings in that regard.

The gun was found to be in the appellant's possession, and he had no licence for it.

The sentence of nine months imprisonment for this appellant who has numerous previous convictions, which include offences of a similar nature and one for an offence of violence, cannot be said to be in any way excessive.

The appeal is dismissed.



Judge



Dated this 16th day of March, 1994