
O N A P P E A L
FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N :

TREVOR STONE

Appellant

- and -

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

PHILIP CONWAY THOMAS
& CO.
61 Catherine Place,
LONDON SW1E 6BH.

Solicitors for the
Appellant

CHARLES RUSSELL & CO.,
Hale Court,
Lincoln's Inn,
LONDON WC2A 3UL.

Solicitors for the
Respondent

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R E C O R D O F P R O C E E D I N G S

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O N A P P E A L

FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N :

TREVOR STONE Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

*

No. 1

In the Supreme Court

10

Indictment

No. 1
Indictment
13th April
1976.

The Queen v. Trevor Stone
In the Supreme Court for Jamaica
In the High Court Division of the Gun Court

IT IS HEREBY CHARGED on behalf of Our Sovereign
Lady the Queen

Trevor Stone is charged with the following
offence:-

STATEMENT OF OFFENCE - COUNT I

20

Illegal Possession of firearm contrary to Section
20(1)(b) of the Firearms Act.

PARTICULARS OF OFFENCE

Trevor Stone on the 19th day of February, 1976, in
the parish of St. Catherine had in his possession
a firearm not under and in accordance with the
terms and conditions of a Firearms User's Licence.

Trevor Stone is further charged with the following
offence:-

In the Supreme Court

No. 1
Indictment
13th April
1976.
(cont'd)

STATEMENT OF OFFENCE - COUNT II

Robbery with Aggravation contrary to Section 37(1) (a) of the Larceny Act.

PARTICULARS OF OFFENCE

Trevor Stone on the 19th day of February, 1976, in the parish of St. Catherine being armed with a firearm robbed Lansdale Wilson of cash.

Trevor Stone is further charged with the following offence:-

STATEMENT OF OFFENCE - COUNT III

10

Shooting with Intent to cause grievous bodily harm.

PARTICULARS OF OFFENCE

Trevor Stone on the 19th day of February, 1976, in the parish of St. Catherine being armed with a firearm shot at Constable Keith Cole with intent to cause him grievous bodily harm.

(sgd)
for Director of Public
Prosecutions,
13/4/76.

20

No. 2
Proceedings
13th April
1976.

No. 2
Proceedings

THE GUN COURT,
KINGSTON, JAMAICA.
13th April, 1976.

REGINA vs. TREVOR STONE

BEFORE: HIS LORDSHIP MR. JUSTICE V. MELVILLE

MR. HUGH HAMILTON for CROWN

MR. LOWELL MARCUS for DEFENCE

12:15 p.m.

30

In the Supreme Court

Prosecution
Evidence
No. 3
Lansdale
Wilson
Examination.
(cont'd)

Q: Are you a driver/salesman?

A: Yes, that is correct.

Q: And you live at Lot 43 Angel's Court?

A: Yes, sir.

Q. That is at Brunswick Avenue, Spanish Town in the parish of St. Catherine?

A: Yes sir.

Q: Now sir, do you recall Thursday, the 19th day of February this year? 10

A: Yes, sir, I recall.

Q: And at about nine o'clock in the morning, can you recall where you were?

A: Well, I was at the moment coming from Glade District.

His Lordship: Walking, running or what?

A: Driving a van that I was.

His Lordship: Coming from Glade? 20

A: Yes, sir, correct.

Mr. Hamilton: Now, were you alone or in company at that time while you were driving this van?

A: There was a helper with me and I give a lady a lift; the helper and the lady, three of us in the front.

Q: What is the name of your helper?

A: The name of the helper is Rocky Russell, otherwise called 'Rocky' for short. 30

Q: Now, while you were travelling in this van, on reaching where now ...

A: On reaching near or in the vicinity of a church or a school.

Q: Did you observe anything?
A: Yes, sir, I saw that the road was blocked.
Q: And this road was blocked with what?
A: With stones, some large stones and an iron gate.
Q: Now, when you saw this blockage, did you do anything?

10

A: I stopped a little way from the blockage and was about to reverse - well, at the moment I saw a person, I saw a man alighted from the bushes.
Q: Now, when this man came from the bushes did he do anything?

His Lordship: Sorry, as you were in your van, did he come from the left or right hand side or where?

A: He come from the right hand side with a gun in his hand.

20

His Lordship: Which hand?

A: His right hand.

Mr. Hamilton: What did this man do, if anything?

A: Well, he held the gun straight at me and I heard an explosion.

Q: Now, will you tell us where the gun was pointing?

A: The gun was pointing towards me.

His Lordship: What part of your body?

30

A: Well, in the chest area going up towards my chest, going up (indicating upper section of body).

Q: Now, did you know where this explosion come from?

A: It came direct from the gun in the man's hand.

In the Supreme
Court

Prosecution
Evidence
No. 3
Lansdale
Wilson
Examination.
(cont'd)

- Q: At the time that you heard this explosion, how far was this man from you?
- A: He was just a few yards.
- His Lordship: Could you point it out?
- A: Just about to the window.
- His Lordship: How much would you say that is, gentlemen?
- Mr. Marcus: About 21 to 22 feet.
- Mr. Hamilton: Were you able to recognise this man? 10
- A: Yes, sir.
- Mr. Marcus: I don't know what my friend in getting at, that question is brought up with a lot of things - to say 'were you able to recognise this man' - in relation to what? Recognise him in relation to what? It is so wide.
- Mr. Hamilton: Were you able to see the face of this man? 20
- A: Yes, sir, I was able to see the face of the man.
- Q: Do you see this man here today?
- A: Yes, sir.
- Q: Where is this man, sir?
- A: He is sitting over there, just in that chair (pointing to the accused in the dock).
- Q: Now, after you heard the explosion, what happened next? 30
- A: Well, at the time, right after the explosion he came up to the van, I was sitting around holding the steering.
- His Lordship: So the accused came nearer to the van, is that what you are saying?

A: Yes, sir.

Mr. Hamilton: How near would you say he came on this occasion?

A: He came just about, I would say, just about two yards.

Q: Yes, what happened on this occasion?

A: Well, he said, 'Don't move', because he will shoot us now. He also said to give him all of the money.

10 Q: Did you respond?

A: Yes, sir, I do as I was told.

Q: What you did?

A: Well, the money was in my left pocket, I had a jacket with four pockets, a bush jacket.

His Lordship: And where was the money?

A: In one of the left pockets.

His Lordship: How much money?

20 A: Well, at the time I didn't know how much was in it but I hand it to him, all of it.

Q: Did you at any time find out how much money was in your pocket?

Mr. Marcus: Objection.

His Lordship: Yes, Mr. Marcus?

30 Mr. Marcus: I hope my friend, sir, is going to bring from the witness how it was that he found out how much he had. He said, 'I have a certain amount in my pocket, I don't know how much I had'.

His Lordship: What you are objecting to is the weight to be attached to this evidence. At the appropriate time you may comment. What you are taking objection to is the weight, not the validity.

In the Supreme
Court
Prosecution
Evidence
No. 3
Lansdale
Wilson
Examination.
(cont'd)

Mr. Marcus: Much obliged.

Mr. Hamilton: Yes, I was asking, did you ever find out at any time how much money you had in your pocket?

A: Yes, sir, I went straight to the Ferry Police Station. Let me explain

His Lordship: Hold on a minute. Did you subsequently find out how much money you had lost?

A: Yes, sir, I find out afterwards.

His Lordship: How much was it?

A: It was \$197.

Mr. Hamilton: Now, you handed the money to the accused man?

A: Yes, sir.

Q: Did you see what he did with this money?

A: Well, I didn't see what he did with the money, sir.

Q: Did you see how the accused was dressed at the time?

A: He was dressed in dark clothes, black shoes.

Q: Now sir, after you handed him this money, what happened next?

A: Well, he said I must drive because he was going to shoot and if I move he was going to shoot.

Q: Yes, did you drive?

A: After I move I drive off the vehicle, sir, and after I drive off the vehicle, I heard another shot.

Q: So you stopped or you kept going?

A: Kept on driving, sir.

10

20

30

Q: And you went where?
A: I went straight to the Ferry Police Station.
Q: Did you make a report?
A: Yes, sir.
Q: Having made this report, did you accompany the police anywhere?
A: After I made the report I accompany the police back to the spot, sir.

10 His Lordship: Did you go in your vehicle or in a police vehicle or what?

A: In a police vehicle, sir.

Mr. Hamilton: Now, will you tell us how many of you went in this police vehicle?

A: It was four of us.

Q: And this four included who, yourself and who else?

A: Myself, the helper and two police.

His Lordship: That is Rocky?

20 A: Rocky.

Mr. Hamilton: On your arrival at this spot, what happened?

A: Well, we didn't use the same route to the spot.

Q: Which route you used this time?

A: Well, we used a side road which is out of use.....

Q: On your arrival, what happened?

30 A: Well, before we arrived at the spot there we see a man coming in the bushes.

Q: About how far was this man from you when you first see him?

In the Supreme Court

Prosecution
Evidence
No. 3
Lansdale
Wilson
Examination.
(cont'd)

A: Well, he was about say, fifteen yards.

Q: Could you indicate to the Court what you call fifteen yards, from where to where?

A: About from here, it was from here to inside the first room, to the wall outside by the garage there.

His Lordship: How much would you say that is gentlemen? 10

Mr. Marcus: Fifty to sixty feet, estimate.

Mr. Hamilton: (To witness) Now, were you able to see this man clearly?

A: Yes, sir, I was able to see him clearly.

Q: Did you recognise this man?

A: Yes, sir, I recognize him.

Mr. Marcus: That is a leading question, M'Lord.

Mr. Hamilton: Now, the man you saw on this occasion..... 20

His Lordship: No. He recognised the man as who?

A: I recognised the man as the same person who held me up just in the short while.

Mr. Hamilton: So what happened after that, Mr. Wilson?

A: Well, I said.....

His Lordship: You spoke to the policeman?

Mr. Hamilton: Did you speak to the police?

A: Yes, sir. 30

Q: Did the police do anything?

A: The police went towards the person.

His Lordship: They came out of the vehicle?

A: No, sir, they were still driving.

His Lordship: They drove towards the person?

A: They drove towards the person. Well, at that moment the man began to run.

Mr. Hamilton: Did anybody do anything at this stage?

A: Yes, sir, they went after him.

Q: How did they go after him this time?

10 His Lordship: Are they running on foot or driving down with the vehicle or what?

A: They drive the vehicle just a little way and there was the fence which the man jump over.

Mr. Hamilton: Yes.

A: Well, after him jump over the fence, he went into some thicker bushes or forest or whatsoever you call it.

Q: Did your party do anything?

20 A: Yes, sir, they went after him.

His Lordship: The police?

A: Yes, sir.

His Lordship: You didn't go? All of you went after him or just the police?

A: The police went ahead, sir.

Mr. Hamilton: And did you do anything?

A: Yes, sir, I went to the right, one of the police go straight to the bushes and one go round the other side.

30

His Lordship: The other went where?

A: Just around the other side.

In the Supreme Court

Prosecution
Evidence
No. 3
Lansdale
Wilson
Examination
(cont'd)

His Lordship: What does that mean? He went to the left?

A: Yes, sir.

Mr. Hamilton: Can you say where Rocky was?

A: Well, he was down at the jeep.

Q: Now, when you went into this bush, did anything happen?

A: Well, I was there until I heard shots.

His Lordship: Shot or shots?

10

A: Shots.

His Lordship: Can you say how many?

A: I can't say how many.

Mr. Hamilton: Now, having heard these shots, did you see anything?

A: No, sir.

Q: After the shots, did you subsequently hear anything?

A: Well, after the shots, I came out from where I was looking and I see this man, I saw the police, they had the gun on this man.

20

His Lordship: You saw the police having the gun on which man?

A: This man, the one we are talking about and it looks as though he was wounded, sir.

His Lordship: The accused was wounded?

A: Yes, sir.

His Lordship: Where, can you say what part of him was wounded?

30

A: His leg, up in this section there (indicating top of leg).

His Lordship: You are pointing to the right leg, is that the one that was wounded or you don't know? You can't say which one?

A: The upper leg.

Mr. Hamilton: When you saw this man, did you speak at all?

His Lordship: Wait a minute. The police are asking you something, was this in the presence or hearing of this accused man, could he hear what the police was asking you?

10

A: Yes, sir, he could have heard.

His Lordship: He was present?

A: Yes, sir, he was present.

His Lordship: The police asked you what?

A: If this was the man that just robbed me a while ago. I told them yes it was the same person.

20 Mr. Hamilton: Did the accused man say anything?

A: Well, he didn't say anything to me, sir.

His Lordship: Did you hear him speak, did he say anything at all?

A: He was saying, 'Lord, is not me', and things like that.

Mr. Hamilton: So what happened afterwards?

A: Well, they took him and put him in the jeep, sir.

Q: Yes, did they go anywhere?

30 A: They went back into the bushes say they were going to look for the gun.

His Lordship: The police?

A: Yes, sir, the police.

In the Supreme Court

Prosecution
Evidence
No. 3
Lansdale
Wilson
Examination
(cont'd)

Mr. Hamilton: Did you accompany the police?

A: No, I didn't accompany the police.

Q: After the police went into the bushes, did they return?

A: Yes, sir, they returned.

Q: Did you see them with anything?

His Lordship: How long after the policemen left and went into the bushes did they come back, can you say?

A: About ten minutes.

10

His Lordship: And did what?

A: They did not bring anything, they said they didn't find

Mr. Hamilton: Wait. Now, do you know whether the police - how did you travel from the bushes?

His Lordship: Your question is a bit vague, what do you mean?

Mr. Hamilton: I am going to rephrase the question. What I want to find out is, you say the police put the man in the jeep, went into the bushes and came back, what happened after that, did you remain on the scene or you left?

20

A: Well, after they put him in the jeep they all went into the jeep and they went up to the spot where I was robbed.

Q: This spot where you say you were robbed, how far is that from where you saw the accused when you say you saw him bleeding as if he was wounded?

30

A: It was quite a good distance from there, about a quarter mile.

Q: Where did you go when everybody went into the jeep? You went to the spot where you were robbed? Did you do anything at the spot where you were robbed?

A: I told the police that is where I was robbed.

His Lordship: Was the accused man present and could hear you?

A: Yes, sir, he was present.

Mr. Hamilton: Now, did you do anything at the spot? Did you come out of the jeep or what?

10

A: Well, I didn't do anything, the police come out of it and they looked around.

Q: Did the police do anything?

A: They come out and looked around.

Q: From that spot, did you accompany the police anywhere else?

A: Yes, sir.

Q: Where did you go?

A: They went up to Glade District.

20

Q: Did they go to any particular place in Glade District?

A: Yes, sir, they went to where somebody said this man brother was living at Glade District, so they went up there

His Lordship: Was that being said in the presence and hearing of this man?

A: Yes, sir.

Mr. Hamilton: So where did you actually go? You went any particular place in Glade District?

30

A: They went at the brother's house.

His Lordship: Do you know if it was the brother's house, the accused man brother's house or only what you hear them say?

A: It is only what I hear them say.

In the Supreme Court

Prosecution Evidence No. 3 Lansdale Wilson Examination (cont'd)

His Lordship: So you went to a house?

Mr. Hamilton: Did you enter the house?

A: I stand outside.

Q: Did you see anybody enter the house?

A: Well, the police enter the house.

Q: Did the police return, come back to the jeep?

A: Yes, sir, they returned.

Q: When they returned they had anything with them?

10

A: No, they didn't find anything.

Q: Now, where did you go from there, from that house, where did you go?

A: Well, from that house they saw some children that was at the little school that was nearby.

Q: Just tell us what you saw and what you did. Did you remain in Glade District or you went home or what?

A: I came back to the station with the police.

20

Q: And you gave a statement to the police?

A: Yes, sir.

Q: And this was done where, where you gave the statement?

A: At the Ferry Police Station.

His Lordship: What is this about?

Mr. Hamilton: There is a certain aspect of the evidence, M'Lord, which is germane to this proceedings.

30

His Lordship: Yes, go on.

(sic)

Mr. Hamilton: I am just typing up this aspect of it. (To witness) You say you gave a statement to the police?

In the Supreme Court

A: Yes, sir.

Prosecution Evidence No. 3

Mr. Hamilton: I think this is a convenient time, M'Lord.

Lansdale Wilson Examination (cont'd)

His Lordship: Adjourn until two o'clock.

2.15 p.m.

10

Mr. Hamilton: Before I close, M'Lord, I would just like to get a description of the gun. Mr. Wilson, you said the accused man pointed a gun at you?

A: Yes, sir.

Q: Now, can you describe this gun?

A: It was a short black gun, sir.

Q: You noticed anything else about it? What part of this gun could you see?

A: Well, I see the barrel and the mouth of it.

20

Q: Did you see anything else?

A: No, I didn't see anything else about the gun.

His Lordship: When you say he pointed the gun straight at you and you heard the explosion, did you see anything when you heard the explosion?

A: I saw smoke come out of the gun mouth.

His Lordship: You saw smoke come out of the gun mouth?

30

A: Yes, sir.

His Lordship: Did anything hit against anything, was anything damaged?

A: No, M'Lord.

His Lordship: Did anyone get injured?

A: No, sir.

Prosecution
Evidence
No. 3
Lansdale
Wilson
Cross-
Examination

Mr. Marcus: Now, Mr. Wilson, it is my time to ask you some questions, you see.

A: Yes, sir.

Q: You remember you told this Court not too long ago that when you went to the home of the brother, it was told to you there was a brother living in that district and you all journeyed there and you told this Court you didn't go into the house, is that so?

10

A: Right.

Q: That is not true.

A: I said I didn't go into the house.

Q: I said what you are saying is not true, is it true?

A: It is true.

Q: That you didn't go into the house and that the police, you never saw the police take anything from that house, that also is true?

20

A: That is true.

Mr. Marcus: M'Lord, I must admit to my unhappiness in relation to the accused's statement, when I asked the Clerk not too long ago, before the adjournment to check the person - it happens to be a policeman - with our policemen from St. Ann's Bay who are involved in this case; yet he was at the window not too long ago and he came to the door again. I am really not happy with it at all. I know it is hot inside here...

30

His Lordship: What are you suggesting that we do, Mr. Marcus?

Mr. Marcus: That it is easy for them to hear everything from outside, very easy, sir. It is a very unhappy situation judging it, and I must admit that I am here talking and I know that almost everyone...

In the Supreme Court

Prosecution
Evidence
No. 3
Lansdale
Wilson
Cross-
Examination
(cont'd)

His Lordship: Where are the witnesses kept, do you know?

10 Mr. Marcus; No sir, I don't know, everybody is usually just floating around.

His Lordship: (To Court Orderly) Will you please see that the witnesses who are on this case keep as far away as is humanly possible from the hearing, that they can't hear what is happening in here?

Mr. Marcus: Now, sir, you remember you gave a statement to the police sometime ago in connection with this incident?

20 A: Yes, sir, I remember giving the police a statement.

Q: About when did you give that statement?

A: The same day the incident happened.

Q: At about what time that day did you give that statement?

A: I don't remember the exact time, you know sir?

30 Q: Try and remember, you are the person who were there, you are saying it happened, try your best. About what time? Give us a rough idea. I am not asking you to be precise, just a rough idea.

A: It was about say, 1.00 to 2.00 o'clock. It was about - after we came back from the incident.

Q: Would it have been 3.00 o'clock that day that you gave the statement?

40 A: I don't think so, about 1.00 to 2.00 o'clock.

In the Supreme Court

Prosecution
Evidence
No. 3
Lansdale
Wilson
Cross-
Examination
(cont'd)

Q: Couldn't that have been about 4.00, sir?

His Lordship: Just a minute, what are you saying?

Mr. Marcus: Very well sir, I will accept that.

His Lordship: If you are saying something, then say it.

Mr. Marcus: Much obliged, sir. Now that you gave that statement you would say that the things which you spoke of were very fresh in your mind?

10

A: Yes.

Q: Do you sir, remember who took the statement from you? who put it in writing?

His Lordship: Put it this way; why don't you

Mr. Marcus: Sorry sir. Was it Mr. Cole who took it?

A: Yes.

Q: Constable Keith Cole?

20

A: Yes, sir.

Q: Do you remember telling Constable Keith Cole - 'I followed the policemen into the house where I saw the clothes he had on when he robbed me'. You remember saying that to the police?

His Lordship: Where I saw?

Mr. Marcus: 'Saw the clothes he had on when he robbed me'. You remember telling the Police Officer that, saying that?

30

A: No, sir.

Q: You didn't say that?

A: No.

His Lordship: You didn't tell the police that?
A: No, sir.
Mr. Marcus: Where were you when the police went into the house?
A: I was outside.
Q: Where?
His Lordship: In the yard, in the road or where?
A: I was outside in the yard, sir.
Q: Outside in the yard?
10 A: Yes, right.
Q: Anybody else was outside in the yard with you at that time?
A: Well, people was all around.
Q: You remember who and who went into the house?
A: Well, the police went into the house, I don't know if anybody went into the house with them.
Q: Which police?
20 His Lordship: Do you know the names of the policemen who went into the house?
A: It was Mr. Cole and the other policemen, I think Constable Shaw.
His Lordship: But you can't say if other people went in with them, is that what you are saying?
A: I don't think anyone went in with them, Your Honour.
30 His Lordship: You think it is only both of them went in?
A: Yes, sir.
Mr. Marcus: Was the accused also taken into the house?

In the Supreme Court
Prosecution
Evidence
No. 3
Lansdale
Wilson
Cross-
Examination
(cont'd)

In the Supreme Court

Prosecution
Evidence
No. 3
Lansdale
Wilson
Cross-
Examination
(cont'd)

A: The accused was in the Jeep, he didn't went into the house.
Q: Who was in the Jeep with him?
A: Well, he alone was in the Jeep, my helper and also myself was outside.
Q: You have answered, haven't you, he alone was in the Jeep.
A: I was outside the Jeep, so he alone was in the Jeep.

His Lordship: Your helper was outside the Jeep? 10

A: Yes, sir, that is right, Your Honour.

Mr. Marcus: Both policemen left and went into the house and he alone was left in the Jeep?

A: Yes, sir, that is right.

Q: Mr. Wilson, you are not a truthful person, you know. I am putting it to you that you are not a truthful person and that you are not speaking the truth when you say that. You agree with me? 20

A: I don't agree with you, sir.

Q: You are speaking the truth when you say he alone was left in the Jeep and the two policemen went into the house?

A: That is true.

Q: And you are also speaking the truth when you say you didn't go into the house with the policemen? 30

A: Yes, that is the truth.

Q: You don't know what the truth is!

His Lordship: Mr. Marcus, there is no Jury here, I personally, am not impressed.

Mr. Marcus: I understand, sir, but one can't hinder the asides.

	His Lordship:	I am telling you, I am not impressed.	<u>In the Supreme Court</u> Prosecution Evidence No. 3 Lansdale Wilson Cross-Examination (cont'd)
	Mr. Marcus:	Much obliged, sir. You tell us when you went on the back road, on the quarry road...	
	His Lordship:	Is that what the back road is called?	
	A:	I don't know what it is called, I said back road.	
10	Mr. Marcus:	Leave it at that. When you went on the back road, you saw a man coming?	
	A:	Yes, sir, I saw a man.	
	Q:	What you said to the police.	
	His Lordship:	Hold on a minute. Where was the accused man, when you said you saw him at that time, was he on the road or where?	
	A:	He was coming on the opposite direction of where I was going.	
20	His Lordship:	Was he on the old road, or in a pasture, or bushes or what?	
	A:	It was bushes.	
	His Lordship:	He was in bushes at the time you saw him?	
	A:	Yes, but it was clear enough that you could see.	
	His Lordship:	He wasn't on the road, that is what I mean?	
	A:	No, he wasn't on the road.	
30	His Lordship:	He was in bushes that you could see?	
	A:	Yes, sir.	
	Mr. Marcus:	You mean bush is on the road? The road has a lot of bushes and you saw the man coming on the road, the road itself has a lot of bushes?	

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Prosecution
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Wilson
Cross-
Examination
(cont'd)

A: Bush was above.

His Lordship: What is he saying, bush was where?

A: It was bushes, Your Honour. The road is out of use so there was...

His Lordship: bush growing on the road itself?

A: There was bush growing on the road, you could see for a good distance around.

Mr. Marcus: Those are the bushes you say you saw him in, is that so? 10

A: Those are the bushes that?

Q: That you say you saw him in, isn't that so, sir?

A: Yes.

Q: Tell me something, that road, don't vehicles drive on that road?

A: No.

Q: Vehicles don't use that road, sir? Where you drove on, was it that road you drove on? 20

A: It wasn't that road I drove on.

Q: When you are coming to the spot, when you went for the police and you are coming on the back road, isn't that a road that vehicles use?

A: May I ask a question, sir?

Q: Yes.

A: You are talking when I was going back with the police? 30

His Lordship: Yes, in the vehicle.

A: When we were going back with the police we were at a different road, that is the bush road we are talking about.

	His Lordship:	That is the road you are being asked- Do vehicles normally use that road?	In the Supreme Court
	A:	No, sir.	Prosecution Evidence
	Mr. Marcus:	Can vehicles drive on that road?	No. 3 Lansdale Wilson
	A:	Well, only something like a Jeep or a tractor or something like that.	Cross- Examination (cont'd)
	His Lordship:	Jeep or tractor can drive on that road?	
10	Mr. Marcus:	Why Jeep and tractor can drive on it Q: and other vehicles cannot drive on it?	
	A:	I don't know.	
	Q:	Why do you say so?	
	A:	I already told you it is a road, a side road which is not used any more.	
	Q:	You saw him in the bushes on the road and not bushes separate from bushes on the road, that is where you saw him walking on that road, isn't that true?	
20	A:	Yes, he was coming in the opposite direction.	
	Q:	On the road, isn't that true that he was on the road, walking on the road coming?	
	A:	I have answered that question.	
30	His Lordship:	No, I don't know if you have. You see, you had said he was in bushes which would give the impression that he is not actually on what used to be the old road and that is what Mr. Marcus is putting to you, that he was on the old road.	
	A:	Yes, he was on the old road.	
	Mr. Marcus:	Thank you. Now, you saw a man coming?	
	A:	Yes, sir.	
	Q:	How was that man dressed?	

In the Supreme Court

Prosecution
Evidence
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Examination
(cont'd)

- A: Well, he was dressed in coloured clothes.
- Q: You don't know how he was dressed, you don't remember?
- A: Shirt and pants and he had on a cap.
- Q: Coloured clothes?
- A: Yes, sir.
- His Lordship: And had on a cap?
- A: Yes, sir.
- Mr. Marcus: Those clothes that you saw, were those the clothes that you saw the robber in when you were robbed earlier that day? 10
- A: No, those were not the clothes.
- Mr. Marcus: You know, you told us this morning that the robber who came up to you was dressed in dark clothes and black shoes?
- Q: That is what I said, yes.
- A: Am I correct that the robber also had on mafia glasses. 20
- His Lordship: Mafia glasses?
- Mr. Marcus: Yes, dark glasses.
- A: Well, I don't...
- Q: Mr. Wilson -
- A: I am hearing you, sir.
- His Lordship: Did the person who come up to you and rob you have on dark glasses?
- A: No, sir.
- Mr. Marcus: Did the person have on glove or gloves on his hands? 30
- Q: I didn't take notice, sir.

Q: But you saw gun. You didn't take notice of what hand or hands, is that what you didn't take notice of?

In the Supreme Court

A: Gloves.

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Q: Did you take notice of his hands the day when you were robbed?

Lansdale Wilson

A: Well, I didn't take notice of it, sir, I think he had the gun in one hand and the other hand was empty, I didn't take notice of that.

Cross-Examination (cont'd)

10

Q: How you say you didn't take notice and you are telling us what you don't know? Did you see the man's hands the day when you were robbed, at the time you were robbed?

A: I saw his hands but I wasn't concentrating on his hands.

Q: First of all I am going to put it to you that the man who was supposed to have robbed you that day had on a huge pair of dark glasses, what are known as mafia glasses and gloves.

20

His Lordship: Do you agree with that?

A: No, sir, I don't agree with that.

Mr. Marcus: We are going to go back to the scene

Q: when you go for the police and they drive down on this old road and suddenly you see this man coming.

A: Yes, sir.

30

Q: When you saw the man coming, what you said or do?

A: Well, this man was in a distance where I could see him very clearly.

His Lordship: No, no, what you say or do when you saw him.

A: I said, 'This is the man'. I said, 'See the man deh', or something like that.

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No. 3
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Examination
(cont'd)

His Lordship: Sorry -

A: I said, 'See the man deh'.

Mr. Marcus: You mean you said it just in the company of the persons who were there?

A: Right.

Q: And when you said that, what happened?

A: The police then proceed towards...

Q: To drive down towards the man? 10

A: Yes, sir, they proceed towards him.

Q: That time where were you in the jeep?

A: I was in the back of the jeep that time, sir.

Q: Sitting down or what?

A: Standing up.

Q: In the jeep; standing up in the jeep?

A: The jeep didn't have a back. 20

Q: I just ask you if you were standing up in the jeep.

A: I was standing up at the back of the jeep.

His Lordship: The jeep didn't have a what?

A: It didn't have a door at the back, so I was at the back.

Mr. Marcus: In other words, that little piece at the back there, you put your foot and stand upon it and hold on in the jeep and while it is going on you stand up there at the back? 30

A: Yes.

Q: Now, this jeep has a top?

A: Yes, the jeep has a top.

Q: In other words, apart from this space at the back, it is covered over?

A: Yes, sir, it is covered over.

Q: Now, when the jeep went down on the man, did it stop? Did the jeep stop? Did the jeep stop?

10

A: The jeep didn't went down on the man, it went towards the man.

Q: One moment, did the jeep stop?

A: It stopped.

Q: When it stopped; at what point from the man did it stop?

A: It stop at a fence, that time the man went over the fence already.

Q: You saw a man go over a fence that day?

20

A: Yes, sir, yes I did.

His Lordship: Mr. Marcus, the witness is saying that the accused is that man.

Mr. Marcus: Yes, sir, I understand. You saw the man go over a fence that day?

A: Yes, sir, this man here (indicating to accused).

Q: What kind of fence?

A: It was a barbed wire fence.

Q: He went over it?

30

A: Yes, sir he went over it.

Q: Jumped over it?

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Court

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Examination
(cont'd)

- A: He held on to something and jumped over it, there were posts on it and he held on to one and jumped over it.
- Mr. Marcus: Having jumped over the fence, you saw him jump over the fence, into the bushes?
- A: Yes, I saw him.
- Q: What happened after that?
- A: The police went after him.
- Q: They now stopped? 10
- A: I already told you that they stopped at the fence.
- Q: It was when they stopped the jeep that the man went over?
- A: He went over, sir, before they stopped the jeep, because the jeep could not go over the fence with the man.
- Q: So who came out of the jeep at that stage? 20
- A: The men came out first.
- Q: Who, which one?
- A: Both of them, sir, Constable Cole, and I think Constable Shaw.
- Q: And climbed the fence too?
- A: They went over the fence and go after this man.
- Q: About how long after that the police went over the fence that you saw the man, the accused you said who jumped over? 30
- A: Well, it was about ten minutes after.
- Q: That you saw the man, that the police come back with the man, is that so?
- A: Yes, sir.

Q: Now, sir, you went over the fence too? In the Supreme Court

A: Yes, sir, I went over the fence too. Prosecution Evidence

Q: Rocky too? No. 3

A: No, Rocky was at the jeep. Lansdale

Q: Did Rocky ride on the jeep with you from Ferry Police Station? Wilson
Cross-Examination
(cont'd)

A: Yes, he did.

Q: The back of the jeep?

10 A: Yes.

Mr. Marcus: Where in the jeep did he sit on the way back, that is coming now to apprehend the robber?

A: Rocky?

Q: Yes.

A: He sit inside the jeep sir, in the back section.

His Lordship: Rocky sat inside the jeep where?

A: In the back section of the jeep.

20 Mr. Maragh: Is that one of the jeeps that has the seats, cushion seats by the side of the jeep, along the length of the jeep, the sides?
(sic)

A: That is correct.

Q: You didn't sit at all in the jeep at any time from you began your journey?

A: When I began the journey I was sitting but on reaching at that point, I stand at the back.

30 Q: And you alone were standing there?

A: Yes, sir, I alone was standing there.

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Examination
(cont'd)

Q: Now, about ten minutes after you said - after going to the wire fence you saw the police come back with the man, right? Is that so?

A: It was about ten minutes after, yes.

Q: Now, I am going to put it to you that you are telling a disgraceful lie when you say you saw that man go over the wire fence, you are telling an abominable lie when you say you saw that, isn't that true?

10

A: That is not true, sir.

His Lordship: Mr. Marcus, what do the words 'abominable' and 'disgraceful' add to a lie?

Mr. Marcus: I suppose it is just a little bit more than a white lie, sir. Now, you said you heard shots that day, that is at the time you came back for this man and went through the wire fence.

20

A: Well, if you would let me explain what I said earlier, sir.

Mr. Marcus: You said you heard shots that day?

A: Yes, I heard shots.

His Lordship: I gather you are now talking of the time when the policemen went after the accused man in the jeep, while you were there you heard shots?

A: Yes, Your Honour.

30

Mr. Maragh:
(sic) This was about how long after the man had jumped over the fence?

A: About ten minutes, sir.

Q: And when you saw the man he was bleeding from both legs?

A: Well, I think he was wounded, sir.

Q: Was he bleeding from both legs, the upper legs, both of them?

A: I didn't search this man to find out if he was bleeding from both legs.

His Lordship: Did you see any blood on him? I know you didn't search him, I hope you didn't, but did you see blood on any part of him?

A: I think he was wounded in this leg, sir. (indicating right leg.)

10 His Lordship: His right leg?

A: Yes, this one up here, sir.

Mr. Marcus: You didn't see that he was also wounded in the left leg, above the (sic) same region of the left leg?

A: Maybe so, sir.

Q: Did you see it?

His Lordship: What is the use of quarrelling with the witness?

Mr. Marcus: I think he knows why.

20 His Lordship: Did you see him wounded in the left leg?

A: Your Honour, he limped on both legs, but I didn't see if he got shot in this leg (indication), but I am sure of this one and he was limping on both legs, so it could be the both of them. I am sure of the wound in the right leg but I am not sure of the other.

30 His Lordship: Not of the left?

A: But not of the left.

Mr. Marcus: Did you later find out that he was shot in both legs?

A: Yes, sir, I later find out he was shot in both legs, sir.

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Evidence
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Examination
(cont'd)

Q: At about the same region of the body, this one and this one (indicating), just about the same place?

A: Yes.

Q: And you didn't see how it happen?

A: No, it happened when I was....

His Lordship: Did you see how it happen?

A: No, sir, I didn't see how it happen.

Mr. Marcus: That is not true.

A: That is true, sir. 10

Q: Hold up your head! That is not true, is it? You saw it happen, didn't you? Did you see how it happen?

A: I didn't see how it happen.

Q: And I am going to suggest to you how it was done, and if you agree with me you can tell me, if you don't, you say no. The jeepdrown down, right (sic) on to the man, Constable Cole came out of the jeep and held him in the back of the neck and shot him in front of you; put his revolver to his leg and shot him, both legs, in front of your eys, isn't that true? 20

A: That is not true, sir.

Q: I am suggesting to you again that when you said this man ran over a fence it is not true.

His Lordship: He has already answered that.

Mr. Marcus: Thank you. Have you described the man to the police when you went to the Police Station first to complain of the robbery? 30

A: Yes, I did. They asked me for a description and I told them.

Mr. Marcus: You mean, you are talking about the clothes the man was wearing.
Q.

A: I told them he was in dark clothes.

His Lordship: You said he had on dark clothes?

A: Yes, Your Honour.

His Lordship: Anything else?

A: And black shoes and he was of light complexion.

Mr. Marcus: Was that what you told the police of the man?

A: Yes, sir.

10 Q: You are sure of that?

A: I am sure.

Q: In other words, you told them about the clothes and about the shoes and you told them he was a man of light complexion?

A: Yes, sir.

20 Q: Now, when you were driving in the jeep as you said, and you saw this person coming on the road, was the person of a light complexion?

A: Yes, sir.

Q: This man? (pointing to accused)

A: Yes, sir, that man there. (pointing to accused)

Q: You would say he is of light complexion?

A: Yes, sir.

Q: The person had on dark clothes?

His Lordship: Did the person have on dark clothes?

30 A: No, Your Honour, he had on coloured clothes, two different colour.

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Court

Prosecution
Evidence
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Lansdale
Wilson
Cross-
Examination
(cont'd)

- Q: And you saw the shoes that the person was wearing also, that is when you came back with the police?
- His Lordship: Was the person wearing shoes, the person you say went over the fence?
- A: The person was wearing shoes, Your Honour.
- Mr. Marcus: You know the colour of the shoes?
- A: I didn't know the colour of the shoes that time. 10
- Q: Tell me, sir, how many miles you drove on the back road from Ferry Police Station before you saw this man? Roughly, give us a rough idea.
- A: Well, roughly it was about a mile to two.
- Q: Now, as I correct in saying that where you saw this man when you came back with the police, it was a very far distance from where you were robbed? 20
- A: I would say about quarter mile.
- His Lordship: He said quarter mile already and he is putting it at great distance.
- Mr. Marcus: Thank you sir. In fact, Mr. Wilson, isn't it more than quarter mile, isn't it about a mile?
- A: I said about a quarter mile.
- Q: All right, stop for a while and think now and judge the distance in your mind from where that thing occurred on the back road to where you saw this man and try to give us a true estimate of the distance. 30
- A: I think it was about a quarter mile.
- His Lordship: You don't agree it is as much as a mile?

A: I don't think it is a mile, it could be more but not as much as a mile.

Mr. Marcus: In other words, sir, it could have been a three-quarter mile then?

A: I put it to over a quarter mile, it could be more than a quarter mile.

Q: You wouldn't say it is about a three-quarter mile?

10 A: It wasn't a straight drive, I couldn't say exactly.

Q: Do you remember sir, roughly, about what time that morning you had passed the spot where you were robbed going up to Glade?

His Lordship: Had you passed the spot?

A: I had passed the spot about a half hour before.

Mr. Marcus: Before coming back down?

20 A: Become coming back down.

His Lordship: About half an hour?

A: Yes, sir, about half an hour.

Mr. Marcus: Now, sir, Do you remember roughly at about what time you left the district of Glade? You went up there, did your business there and left the district. About what time you left that little district?

A: Well it was in the 9.00 o'clock region.

30 Q: Roughly about 9.00?

A: Yes, sir.

Q: And you think you would have reached, walked down to the spot where you were robbed, about how many minutes after?

A: It would be about five minutes after or so, about five minutes after.

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Examination
(cont'd)

Q: About what, about two, three minutes of driving?

A: No.

Q: About how many miles of driving from Glade to the spot where you were robbed?

A: Well, it is about half a mile or less.

Q: About what?

A: About half of a mile or less.

Q: Now, where the little JAMAL school is in Glade, the little school by the tank...

10

His Lordship: Is it Glade?

Mr. Marcus: G L A D E, it is a beautiful place, sir. You know where the little water tank is beside the JAMAL school?

A: No, sir.

Q: You know when you go up in the district there is a road that goes to the left and a little track that turns up to the right and goes up to the full part of the district and you have to turn around and come back around?

20

A: I know that part.

Q: You don't know the little water tank there?

A: Yes, but I don't know where the JAMAL School is.

Q: Now, sir, from that little water tank to where you were robbed, wouldn't you say that is at least a mile and a half?

30

A: I wouldn't say that, sir.

Q: Try and see if you can estimate for me about how many miles you would say from there to where you were robbed?

A: A little more than a half a mile.

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Court

Q: Now, the house you see, where you said the police went into, the house where you were told it was the brother of the accused, from that little water tank to that house coming down the road is about what distance? You would say about three, four chains from the little water tank?

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Examination
(cont'd)

10

A: Well, more than - about say two or - about two or three chains.

Q: I wonder sir, if you remember what time you arrived at the Ferry Police Station, immediately after the robbery?

A: I don't remember it, I don't remember the exact time I arrived there.

Q: I am not asking you for any exact time, I just want to see if you can help us with a little information, to try and remember, just roughly. Give us a rough idea of what time you think you reached the Ferry Police Station.

20

A: Well, it took more or less, say about half an hour.

Q: About a half an hour. And how long you think it took you from Ferry to reach the spot where you say you saw the accused?

30

A: From Ferry going back there sir?

Q: Yes.

A: We didn't drive straight back.

His Lordship: Driving on the old road where you saw the accused, how long did that take, can you say?

A: Before we reached the spot?

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Court

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(cont'd)

His Lordship: You are being asked from the time you left the Police Station, from the time you saw the accused, how much time would you say that was?

A: That was about half an hour, Your Honour.

Mr. Marcus: As much as that, Mr. Wilson, half an hour, as much as that from Ferry to the time you saw the accused?

A: Yes, sir, half an hour, could be more or less. 10

Q: At that time, from the time you drove off from Ferry into the Jeep, you would say about half an hour, it could be more or less, about a half hour? You would only cover about two miles.

A: The road was rough, and....

His Lordship: Distance, about two miles, that distance from Ferry going on the old road? 20

A: That is about that, sir.

His Lordship: You say the road is rough and what?

A: Winding and bushy and things like that.

Mr. Marcus: Was it the first time sir, that you were driving on that road?

A: It is the first time I was driving round that road, sir.

Q: Was the accused the only person you saw on that road coming from - while you were coming from Ferry? The only person walking on the road, was he the only person you saw? 30

A: At that movement he was the only person; we had passed men working on the road and in a marl pit, we have to go through a marl pit and there was people working on that.

Mr. Marcus: In other words, that was the only group of people you passed apart from this man?

Q:

A: Yes.

Q: You passed a group of people and the only other person you saw was this man on the road?

A: That was way after we passed a group of people.

10 Q: So that when you saw the person from some sixty, roughly fifty to sixty feet away you said - 'See the man deh', that is correct?

A: That is correct.

Q: At the back of the jeep - now, why did you ride at the back of the jeep, that is standing on the part there at the back?

A: Well, I wanted to see clearly, sir.

20 Q: To see what?

A: To see clearly and I just feel like driving out on the back of the jeep and I stand out there.

Q: In other words, I take it sir, that what you would be doing is looking by the side of the jeep, looking forward so that you could always see the way as the jeep moves forward, is that so?

30 A: That is right, sir.

Q: Did you have any weapons with you that day?

A: No, I didn't have any weapons, sir.

Q: But this robber you are speaking of, you knew he was an armed person?

A: At the time of the robbery I know he was an armed person.

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Cross-Examination
(cont'd)

In the Supreme Court

Prosecution
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Examination
(cont'd)

Mr. Marcus: You know, Mr. Wilson, I am going to
Q: put some questions to you,
suggestions to you.

A: Yes, sir.

Q: First of all you didn't - at no time
that day did this man hold you up
and rob you, that no time that day
did this man hold you up and rob
you.

His Lordship: Answer him, Mr. Wilson.

10

A: This man robbed me at about 9.00
o'clock that said day, sir.

Q: Further that the man who held you up
and robbed you that day was fully
disguised in dark glasses and dark
clothes.

His Lordship: Mr. Marcus, I have told you we have
no Jury here, why are you putting it
this way?

Mr. Marcus: Much obliged, sir.
That you are making a very serious
and grave mistake when you say this
is the man who robbed you that day.

20

A: I am not making any mistakes, sir.

Q: Now, you told us, you see, of this
robber holding a gun on you, at
least pointing to your direction and
firing. About how far away sir, you
say you were when this man first
fired this gun? Was it the one
about twenty, twenty-two feet, sir?

30

A: Yes.

His Lordship: From where he is to the window.

Mr. Marcus: Thank you, sir. Now, tell me
something, where was the man when
you heard the first explosion?

A: He was...

Q: In relation to you?

A: He was...

Q: By the side, in front of you,
behind you, left or right side?

A: He was about twenty-one feet over
on my side.

His Lordship: What the gentleman wants to know,
in relation to where you were, is
he in front of you, beside you cross-
way or back-way, of you?

10

A: He was almost in front, more to the
side.

His Lordship: Almost in front and more to the side?

A: Yes, sir.

His Lordship: Suppose you were to stretch out the
right hand and walk in that distance,
would you go straight into him,
front or behind, do you know?

A: I would stay in front.

20

His Lordship: In front and side-ways of you when
you heard the explosion?

A: Yes, sir.

Mr. Marcus: Nothing on your vehicle was damaged?

A: No, sir.

Q: Now, the money that you were
carrying, belonged to who?

A: Chin's Enterprise Limited.

His Lordship: Chin's Enterprise Limited?

A: Yes, sir.

His Lordship: He says he is a salesman, isn't he?

30

A: Yes, sir.

His Lordship: What do you sell?

A: I sell cigarettes, Guinness, nutriment
as well as other stuff.

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Prosecution
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(cont'd)

His Lordship: What would you call that?

A: Say shop goods, I sell shop goods.

Mr. Marcus: Now, this other lady, you see sir, who was in your car that day, who you took up...

A: A van.

Q: ... what is the name of that woman, you know?

A: Well, no sir, I don't know the name of that woman, the police has it sir. 10

Q: Did you see her after the robbery took place?

A: She went with me to the Ferry Police Station, sir, so I see her after.

Q: Did you know that woman before?

A: No, sir.

Q: The first time you were going to see her that day?

A: The first time I can remember ever seeing her. 20

His Lordship: What is that? You can what?

A: The first time I can remember ever seeing her.

Mr. Marcus: Tell me something, sir, is it just one wire fence the accused was supposed to have jumped over?

His Lordship: By one wire fence, I take it you mean the number of strands on the post there.

Mr. Marcus: Put it this way... 30

His Lordship: That is what you mean?

Mr. Marcus: No, no, sir, when you say one, sets of things going along.

His Lordship: No, you don't know about wire fence; it has one, two, three four...

In the Supreme Court

Mr. Marcus: That is so, sir.

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His Lordship: Is that what you mean?

Lansdale Wilson

Mr. Marcus: I mean he went over the top of one fence as it stretches along, even though it may have...

Cross-Examination (cont'd)

A: He went over the top.

10 His Lordship: Of one fence?

A: Yes, sir.

His Lordship: How many strands of wire that fence had on?

A: It had on quite a few, about five.

Mr. Marcus: Now, you went over the fence too with someone, along with someone?

His Lordship: Who, has he said that?

Mr. Marcus: I am asking him that.

A: I alone went over.

20 Q: Did you join anyone, in the company of anyone.

A: The police was ahead of us, they already gone over the wire.

Q: Did you hear my question a while ago?

A: If I accompanied...

Q: Did you join the company of someone after going over the wire fence?

A: Well, I didn't join the company of anyone going over the wire fence.

30 Mr. Marcus: You didn't get together with somebody and search, in the bush with somebody?

A: No, I didn't get together with anyone.

In the Supreme Court

Prosecution
Evidence
No. 3
Lansdale
Wilson
Cross-
Examination
(cont'd)

Do you know who was it that held the accused over the wire fence?

His Lordship: Mr. Marcus - oh, go ahead, I am sorry.

Mr. Marcus: Do you know who it was that held the accused in the bushes over the wire fence, which particular person?

A: I don't know which particular person it was, sir.

Q: When you first saw him, did you see someone holding him when you first saw him in the bushes, this ten minutes roughly after you had gone over the fence? 10

A: No, he was at gun point sir, just a little way.

Q: Who had him at gun point?

A: Both of the police, sir.

Q: Both policemen, I take it had guns that day? 20

A: Both had guns.

Q: Short, long guns?

A: Both long and short..

Q: Who had the long one?

A: Well, I think Constable Shaw had the long one and Detective Cole had a short one.

Q: Do you remember, you see sir, saying anything to the police officers about the man mek up him face or something like that? 30

His Lordship: At what stage, at what stage are you talking about?

Mr. Marcus: After the man was held over the wire fence.

A: I only say to him, 'This is the man'.

Mr. Marcus: That was all you said, you are quite certain of that?

Q: Yes, sir.

His Lordship: Your suggestion was that, did he ever say that the accused man mek up him face or something like that when he was held over the wire fence?

Mr. Marcus: Yes, sir.

10 His Lordship: I see. Do you remember saying that?

A: No, I didn't say that, Your Honour.

His Lordship: You didn't.

Mr. Marcus: And in fact, sir, he went on to say that the only thing he said was - what you said again, Mr. Wilson?

A: 'See the man deh'.

Q: That is what you said?

20 His Lordship: Try and remember. When he is held and brought back now, did you say anything in his presence?

A: Well, when he was held and brought back, I said - well I already told them that that was the man.

His Lordship: No, did you you say anything when he was brought back then?

A: Well, I just say I am sure it is him, that was what I said.

30 Mr. Marcus: Now, do you remember seeing any clothes that day belonging to the accused which was taken from the house where you went to?

A: Yes, sir, when I was at the station...

His Lordship: You saw what?

A: I saw dark clothes.

In the Supreme Court

Prosecution
Evidence
No. 3
Lansdale
Wilson
Cross-
Examination
(cont'd)

In the Supreme Court

Prosecution
Evidence
No. 3
Lansdale
Wilson
Cross-
Examination
(cont'd)

Mr. Marcus: But you were not able to tell the police that any particular piece of clothes was the clothes the man was wearing who robbed you?

A: No, only that it was dark clothes.

Q: Well, Mr. Wilson, you didn't take some clothes from the man's house that you yourself? (sic)

His Lordship: He?

Mr. Marcus: Yes. You yourself didn't take up some clothes from the house where you went to, to the brother's house that day? 10

A: I didn't take up any clothes that day, sir.

Q: Tell me something, Mr. Wilson, where was Rocky that day in the van when you were being robbed? What part of the van was he?

A: He was on the left side of the van, in the van front at the left side. 20

Q: And where was the lady you took up?

A: In the middle.

Q: You can't remember about how many shots you heard the day. At the time when this man was caught, about how many explosions you heard?

A: I don't remember how many, sir.

Q: You were there.

A: I was not there when the shots were... 30

Q: But you heard.

A: I heard the explosion.

Q: You heard the explosion, didn't you?

A: Yes, sir.

Mr. Marcus: You remember you were able to tell
Q: us how many explosions you heard
at the time of the robbery, one two,
three?

A: Yes.

His Lordship: One, two, three, Mr. Marcus?

Mr. Marcus: On the morning of the robbery, I
think he said about three
explosions. Could it have been
about one shot?

A: I heard more than one.

Q: Two?

His Lordship: How many did you hear at the time of
the robbery?

A: At the time of the robbery I heard
one first; one when he was taking
the money from me and one when I
drive off.

Mr. Marcus: I asked him a little earlier if he
could tell us about how many
explosions he heard at the time when
the man was caught.

A: It was more than one.

Q: Thank you. Who were the other
persons in the jeep that day, apart
from the policeman and yourself and
Rocky?

A: At which time, sir?

Q: Apart from Rocky and the two
policemen and yourself, who were the
others in the jeep that day?

His Lordship: At what time, he said.

Mr. Marcus: Why you asked me that?

A: I want to know what you are talking
about and when you are talking; I
don't just answer questions like that.

In the Supreme
Court

Prosecution
Evidence
No. 3
Lansdale
Wilson
Cross-
Examination
(cont'd)

10

20

30

In the Supreme Court

Prosecution Evidence No. 3 Lansdale Wilson Cross-Examination (cont'd)

Mr. Marcus: Why did you ask me which time, there were times when there were other persons in the jeep? There were no others in the jeep at any time?
Q:

His Lordship: What is that?

Mr. Marcus: I had asked him who else apart from the two police officers and Rocky and himself were in the jeep that day.

His Lordship: Are you saying somebody else was in the jeep? 10

Mr. Marcus: Yes, sir.

His Lordship: Put it to him. That is before the accused man was taken into the jeep?

Mr. Marcus: Yes, sir.

His Lordship: Put it to him.

Mr. Marcus: Nobody apart from the...

His Lordship: He said four of them were in the jeep, if you are saying five or ten, put it to him and let us get on. 20

Mr. Marcus: No one was in the jeep that day?

His Lordship: He had already said four.

A: Absolutely no one at any time, sir.

Mr. Marcus: At no time? Very well. That will be all for the time being sir.

Mr. Hamilton: No re-examination, M'Lord.

No. 4 Rocky Russell Examination

No. 4 Evidence of Rocky Russell

Mr. Rocky Russell Sworn

3.30 p.m. EXAMINED BY CROWN ATTORNEY

30

Mr. Hamilton: Mr. Russell, you will have to speak up for us so that the accused man can hear you and the Judge and everybody else can hear you. Now, is your name Rocky Russell?

A: Yes, sir.

Q: What do you do for a living, Mr. Russell?

10 A: Work.

Q: What do you work at?

His Lordship: You work where?

A: I work as a salesman.

Mr. Hamilton: You are a helper and a salesman?

A: Yes, sir.

Q: You know Mr. Lansdale Wilson?

A: Yes, sir.

His Lordship: You know Mr. Wilson?

A: Yes, sir.

20 Mr. Hamilton: You work with Mr. Wilson?

A: Yes, sir.

Q: Now, you remember Thursday the 19th of February this year?

A: Yes, sir.

His Lordship: Thursday when?

Mr. Hamilton: The 19th of February this year, M'Lord..
And at about 9.00 o'clock in the morning on that day, can you remember where you were?

30

A: Yes, sir.

Q: Where were you?

In the Supreme
Court

No. 4
Rocky Russell
Examination
(cont'd)

- A: In Glade district.
- Q: How did you travel to Glade district?
- A: Drive.
- Q: Who was driving?
- A: Mr. Lansdale Wilson.
- Q: Now, while you were travelling... (sic) this van, did something happen?
- A: Yes, sir.
- Q: What happened?
- A: A robbery took place. 10
- Q: Now, before the robbery took place, did you see anybody on the road?
- A: No, sir.
- His Lordship: Tell us what happened; you were travelling in this van?
- A: Yes, sir.
- Mr. Hamilton: While you were travelling in this van, did anything happen?
- A: Yes, sir.
- Q: Tell us exactly what happened. 20
- A: While we were travelling back from Glade district, we saw a gate in the road and two big stones; the driver stopped. We never go as far as the gate, afterwards him start to reverse and when reversing I saw that man (pointing to accused).
- Q: Where was he?
- A: Well I couldn't tell where was he at that time. 30
- Q: As you were facing - where were you facing?

His Lordship: Don't bother to tell him about facing. The van, it is reversing, you saw this man, where was he, on the road, on top of the van or where?

A: On the road coming to the van, and..

Mr. Hamilton: You were about to say something.

A: And he fired a shot.

Q: What him fire the shot with?

10

A: A gun.

Q: Where was the gun?

A: In his hand.

His Lordship: Can you say which one?

A: His right hand.

Mr. Hamilton: You heard anything?

A: I heard a shot.

Q: Yes. Now, where this shot come from?

20

Mr. Marcus: I am sorry; I thought my friend would have rephrased it - 'You heard an explosion'.

His Lordship: He said he heard a shot. You know where the shot come from?

A: From the direction where he was.

His Lordship: Where accused was?

A: Yes.

His Lordship: Rocky -

A: I am talking Stone, sir.

His Lordship: You knew him before?

A: No, sir.

30

His Lordship: It came from Stone's direction, the accused man?

In the Supreme
Court

No. 4
Rocky Russell
Examination
(cont'd)

- A: Yes.
- Mr. Hamilton: When you heard the shot fire from his direction, how far away from you; can you point it out?
- A: About where the curtain(sic) (Indicating).
- Q: From where you are standing to where?
- A: To about this curtain, sir.
- His Lordship: That we had estimated at 21, 22 feet.
- Mr. Hamilton: What happened immediately after this shot was fired? 10
- A: He reached to the van.
- His Lordship: What happened? The van stopped reversing or what?
- A: Yes, sir. Him say, 'Give me the money or else you are going to get it'.
- Mr. Hamilton: Anybody react? Anybody do anything when him say, 'Give me the money'?
- A: No, sir. 20
- His Lordship: What next happened?
- A: Him give him the money. After him say, 'Give me the money', him give him the money.
- Mr. Hamilton: Who give him the money?
- A: Lansdale give Stone the money.
- Q: You see what the accused man do with the money?
- A: No, I don't see what him do; I never see where him put the money. 30
- Q: What happened immediately after him give him the money?
- A: Him say, 'Drive!' and a next man round the corner.....

His Lordship: Who said, 'Drive'?

A: Stone, 'and a next man round the corner might take way the van too'.

His Lordship: He is saying, 'Drive and a next man round the corner might take way the van too'?

A: Yes, sir.

Mr. Hamilton: What happened after that?

A: Him drive straight to the station.

10 Q: When you drove off you heard anything?

A: Yes, after driving off, I hear about two shots.

Q: So you say you drove to the station?

A: Yes.

Q: Which station you drove to?

A: Ferry.

20 Q: Did you remain at Ferry Police Station or you went back somewhere with the police?

A: After Lansdale give the statement to the police we went back to search.

Q: How you travel back?

A: Drive.

Q: What kind of vehicle you drive in?

A: A Land Rover.

Q: And you went back to where now?

A: Where we go, I don't know the name of that place.

30 His Lordship: You don't know the name of that place you went?

A: No, sir, but it was near to Glade district.

In the Supreme Court

No. 4
Rocky Russell
Examination
(cont'd)

In the Supreme
Court

No. 4
Rocky Russell
Examination
(cont'd)

Mr. Hamilton: How many of you were in the jeep?

A: Four of us.

His Lordship: That is four including who?

A: Me and Lansdale and the two policemen.

Mr. Hamilton: Now, when you reached up you say, somewhere near Glade district, anything happened when you reached there?

A: Yes.

10

Q: What happened?

A: Lansdale say to the police.....

Q: Lansdale spoke to the police?

A: Yes, sir.

His Lordship: Lansdale talked to the police?

A: And say, 'See a man running deh'.

Mr. Hamilton: What happened next; the police did anything?

A: Yes.

Q: What the police did?

20

A: The police chase at him.

Q: With what?

A: After him start to run, him drive up the jeep and go faster.

His Lordship: The police did what after him start to run?

A: The police drive up the jeep faster, sir.

Mr. Hamilton: Did you see where the man go?

A: Him jump over a fence and went in the bush.

30

Mr. Hamilton: The police did anything?

In the Supreme
Court

A: Yes, sir, the police run.

His Lordship: The police what? The police did what?

No. 4
Rocky Russell
Examination
(cont'd)

A: The police stopped the jeep and run over.

His Lordship: They went over or under the fence or where?

10 A: Them go over the fence, I don't know if them go underneath or over.

His Lordship: You don't know if them go over or under but you know them go over the fence.

Mr. Hamilton: Now, when the police went over the fence, where were you?

A: Same place where the jeep was.

His Lordship: In the jeep or outside?

A: Stand up outside.

20 Mr. Hamilton: Now, when the police went over the fence, you see, did you hear anything?

A: Yes, sir.

Q: What you heard?

A: I heard shots, sir.

Q: Did the police return?

A: Back to the jeep?

Q: Yes.

A: Yes, sir.

Q: Did you see them with anybody or anything?

30 A: Yes, sir, I see them with Stone, sir.

Q: You noticed if anything was the matter with Stone?

In the Supreme
Court

No. 4
Rocky Russell
Examination
(cont'd)

- A: Him was wound, sir.
- Q: Where was wounded?
- A: In the leg.
- Q: Now, after that incident, did you go anywhere else with the police?
- A: Yes, sir.
- Q: Where you went?
- A: After that we drive back to the district.
- His Lordship: District of where? 10
- A: Glade.
- Mr. Hamilton: You went to any particular place in Glade?
- A: Well, after we go back up there, we go as far as to where we sell the last shop.
- His Lordship: As far as the last shop where Mr. Wilson had sold?
- A: Yes, sir.
- Mr. Hamilton: And from there you went where? 20
- A: Him did say him have a brother live up Glade and him stop at the brother gate.
- Q: When he stopped at the gate, anybody left the jeep?
- A: Anybody?
- Q: Anybody come out of the jeep?
- A: Yes, the policeman come out of the jeep, both, four of us come out but I never go up there. 30
- Q: Where was the accused when all of you came out? Where was Stone?
- A: In the jeep.

Mr. Hamilton: When the police came out, you saw where they went?

In the Supreme Court

A: Yes, sir.

No. 4
Rocky Russell
Examination
(cont'd)

Q: Where they go?

A: They turn over to Stone.

His Lordship: To what?

A: Them go to Stone place.

Mr. Hamilton: Did they go inside his place?

A: I don't know, sir.

10 Q: Did you see them return?

A: Yes, sir.

Q: When they returned, you saw them with anything?

A: Yes, sir.

Q: What you saw them with?

A: A bag.

His Lordship: A what?

A: A bag.

20 Mr. Hamilton: At the time that you saw them with the bag, where was Mr. Wilson?

A: Outside where the jeep was that time.

Q: And you left from their place and you went where now?

A: Back to the station.

Q: The man you saw, you see, the man you saw is Stone? Do you recall how he was dressed that morning?

30 His Lordship: I think he said he didn't know him before. Was that the first time you had seen him that day?

A: Yes, sir.

Mr. Hamilton: Can you recall how he was dressed?

A: He was dressed in black, sir.

His Lordship: At what stage was he dressed in black, when the police run him down, or when him do the robbery or what?

A: When him do the robbery.

Mr. Hamilton: The gun you see, that you say you saw him with, can you describe it for us, what it looked like?

A: I see him with a gun. The mouth of it is black but I don't know the handle, because him hold the handle. 10

His Lordship: You don't know the colour of the handle as you didn't see the handle?

A: Yes, sir.

Mr. Hamilton: Apart from the mouth, did you see anything else?

A: No, sir.

Mr. Hamilton: When you heard the explosion, did you see anything? 20

A: The explosion like what, sir?

Q: When you heard the shots.

His Lordship: When you heard the gun fire, the shots.

A: You mean if I see the shots?

Mr. Hamilton: You looked when you heard the shots?

A: No, sir.

His Lordship: What the gentleman wants to know, when you say you hear shots, you see anything, any fire, any powder, any smoke or anything at all. 30

A: No, sir.

His Lordship: You didn't see anything?

A: No, sir.

His Lordship: How do you know it is the same man who robbed the van; why did you say so?

In the Supreme Court

A: I know is him, sir.

No. 4
Rocky Russell
Examination
(cont'd)

His Lordship: Why?

A: From the time him come I have me eye on him.

His Lordship: Would you like to start now, Mr. Marcus, or tomorrow will be a little better?

10

Mr. Marcus: Perhaps in the morning will be a little more meaningful. From what I see it may well go into Thursday, sir. We will have to get a nice clean day for it, sir.

His Lordship: According to calendar I will be only here next week. Now is the Easter vacation and this Court is still sitting. Say 2.00 o'clock tomorrow.

20

Mr. Marcus: Very well, thank you, sir.

ADJOURNMENT
COURT RESUMED AT 3.10 P.M.

His Lordship: Were you through with Mr. Russell, Mr. Hamilton?

Mr. Hamilton: Yes, M'Lord.

CROSS-EXAMINATION OF MR. RUSSELL BY
DEFENCE ATTORNEY 3.10 p.m.

Cross-
Examination

Mr. Marcus: Now, Rocky, is Rocky your name, on your birth certificate?

A: Yes, sir.

30

Q: It is your name on the birth certificate?

A: Yes, sir.

Q: How long have you been working?

A: For about three months, sir.

Q: You remember when you started working?

In the Supreme
Court

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

A: No, I don't remember the date.
Q: You remember the month though?
A: Yes, sir.
Q: What month?
A: December.
Q: And you had left school when?
Year before last, two years ago?
A: I don't think it reach two years.
Q: Near two years?
A: Yes, sir.
Q: And how old are you now?
A: Seventeen.
Q: You were seventeen when?
A: Seventeen January.

His Lordship: January gone?

A: Yes, sir.

Mr. Marcus: Can you read and write very well?

A: Not quite, sir.

His Lordship: You can read and write but not too well?

A: Yes, sir.

Mr. Marcus: You can write your name?

A: Yes, sir.

Q: And you can read the Bible?

A: Yes, sir.

Q: Not much though?

A: Yes, sir.

Q: Now, how you got the job with this place?

10

20

His Lordship: Which place?

In the Supreme
Court

Mr. Marcus: Chin Sang Enterprise Limited.
(To witness) How you got the job
with them?

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

A: Well, I did know Lansdale for a
long time now and I ask him to get
a work for me.

Q: You like him very much, good friend?

A: Yes, sir.

10 Q: And you have known him for a long
time?

A: Yes, sir.

Q: Now, we are going to talk about the
day when you say that Lansdale was
robbed. You said that you saw a man
on the road as the vehicle came down
to the stones and the gate, you saw
a man on the road.

20 A: Before we reach there, I never see
him that time.

Q: When was the first time you saw him?

A: The first time when the van rob.

Q: I understand that. What I mean is,
you are driving back from Glade and
coming down the road and suddenly
you notice Lansdale stop.

A: Yes, sir.

Q: And him stop, and what him do after
that?

30 A: After him stop, him start to reverse.

Q: That time you see the man yet?

A: When the same time him start to
reverse I didn't see him that time,
when the van just start to reverse...

Q: When you see him?

In the Supreme
Court

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

- A: When the van move off.
- Q: Now, that time did you see anything
in the man's hand at that time when
you first saw him? sic
- A: Yes, sir.
- His Lordship: You saw something in his hand then?
- A: Yes, sir.
- Mr. Marcus: What you saw?
- A: Well, jumpy sir, feel jumpy, sir.
- Q: You mean scared? 10
- A: Yes, sir.
- Q: Frightened?
- A: Yes, sir.
- Q: And that time now where you were
sitting in the van?
- A: I was standing at the door.
- His Lordship: Which door?
- A: The left door.
- Mr. Marcus: You mean you just stand, put your
foot on the running board and stand
up? 20
- A: Put my foot on the fender and hold
on.
- His Lordship: To the door?
- A: Yes, sir, to the door.
- Mr. Marcus: And Lansdale had to stop very
suddenly when him reverse. Why him
never continue to reverse?
- A: The man was down on him.
- Q: Down on him, with what? The thing
in his hand? 30

A: Yes, sir.

Q: And then you heard the explosion?

A: Yes, sir.

Q: How it sound?

A: It sound same as the gunshot.

Q: Loud or what?

A: Yes, it sound loud.

Q: Then what happened? You didn't
look?

10 A: Me?

Q: Yes.

A: From me see him running.....

Q: You no duck?

A: The first shot me hear me bend down
like this (demonstrating, holding
head down).

Q: And you keep low?

A: Yes, sir.

20 Q: Now, what time you raised up back your
head?

A: The said time the van stop I raise
up back my head.

Q: Now, that time when you raise up back
where you see the man?

A: Well, the driver sit like this and
him set behind the driver and tell the
driver must not move (demonstrating).

His Lordship: He is behind the driver but could you
see the man at that time?

30 A: Yes, I could see him shuffling round
the side still.

His Lordship: The man was outside of the van?

In the Supreme
Court

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

- A: Yes, sir.
- His Lordship: But you could see him shuffling?
- A: Yes, sir.
- Mr. Marcus; And was it that time that he asked
Lansdale to give him the money?
- A: Yes, sir.
- Q: While him behind him?
- A: From the time him come right to
Lansdale, him say, 'Give me the
money, else you going get it'. 10
- Q: And what Lansdale do? You remember
Lansdale put him hand somewhere and
give him the money?
- A: Him put him hand in him pocket.
- Q: Which pocket?
- A: I don't remember.
- Q: He put his hand in his pocket and
took out the money and give the man?
- A: Yes, sir.
- Q: That time the man round Lansdale's
side? 20
- A: Yes, sir.
- Q: Now, your van, it cover over?
- A: Yes, sir.
- Q: Only the two door you use to go in?
- A: You can walk through the back.
- Q: But apart from that the whole thing
cover?
- A: Yes, sir.
- Q: Now Rocky, tell me something, where
you carry the goods you fence it off? 30

A: Yes, sir, that side fence off.

In the Supreme
Court

Q: With what?

No. 4

A: Mesh wire, the diamond one.

Rocky Russell
Cross-

Q: By the way, was there someone else
in the van with you?

Examination
(cont'd)

A: Yes, sir.

Q: Who was it?

A: A lady, sir.

Q: Lansdale's lady?

10 A: No, it is a lady we just give her a
drop.

Q: Where was she, standing or sitting?

A: She was in the middle.

His Lordship: She was in the middle sitting down?

A: Yes, sir.

Mr. Marcus: Then no two seat your van carry?

A: Yes, sir.

Q: One for the driver and the other one?

A: Yes, sir.

20 Q: The other one is on the left hand
side?

A: Yes, sir.

Q: So that means when you are standing
on the step you are actually right
beside the lady and she sitting in
the seat beside you and you standing
on the thing?

A: Yes, sir.

30 Q: Now, from the time the man asked
Lansdale for the money to the time
when Lansdale gave him the money,
how long you think that took?

In the Supreme
Court

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

- A: I don't know the time.
- Q: We are not asking for anything special - quick - Lansdale take out the money quick and give him?
- A: Lansdale take out the money quick.
- Q: Him take out the money quick, quick?
- A: Him give him the money quick.
- Q: Then when the man get the money, what happened right after that?
- A: Him say, 'Drive'. After him say drive, him see a next man looking on, him going take way the van too and Lansdale drive off. 10
- Q: Him drive off?
- A: And him open back the gate for him to move because he could not move with the gate there, them just lift it up and throw it sideways.
- Q: Tell me something, the step that you are standing on, from the road 20 itself to where you are standing on the step, where you stand up on the step, how high it is from that floor?
- A: About this high from the ground (demonstrating).
- Q: From where you are standing from the tiled place?
- A: Yes, sir.
- His Lordship: About a foot?
- A: No, I don't think it reach a foot. 30
- His Lordship: About three quarters or half a foot?
- A: I don't know, sir.
- Mr. Marcus: He says he doesn't think it reach a foot.
(To witness) How much you measure it?

A: I don't know how much it measure,
I never measure it yet, I don't
know.

In the Supreme
Court

Q: You think you reach five foot?

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

A: I don't know, sir.

Q: So him say to Lansdale, 'Drive', and
dash the gate oneside and Lansdale
drive off, is that so?

A: Yes, sir.

10 His Lordship: So he drove forward?

A: Yes, sir.

Mr. Marcus: Now put it this way, him pick up speed
and drive fast to Ferry?

A: Yes, sir.

Q: About how long you think him take to
reach Ferry from the time the man say
to Lansdale, 'Drive', and him drive
off?

A: I don't judge the time.

20 Q: You drive on the road all the while,
you have some idea. You leave a
place twelve o'clock and reach a place
quarter past twelve. You know that
road, is not the first time you drive
on that road?

A: Yes, sir.

Q: The road is about two miles from
there down?

A: I don't know the miles.

30 Q: You know the little crossing where
they have the Golf and Country Club
sign - alright, never mind. Anyway,
he drive fast to Ferry?

A: Yes, sir.

Q: What happened when he reached Ferry?

In the Supreme Court

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

A: Him give the police a statement, we lodge a statement at the station, sir.

Q: Who do that?

A: Lansdale.

Q: When you say you 'lodge a statement', you mean him tell the policeman something?

A: Him go right in the office and tell him.

Q: You went into the office too? 10

A: I stop behind him where the bench is when he go in, I didn't go in with him.

Q: You didn't hear what him say then?

A: I hear him tell the police him get rob.

Q: You didn't hear him say anything more than that, did he say anything more than him get rob?

A: Like what so, sir? 20

Q: Me no know.

A: I hear him tell the police him get rob and tell the police is at Glade.

Q: What happered after that?

A: After them take the statement the policeman them take us back where we get rob.

Q: You didn't spend much time at the station?

A: He never stay long a station. 30

Q: Give the report and the police get them guns and jump in the jeep and move quick, quick, quick?

A: Yes, sir.

Mr. Marcus: So you take the back road, the quarry road? In the Supreme Court

A: Yes, sir. No. 4
Rocky Russell
Cross-
Examination
(cont'd)

Q: From the time you left Ferry station to when they saw this man running, was it a long time, fairly short time or what?

10 A: Well, it was not so much a long time.

Q: Not a long time?

A: No, sir.

Q: Tell me something, Rocky, you remember when the man came up to the van, when he was about to rob Lansdale, tell me how he was dressed from head to foot.

A: He did have a black shoes.

A: Start from head going down.

20 A: Him did have on a black suit, that is all, and him have a bag under him shoulder, right here (indicating under arm).

Q: Black what?

A: Black suit, shirt, pants don't have the direct colour like the shirt but is a dark something.

His Lordship: The shirt is black and pants.....

A: The pants more like the shirt but it not so dark.

30 Mr. Marcus: Tell me something Rocky, why you leaving out the dark glasses, the Mafia glasses?

A: I don't remember about it.

Q: You remember now?

In the Supreme Court

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

- A: Never remember nothing about a glasses.
- His Lordship: Did the man have on glasses?
- Mr. Marcus: You must speak the truth.
- A: I am speaking the truth, sir, I never remember about a glasses.
- His Lordship: Was the man wearing dark glasses at the time?
- A: Yes, sir, I believe him was have on Mafia. 10
- Mr. Marcus: Well, you remember when you were driving in the jeep on the old road, where did you stay in the jeep?
- A: At the back, sir.
- Q: You say you hear Lansdale call out and say, 'See a man running deh'.
- A: Yes, sir.
- Q: So you look same time?
- A: Yes, sir.
- Q: You saw a man running? 20
- A: Yes, sir.
- Q: At the time when you looked and saw a man running how far was he from you? Give us a rough idea, about how far you think he was from the jeep at the time when you looked and saw him?
- A: It not so far.
- Q: Like from where you standing up - you can point to a place - it reach the other building out there? 30
- A: It not so far, about like the window.
- Q: The window over the other side?
- A: Yes, sir.

His Lordship: The window in the building across there?

In the Supreme Court

A: Out where that man is (pointing).

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

Mr. Marcus: Perhaps 40/45 feet. (To witness) When Lansdale say, 'See a man running deh', what did the person driving the jeep do?

A: He drive up fast and catch....

Q: Faster on the man?

10 A: Yes, sir.

Q: You remember who was driving the jeep?

A: Yes, sir.

Q: Who was it?

A: Detective Cole, sir.

Q: You remember who came out of the jeep first?

A: I don't remember is who first come out.

20 Q: When the jeep drive up on the man, Mr. Cole's side was to the man?

A: Yes, sir, to where the man run is fe him side.

His Lordship: No, no, what you mean is, is the man on the same side as Mr. Cole or on the opposite side?

A: No, sir, on Mr. Cole's side.

Mr. Marcus: Did Mr. Cole have his gun?

A: Yes, sir.

Q: In his hand?

30 A: I don't remember where he had it.

In the Supreme
Court

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

- Q: Let me see if you can try and remember Rocky. You are sitting in the jeep, then call out 'See a man deh'. The man is on the same side with Mr. Cole, that means you look towards the right hand side of it.
- A: When them call 'See a man deh', the man start to run.
- Q: Who called out?
- A: Lanny. 10
- Q: Now, was the man on the road, that is, the driving road when you saw him, the same little dirt road where you were driving coming on, he was on the road?
- A: Yes, sir.
- Q: Walking?
- A: Yes, sir.
- His Lordship: Did you see him walking? I don't understand, I gather you are saying that when you looked you saw the man running. 20
- A: Yes, sir.
- His Lordship: Did you see him before he started to run?
- A: No, sir.
- His Lordship: You must be careful of what you are saying.
- Mr. Marcus: Now, you are trying to tell us here that when you first saw the man, you didn't see him walking on the road. 30
- A: Before I saw the man I was looking sideways if I see him before, when I hear Lanny say, 'See a man running deh', and I look same time and see him running heading to the bush side.
- Q: The bush side of the road?

In the Supreme
Court

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

Q: Is that so?

A: Yes, sir.

Q: Him really run in the bush after the man? Tell me the truth.

A: I am speaking the truth. After the man run and the jeep stop, Mr. Cole run in the direction where the man gone.

Q: When him running to him, when Mr. Cole running out, what him do?

10

A: Keep on running after him gone through the bush, I don't know what him do again.

Q: Who else run into the bush?

A: Both three of them run.

His Lordship: Which both three of them?

A: Lansdale, Mr. Cole and the other policeman.

Mr. Marcus: Now, why you telling untruth?

A: Not telling a lie, sir.

20

Q: You know that man didn't run in the bush, Rocky, that man never run into the bush. Mr. Cole held on to him and shot him same place, right before your very eyes.

A: No, sir.

Q: Isn't that true?

A: No, sir, that is not true, sir.

Q: What was the man saying when them hold him?

30

A: Don't know, sir.

Q: You didn't hear him say anything?

A: I was not over there, sir.

Q: When him come back over beside the jeep, what him was saying?

A: I don't remember if he say anything when them carry him to the jeep; after them carry him to the jeep they say them going over there back.

His Lordship: They say they were going back where?

A: Where them catch him.

Mr. Marcus: You could not see where them catch him?

10

A: No, sir.

Q: You remember how this man was dressed when he came back out of the bush?

A: When them carry him where the jeep was him was in a green pants and stripe ganzie.

Q: Tell me something, you remember after that the police went up to his house somewhere somebody said his brother was living?

20

A: Yes, sir.

Q: You saw the police take something out of the house?

A: When the police go up to the house I did outside where the jeep was and when them come back I see them with a bag.

His Lordship: The police went into his brother's house and when they came out of it...

30

A: I don't know if them go in.

His Lordship: You can't say if the police went in the house or not but when they came back they came back with a bag?

A: Yes, sir.

Mr. Marcus: A travelling bag?

In the Supreme
Court

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

- A: A small bag.
- His Lordship: You know what they call a travelling bag, something with a zip in it, you close it?
- A: Same bag like that one, bigger.
- His Lordship: Where is the bag? (Bag shown to witness)
- A: Yes, sir, not bigger.
- Mr. Marcus: Am I correct that there was a lot of clothes in that bag when they took it out? 10
- A: Yes, sir, when them come out.
- Q: It was filled with clothes?
- A: When them go station it was them take the clothes out of it.
- Q: Now, Lansdale also went into the house?
- A: No, sir.
- Q: How you know that?
- A: When him come out of the jeep I never see him go up to the house, him stay same place out there. 20
- Q: Where that was?
- A: Where the jeep was, sir.
- Q: Who went into the house?
- A: Is only the police alone because is them alone I see come with something.
- His Lordship: Did you see the police go into the house?
- A: Them go right up to the house, I never see them go in there but I know them go up there. 30
- Mr. Marcus: Did you hear shots when you went back in the jeep to look for this man?

His Lordship: Hold on, when he went back to look for this man? In the Supreme Court

Mr. Marcus: When he went back in the jeep to look for the man who robbed him. (To witness) You heard shots? Put it this way, people went into the bushes, the policemen went into the bushes after the man. No. 4 Rocky Russell Cross-Examination (cont'd)

10 A: You mean the said time when time the man was running?

Q: Yes, they went into the bushes after him.

A: Yes, sir.

Q: You remember about how long?

His Lordship: Sorry, he is answering yes to that question, whilst the police had gone into the bushes after the man; did he say yes to that?

20 Mr. Marcus: That was not the question I asked him. When the police went into the bushes, how long after they went into the bushes that they heard the shots.

His Lordship: This is what I am trying to get. I have not heard him say whilst the men were in the bushes and the accused man as it turned out to be, did he hear any shots.

A: Yes, sir.

30 His Lordship: I was not too sure what his answer was to the question - how long after the police went into the bushes did you hear the shots, can you say?

A: Is not the said time, sir, but I don't know is how long.

Mr. Marcus: In other words, a good while after they were in the bushes you heard shots?

A: Not so long.

In the Supreme
Court

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

- Q: Suppose I say it was about ten minutes after, I think I would be right, ten minutes, then run into the bushes you heard the shots.
- A: I don't know.
- Mr. Marcus; I know his age militates against him in those circumstances.
- His Lordship: Is it the age alone or in this regard?
- Mr. Marcus; No, but he seems to have no conception of time. (To witness) When the man came back out of the bushes, this man, who was holding him? 10
- A: I don't remember is who carry him out.
- Q: Anyway, it was one of the policemen, no true?
- A: Don't remember, sir.
- Q: If it was Lansdale you would not have denied Lansdale holding him? 20
- A: Don't remember, sir, I don't remember is who.
- Q: And you noticed that the man was bleeding from his legs, up here, two legs? (indicating thighs)
- A: Well, on one of his foot I see little blood on his pants.
- Q: Did you at any time see Mr. Cole holding this man in his shirt?
- A: No, sir. 30
- Q: How you answer so quick? You never see that yet? We are going to take time, lots of time. How you know that you never saw Mr. Cole holding this man?
- His Lordship: But he has said no.
- Mr. Marcus: Why you said so?

A: I never see so I could not say yes. In the Supreme Court
Q: You never saw Mr. Cole holding him at any time? No. 4
A: I don't see him holding him. Rocky Russell
Q: You never see him holding him at any time? Cross-
Examination
(cont'd)

His Lordship: I will decide that in due course.

10 Mr. Marcus: I am wondering what you are covering up. Rocky, you never saw Mr. Cole holding this man at any time that day?

A: For the day, him hold him, sir.

Q: When?

A: When them put him in the jeep and when they go station.

His Lordship: When they put him in the jeep from where?

20 A: At the said spot when they lift him up to put him in the jeep.

His Lordship: And also at the station, what?

A: Them hold him when time them take him out to bring him in.

Mr. Marcus: So Rocky, you remember now. You remember that you saw Mr. Cole hold him that day?

A: Yes, sir.

30 Q: You remember how quick you were to tell the court that you don't remember at first?

A: Remember what, sir.

Q: Alright. Now, you gave a statement to the police concerning this incident, the robbery and so on?

In the Supreme
Court

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

A: Yes, sir.

Q: When did you give that statement to the police?

A: The said day, sir.

Q: Who took your statement?

A: A policeman, don't know his name.

Q: Not Mr. Cole?

A: No, sir.

Q: When you gave that statement you told the police -never mind, I won't put it that way. When you gave your statement you told the police that the man was dressed in black?

10

His Lordship: What is this in aid of? Why is this being put?

Mr. Marcus: I am going to withdraw, no sooner I had put the question, I realised I must withdraw. I am going to ask you a few more questions and finish up. Now first of all I am going to make some suggestions to you, I am going to suggest.....

20

His Lordship: Let me put it this way, I am not stopping you from asking, I would have thought - I know he has said the man had on black and I don't know if anything turns, it is entirely for you.

Mr. Marcus: I remember in examination-in-chief he said the man was dressed in black.

His Lordship: He said so to you in cross-examination.

30

Mr. Marcus: I realise I would only be repeating myself. What I should really have asked him was if he had told the police that the man was in Mafia glasses in his description to the police. (To witness) Did you tell the police in your statement that the man had on Mafia glasses that day?

A: I think so, sir.

In the Supreme
Court

Q: Now Rocky, I know you say you think so but you know I would really like to see if you can remember it.

No. 4
Rocky Russell
Cross-
Examination
(cont'd)

His Lordship: Does it make any difference because the evidence in this court is yes, he did have on Mafia glasses.

Mr. Marcus: I was trying to find out if he did tell the police since he gave a statement.

10

His Lordship: I know, but does it matter? "He had on Mafia glasses but I didn't remember about the glasses" - you remember cross-examining? His evidence is that at the time he had on glasses.

Mr. Marcus; I am sure if Your Lordship bears with me, one would expect this to be in his statement.

His Lordship: I don't know.

20

Mr. Marcus: This is exactly so, it is not so. He can't put it any higher, I quite agree with you. I thank you very much, Rocky.

Mr. Hamilton: No re-examination, M'Lord.

10th May, 1976

His Lordship: When did we last have this matter before the Court?

Mr. Marcus: The 14th of April, sir.

30

Mr. Hamilton: Before Your Lordship, this is the matter of the Queen against Trevor Stone and Mr. Marcus appears for the Defence in this matter. This is a matter which was part-heard before you and which is proposed to continue today. I believe the position in this matter was that witness for the Crown Rocky Russell had been cross-examined by Mr. Marcus and the next witness for the Crown is Miss Dorothy Brown.

MISS DOROTHY BROWN SWORN

Dorothy Brown
Examination

EXAMINED BY CROWN ATTORNEY

Mr. Hamilton: Madam, is your name Dorothy Brown?

A: Yes.

Q: So is that Miss or Mrs.

A: Miss.

Q: Are you a teacher at the Government
Basic School at Glade district?

10

A: Yes, sir.

Q: In the parish of St. Catherine?

A: Yes, sir.

Q: And you live where, Miss Brown?

A: Glade district.

Q: Do you know the accused?

A: Yes, sir.

Q: For how long have you known him?

A: For years sir.

Q: Where did you first meet the accused?

20

A: At Glade.

Q: Do you know the accused, what the accused
man does for a living?

A: Yes, sir.

Q: What does he do?

A: He is a policeman.

Mr. Hamilton: You know at which station he was attached?

A: Yes.

Q: Which station?

A: St. Ann's Bay.

Q: Now, do you remember Thursday the 19th of February this year?

A: Yes, sir.

Q: Now, at about quarter to nine on the morning of that day...

10

Mr. Marcus: No, that is leading the witness.

Mr. Hamilton: Now, at about what time?

A: Quarter to nine.

His Lordship: In the morning or in the night?

A: In the morning.

Mr. Hamilton: Now, on that time, on that day, can you recall exactly where you were?

A: I was at the school.

Q: This is the school at Glade?

A: Yes, sir.

Q: Did you see the accused man on that day?

A: Yes, sir.

Q: Where did you see him?

A: I see him out by the gate.

His Lordship: The gate of the school?

A: Yes, sir.

Mr. Hamilton: Now, what time was this?

A: At quarter to nine.

In the Supreme Court

No. 5
Dorothy Brown
Examination
(cont'd)

20

In the Supreme Court

No. 5
Dorothy Brown
Examination
(cont'd)

Mr. Hamilton: Now, when you saw this accused, how was he dressed?

A: He was in a darkish pants and a black shirt.

His Lordship: You say a black shirt?

A: Yes, sir.

Mr. Hamilton: Can you say what he was doing?

A: I saw him drawing a gate across the road.

Q: Now, which road is this?

10

A: It is a junction road from the district.

His Lordship: From where?

A: He was drawing it along the main road; it was a straight road and he was drawing it across the road.

His Lordship: What we are asking you, is this the main road he was drawing it across?

A: Yes, sir.

Mr. Hamilton: Was he doing anything else?

20

A: He put stone in the road.

Q: Now, having done this, did he do anything else?

A: He stand up in the road.

Q: Now, while the accused was doing this, you see, exactly where were you?

A: I was standing near the doorway.

Q: The doorway of what now?

A: Of the school.

His Lordship: Were you inside the school or outside or what?

30

A: Inside the school.

Mr. Hamilton: Now, how far is this from where
the accused man was?

A: He was about two chains away.

Q: Now, from where you stood, is
there anything immediately in front
of you?

A: Well, one tree.

His Lordship: Immediately in front of you?

Mr. Hamilton: Of her, sir.
Anything that would obstruct your
vision?

A: No.

Q: Now, did something happen that
morning?

A: After quarter to - 9.15 the van
coming down and after it driving
coming down, turning down from the
above district...

Q: Now, the van turned down in what
district now?

A: Coming down from the above district.

Q: Towards where now?

A: Going to Caymanas Bay, it stopped,
reversed.

His Lordship: Where did it stop?

A: It stop near the stones in the road
and it reversed, it start reversing;
Trevor Stone ran forward and let go a
shot.

Mr. Hamilton: Now, how did you know that he let
go a shot?

A: I hear it from a gun.

Q: Where was this gun?

A: Him have it in him hand.

In the Supreme Court

No. 5
Dorothy Brown
Examination
(cont'd)

Mr. Marcus: Sorry, M'Lord; she just said a while ago, before my friend asked the last question - from a gun.

His Lordship: He asked, where is this gun - he had it in his hand.

Mr. Marcus: I see. Thank you.

Mr. Hamilton: What happened immediately after you heard this shot?

A: The man stop reversing; the van stop reversing. He went to the driver on the right hand side.

Q: He who?

A: Trevor Stone went to the driver on the right hand side; he pushed his hand forward, pointing the gun to him.

Q: And?

A: And he hand him something.

Q: Who hand who now?

A: The driver hand him something.

Q: What happned after that?

20

A: He told the driver to drive and he drive down.

His Lordship: Drove where?

A: Him tell the driver to drive with the gun in his hand and he walked forward to where the...

His Lordship: Who is walking forward?

A: He walked forward to the gate.

His Lordship: Who?

A: Trevor Stone and he draw it out of the road and he let go another shot and say him must drive.

30

Mr. Hamilton: So did the driver drive?

A: He drive and I run through the school room and jumped through a window; and I heard another shot again.

Q: Now, just before you see, you ran, where was the accused Stone?

A: He was out in the road where the van was.

His Lordship: But didn't the van go at that stage?

10

A: When him say the van must drive, he was running forward to the junction road.

Mr. Hamilton: Who was running?

A: Trevor Stone.

Q: This was towards you or away from you?

A: Away from me.

Q: This gun that you say you saw, how much of it you saw?

20

A: How much of it? He hold it in his hand and I saw the front part of it.

Q: Can you tell us anything about the length of this gun?

A: It is not too long, it is a short gun.

Q: Like how short? Can you describe the part that you saw?

A: It is about this length (indicating her hand?)

30

His Lordship: It is about 7, 8 inches she is showing there.

Mr. Hamilton: Can you tell us anything about the shape?

A: The shape is a gun.

Q: Have you ever seen a gun before this day?

In the Supreme
Court

No. 5
Dorothy Brown
Examination
(cont'd)

- A: Yes, sir.
- Mr. Hamilton: Where have you seen guns?
- A: I see people with it.
- Q: What about the colour, can you tell us anything about the colour?
- A: It has a brownish colour.
- Q: Now, did you notice whether there was anybody else in this van?
- A: Yes, another boy was in there and a lady. 10
- Q: At the time you say that you heard these shots, apart from the people in the van and Mr. Stone, did you notice whether there was anything else on the road?
- A: Children was in the school yard.
- Mr. Marcus: On the road? What is the reply to it?
- His Lordship: In the school yard.
- Mr. Marcus: He asked if there was anyone on the scene. 20
- His Lordship: She said children were in the school yard.
- Mr. Hamilton: Did you go to the police station?
- A: I lock up the school and went to the district and after an hour, after I saw the man with Trevor Stone.
- Q: You made a report to the police?
- A: The police asked me if I have seen...
- Q: And you made a report to the police? 30
- A: The police.
- Q: Just tell me, you made a report to the police?

A: Yes, sir.
Mr. Hamilton: No more questions, M'Lord.
His Lordship: Yes, Mr. Marcus?

In the Supreme
Court

No. 5
Dorothy Brown
Examination
(cont'd)

CROSS-EXAMINED BY DEFENCE ATTORNEY

Cross-
Examination

Mr. Marcus: What is the name of the basic school
that you run?

A: Claremont Basic School.

Q: Is that a separate district from
Glade district; Claremont is
different from Glade?

A: No, sir.

Q: Claremont is not different from Glade?

A: No, sir, it is Glade Church Basic
School.

His Lordship: What is it?

A: Claremont Basic School is Glade Church.

His Lordship: It is the Glade Church?

A: Yes, sir.

Mr. Marcus: You know why they call it Claremont?

A: No, sir.

Q: You don't know?

A: No.

Q: How far away from the water tank in
Glade is it; that school, about how
far from the water tank in Glade?

A: About a mile apart.

Q: It is more than a mile, Miss Brown,
isn't it?

A: No sir, it is not more than a mile.

- Q: Why you say that?
- A: I know it is a mile from down there because it have a mile post.
- His Lordship: No, the tank, the water tank you are asked about.
- A: The tank is at the middle of the district and it is one mile from up there to the church.
- Mr. Marcus: Apart from the children at Glade, other children around also attend that school? 10
- A: It's only Glade children attend that school
- Q: So tell me something, what time you actually go to school to start classes?
- A: School starts at 9.00 but I went to school at 8.30 that morning; that morning to prepare my lesson to teach.
- Q: But the other mornings you normally go at 9.00 also? 20
- A: I also went before 9.00.
- His Lordship: The other mornings you go before 9.00 also?
- A: Yes, sir.
- Mr. Marcus: You remember before that you told us that you normally go at 9.00?
- A: I say school call at 9.00
- His Lordship: When did she say that?
- Mr. Marcus: The first sentence in relation to the time; when I asked her what time she normally goes to school. 30
- His Lordship: You asked her what time and she said 9.00; you never asked her what time normally she went to school.
- Mr. Marcus: Much obliged sir.
That morning, you went also half past eight?

A: Yes, sir.

Mr. Marcus: You didn't start teaching then?

A: What time, sir?

His Lordship: At any time.

A: No, sir.

Mr. Marcus: So from quarter to nine to nine
fifteen you just stood near the door
that day and had no classes at all,
is that so?

10 A: At 9.15 I was nearby.

Q: Did you hear my question?

A: I was by the door looking for other
children to come.

His Lordship: Mr. Marcus, I don't think you can put
the question in that form, as if the
witness is saying 'I went there at
9.15, from quarter to nine to 9.15'.

Mr. Marcus: She never said so, I am only putting
it.

20 His Lordship: You can't put it to her in that form;
you must ask her first - was she by the
door. You are putting the question as
if she is at the door from 8.45 to
quarter to nine, but she has not said
that. You must establish that first.

Mr. Marcus: Much obliged.
Tell me something, at quarter to nine
you were looking out on the road?

30 A: At quarter to nine I heard the van
coming up and I look out.

His Lordship: Going up?

A: Going up.

Mr. Marcus: So you weren't really preparing any
lessons then, were you?

A: I have prepared my lesson already.
I was there before preparing my lesson.

In the Supreme Court

No. 5
Dorothy Brown
Cross-
Examination
(cont'd)

- Mr. Marcus: Was that the only vehicle that passed there that morning?
- A: Yes, sir.
- Q: And you know that vehicle quite well?
- A: Yes, sir.
- Q: What does it look like?
- A: Look like a van.
- His Lordship: You know what a van looks like, or can you say the colour?
- Mr. Marcus: Yes, description-wise. I think you are a teacher. 10
- A: It is a white van.
- His Lordship: Anything else; can you tell us about it?
- A: It's a big white van.
- Mr. Marcus: You don't know its licence number?
- A: No.
- Q: And you don't know what model it is?
- A: No.
- Q: But it is more a truck than a van? 20
- A: No, it is a van.
- Q: Did you know the person who drove that van before that day?
- A: I have seen him before that day.
- His Lordship: You had seen the driver before?
- A: Yes, sir.
- Mr. Marcus: On many occasions?
- A: I see him at the district on occasions selling goods.
- His Lordship: What the gentleman is asking, is it many times you saw him in the district or.... 30

A: I saw him there many times.

Mr. Marcus: In fact you yourself have bought something from him?

A: No, sir.

Q: You never buy anything from him?

A: No, sir.

Q: You never talked to him?

A: Yes, sir.

Q: You spoke to him sometime before that day?

A: When I beg him drive I talk to him.

Q: And how long had he been coming to Glade to sell goods?

A: He is coming there a long time now.

Q: Long before you know Trevor?

A: No.

Q: Not long before?

A: No.

Q: About the same time you know Trevor?

A: No.

Q: Which one you know before?

A: I know Trevor before.

Q: So you hear the van going up and you come out and look but the van never stop?

A: No, it never stop when it was going up.

Q: After the van passed, you never go back inside the school room?

A: I was in the school room when I saw the van going up.

10

20

30

- Mr. Marcus: Now, there is one door to the front of that building, is that so, one door?
- A: It have two doors, one at the front and one at the side.
- Q: That is the side to the Caymanas Bay?
- A: No, the side to Glade.
- Q: Now, when you saw the van going up, what door did you look through?
- His Lordship: Did you look through a door to see the van going up, or a window? 10
- A: I was looking through the door because...
- His Lordship: Which door did you look through now?
- A: The side door.
- Mr. Marcus: Now, you saw the van going up and after you saw the van going up, you didn't go back to prepare your lessons?
- A: When I saw the van going up I was standing at the door still looking out. 20
- His Lordship: No, no. Did you go back after the van went up?
- A: No, I was standing at the door still.
- Mr. Marcus; Now, after the van passed, for about how long you were standing up there?
- A: After the van passed?
- Q: Yes.
- A: About five minutes.
- Q: You were just standing there for five minutes, is that so? 30
- A: Yes.
- Q: Just standing there?

	A:	I was standing there looking out on the children.	In the Supreme Court
	Mr. Marcus:	Just looking out?	No. 5
	A:	Yes.	Dorothy Brown
	Q:	Now, according to you, you saw Trevor, you said, pulling a gate, you saw him drawing a gate across the road?	Cross-Examination (cont'd)
10	A:	Yes, when I was standing there I saw him come up and draw the gate across the road.	
	Q:	Come up from where?	
	A:	He was coming down from Caymanas Bay district.	
	Q:	You mean walking?	
	A:	Yes, sir.	
	Q:	So he passed you then, he passed coming up the road, you looking out and he passed you coming up the road?	
20	A:	I was standing at the door looking out and he passed the gate and go up that gate, the school gate.	
	His Lordship:	He passed the school gate?	
	A:	Yes, and go up to the next gate.	
	Mr. Marcus:	You didn't call out to him and say good morning?	
	A:	No.	
	Q:	He didn't tell you good morning?	
	A:	No.	
30	Q:	Were there children there already at the school?	
	A:	Yes, sir.	
	Q:	In the school yard?	

In the Supreme
Court

No. 5
Dorothy Brown
Cross-
Examination
(cont'd)

- A: Yes, sir.
- Mr. Marcus: How far is the school yard from where you say the gate was drawn across the road?
- A: The school yard adjoin to that gate.
- Q: There must be a distance, some distance; give us a distance.
- A: About five yards.
- Q: So he just passed you, came up and drawing the gate across the road, about five yards from the school yard, that is what you are saying?
- A: From the school gate.
- Q: Five yards from the school gate going up or down the road?
- A: Going.
- Q: I wonder if, madam, you could point out five yards to us in this court room. What is your estimate of five yards?
- A: From here to where that
(pointing)
- Q: Where the chair is?
- His Lordship: Which chair?
- A: No, the table.
- His Lordship: That is about five yards?
- Mr. Marcus: Yes, sir.
Now did you stand at the door all the time from quarter to nine to nine fifteen?
- A: Sir?
- Q: Did you stand at the door; did you stay inside the school room but near the door?
- His Lordship: No, no, quarter to nine to nine fifteen.

20

30

Mr. Marcus: Quarter to nine to nine fifteen?

In the Supreme
Court

A: No, sir.

No. 5
Dorothy Brown
Cross-
Examination
(cont'd)

Q: You stood there from about a quarter to nine for about five minutes. You stood there, I think you said so, at quarter to nine when the van was going up; you stood there...

10

His Lordship: Did she say what time the van was going up?

A: It passed quarter to nine.

Mr. Marcus: Then you looked out and saw the van. You stayed there for how long?

A: I was standing there for about five minutes.

Q: And it was during that five minutes you saw the man with this thing?

A: Right during the time I was standing up I saw him doing it.

20

His Lordship: In five minutes?

A: Yes, sir.

Mr. Marcus: So what did you do? At that stage now, having seen this, what did you do?

A: I get nervous and I went inside and peep out everytime and look through.

His Lordship: What?

A: Peeping out through the window every five minutes.

30

Mr. Marcus: Now you told this court that you have known Trevor Stone for years.

A: Yes, sir.

Q: Can you remember from when you knew him?

In the Supreme Court

No. 5
Dorothy Brown
Cross-
Examination
(cont'd)

- A: I don't remember the exact year I saw him at Glade, but it is over a year now.
- His Lordship: What does that mean ten years five years five, two?
- A: About some three years now.
- Mr. Marcus: But that is not true, Miss Brown.
- A: Why you say it is not true, sir?
- His Lordship: You don't ask the gentleman any questions, you just answer.
- Mr. Marcus: You really tell the Court that it is true?
- A: For three years, sir.
- Q: You said four and then you say three.
- His Lordship: Is it true that you have known him for about three years?
- A: Yes, sir.
- Mr. Marcus: You have ever visited St. Ann's Bay Police Station?
- A: No, sir. 20
- Q: Have you ever seen Trevor Stone in uniform?
- A: No, sir.
- Q: Put it this way; when you told the Court this morning that you know him as a policeman from St. Ann's Bay, isn't it true that you are only really telling the Court what the police told you?
- A: No sir, Trevor Stone told me he is a police. 30
- His Lordship: It's the accused himself who told you that?
- A: Yes.

Mr. Marcus: And you mean to say you and him talk so well?

In the Supreme Court

A: Yes, sir, me and Trevor Stone talk, sir.

No. 5
Dorothy Brown
Cross-
Examination
(cont'd)

Q: Talk well that him tell you who him is and what him is and so on and where him work and things?

A: Yes, sir.

Q: Then how long ago before that day he told you that?

10

A: Sir?

Q: How long before the incident of February did he tell you that he was a policeman and that he works at St. Ann's Bay?

A: After he graduate he told me.

Q: How long before the incident in February?

A: How long?

20

His Lordship: Yes.

A: After he leave training he told me he is a police.

His Lordship: What year is that?

A: 1966.

Mr. Marcus: So that would be nearly ten years ago.

His Lordship: That is ten years ago then?

A: 1976.

His Lordship: 1976 he told you that?

30

A: 1975.

Mr. Marcus: Tell me something, you remember giving the police a statement concerning this incident on the 19th of February?

In the Supreme
Court

No. 5
Dorothy Brown
Cross-
Examination
(cont'd)

A: Sir?

Mr. Marcus: You remember giving the police a statement concerning what happened on the 19th of February?

A: Yes, sir.

Q: When did you give that statement to the police?

A: On the 19th of February.

His Lordship: What?

A: On the 19th of February when it took place I gave them a statement. 10

Mr. Marcus: Where were you when you gave them the statement?

A: At the station.

His Lordship: Which station, Ferry or where?

A: Ferry Police Station.

Mr. Marcus: You went to the station on the 19th of February?

A: Yes, sir.

Q: At about what time? 20

A: About 11.00 o'clock.

His Lordship: 11.00 in the night or in the morning?

A: In the morning.

Mr. Marcus: Who did you give the statement to at Ferry Police Station?

A: To a policeman.

Q: Which one, you know him?

A: I don't know his name.

Q: It wasn't Mr. Cole? 30

A: No, sir.

Mr. Marcus: The policeman wrote it down?

In the Supreme
Court

A: Yes, sir.

No. 5
Dorothy Brown
Cross-
Examination
(cont'd)

Q: Did he read it over to you or did you read it over?

A: Repeat again, sir?

Q: Did you read it over?

A: The policeman read it over to me after giving the statement.

10

Q: He asked you if it was right when him read it to you?

A: Yes, sir.

Q: And what you said to him?

A: The statement I give? I said yes.

Q: It was right?

A: Yes, sir.

Q: You don't remember telling the policeman that you knew Trevor Stone for about seventeen months?

A: I never tell the policeman that.

20

Q: I would seek your permission to give the original statement to the witness in relation to the part I mentioned, M' Lord.
(Original statement passed to witness)

His Lordship: Look at the bottom, is that your signature?

A: Yes, sir.

Mr. Marcus: The Registrar is going to show you something. Read it for me.

30

A: 'I know Trevor Stone for sixteen months.'

Q: Why did you put seventeen? That is what I have on my copy, sir.

In the Supreme
Court

No. 5
Dorothy Brown
Cross-
Examination
(cont'd)

His Lordship: Let me see it. You can't read? This is seventeen.

A: I beg pardon, sir.

His Lordship: Look at it.

Mr. Marcus: And she is the principal of a school.

His Lordship: Show her again. You call that sixteen?

A: 'I know him seventeen months since he is a police'.

His Lordship: No, no, you didn't tell the police that you have known him about seventeen months. 10

A: Since he is a police.

Mr. Marcus: That isn't what is in the statement though. So is that what you read in the statement? Read this, is that what you read, what you just told the Court?

A: 'I know Trevor Stone for about sixteen months he was a police attached to the St. Ann's Bay Police Station'. 20

Q: Still sixteen you say?

A: Seventeen.

Q: I put it to you right away you see, when you come here to tell this Court that you knew Trevor Stone before, you are speaking an untruth.

His Lordship: What you mean by before?

Mr. Marcus: Before that day, you are speaking untruth, it's a lie, it's untrue. 30

A: I know Trevor Stone for years before.

Q: You were born in Glade?

A: Yes, sir.

Mr. Marcus: Lived there all your life so far?

In the Supreme
Court

A: Yes, sir.

Q: What part of Glade you live?

A: In the district.

Q: Yes, near the water tank, near the middle of the district.

A: I live on the road, right hand road pass the water tank.

Q: That is further up over a mile away from where you were?

A: No, sir.

Q: Tell me something you live on the road going up to where they have the other primary school upon the hill?

A: I live in the district, the road carry you up to there.

His Lordship: Up to where?

A: Up to Sligoville.

Mr. Marcus: Did you tell us it was after the water tank going up?

A: Yes, sir.

Q: That is what you said; so it is over a mile; you have already told us it is a mile from there down to the school.

A: A mile from the district down to the school.

His Lordship: You are being asked from the tank.

A: The water tank.

Mr. Marcus: And you say you live pass the water tank going up on the road and I was trying to pin-point where they have the primary school, where you pass that road going up.

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Court

No. 5
Dorothy Brown
Cross-
Examination
(cont'd)

A: No, sir.

Mr. Marcus: Not as far as there, but anyway - now, where you see Trevor Stone? You say you have seen him for sometime before. On the street, in the bush, on the water tank; where have you seen him?

A: Repeat again?

His Lordship: Where have you seen the accused man before?

A: At the district.

10

His Lordship: Where in the district, that is what I think he wants to know.

Mr. Marcus: Near your house or near the water tank, coming back down to the school or what?

A: Near the water tank.

His Lordship: Where did you see him, at the brother's yard or where?

A: I see him at the brother's yard, on the road, he is there, everywhere. Him brother live near the water tank.

20

Mr. Marcus; Tell us, Miss Brown, you said this man told you he was attached to the St. Ann's Bay Police Station?

A: Right.

Q: How often did you see this man, if you saw him, how often?

A: Repeat again?

His Lordship: You remember how often you see him, once a month or once a year or what?

30

A: Once a month. I saw him from he was a police.

Mr. Marcus: Then tell me something, the first time that you see him, him talk to you? On the very first time you set eyes on the man, you and him had a conversation that day?

A: Yes, sir.

Mr. Marcus: Concerning what, bwoy frien', gal
frien' business?

A: No sir, him ask me me name and
what kind of work I does.

Q: He just come and ask you what is
your name and what work you do?

A: Yes, sir.

10

Q: Where were you when you saw him that
first time?

A: I was on the street.

Q: On the street where?

A: On the road at Glade.

Q: Tell me, from that time you talk, you
talk again; from the first time you
talk, you ever talk again, two of you?

A: Sir?

Q: Both of you ever talk again after
that?

20

A: Yes, sir, anytime him see me him talk
to me.

Q: In other words that is customary?

A: Yes, sir.

Q: You don't talk to him, when you see
him you don't talk to him?

A: Yes, sir.

Q: You are good pals then, put it that
way; wouldn't that be right if I
say you are good friends?

30

A: Sir?

Q: According to what you are saying,
would I be correct in saying that
you are good friends?

In the Supreme Court

No. 5
Dorothy Brown
Cross-
Examination
(cont'd)

- A: No, sir, we are not good friends to that.
- Mr. Marcus: And yet you saw him that morning coming from Cayamanas Bay, you there alone at the school waiting for the children to come and you saw him there on the road and you never talked to him that morning?
- His Lordship: Is that a question or an argument?
- Mr. Marcus; Much obliged sir; it would be more like an argument, you are quite correct. M'Lord.
Now, Miss Brown, you saw Detective Cole that day? 10
- A: Yes, sir.
- Q: At about what time you saw him that day?
- A: I saw him about 10.00 o'clock.
- Q: When you saw him he was with other persons? 20
- A: When I saw him, I saw him with Trevor Stone in the jeep and another policeman.
- His Lordship: Other policemen or another?
- A: Another policeman and the driver of the van.
- Mr. Marcus: You didn't see Rocky that day?
- A: Yes, sir.
- Q: He was in the jeep too?
- A: Yes, sir. 30
- Q: Now, you say you locked up the school and went to the district, right after you saw what happened?
- A: Yes, sir.
- Q: Is that so?

A: Yes, sir.

Mr. Marcus: Did you see Trevor Stone, according to you, after you locked up the school and went to the district?

A: I saw him in the jeep with the police.

His Lordship: So in other words then, from the time you locked up the school and went to the district, you never saw him until you saw him with the police?

10

A: I never saw him until he come up with the jeep.

Mr. Marcus: Did you tell the police that the man you saw robbed the van that day, that the man was masked or had on things which covered up his face?

A: Him never have on any glasses.

His Lordship: Mask you are being asked about.

20

Mr. Marcus: Why you said glasses?

His Lordship: She probably thought you said glasses. The question is, did she tell the police that the man was masked?

Mr. Marcus: I said masked or anything covering the face.

A: He wasn't masked.

His Lordship: Did she tell the police that; is that a suggestion or what?

30

Mr. Marcus: I am asking a question.

A: Repeat what you said.

Q: Did you tell the police that the man you saw robbed the van that day had on things covering his face?

A: I never see him have on anything covering his face.

In the Supreme
Court

No. 5
Dorothy Brown
Cross-
Examination
(cont'd)

Mr. Marcus; So you never tell the police that?

A: No, I don't remember telling them that.

Q: Miss Brown, you know what is that; that is the Holy Bible you sworn on this morning?

A: Yes.

Q: You know the meaning of it; do you know the meaning of swearing on the Holy Bible?

10

A: Yes.

Q: You know what it is?

A: Yes, sir.

Q: You didn't tell the police that day that the man had on mafia glasses.

His Lordship: Hold on a minute. Is it a suggestion now? You are going up and down. What you are saying, I gather you are asking the same question.

Mr. Marcus: I am asking her if she didn't tell the police...

20

His Lordship: What is the purpose of asking this unless you are saying it is so.

Mr. Marcus; It will be put later on. My suggestion to her is that it was so but I am seeking to enquire from her if she told the police this.

His Lordship: Is there anything for you to base this on?

Mr. Marcus: Yes, sir, there is other evidence in the case which has come before.

30

His Lordship: Yes, but why the suggestion to this woman? She said nothing was covering his face. Unless - I thought for a moment you were saying that was what happened or she said so in the presence of the accused - I don't know.

Mr. Marcus: Very well, sir.
You say you didn't see anything covering the man's face that day?

In the Supreme Court

A: No, sir.

No. 5
Dorothy Brown
Cross-
Examination.
(cont'd)

Q: You didn't see the man with mafia glasses on, huge glasses?

A: No, sir.

Q: Why you hang down you head so?

A: What sir?

10 Q: Why are you hanging down your head so when you are answering? I am going to put it to you that you saw that man that day who was robbing the van with mafia glasses on and with other disguises covering his face.

A: No, sir.

20 Q: Now, according to you, you saw Stone, the next time you saw Trevor Stone was in the jeep with the policemen and the driver as you said and Rocky. Is that so?

A: Yes, sir, that day.

Q: Now, you remember what clothes you saw him in when he was in the jeep?

A: The clothes that he was have on is not the clothes that he hold up the van into.

Q: Is the clothes...?

A: Is not the clothes.

30 Q: You remember my question to you? You remember what my question was to you - what clothes he had on the day when you saw him in the jeep with the policemen and the driver and Rocky.

His Lordship: You have not asked her that yet. Your question was, 'Was it the same clothes he had on in the jeep when he held up the van?' and she said, 'NO'.

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Dorothy Brown
Cross-
Examination
(cont'd)

Mr. Marcus: I am sorry, M'Lord, I can't seem to recall that question, sir.

His Lordship: You asked her what kind of clothes he was wearing when he held up the van; you have not asked her what kind of clothes he had on when he was in the jeep. Your question was: 'The clothes he had on in the jeep was it the same clothes he was wearing when he held up the van?' and she said no; but you have not asked her what kind of clothes he had on in the jeep.

10

Mr. Marcus: I must be getting extremely confused. I asked her a question, if she remembers what clothes Trevor Stone had on when she saw him in the jeep with the policemen and the driver and Rocky.

His Lordship: No, no. Your question was: 'Was it the same clothes...'

20

Mr. Marcus: M'Lord, I am not doubting you at all, with the greatest of respect, but I wonder if the Shorthand Writer could read back that portion?

(Notes read back)

Thank you. I asked her what kind of clothes he had on...

His Lordship: Hold on. What kind of clothes did he have on in the jeep?

30

A: He had on a ganzie and a different colour trousers.

Mr. Marcus: When you say a different colour, you remember the colour?

A: I don't remember the colour trousers he had on in the jeep; it wasn't the dark colour pants he was have on.

Q: Now, the man who you saw robbing the van, what clothes did that man have on?

40

A: He have on black shirt and
brownish pants.

Mr. Marcus: You didn't tell us that the man
was dressed in black.

A: Sir?

Q: You never tell us that the man was
dressed in black.

A: No sir, I never tell you that; him
did have on a black shirt and a
brownish pants.

10

Mr. Marcus: I am sorry sir, I know what M'Lord
is looking for. What I just asked
her a while ago, what she really said -
accused was in darkish pants and
black shirt - so I withdraw, not black,
darkish pants; now she said brownish
pants.
Now, did Mr. Cole ever question you
concerning this robbery, the arresting
officer, Mr. Cole, you must know his
name, did he ever question you
concerning the robbery?

20

A: He only ask me if I see this man.

Q: I am just asking you, did he ever
question you?

His Lordship: Ask you what?

A: On the 19th he only ask me if I saw
this man and I know him and I say I
saw him this morning holding up the
salesman.

30

Mr. Marcus: Now, you knew Mr. Cole before that day?

A: No, sir.

Q: So where was it you were when he
asked you this?

A: At Glade.

Q: Yes, Glade is a big place.

A: Where?

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Court

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Cross-
Examination
(cont'd)

Mr. Marcus:

Where.

A: At the centre of the district, the
cross roads.

Q: The same day?

A: Yes, sir.

Q: And what you told him when he asked?

A: I told him I saw him this morning
when him hold up the salesman.

Q: Now, how long after the incident did you
close the school; how long after the
incident on that day, that is the day
of the robbery and the van drive off
now, how long after you closed the
school? 10

A: Some minutes after.

Q: Five minutes perhaps?

A: About fifteen minutes after.

Q: And you sent off the children
naturally.

A: I went home with the children
because I was trembling because I
was nervous. 20

Q: Now, you travelled on the road, on
the very same main road, the road you
call the main road, it is the only
one road you travelled, that is
roughly about a mile you walked
from there up?

A: Yes, sir.

Q: And you were at the centre of the
district until Mr. Cole came there? 30

A: Yes, sir.

Q: Do you know what is known as the
back road which drops out on to,
near to Ferry, which is used
sometimes, the back road from near
your school there which goes through
the bushes. You can drive on it? The
short cut to Ferry, you know that road?

A: Yes, sir.

Mr. Marcus: You have used it too?

A: No, sir.

Q: You never used it?

A: No.

Q: Now, Mr. Cole you said questioned
you that day, is that so?

His Lordship: All she said, Mr. Cole asked her if
this was the man and 'if I knew him'.

10 Mr. Marcus: Was it he who took you to the Ferry
Police Station?

A: Yes, sir.

Q: Now, you remember giving a statement
to the police on that day?

A: Yes, sir.

20 Q: Do you remember telling the police
that in that statement that Trevor
was wearing a black shirt, floral;
a blackish pants; a mafia glasses;
a brown gloves in his left hand and
a pair of black shoes? You remember
telling the police that?

A: I told the police that he was wearing
a black.....

Q: Do you remember telling the policeman
what I just read? If no, say no.

A: No.

Q: You didn't tell the police that?

30 His Lordship: You didn't tell them or you don't
remember?

A: I don't remember.

Mr. Marcus: With your permission, sir, I would
like to put the original to the witness.

His Lordship: Certainly.

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Examination
(cont'd)

Mr. Marcus; Can you read it?

A: 'At this time, Trevor was wearing a black shirt, floral; a blackish pants and a mafia glasses; a brown gloves in his hand, left hand and a pair of black shoes'.

Q: Thank you.

His Lordship: You did tell the police that?

A: Yes, sir.

Mr. Marcus: Your memory has just come back to you, having read it. You just recall now that you said it? 10

His Lordship: Is that so, have you just remembered what the gentleman is asking you now?

A: Yes, sir.

Mr. Marcus: You remember I asked you before if you had told the police...

His Lordship: Let me put it this way. Which is correct, the description you gave in the statement, is that the truth? Because you remember earlier you had told the gentleman he had nothing covering his face, he didn't have on any glasses? 20

A: I don't remember seeing him in glasses that day.

Mr. Marcus: Miss Brown, you prepare to come here and say anything, anything!

A: No, sir.

Q: You don't like this man, do you? 30

A: I like him.

Q; You like him. You know his brother?

A: Yes, sir.

Q: What is his name?

A: Cleveland.

	Mr. Marcus:	An elderly man?	In the Supreme Court
	A:	Older than Trevor.	<u>Court</u>
	Q:	Much older than you too, a man with greying hair?	No. 5
	A:	No, sir.	Dorothy Brown
	Q:	A man about fifty?	Cross-
	A:	No, sir.	Examination
	Q:	Forty-five.	(cont'd)
	A:	I don't know his age.	
10	Q:	A man lived at Glade for a long time?	
	A:	Yes, sir.	
	Q:	Built his own home?	
	A:	Yes, sir.	
	Q:	You don't speak to Cleveland, do you?	
	A:	I speak to Cleveland.	
	Q:	Now, Miss Brown, I am putting it to you that when you say that you saw this man, this man I am talking, holding up a van that day, that you are not speaking the truth.	
20	A:	I saw him that day hold up the van.	
	Q:	How many times since that day have you seen Mr. Cole?	
	A:	Sir?	
	Q:	How many times since that day have you seen Constable Keith Cole?	
	A:	Three times, sir.	
	Q:	That is not true, Miss Brown, you have seen him more times than that, isn't that true?	
30	A:	No, sir.	

In the Supreme
Court

No. 5
Dorothy Brown
Cross-
Examination
(cont'd)

Mr. Marcus: In fact, I am putting it to you that the both of you have been seeing each other very often since that day.

A: No, sir.

Q: When was the second time you saw Constable Keith Cole? You said you saw him the first day, that day was the first time you saw him, that day, up at the Centre of the district. When was the second time you saw him?

10

His Lordship: When next after that?

A: I saw him when him carry the paper.

His Lordship: For you to go to Court?

A: Yes, sir.

His Lordship: The subpoena?

A: Yes, sir.

Mr. Marcus: M'Lord, I know, with the greatest of respect, I know M'Lord wanted to think she wants to remember and she could not, but because of the nature of the case and because of what I have seen happened, I would have preferred and still do, if that witness had - and because of the challenge that I am putting, because of the relationship between Mr. Cole and herself I would have preferred if she had come out with it herself. I know M'Lord doesn't mean anything at all.

20

His Lordship: Go on! She cannot remember the word subpoena. What is it all about? You are not talking about I am suggesting something to her?

30

Mr. Marcus: She is a teacher.

His Lordship: What kind of teacher?

Mr. Marcus: A principal/teacher.

His Lordship: Nonsense.

Mr. Marcus: According to her.

His Lordship: Go on please.

In the Supreme
Court

Mr. Marcus; Much obliged, please.

No. 5

His Lordship: What is the next question?

Dorothy Brown
Cross-

Mr. Marcus: Why have you decided to come here and tell lies on this man, Miss Brown?

Examination
(cont'd)

A: I am not telling lies on this man, sir.

10

Q: I am putting it to you and I am suggesting it to you that you are a disgraceful liar.

A: I am not a disgraceful liar, sir.

11.45 a.m.

Mr. Hamilton: No re-examination, M'Lord.

20

His Lordship: Now Miss Brown, earlier on you see, you had told us that this accused man was not wearing huge dark glasses at the time. Now when the statement was shown to you, you gave the police a description there, you said, yes you did give the police that description, Trevor was wearing a black shirt, a floral, a blackish pants and a mafia glasses and brown gloves, left hand, a pair of black shoes. Now, you have said you don't remember seeing him with any glasses that day. Now, what is the truth, did he or did he not have on glasses that day?

30

A: Before him hold up the van I saw him without the glasses; when him hold up the van I don't know if him did have on the glasses, I don't remember.

His Lordship: Let me put it this way, when you are telling the police, you are telling them the same day you are giving the police the statement. Would the matter have been fresher in your mind then than now?

A: Yes, sir.

40

Mr. Marcus: Do you mean that he had on glasses, blackish pants, a mafia glasses, you are giving them that statement the same day, do you remember seeing any glasses around at all?

In the Supreme
Court

No. 5
Dorothy Brown
Cross-
Examination
(cont'd)

A: I don't remember.
Mr. Marcus: What about the gloves?
A: He did have on a gloves.
His Lordship: What about the shoes?
A: He have on a black shoes, black shoes a loafer.
His Lordship: Yes, will you come down please.

No. 6
Keith Cole
Examination

No. 6
Evidence of Keith Cole

CONSTABLE KEITH COLE SWORN

(12.00 p.m.)

10

EXAMINED BY CROWN ATTORNEY

Mr. Hamilton: Yes?

A: Keith Cole, Detective Constable stationed at Caymanas Police Station in the Parish of St. Catherine.

Q: Do you recall Thursday 19th of February this year?

A: Yes, sir, I was staioned at the Ferry Police Station i n the said parish when at about 9.45 a.m. I got a report from Lansdale Wilson.

20

Q: And as a result of this report, did you do anything?

A: Yes, sir.

Q: What did you do?

A: Along with Constable D. Shaw and complainant and his helper I proceeded to Glade District in a marked police landrover. I drove along the quarry road which is a back road leading to Glade District. On reaching a section of the road I saw a man coming in the

30

A: opposite direction walking.
(cont'd) Complainant Lansdale Wilson who
was standing at the back of the jeep
shouted and said 'See de man dey'.

In the Supreme
Court

No. 6
Keith Cole
Examination
(cont'd)

Mr. Hamilton: At this stage, did you do anything?

A: Yes, sir.

Q: What did you do?

His Lordship: How far away was the man from the
jeep at that stage?

10 A: That was about two chains, M'Lord.
This man started to run in the bushes.
I stopped the landrover and all of us
gave chase.

Mr. Hamilton: When you say all of us gave chase,
exactly what you mean, who gave chase?

His Lordship: All of us, that is what he said.

20 A: This man jumped through wire fences
in the bushes. I saw when he pulled
a revolver from his waist and fired
two shots.

Mr. Hamilton: Which direction did he fire this shot?

A: He pointed the gun in my direction.

Q: At this point in time how far was he
from you?

A: Say about ten yards.

Q: What happened next?

30 A: I returned the fire, and he continued
to run in the bushes. We searched the
bushes, I searched the bushes along
with the other men, Your Honour.
About five or ten minutes after
somebody shouted and said they catch
a man. Lansdale Wilson who was with
me at that stage proceeded to where the
voice was. There he saw.....

His Lordship: Tell us what you saw.

A: There I saw the accused.

In the Supreme Court

No. 6
Keith Cole
Examination
(cont'd)

- Mr. Hamilton: When you first saw the accused, sir, can you tell us what was his condition?
- A: He was bleeding from two wounds from his leg. Lansdale Wilson said in his presence 'A him same one sah, a same way so him mek up him face when he sey 'Give me de money'. At that stage, sir, I arrested and charged the accused for robbery with aggravation and shooting with intent. I cautioned him, he said 'Me think a did busha, that's why me run'. He gave his name as Trevor Stone, Constable Trevor Stone attached to St. Anns Bay Police Station. I took him to the Spanish Town Hospital, correction, sir, I took him to the Ferry Police Station where he was later taken to the Spanish Town Hospital. 10
- Q: Now tell me, did you carry out any search that day in the area? 20
- A: Pardon me, sir?
- Q: Did you carry out any search?
- A: Yes, sir, on the 25th of February I was in a search party.
- His Lordship: You were being asked on that day, Thursday the 19th, did you carry out any search?
- A: Yes, sir.
- Mr. Hamilton: Did your search on that day reveal anything? 30
- His Lordship: Where did you search?
- A: In the area he ran.
- Mr. Hamilton: Did your search reveal anything?
- A: No, sir.
- Q: Now, on the 25th of February this year, what did you do?
- A: I was in a search party along with other policemen where we did finger search. 40

Mr. Hamilton: Where did you go?

In the Supreme
Court

A: We went to Glade District to search
the same area the accused ran.

No. 6
Keith Cole
Examination
(cont'd)

His Lordship: You said you did finger search?

A: Yes, sir., there was a group of us
and we lined up and searched.

Mr. Hamilton: What happened?

10 A: I saw a service revolver with one
live round in the chamber and four
spent shells. I also found a wallet
with cash amounting to \$126, made
up of ten dollar notes, five dollar
notes, one dollar notes and fifty
cents notes. That was found beside
the revolver.

Q: So did you do anything with these?

20 A: Yes, sir, I put them in an envelope
with the gun, sealed it and took it
to Kingston and handed it over to Mr.
Wray sir. I returned and received
the said revolver along with a
certificate, sir.

Mr. Marcus: Is that sealed, with a hole in it?
This is the condition of the bag with
this wear and tear? I don't mind if
Your Lordship could note this for me.

His Lordship: Is the tear inside of the envelope?

Mr. Marcus: It has holes, sir.

His Lordship: Yes?

30 A: This was the gun, M'Lord, the number
was erased.

His Lordship: The time you saw it was the number
erased?

A: Yes, sir. These are the spent shells,
sir.

Mr. Hamilton: Tendered M'Lord, as exhibit 1.

In the Supreme Court

No. 6
Keith Cole
Examination
(cont'd)

His Lordship: How is it going to be tendered at this stage?

Mr. Hamilton: Not at this stage, M'Lord.

His Lordship: Do you want to mark it just for identity? One marked for identity.

Mr. Hamilton: How many shells have you there?

A: Four shells, sir.

His Lordship: Is that four spent shells?

A: Yes, sir.

His Lordship: Marked 2 for identity. 10

A: This is the other, the expert used this as....

His Lordship: Did you see him use it?

A: No, sir.

His Lordship: What is it?

A: Bullets and shells.

His Lordship: Three for identity.

Mr. Hamilton: Now tell me, on the first occasion when you went on the 19th, after you had apprehended the accused, did you go into the district? 20

A: Yes, sir.

Q: Do you know one Miss Brown?

A: Yes, sir.

Q: Did you see her that day?

A: Yes, sir.

Q: When you saw her was the accused present?

A: Yes, sir.

Q: Did she speak to you in the accused presence? 30

A: Yes, sir.

Mr. Hamilton: What did she say?

His Lordship: Could he have heard what was said?

Mr. Hamilton: Could he have heard?

A: Yes, he could have heard.

Q: What did she say?

A: She said 'A da same bwoy yah stone
Bredda who mek me jump through de
window and nearly kill myself',
something to that effect.

10

His Lordship: That is all she said to you?

A: Yes, sir, that is all I remember she
said to me at that stage.

Mr. Hamilton: So did she accompany you anywhere?

A: Yes, sir.

Q: Where?

A: She accompanied me to the Ferry
Police Station. (12:15)

CROSS-EXAMINED BY DEFENCE COUNSEL

(12:15)

Cross-
Examination

20

Mr. Marcus: Now, you said you went to Glade
District that day, that is after you
apprehended the accused?

A: Yes, sir.

Q: The accused took you there, in other
words, he directed you to a particular
place?

A: Yes, sir.

Q: Where did he direct you to?

A: He pointed to a house and say his
brother living there?

30

Q: And you went in there?

A: Yes, sir.

In the Supreme Court

No. 6
Keith Cole
Cross-
Examination
(cont'd)

Mr. Marcus: With whom?

A: Along with Lansdale.

Q: Wilson?

A: Yes, sir.

Q: And who else?

A: And Rocky.

Q: What about Mr. Shaw?

A: Mr. Shaw was with the accused in the landrover, sir.

Q: You are quite certain you went in there with Lansdale Wilson? 10

A: Yes, sir.

Q: And with Rocky?

A: Right.

His Lordship: In the house?

A: There is a verandah, sir, this house, sir, it has a verandah where you can stay from outside and see anything.

His Lordship: Did you go inside the house or on the verandah? 20

A: On the verandah, sir.

His Lordship: They went on the verandah?

A: And myself too, sir.

His Lordship: All three of you went on the verandah?

A: Yes, sir.

His Lordship: From where you can see into the house?

A: Yes, sir.

Mr. Marcus: And what you did on the verandah? 30

A: On the verandah Lansdale pointed to a shirt and a pant that was on a bench there, sir.

His Lordship: On a bed?

A: No, sir, on a bench that was on the verandah.

His Lordship: On the verandah?

A: Yes, sir.

10

Mr. Marcus: Tell me something, what about this shirt and pants? What else you took from the house?

A: I didn't take anything else.

Q: You didn't take anything else from the house?

A: Yes, sir, the bag, sir, British Airways.

Q: With what?

A: Along with the pants and shirt.

Q: And what else?

20

A: Nothing else, sir.

Q: You picked up a bag, put the pants and shirt in and took the two of them away?

A: I put them into the jeep.

His Lordship: Did you put them in the bag you were asked.

A: Not at that stage, sir, when I took it to the jeep Lansdale said 'A dem same shirt and pants you did in'.

30

His Lordship: This is in the jeep?

A: Yes, sir.

Mr. Marcus: You know Mr. Cole, Lansdale Wilson told this court you never went inside that yard.

In the Supreme Court

No. 6
Keith Cole
Cross-
Examination
(cont'd)

His Lordship: Not in the yard. He said he went in the yard, he did not go into the house.

Mr. Marcus: Sorry, sir. Tell me something, am I correct that the place you call the verandah, you could walk right into the house, isn't it, right through, you went to that house, you could walk right through the house without any obstruction, isn't it true? 10

A: No, sir, this is a place like out there, sir.

Q: Just answer my question. Couldn't you walk into the house without any obstruction?

A: There was a door there, sir.

Q: What happened to the door?

A: I tear it off.

His Lordship: You tore off the door?

A: Yes, sir. 20

Mr. Marcus: In order to get into the house, isn't it true?

A: Right, sir.

Q: A minute ago you were willing to tell this court you only went onto the verandah, and it is inside the house that whatever you took, you took clothes and all sorts of things inside the house, isn't it true?

A: No, sir. 30

Q: Where is that bag that you took from the house?

A: That is the bag.

His Lordship: Did you take the bag from the house?

A: No, it was on the bench, sir, the bag and the clothes.

His Lordship: The bag was on the bench also?
A: Yes, sir.
His Lordship: You are saying this is the bag he took, is that what you are asking?
Mr. Marcus: I asked him what happened to the bag he took and he said this is it. What happened to the bag you took when you arrested him with the heap of clothes?

In the Supreme Court

No. 6
Keith Cole
Cross-
Examination
(cont'd)

10 His Lordship: Wait a minute, when he was just apprehended, what happened to that bag with the clothes? Is that a bag with clothes?

A: Yes, sir, it was taken to the

His Lordship: There was a bag with clothes in it?

A: Yes, sir.

Mr. Marcus: About five suits of dirty clothes, isn't it?

A: I can't recall that, sir.

20 Q: When I say suits, I don't mean jackets to fit everyone but dirty pants and other clothes.

A: There was polish, toothbrush and other things in the bag, it wasn't five, I remember shoes was in the bag.

Q: You remember about how many pants were in that bag?

A: No, sir.

Q: Why you didn't bring that bag here?

30 A: The accused brother took it, sir.

Q: Look Mr. Cole, don't bring him into this. You were requested during the time that he was arrested to hand back the bag and you gave him back the bag with the clothes.

In the Supreme
Court

No. 6
Keith Cole
Cross-
Examination
(cont'd)

His Lordship: To whom?

Mr. Marcus: To the brother of the accused, sir.

A: Yes, sir.

Q: Now sir, you said you got this
report at about quarter to ten?

A: Right, sir.

Q: So you travelled from Ferry by the
back road, the quarry road?

A: Yes, sir.

Q: It is a road that you can drive on
but not much used? 10

A: Yes, sir.

Q: And also persons use it as a short
cut, isn't that true sir?

A: Could be.

His Lordship: Do you know it is used as a
shortcut or you don't?

A: I know it is used as a shortcut, sir.

His Lordship: Used as a shortcut to get to Ferry?

A: Yes, sir. 20

Q: So you were driving Mr. Cole?

A: Yes, sir.

Q: And you tell us that on reaching a
section of the road - about how far
was this from Ferry?

A: From Ferry?

Q: Along the back road, if you can
estimate it in any rough way. From
the time you left Ferry and come to
the back road now and you see the
man at a certain point, about how
far had you journeyed from Ferry
along the back road? 30

A: About a mile and a half, sir. In the Supreme Court

Q: And where you saw this man on the road, this was about how far from the school at Glade, the little school where Miss Brown teaches? No. 6
Keith Cole
Cross-
Examination
(cont'd)

A: About half a mile.

Q: I would like to suggest that it is nearer to a mile than a half a mile, Mr. Cole.

10 A: About half mile, sir.

Q: Now, would I be correct in saying that, according to you, it is what Wilson said that attracted you to the man that made you as it were, look and see who this man was. Wilson shouted something, what he said?

A: Him sey 'See de man dey'.

Q: And as a result of that your attention was drawn to him.

20 A: He started to run, he looked in the landrover direction.

Q: And my question is, was it that which attracted your attention to the man, yes or no?

A: No, sir.

Q: What was it that attracted your attention first to the man?

A: One moment, sir. When him sey 'See de man deh,' I looked in his direction.

30 Q: In other words, it was those words which attracted your attention to the man?

A: Yes, sir.

Q: Now, you tell us Mr. Cole that Lansdale Wilson said 'See de man deh', but I am suggesting to you it is not true, Lansdale Wilson never said that, him sey 'See a man deh'. I will tell you what Lansdale Wilson said to you 'See a man running there'.

40

In the Supreme
Court

No. 6
Keith Cole
Cross-
Examination
(cont'd)

A: No, sir, him sey 'See a man deh'.

Q: A man?

A: 'See de man deh', that is what he
said.

Q: So you don't agree with me that
what Lansdale Wilson said was 'See
a man running there', isn't that
what Mr. Lansdale Wilson first said
to you?

A: No, sir.

10

Q: Anyway, according to you, the man
was walking when you first saw him,
walking on the road, right?

A: Yes, sir.

Q: So when was it, according to you, that
the man started running?

A: Pardon me?

Q: When was it, according to you, when
was it that the man started running?

A: When he looked in my direction, sir.

20

Q: Tell me sir, from where you were two
chains away, from what you said this
morning, you could see the man quite
clearly, that is, a man walking along
the road, am I correct?

A: Yes, sir.

Q: Not in no bushes?

A: Now, this is an unused road you know,
sir?

Q: I know that. You could see him
clearly?

30

A: Yes, I could see him clearly.

His Lordship: No bushes?

A: Yes, bushes along there, there is a
lot of grass you know sir?

Mr. Marcus: Anyway, no bushes to hide, you could see him quite clearly? In the Supreme Court

A: Yes, but there is bushes alongside. No. 6
Keith Cole

Q: Of course. Now, sir, you begin to drive at him with the jeep? Cross-
Examination
(cont'd)

A: No.

Q: To drive down on the man with the jeep, isn't that so?

10 A: As he looked in our direction he ran towards the bushes and jumped two wire fences, sir.

Q: You are going to talk and put yourself in trouble.

His Lordship: You didn't drive down the jeep on him?

A: No, sir.

Mr. Marcus: Put it this way, sir, you are a distance of about two chains away and you see this man walking on the road, Wilson said something; what you did, the moment Wilson said something, what did you do after Wilson said this to you?

20 A: I drive towards the...

Q: The accused?

A: The wire fence. He is coming towards us looking in our direction, and as he looked in our direction he ran towards the wire fence, so if I should drive to where he was walking I wouldn't get to cut him out, sir.

30 Q: So you were trying to cut out the man then, isn't that so?

A: I didn't drive down on him. Now, he is coming.....

Q: You made a drive to cut him out?

A: Can I demonstrate something to you, sir?

In the Supreme Court

No. 6
Keith Cole
Cross-
Examination
(cont'd)

His Lordship: Did you drive the jeep to cut him off?

Mr. Marcus: And you tell us that this man jumped two wire fences?

A: Right.

Q: Mr. Cole, that is not true.

A: I can take you to the spot.

Q: That is not true.

A: It is true, sir.

Q: I am suggesting to you what happened, and you can say naturally whether you agree or disagree with me. You started first of all driving the jeep at this man, that is, going very fast in his direction, isn't that so?

10

A: No, sir.

Q: The man moved away about two yards out of the path of the oncoming vehicle?

20

His Lordship: Is that so?

A: No, sir.

Mr. Marcus: You came up, stopped the jeep, by this time you had the gun in your hand, you stopped the jeep, grabbed him in his neck and proceeded to shoot him twice in both legs.

A: No, sir.

Q: And you know it is the truth, Mr. Cole.

30

A: No, sir.

Q: Tell us, sir, you remember where you saw the injuries on his body that day, in his legs?

A: Yes, sir.

Mr. Marcus: Was one on the right, the outside of the right upper thigh, and one on the outside of the left upper thigh?

In the Supreme Court

No. 6
Keith Cole
Cross-
Examination
(cont'd)

A: I can't really pinpoint.

Q: General direction. You have a rough idea, you saw him for months, for weeks, one here and one here. (Pointing). Isn't that true?

10 A: It wasn't that far up.

Q: One here and one here?

A: About there.

Q: Now, according to you, sir, this man ran, jumped two fences, right? Who came out of the jeep first?

A: I cannot recall that, sir.

Q: Who was driving?

A: I was driving.

20 Q: Mr. Shaw was I take it, beside you in the front of the jeep?

A: Right, sir.

Q: On the right or lefthand side?

A: Right, sir.

Q: In other words, you were the nearest man to the wire fence, is that so?

A: Both Mr. Shaw...

Q: Were you the nearest man to the wire fence?

A: No, sir.

30 Q: Who was?

His Lordship: As you were going, did he jump over the fence on your righthand side or lefthand side?

In the Supreme Court

No. 6
Keith Cole
Cross-
Examination
(cont'd)

- A: That is the wire fence, I drive straight to the wire fence, in other words.
- His Lordship: You drove straight into the wire fence?
- A: Yes, sir.
- Q: But the driving side of the vehicle was the nearest side to the wire fence, isn't that so?
- A: No, sir, both doors were about the same distance from the wire fence. 10
- His Lordship: In other words, the front is facing right up to the fence?
- A: Yes, sir.
- Mr. Marcus: You can remember who and who went into the bushes?
- A: All of us, sir.
- Q: What you did, split up into parties, into pairs?
- A: Well Constable Shaw and the man run to the left and I run to the right. 20
- Q: Constable Shaw and who?
- A: Rocky.
- Q: And you and Lansdale Wilson went to the right?
- A: I went to the right, I later saw him behind me, sir.
- Q: Now Mr. Cole, once again I have to suggest to you that you are very untruthful. 30
- A: No, sir.
- Q: You and Wilson went one way and Rocky, that is Rocky Russell the little boy and Shaw went one way into the bushes and you come to tell us that that man pulled a gun and fired at you?

	A:	Yes, sir.	In the Supreme Court
	Mr. Marcus;	When?	<u>No. 6</u>
	A:	When he jumped over the fence.	Keith Cole
	Q:	First fence?	Cross-
	A:	Last wire fence.	Examination
	Q:	After him go over the second fence?	(cont'd)
	A:	Yes, sir.	
	Q:	That time where were you?	
10	A:	I was over the first fence, I didn't go over yet, sir.	
	His Lordship:	You had not gone over the first fence yet?	
	Mr. Marcus:	He seemed to have made two replies, the first that came to his mind is that he had just gone over one. So how far away were you from him when you reached the first wire fence?	
	A:	About ten yards, sir.	
	Q:	Who was with you that time?	
20	A:	All the men were with me.	
	His Lordship:	Officer was anybody in the immediate vicinity of where you were when you saw this accused man fire the shot at you?	
	A:	Yes, sir.	
	Q:	Did you fire at him again that day, that same day? Did you fire a revolver again at him? After you returned the fire you fired again later on?	
30	A:	No, sir.	
	Q:	That was the time you fired two shots from the revolver?	
	A:	About three yards, sir.	

In the Supreme
Court

No. 6
Keith Cole
Cross-
Examination
(cont'd)

Q: That time the man was where, facing you or moving away from you, the man was where?

A: He was running away.

Q: At the time when you returned the fire, was he facing or running?

A: Running.

Q: Running away from you? At the time when you returned the fire?

A: He was running, sir.

10

Q: Running away from you?

A: Yes, sir.

Q: With his back to you?

A: Yes, sir, or his side, it could be his side, running sideways like that.

Q: And I take it Mr. Cole, some minutes later he was found bleeding from these two wounds, from the side of his upper leg?

A: Right, sir.

20

Q: Yes. Now, you I take it, is the main investigating officer in this case, isn't that so?

A: Yes, sir.

Q: And you took statements from some of the witnesses that were concerned with this case?

A: Yes, sir.

Q: Did you find out from the witnesses at the scene of the robbery how many shots they said that this man fired there?

30

His Lordship: What is this now? I don't know what you are getting at at this stage.

Mr. Marcus: Much obliged, sir, I just wanted to find out if he knows how many shots were fired.

In the Supreme
Court

His Lordship: Is that evidence?

No. 6
Keith Cole
Cross-
Examination
(cont'd)

10

Mr. Marcus: Well, I think all the witnesses have given evidence about this man and they said it was this man who fired a certain amount of shots. Now, here is a weapon which the Crown is seeking - even though it has not reached that far yet - seeking to link with this man, four spent shells and a live round, according to the witnesses there were three shots fired at the scene. According to this gentleman two other shots were fired at him. That would make the five spent shells.

20

His Lordship: What he is telling us here, mark you, you can get it in if it is going to be credible or something like that, but not in this case. It seems more a matter of argument.

Mr. Marcus: I know you are right, sir, thank you. Now, sir, about how long after you returned the fire did someone shout out that they had found the man?

A: Rephrase that question, please.

30

Q: About how long after you returned the fire that someone shouted out that they had found the man?

A: About five minutes.

Q: Where you had to proceed from to go to the spot where the voice came from, how far was that from you?

A: About a chain and a half.

Q: But of course, it wasn't you who found him?

A: No, sir.

40

Q: Who was it?

In the Supreme Court

No. 6
Keith Cole
Cross-
Examination
(cont'd)

- A: When I went there, sir, I saw Constable Shaw and Rocky.
- Mr. Marcus: You remember what clothes Stone was wearing on that day when he was shot, at the time when he was shot?
- A: He was wearing a greenish pant.
- His Lordship: A what?
- A: A greenish pant.
- Mr. Marcus: And what shirt he had on?
- A: I can't recall what colour shirt he had on. 10
- Q: Certainly he didn't have on black clothes.
- A: No, sir.
- Q: Nor did you see him in mafia glasses?
- A: No, sir.
- Q: You questioned Stone that day, I take it, you questioned him?
- A: Yes, sir.
- Q: And he told you that he was a policeman stationed at St. Anns Bay? 20
- A: On suspension, stationed at St. Anns Bay.
- Q: Did he tell you also that he was on suspension because he was late back from leave a few days before?
- A: He told me he was on suspension.
- Q: He didn't tell you when he went on suspension and why?
- A: He didn't tell me when. 30
- Q: You volunteered suspension, you were the one who volunteered it?
- His Lordship: He didn't tell you he had gone back late?

A: Yes, sir, he said he was absent over forty-four hours or something like that, sir.

Mr. Marcus: And didn't he also tell you that he would sometimes come and look for his brother who lives in Glade when he has the time?

A: Yes, sir.

10 Q: And that also at the time when he was shot that day, that he was returning to St. Anns Bay with his clothes and all his things in his bag?

A: He didn't tell me that, sir.

20 Q: But you gathered that though, didn't you, when you saw the toothpaste and toothbrush and clothes and so on, he had in his bag, didn't you gather that? You saw anything in that bag which you would be able to bring to this court to put in as an exhibit in this case?

A: No, sir.

Q: And what colour bag was that?

A: It was a blue bag.

Q: Now, you told us that this bag was picked up off the bench by Lansdale Wilson.

His Lordship: He didn't say that.

30 Mr. Marcus; I am sorry, sir, I think he said so, sir, he said Wilson took up the things off the bench and said....

His Lordship: I don't remember him saying that.

Mr. Marcus: Isn't that what...

His Lordship: Did Wilson take up the bag and clothes from off the bench? I gathered he said he was the one who went to the jeep and he was the one who took them up.

Mr. Marcus: No, sir, he said Wilson was the one who took them up off the bench.

A: I said he pointed to them.

Q: And that is when I put to him.....

His Lordship: 'I took them to the jeep and then I put pants and shirt in the bag at jeep, Lansdale said 'A dem same shirt and pants you were in'.

Mr. Marcus: This was before that, as to him going into the house and things and at that point he said Wilson - anyway, sir, it is not important, I will leave it there, sir. Did you understand that the house where you took him to was his brother's house? 10

A: Yes, sir, he told me that.

Q: You took those things while this man was out in the jeep, you took these things from the house, isn't that so?

A: Yes, sir, from the verandah, that was on the bench. 20

His Lordship: Whilst the accused man was in the jeep?

A: Yes, sir.

Mr. Marcus: Now, sir, did you later speak to the accused brother?

A: You mean when .. sir, same day?

Q: After that day.

A: Yes, sir.

Q: Where you saw him when you spoke to him? 30

A: I saw him I think by Caymanas Bay or somewhere like that, he was the one who came to me.

Q: Now, sir, you told us that Wilson said to you after the man was caught 'A him same one, sah, a same way him mek up him face...'

A: '... when him say give me more.'

Q: 'When him say 'give me more', did Wilson tell you that day that the man who robbed him was a disguised person that day?

A: No, sir.

Q: Wilson didn't tell you?

A: No, sir.

Q: Other witnesses told you though?

10

A: No, sir.

Q: Rocky never tell you either?

A: No, sir.

Q: That is not true, Mr. Cole, he did tell you.

A: No, sir.

Q: Yes, he did tell you.

A: No, sir.

Q: You know who took Russell's statement?

Q: I think it was Corporal Rowe.

20

Q: You were there when it was taken?

A: No, sir.

Q: So you don't know anything of what Russell said about the man, in describing the man?

A: No, sir, I read the statement.

Q: Never ever asked him?

His Lordship: Sorry, you said you read Russell's statement?

A: Yes, sir.

Mr. Marcus: You never asked Russell what the man looked like while you were going on the jeep travelling along the quarry road, to look for this man, you never asked him what he looked like?

A: Yes, sir.

Q: He told you how the man was dressed?

A: He said he was wearing a dark pants and dark shirt and of dark complexion, and hair low. He said he is not a rasta. 10

Q: And of dark complexion?

A: He even pointed to Constable Shaw and said about his complexion. Constable Shaw is dark sir.

Q: Who you said told you that, Wilson or Russell?

A: Both of them.

Q: Both of them gave you this description orally, oral description? 20

A: Yes, sir.

Q: You know none of them didn't say he was light skinned?

A: He pointed to

Q: Why you don't answer the question straight?

His Lordship: No one said he was light skinned.

Mr. Marcus: Now, when was it, sir, that Stone said to you that him think it was the Busha that is why him run. At what point during that day? 30

A: When I arrested him and charged him and cautioned him, sir.

Q: On the spot or at the Police Station?

A: On the spot.

Mr. Marcus: Now Mr. Cole, the man never said that to you, not even this, he said to you, is it the truth, sir; he never said so to you?

In the Supreme Court

No. 6
Keith Cole
Cross-
Examination
(cont'd)

A: That is what he said, sir.

Q: Were others there?

A: Yes, sir.

Q: All the other men were there when he said so?

10 A: Yes, sir.

His Lordship: I think this is a convenient time. Two o'clock then.

ON RESUMPTION AT 2:00p.m.

His Lordship: You are still on your oath, Constable.

20 Mr. Marcus: Now sir, you told us that from where you understood the robbery took place, as you put it 'the little school' to where you saw the man walking on the road, was about a half-mile along the Parry Road; I wonder if you could tell us about how far is the distance you think between where, the school where the robbery took place and up to where you went to the home that Stone pointed out to you as his brother's home?

His Lordship: From the school?

Mr. Marcus: From the school?

A: About two chains.

30 Q: I got the impression from your answer, Mr. Cole, that perhaps you didn't hear or understand my question. I am asking from down at the school, the little school where Miss Brown is supposed to teach to up in Glade District, that Stone pointed out to you that his brother lived, what distance between that school and Glade District?

A: About two chains.

Mr. Marcus:

What?

A: About two chains.

Q: What is two chains, Mr. Cole? You know what a distance of two chains is; you know which school I am talking about?

A: Yes, sir.

Q: You know which school I am talking about?

A: Yes, sir.

10

Q: You know where Stone pointed out where his brother lived, which is up in Glade District, a little below the water tank?

A: Not below; two chains.

Q: Isn't it about a mile, Mr. Cole?

A: No, sir.

Q: Two chains is like from where to where?

A: About from here to across the road over there. (indicating).

20

Q: You call that two chains; from here to across the road is two chains?

A: Or a little further than that.

Q: When you leave the school you drive along the road, open pastures on both sides of the road, open pastures, Caymanas Estates, pastures both sides travelling up to Glade?

A: That is not very far.

Q: I am asking you this question. Did you ever travel along two long stretches of open pastures on both sides of the road going up to Glade District, before you reach Glade District, the pasture running along the road from a school to a shop, about a chain-and-a-half.

30

A: (witness hesitates)

In the Supreme
Court

Mr. Marcus: Why you don't answer my question,
I am asking you about the two open
pastures leading up to Glade
District?

No. 6
Keith Cole
Cross-
Examination
(cont'd)

A: Yes, sir.

10

Q: Right. Do you know where the sign
is; before you go into Glade
District there is a sign where
Caymanas Estate boundary stops before
you begin to enter the district of
Glade - going up on the left hand
side; you know that sign?

A: Yes, sir, there is a sign there.

Q: And from that sign you have to travel
another distance up the road before
you reach to where Stone pointed out
his brother's house?

A: Yes, sir.

20

Q: Isn't that about a mile, Mr. Cole?

A: No, sir.

Q: Two chains. How long have you been
a police officer, sir?

A: Two years and six months.

Q: Put it this way: I don't know that
place very well; how many times you
drive up into that district?

A: Numberless.

Q: Numberless. Since when?

30

A: Since the incident.

Q: Since the incident?

A: Yes.

Q: On how many occasions have you seen
Miss Brown, going there those
numberless times?

In the Supreme
Court

No. 6
Keith Cole
Cross-
Examination
(cont'd)

- A: Well, the day on which the offence was committed is the first I saw her.
- Mr. Marcus: Since that time how many times have you seen her?
- A: Several times.
- Q: Several times, a whole heap of times, yes?
- His Lordship: You agree with that, that it is a whole lot of times since then?
- A: I saw her several times, sir. 10
- Q: 'Several' meaning like about how many times, Mr. Cole? Numberless?
- A: Say about fifteen times, or so.
- Q: About fifteen times or so. Anyway sir, my strong suggestion is that it is about a mile from where Stone's brother's house is to down by the school?
- A: No, sir.
- Q: And I am going to put it to you again sir, finally, that the witness Wilson, when you were driving the jeep in the back road did not say "See the man there", he said, "See a man running there." That is my first suggestion. 20
- A: No, sir, he said, "See the man there."
- Q: Secondly, that it is a complete fabrication on your part when you say that this man, the accused, ran into bushes, that he fired at you and you shot at him in the bushes, is a complete fabrication? 30
- A: No, sir.
- Mr. Marcus: That will be all, sir. Thank you very much, Mr. Cole.
- His Lordship: Thank you. Any re-examination?
- Mr. Hamilton: No re-examination of this witness, M'Lord. Call Supt. WRay.

SUPT. WRAY CALLED AND SWORN

EXAMINED BY CROWN ATTORNEY

Mr. Hamilton: Your name, please?

10 A: Daniel Wray, Deputy Superintendent of Police, attached to the Ballistics Section of the Forensic Laboratory, Kingston. I have had over 23 years experience in the use of firearms, the last 8½ years of which I have had training and experience in the Forensic Science of firearms identification and Ballistics. I have had special training at the U.S. Army Criminal Investigation Laboratory, Fort Gordon, Georgia U.S.A.

20 On the 26th of February, 1976, I received at the Forensic Laboratory in three sealed envelopes, one .38 calibre Special Smith and Wesson model -6 revolver, the serial number of which had been removed from the butt, but remained under the extractor and also on the inside of the left side, as D185176.

30 I also received four .38 Special Remington Peters expended revolver cartridges and one .38 Special Remington Peters unexpended revolver cartridge.

I examined the revolver, sir, and the result of the test conducted on the residue removed from the bore indicated that the revolver had been fired; there were indications that four of the six chambers were fired from.

40 I fired three test shots from the revolver and recovered. The unexpended cartridge I received was fired as one of the three tests.

I found the revolver to be in good working order and capable of discharging deadly missiles through its barrel.

I conducted a microscopic comparison of the four expended cartridge cases received with the test cartridge cases I fired from the revolver and concluded that the cartridge cases received were fired from the revolver I received. I found the unexpended cartridge which I received to be live firearm ammunition.

10

(revolver passed to witness)

This is the revolver, sir.

(revolver passed to His Lordship)

His Lordship: Where is the number erased from?

A: On the butt.

His Lordship: Where would I see the number?

A: (indicating to his Lordship) That is not the serial number but it bears a number there.

20

His Lordship: This number at the side here?
(indicating)

A: That is not the serial number.

His Lordship: Could I see it by just looking at it?

A: It is hard to see, it is on the under side of the ejector, extractor, or it is on the wood inside.

30

His Lordship: But did you go in there to see?

A: I didn't look inside the handle there; I didn't look now, sir.

His Lordship: When you carried out your test did you look in there?

A: Yes, sir.

His Lordship: And it was in there?

A: Yes, sir.

His Lordship: Inside the wooden handle there?

A: Yes, sir. It also bears a number, not the serial number 35233.

His Lordship: What is that part called?

A: On the yoke of the cylinder. It is the portion where the cylinder swings out on, the yoke or crane.

10

(cartridges passed to witness)

His Lordship: This is 1 for identity?

Mr. Hamilton: 1 for identity, M'Lord.

A: These are the four expended cartridge cases received.

Mr. Hamilton: 2 for identity, M'Lord.

(cartridges passed to witness)

A: These are the bullets and the cartridge cases of the unexpended cartridge received, which I fired.

20

His Lordship: Both are 3 for identity?

Mr. Hamilton: Yes, M'Lord.

CROSS-EXAMINATION BY DEFENCE
ATTORNEY

Cross-
Examination

Mr. Marcus: Now Mr. Wray, you tell us that you can detect something which we can't detect on the butt of the revolver?

A: No, sir.

Q: Isn't that so? You saw a number there on the butt, you can detect something which we can't detect under the extractor?

30

His Lordship: No, what I gather he said, the number which is usually there has been erased but the number is on the extractor inside also.

Mr. Marcus: That is the one that he detected.

A: I saw it there, sir. When I examined it the number was under the extractor and also on the left inner side of the side grips.

Q: But not the serial number? 10

A: On the extractor and also on the left side grip inside.

Q: I take it those numbers which you have seen on it, are those the serial number of the firearm?

A: Yes, sir.

Q: The serial number?

A: Yes, sir. I also saw another number.

Q: One minute, I assume all the numbers are regarded as the serial number, all numbers on the weapon? 20

His Lordship: No, that is not what he says.

Mr. Marcus: No, sir, I am trying to find out which one you regard as the serial number of the weapon.

A: The Smith and Wesson, this model, which is a military and police model, Model 10 - 10

Q: I was not asking you for the model, I was asking a simple question. 30

His Lordship: Listen to the gentleman, you want him to answer a certain way.

A: The serial number on the butt, that is the external number.

His Lordship: On the butt?

A: Yes, sir, and also on the inner side, the extractor, and also on the side grip, that is the wooden side grip, at least one side.

Mr. Marcus: So you are saying that for this model, as far as you know, the serial number would be normally recorded three different places on the weapon?

A: Yes, sir.

10

Q: The one on the butt is gone, as far as you see, rubbed off?

A: Yes, sir.

Q: But you were able to pick up two other ones?

A: One on the -

Q: One on the extractor and one on the side grip?

A: Yes, sir.

20

Q: Those two other numbers which you saw, can they be seen with the naked eye.

A: Yes, sir.

Q: They can be? May I please have a look at that.

(gun passed to Defence Counsel)

A: They are not external, one would have to remove the grip.

Q: That is the hand grip?

A: Yes, sir.

30

Q: Did you remove these? (indicating)

A: Yes, sir.

Q: These two wooden pieces? (indicating)

A: Yes, sir, you simply -

Mr. Marcus: These are grips, two wooden pieces?
(indicating)

A: Yes, sir.

Q: And you are saying you removed them?

A: Yes, sir.

Q: By what process, sir?

A: I simply unscrew a bolt, sir -

Q: Which bolt, sir, can you show us the one that you unscrewed?

A: The grips are held together by a single bolt with a nut. 10

Q: Which was the one you unscrewed?

A: This one (indicating on gun)

Q: That one; you didn't have to take off the other bolt?

His Lordship: Which is the piece at the top?

A: That is just an emblem.

Mr. Marcus; May I have a look at that again, please?

(gun passed to Defence Counsel) 20

What about the other were it appears again on the yoke?

His Lordship: The number on the yoke is not the serial number; it is on the extractor.

Mr. Marcus: Then Mr. Wray, why didn't you leave it off for us to see? Wouldn't it have been better since you know it is an exhibit in a case?

A: I can take it off now.

Q: I would be grateful, sir. 30

A: Do you have a screwdriver?

(Court Sgt. leaves to fetch a screwdriver)

His Lordship: Can we go on in the meantime?

In the Supreme
Court

Mr. Marcus: Certainly, sir. Now sir, when this weapon was brought to you can you remember who brought it?

No. 7
Daniel Wray
Examination
(cont'd)

A: Yes, sir, Constable Cole; K. Cole, I think.

Q: Did he give you certain information in relation to the firearm where it was found, etc., what it was about?

10 A: Yes, sir, there was a forwarding document, a prescribed form which bore certain information.

Q: Which bore the information and I take it he also indicated to you, one, what number weapon they believed it to be?

A: I cannot remember, sir.

Q: Ugh, huh?

20 His Lordship: The information indicated what number firearm it was?

A: That is so, sir.

Mr. Marcus: Do you have that form, sir, the forwarding -

A: I have it here, sir. It does not bear the number or the serial number of the revolver.

Q: The serial number does not appear in the information on that form?

A: It does not, sir.

30 (Court Sgt. returns with screwdriver)

(screwdriver passed to witness)

Mr. Marcus: Could we look at it, sir)

(document passed to Defence Counsel)

Thank you, sir.

(witness unscrews gun)

Mr. Wray: In other words, sir, it appears on the wood underneath, on the wood itself - 185176.

(wooden grip passed to His Lordship)

Mr. Marcus: Thank you, sir. I was hoping for him to have a look at this same document, the forwarding document; since he has something in his hands I will wait a bit. (defence Counsel waits). 10
You observe that the forwarding document in relation to the firearm states at the top right hand corner, "Regina versus Trevor Stone"?

A: Yes, sir.

Q: The offence there is listed as, "Shooting with intent" and complainant is stated to be Lonsdale Wilson?

A: Yes, sir.

Q: Am I correct, sir, that the complainant is stated to be Lansdale Wilson there? 20

A: Yes, sir.

Mr. Marcus: Thank you, sir. No further questions.

Mr. Hamilton: No re-examination, M'Lord.

His Lordship: Can he go, Mr. Marcus?

A: Certainly, sir.

His Lordship: Thank you, Mr. Wray; hope we don't have to call you back, for this case, at any rate. 30

Mr. Hamilton: Call back Constable Roy Shaw for me, please.

Court. Sgt: I have not seen him since morning, sir.

Mr. Hamilton: Please call Constable Pharsingh.

CONSTABLE PHARSINGH CALLED AND SWORN

EXAMINED BY CROWN COUNSEL

Mr. Hamilton: Your name, rank and station, please?

A: William Pharsingh, Constable,
stationed at St. Anns Bay Police
Station in the parish of St. Ann.

Q: Now Constable, does your duty involve
being on station guard at St. Anns
Bay sometimes?

A: Yes, sir.

Q: Does your duty also includes the
receipt and issue of firearms?

A: Yes, sir.

Q: Whilst on station guard?

A: Yes, sir.

His Lordship: Involves receiving and issuing?

A: Yes, sir.

His Lordship: Firearms to?

Mr. Hamilton: To?

A: The personnel stationed there.

Q: What kind of personnel?

A: Policemen.

Q: Do you know the accused?

A: Yes, sir.

Q: And you know him as?

A: A constable.

In the Supreme
Court

No. 8
William
Pharsingh
Examination
(cont'd)

Mr. Hamilton: Do you know where he was stationed?

A: He was stationed at St. Anns Bay.

Q: What time was this?

A: Fifth August.

Q: Do you recall what year he was
stationed at St. Anns Bay?

A: Up to the year 1976.

Q: Now, do you remember Wednesday the
6th of August, 1975?

A: Yes, sir.

10

Mr. Marcus: It is very vital.

Mr. Hamilton: Were you on duty on that day?

A: Yes, sir.

Q: What time did you go on duty?

A: Went on duty Tuesday 5th August 1975.

His Lordship: What time?

A: 12:00 midnight to 8:00 a.m.
Wednesday the 6th August, 1975.

Mr. Hamilton: Now, were you detailed any particular
duty on that day?

20

A: (witness hesitates)

Q: What did your duties involve on that
day?

A: (no answer)

Q: Did you leave the station, were you
at the station?

A: At the station, sir.

Q: What were you doing at the station?

A: (witness hesitates)

His Lordship: Guarding the cells or what man, come on; what duties were you doing?

A: Station guard.

Mr. Hamilton: Now, do you recall that you saw Constable Stone on that day?

A: Yes, sir.

His Lordship: Is this day or morning?

10 Mr. Hamilton: I will check him on the time; what time would you say you saw him?

A: About 6:30 a.m.

Q: 6:30 when?

A: A.m., in the morning.

His Lordship: Wednesday the 6th?

A: Yes, sir.

Mr. Hamilton: Did he make any request of you?

A: Yes, sir.

Q: What did he request?

20 A: Requested a service revolver; and 12 cartridges for the purpose of proceeding on enquiries in Lime Hall (sic) in the parish of St. Ann.

Q: Did you issue the constable with anything?

30 A: Yes, sir, I gave him a service revolver, serial number D185176 and 12 rounds of .38 cartridges. He signed the firearm register and then left the guard room. I did not see him for the rest of my tour of duty.

Q: When he left the guard room what happened to the gun and cartridges?

A: He left with it, sir.

In the Supreme Court

No. 8
William
Pharsingh
Examination
(cont'd)

In the Supreme
Court

No. 8
William
Pharsingh
Examination
(cont'd)

- Mr. Hamilton: Your tour of duty ended when?
- A: 8:00 a.m. when I handed over to Constable Douglas, N.G.
- Q: I want you to tell me something about your system in relation to the issue of firearms. You say you were on duty that day. Before you issued that firearm what did you do, did you make entries anywhere?
- A: Yes, sir, I made an entry in the station diary. 10
- Mr. Marcus: I know my friend is examining; as to the particular act that we are involved with and no other.
- His Lordship: You said that he signed the firearm register; it is a different thing from the station diary.
- Mr. Hamilton: Who made that entry?
- A: I recorded his time in the station diary. 20
- Q: Apart from recording his time in the station diary are there any other entries made anywhere else when you issue firearms?
- Mr. Marcus: I am sorry, M'Lord, my friend must confine his questions to the particular case.
- His Lordship: Isn't that what he is doing?
- Mr. Marcus; Yes, sir.
- His Lordship: Did you do any particular thing else in regard to this? 30
- A: I also signed the firearm register.
- His Lordship: What do you mean?
- A: When I handed the firearm to him, Sir, I signed and he signed it too, sir.

His Lordship: You signed as what?

A: The issuing officer.

His Lordship: And he signed as what?

A: The receiving officer.

Mr. Hamilton: Did the accused man sign?

His Lordship: He said so, he signed and left with them.

Mr. Hamilton: As far as you are aware that is standard police practice?

10 A: Yes, sir.

(gun passed to witness)

Mr. Marcus: This is only hearsay, I don't know what is really taking place; I just see a gun handed to the police officer, I don't know for what purpose; my friend must say.

His Lordship: Can you say anything about that firearm, officer?

20 A: I know police firearms usually have a number here (indicating) but it is rubbed out.

His Lordship: The number on the butt is rubbed out?

A: Yes, sir. It is a Smith and Wesson revolver just -

His Lordship: Which number you looked at when you recorded the number?

A: Right here, sir (indicating)

His Lordship: Can you say anything about that firearm?

30 A: It is a Smith and Wesson revolver just as we have at the station.

His Lordship: It is similar to the ones you have at the station?

A: Yes, sir.

In the Supreme
Court

No. 8

William
Pharsingh
Examination
(cont'd)

His Lordship: Would that be something like what you issued to the accused man or something different?

A: Something resembling it.

His Lordship: Do you know if this firearm has any serial number anywhere else?

A: No, sir.

His Lordship: You don't know?

A: No, sir, only here, sir. (indicating)

His Lordship: Are you through with him?

10

Mr. Hamilton: I was just wondering, sir -

(station diary passed to witness)

His Lordship: What is that for now?

Mr. Hamilton: I just wanted him to indicate where the entry was made.

His Lordship: What for? What is he doing, corroborating himself. If Mr. Marcus tackles him I would have thought he would have brought the firearm register which the accused man signed, that the accused man is alleged to have signed.

20

Mr. Marcus: Where is the firearm register?

His Lordship: I gather the officer is the person making the entry; what we do know, he signs for the firearm in the firearm register; that is what should have been produced.

Mr. Hamilton: I understood it to be here, M'Lord.

His Lordship: Did you bring the firearm register or you didn't think -

30

A: I think it is here, sir; it is supposed to be here.

His Lordship: Subject to that is there anything else you want from him?

Mr. Hamilton: No, M'Lord.

In the Supreme
Court

His Lordship: Tell me, in a situation like this, when a person takes a firearm and says he is going to Lime Hall does - let me put it this way, did the accused man say anything about what time he was coming back or what he was going to do or anything like that?

No. 8
William
Pharsingh
Examination
(cont'd)

10 A: Said he was going on enquiries; he didn't give any time, what time he would return.

His Lordship: He didn't give any time, what time he would return; normally he would come back at any time?

A: Yes, sir.

His Lordship: I see.

His Lordship: So in the normal course of police duty he could come back any time?

20 A: Yes, sir.

His Lordship: Especially enquiries, he could come back any time?

A: Yes, sir.

His Lordship: Would you like to start the cross-examination, Mr. Marcus in case they don't find this diary, this register.

30 Mr. Marcus; I don't know what would be the point of introducing the evidence at this stage. He just said he issued the firearm one day to the accused; I don't know what is the point of just saying it and leaving it at that.

His Lordship: We will see later on.

Mr. Marcus: I don't know if he is saying that the accused man didn't give him back or not.

(firearm register passed to witness)

In the Supreme Court

No. 8
William
Pharsingh
Examination
(cont'd)

Mr. Hamilton: Has this book got a page number?

A: It is not paged, sir.

His Lordship: No numbers?

A: No, sir.

(register passed to His Lordship)

His Lordship: Are you tendering this?

Mr. Hamilton: Yes, M'Lord.

His Lordship: The first column is the date; the second column 37101, whose number is that?

10

A: His registration number.

His Lordship: Then I see 'Constable' and 'Stone', is that his signature or where you wrote it in?

A: His signature, sir.

His Lordship: (showing register to witness) The first column, that is the signature)

A: Yes, sir.

His Lordship: I see, then number?

A: Yes, sir.

20

His Lordship: You told us D185176; I don't see any 'D' in the serial number.

A: I didn't write the 'D' sir, All of the firearms have 'D' sir.

His Lordship: I see. On the next page now, signature of the station guard, date of return, signature of station guard, number of rounds - it looks like he signed it two places. In this first column the name is apparently written illegibly -

30

A: He signed two places, sir.

His Lordship: He didn't write his name in the first column there?

A: Yes, sir, he signed two places, and then I signed after.

His Lordship: Over here? (indicating)

A: Yes, sir.

His Lordship: I see. It has a column also for date of return and signature of station guard, when you get it back?

A: Yes, sir.

10 His Lordship: Look at this entry here, what about this? (indicating)

A: Well, I don't know of this, sir.

His Lordship: You don't know whose signature is there as being station guard, who is supposed to have written there when you got it back?

A: (witness looks at entry) I can't say whose signature it is.

Mr. Hamilton: As the station guard receiving back the firearm?

20 A: Yes, sir.

His Lordship: So you propose to admit this as Exhibit 4?

Mr. Hamilton: Yes, Exhibit 4, M'Lord. With your permission, M'Lord, I would just like to ask this witness one question in relation to the system as to the return of firearms. Now, you tell us, Constable, when a firearm is returned how many entries do you make and where, that is, the station guard receiving the firearm?

30 A: Made in the same register and the same line; the person receiving the firearm is supposed to sign.

His Lordship: Sign as receiving it?

A: Yes, sir. Date of return, sir.

His Lordship: Must put in the date of return?

- A: Yes, sir. Amount of rounds,
condition of the firearm.
- His Lordship: The amount of rounds returned, I
take it that is what you mean, and
the condition of the firearm?
- A: Yes, sir, whether it is in serviceable
condition or defective.
- His Lordship: But where is the column for that?
- A: In the same line, sir; each place
has a different heading, 'condition' 10
and 'remarks.'
- Mr. Hamilton: That is done in the firearm register?
- A: Yes, sir.
- Q: Are there any entries made in the
station diary when the firearm is
returned?
- A: Yes, sir, we also make an entry in
the station diary.
- His Lordship: Who makes the entry?
- A: The station guard. 20
- His Lordship: When he receives the firearm or --?
- A: When he is going on duty.
- His Lordship: When the firearm is returned who
receives it?
- A: The station guard.
- His Lordship: The station guard also receives it.
An entry is also made in the station
diary by the station guard who is
the person who normally receives back
the gun? 30
- A: Yes, sir.
- Mr. Hamilton: Now, is the person returning the
firearm required to make any entries
in either of these two books,
whether the firearm register or the
station diary, other than signing
the firearm register.

A: He signs in the register for receiving it and when he brings it in.

Mr. Hamilton: Now officer, you are familiar with this book?

His Lordship: Which book is that?

10 Mr. Hamilton: The firearm register. Now, you are also familiar - are you also familiar with the writing of the other persons at the St. Anns Bay Police Station who make entries in this book?

A: Yes, sir.

Mr. Marcus: With every one who comes and goes there?

Mr. Hamilton: You are familiar with the writings of other persons?

20 Mr. Marcus: M'Lord, I would like to say something at this stage. My friend has asked a very wide question, if he is familiar at the station with who would write up this book. That presupposes first of all, that Mr. Pharsingh knows everyone who is at the station, knows the handwriting of everyone at the station.

His Lordship: He has said so, you can cross-examine, Mr. Marcus.

30 Mr. Marcus: I don't want the question to go in; this is just something which has no fabric at all.

His Lordship: What does it matter, do you have any jury sitting here?

Mr. Marcus: Very well, sir.

Mr. Hamilton: Tell me officer, can you say by examination of that record whether that firearm was returned, the one that he received?

40 His Lordship: I have asked him already; he says there is a signature as 'received' and he does not know whose signature. You can't -

- A: I don't remember seeing that
firearm.
- His Lordship: In the same line there is an entry
there that it was returned on the
6th of August?
- A: Well, I see where somebody scribble
something; I don't know that
signature, sir.
- His Lordship: It was returned on the 6th of August,
look in the column - unless I am
not understanding him properly. 10
The date of return is 6th August, and
then there is the signature of the
person receiving, 'number of rounds',
something is written in that, in
the 'remarks' column also, 'condition',
'remarks', 'serviceable'. (looking
through columns) You see, all the
columns are filled up?
- A: Yes, sir. 20
- His Lordship: You can't say who filled them up?
- A: No, sir.
- His Lordship: You don't know that signature?
- A: No, sir, apparently -
- His Lordship: On the right hand side of the page
you don't know the signature?
- A: No, sir.
- His Lordship: But from it you understand that
the firearm was returned on the
same day to somebody who has 30
signed there and whose signature
you can't make out?
- A: Yes, sir.
- Mr. Hamilton: Tell me, on the receipt of the
firearm, when it comes back to you
is the time of receipt recorded?
When the firearm is returned, just
like how you say you time it when
you are giving it out; is the
return time ever recorded, other 40
than the date?

A: No, sir, we don't record the time; the time is recorded in the station diary.

In the Supreme Court

His Lordship: The time is recorded in the station diary?

No. 8
William Pharsingh
Examination
(cont'd)

A: Yes, sir, you have a column in the station diary.

His Lordship: The time is entered in the station diary but not in the register?

10

A: Yes, sir, only the date.

CROSS-EXAMINED BY DEFENCE ATTORNEY

Cross-Examination

Mr. Marcus: Mr. Pharsingh, how long have you been stationed at the St. Anns Bay Police Station?

A: June 17 this year will be two years.

20

Q: Now, you told His Lordship not too long ago when he asked you about the number that you saw no 'D'; you said all of them have 'D'; all of them carry the number and 'D'?

A: Yes, sir.

Q: But isn't that erroneous information you are giving this Court that all of them carry 'D'; that is not true?

A: It is correct, sir.

30

Q: I would like you to have a look at this wooden hand-grip it is called, look if you see a number there and a letter?

(gun passed to witness)

You can read it, sir, you see a number and the letter on the other side?

A: Yes, sir.

In the Supreme
Court

No. 8
William
Pharsingh-Cross-
Examination
(cont'd)

Mr. Marcus: Read the number for us, please?

A: The number is not beside it.

Q: In the diary, read the number.

A: The number is 'K'.

Q: That is the letter, what is the number?

A: 185176.

Q: Look and tell us if you see 'K' written on this side of it? On the inside, no number but the letter 'K' on that piece? 10

A: Yes, sir.

Q: You see no number but 'K' is written on it?

A: Yes, sir.

His Lordship: Let me have a look at that. (gun passed to His Lordship)

Mr. Marcus: So when you told us a while ago that all of them have 'D', what did you really mean? 20

A: I never look inside there, sir, but at the bottom of the firearms all of them have 'D', so we don't usually write the letter, we write the number because all of them have 'D'.

Q: All the guns have 'D'?

A: Yes, sir.

His Lordship: So you never write the letter, just the number? 30

A: Yes, sir.

Q: You have seen all the guns in the police force?

A: At my station, St. Anns Bay, sir?

Q: I asked in the police force, not
the station?

His Lordship: How can he answer that; he hasn't
been to all the stations.

A: One station, sir, St. Anns Bay.

His Lordship: That is the only station you have
been stationed?

A: Yes, sir, since I left Training
School.

10 His Lordship: Since you left Training School?

A: Yes, sir.

Mr. Marcus: All the guns that you have dealt
with at the station you say carry
'D?'

A: Yes, sir.

Q: Down on the handle here where you
saw it? (indicating)

A: That is correct, right down the
bottom there.

20 Q: You didn't write 'D' in the register
that day?

His Lordship: He said all of them have 'D' so
they never write down the letter,
they only write down the number.

A: The number of the firearm, sir, it is
clearly stated, all of them have 'D'
sir.

30 Mr. Marcus; All of the guns that you have ever
seen at St. Anns Bay Police Station
since you have been there carry a 'D'
you say?

A: All revolvers, shotguns don't carry
'D'.

Q: But all revolvers carry 'D?'

A: Right, sir.

- Mr. Marcus: Is it supposed to be a part of the number, part of the thing which could identify the firearm, the 'D?'
- A: Well, yes sir.
- Q: You say, according to you the same number is written on the inside of these wooden handles, at least on one side? You say the same number you are speaking of is written there, not the letter just the number? 10
- A: Yes, sir.
- Q: What letter you notice there?
- A: The letter 'K' which is not beside the number.
- His Lordship: The 'K' is not beside the number.
- Mr. Marcus: You know what the 'K' means?
- A: No, sir.
- Q: You have never seen 'K' on a firearm before?
- A: No, sir. 20
- Q: Only 'D' you have ever seen?
- A: Yes, sir.
- Q: You are talking nonsense.
- A: Away from that one.
- Q: Nonsense. You know the age of that firearm?
- A: The age of it?
- Q: The age of it.
- A: No, sir.
- Q: You would say it is an old type; wouldn't you say it is an old firearm? 30

A: I couldn't say, sir. The firearms are kept in serviceable condition, we just oil them, sir.

Mr. Marcus: You handle all the firearm at St. Anns Bay?

A: If I handle all the firearm at St. Anns Bay?

Q: At St. Anns Bay Police Station?

A: I have been there nearly two years, I handle firearms; I couldn't say that, sir.

10

His Lordship: He asked if you have handled all of them at St. Anns Bay Police Station?

A: No, sir.

Mr. Marcus: You say that you know the signature of every police officer that has passed through St. Anns Bay since you have been there?

A: Yes, sir.

20

Q: And you lie when you say so, isn't it?

A: The truth, sir. I know every police man stationed there.

Q: That wasn't what I asked you. Do you know the signature of every police officer who has passed through St. Anns Bay since you have been there?

His Lordship: You had better be careful; you are using the word 'officer', what do you mean by officer in that context?

30

Mr. Marcus: Every policeman.

His Lordship: Let him understand that you mean policemen, your question was 'police officer', he might understand 'officer'. He means all the policemen; he used the word 'officer' and you might be thinking of the people in charge.

- A: Well sir, the regular police I know their signature, the special police I don't know their signature; they usually work as bank guards.
- His Lordship: That is policemen and district constables?
- A: Because they don't use their signatures at the station, sir.
- Mr. Marcus: Now, tell us, sir, how long since the 6th of August did Cpl. Stone work at the St. Anns Bay Police Station, the accused? 10
- His Lordship: I didn't get that?
- Mr. Marcus: Since the 6th of August, this is the time of this entry, has he worked there?
- A: I don't remember, sir.
- His Lordship: You don't remember; but he was working at the station there?
- A: Yes, sir.
- Mr. Marcus: Up to this year; isn't that so, Mr. Pharsingh? 20
- A: (no answer)
- His Lordship: Was he working there up to this year?
- A: I don't know; I remember seeing him working after that, sir -
- Mr. Marcus: Many months after the 6th of August you saw him working there?
- A: I couldn't say if it was many months.
- His Lordship: You can't say? 30
- A: I am sure -
- His Lordship: Sure of what?
- A: I remember seeing him working after that.

His Lordship: The question is, can you say how long after the 6th?

In the Supreme Court

A: No, sir.

No. 8
William
Pharsingh
Cross-
Examination
(cont'd)

Mr. Marcus: You know if he was there up to Christmas of last year?

A: Yes, sir.

Q: He was there up to Christmas, and you remember he attended a political meeting with his revolver up to January of this year?

10

A: No, sir.

Q: You don't remember that?

A: No, sir.

Q: Now, you remember the accused going on a mission when Senator Arnold Bertram was in Browns Town with the Prime Minister?

A: (no answer)

Q: This year, in January?

20

A: I don't know, I don't remember that occasion.

His Lordship: You don't remember if he went?

A: No, sir.

Mr. Marcus: Now, do you know what time Constable Stone started working at St. Anns Bay Police Station last year?

A: The early part of the year.

Q: Can you recall him going out on duty using a service revolver before the 6th of August, last year?

30

A: Yes, sir.

Q: Several times?

A: I can't say whether it was several times.

Mr. Marcus: I take that. Can you recall him going on duty with a service revolver after the 6th of August last year and before Christmas?

A: No, sir, I don't remember.

Q: You won't remember; one thing you came here to remember, a witness of convenience. You remember one night throughout the entire year, when you dealt with him, but you remember no other thing which you dealt with in the entire year, only one you can remember; you remember dealing with him once, is that so?

10

A: (to his Lordship) Answer the question, sir?

His Lordship: Yes. Can you remember other times when he went out with a firearm apart from the incident you are telling us about?

20

A: Yes, sir, I remember seeing him with firearm all the while on duty, sir. I saw him work after that in uniform.

His Lordship: After the 6th you are talking about?

A: Yes, sir.

Mr. Marcus: Working in uniform in circumstances where you expected him to have his service revolver to protect himself?

A: Not on all occasions that they use firearm, sir.

30

Q: You can recall seeing him in uniform you say, after the 6th of August, and I am asking, in circumstances where you would expect him to have a service revolver?

A: I saw him on station guard after that and that means he could put on a firearm.

Mr. Marcus: You don't remember any other occasion? You saw him on station guard. Let me say this, sir. You would expect a police officer going to a public, or what we call a political meeting in Browns Town, leaving St. Anns Bay, to have a firearm with him; wouldn't you expect that?

10 A: Yes, sir, but it is not every one of them carry.

Q: I just ask you a simple question?

A: Well, yes.

His Lordship: Some carry firearms to political meetings and some don't?

A: Yes, sir.

Mr. Marcus: Did you, during this year, go to Ferry Police Station in connection with this case?

20 A: Yes, sir.

Q: You did?

A: Yes.

Q: Ugh, huh?

A: Yes.

Q: You took a long time to answer.

His Lordship: I wish you would stop making this kind of remark. I see no hesitation in the Constable; I don't think it is fair to him at all. What you are doing is getting the thing down on the record; you have done it quite often.

30

Mr. Marcus: He took a long time.

His Lordship: It is not necessary.

Mr. Marcus: I don't understand; I couldn't help commenting on the long pause.

In the Supreme Court

No. 8
William
Pharsingh
Cross-
Examination
(cont'd)

His Lordship: He didn't take any long pause in my view.

Mr. Marcus: And you also were in the search at Glade District?

A: Yes, sir.

Q: You were in the search at Glade District along with Inspector Jackson from St. Anns Bay?

A: Yes, sir.

Q: You and who else from St. Anns Bay? 10

A: Other policemen from St. Anns Bay.

Q: You and who else from St. Anns Bay?

A: I don't remember all of the names; I am sure Inspector Jackson was there and myself.

Q: Who else was in that search; which other policemen, which other officers?

A: Detective Cole, Sgt. Murdock, from St. Anns Bay, Constable Richards from St. Anns bay also Constable S.W. Johnson; could be more, sir, but I don't remember them now. 20

Q: So you took part in the search that day too, sir?

A: Yes, sir.

Q: You remember what part of St. Catherine you went to search?

His Lordship: Do you know the name of the place?

A: I heard that it is Glades Pen, sir. 30

Mr. Marcus: You went to his home, the home where the accused used to live with his brother?

A: I didn't go there, sir.

Q: Who went there?

A: I don't know if anybody went there,
sir.

Mr. Marcus: But you know where his brother's
house is?

A: Yes, sir.

Q: How did you get to know it?

A: Passed there, sir.

Q: Passed there going where?

A: Going to shop to buy our lunch.

Q: (laughter) You just went to the shop
to buy lunch, nothing else in Glade;
is that so, you only went to the shop?

A: Only went to search, sir.

Q: To search where?

A: It is on a hill, sir.

His Lordship: To search on a hill?

A: Yes, sir.

Mr. Marcus: Where you found the gun according to
you?

His Lordship: Did you find any?

A: I didn't find the gun, sir, one of
the members of the search party.

Mr. Marcus: You know a gun was found that day?

A: Yes, sir.

Q: Where was it, describe the place to
us where you were when it was found.

His Lordship: How can he know?

A: I was on a hill -

His Lordship: One moment, how can he, he doesn't
know when the gun was found, how can
he tell you where?

In the Supreme Court

No. 8
William
Pharsingh
Cross-
Examination
(cont'd)

Mr. Marcus: He said he was in the search party when it was found.

His Lordship: He wasn't there; oh please!

Mr. Marcus: M'Lord, the man said he was there in the search party when the gun was found.

His Lordship: Were you in the party that found the gun?

A: No, sir.

Mr. Marcus: You just said so a while ago; didn't you say so a matter of minutes before that? 10

A: I wasn't, was among the search party.

Q: I put the question to you and you said yes.

A: All of us formed the party and we scattered.

His Lordship: Mr. Marcus is just splitting hairs.

Mr. Marcus: How long you searched for before the gun was found? 20

A: About 15 to 25 minutes, sir, couldn't be more.

Q: On a hill you say?

A: Yes, sir.

His Lordship: The gun was found on a hill?

A: Yes, sir.

His Lordship: So you were present when the gun was found, is that so?

A: I was not there. I didn't see when the gun was actually found, but I heard when they said that they found the gun. 30

His Lordship: They were on a hill.

A: I was in front.

Mr. Marcus: You know who found the gun?

In the Supreme
Court

A: No, sir.

No. 8

Q: Up to now you don't know who found it?

William
Pharsingh

A: Well, when I came down I saw Detective Cole with it.

Cross-
Examination
(cont'd)

Q: And that very same day a party of policemen came up from St. Anns Bay, the day the gun is found; isn't that so?

10

A: Yes, sir, we came from St. Anns Bay.

Q: Within 20 to 25 minutes; all right. You remember where the accused's home was, you said you passed to the shop; was the hill before his home, past the shop, or the hill was below?

A: Yes, sir.

His Lordship: That hill is -

A: You have to pass his home, sir. I don't know the area well, sir.

20

Mr. Marcus: You passed his home?

A: On the left coming from his home, sir.

His Lordship: The hill that the gun was found is on the left after you pass his home?

A: Coming towards Ferry, sir, it is on the left.

Mr. Marcus: Is it a hill along the main road?

A: Off the main road. We have to walk through a pasture, sir, to go up the hill, off the main road.

30

Q: Can you recall what else was found that day when the gun was found?

A: A billfold was found containing money.

Q: And a bag, ugh?

- A: No, sir, I didn't see any bag.
- Mr. Marcus: You didn't see any bag; you saw a billfold with money.
- His Lordship: Are you suggesting that a bag was found on that day?
- Mr. Marcus: I am asking if a bag was found; I am suggesting that a bag was also found. Isn't it true?
- A: No, sir, I didn't see.
- Q: How you mean you didn't see? 10
- A: No bag.
- Q: Wasn't the gun and billfold and money found in a bag, Mr. Pharsingh?
- A: I didn't see any bag; I saw a gun and billfold containing money, that is all I saw.
- Q: Was Constable Shaw from Ferry Police Station there that day?
- A: I can't recall, sir.
- Q: I am going to suggest to you that the day when you all came up for the search you took this gun from St. Anns Bay; brought it to St. Catherine? 20
- His Lordship: Who did it? He did?
- Mr. Marcus: The St. Anns Bay Police.
- His Lordship: Oh.
- Mr. Marcus: Took this gun from St. Anns Bay, took it to St. Catherine some days after and said that they found this gun in the bushes when it was not so. 30
- His Lordship: Do you know about that?
- A: No, Your Honour; when that gun was found it had on trash.

Mr. Marcus: I thought, sir, you told the Court not too long ago that you were not there when it was found at the spot; did you tell this Court that not too long ago?

In the Supreme Court

No. 8
William Pharsingh
Cross-Examination
(cont'd)

10

A: I did not see when the person actually found it; I was on top and they were below. I heard when they said they found the gun and I came down and saw Detective Cole with the gun, billfold and the money; I saw it also.

Q: You were down at the bottom of the hill?

A: On top, sir.

Q: No, you said they were at the top and you were at the bottom not too long ago; you said that, isn't that what you said?

20

A: No.

Q: Ugh. May I ask Your Lordship's permission to check the shorthand notes? Just a matter of seconds ago he said they were at the top and he was at the bottom.

His Lordship: No, he never said that; I have not got that.

Mr. Marcus: He said so, M'Lord.

30

His Lordship: (reading) The gun was found on a hill, he didn't actually see who found it; when he came down he saw Detective Cole with the gun.

Mr. Marcus: So it was not found on the hill then?

A: Well, I would say the beginning of the hill, sir; about 5 to 8 yards, about 12 or so.

His Lordship: Could be about 8 yards; about 12 yards of where?

A: From where the hill start, sir.

In the Supreme
Court

No. 8
William
Pharsingh
Cross-
Examination
(cont'd)

Mr. Marcus:

You remember you told us not too long ago you went along a road before you started the search; you went along a road?

A: Yes, sir.

Q: I asked you about the firearm; the question of whether it was off the main road; you said no, we went along a road, is that so, a track, that was the word you used, not too long ago? 10

A: To where, sir?

Q: When I asked you where you said it was found on a hill off the main road; you used the word, if I remember, that you went along a track; you went through a pasture, you said that?

A: And we go over to the hill and we search. 20

Q: Now, this pasture where you went through, is there any sort of road in the area?

A: In the pasture?

Q: No, in the general area where you went. Is there any road, whether a walking road or a driving road?

A: I don't understand the question, sir.

Q: Remember you went somewhere to search for something; when you went to search did you notice any road, whether driving road or walking road in the general area where you went to search? 30

A: Let me explain it, sir. We drove and drove over the main road into a pasture, came out the vehicle, went through the pasture, came through a fence, parked the vehicle and we have to walk by foot, go through a fence, go over to the hill, that is where we searched. 40

Mr. Marcus: And you began - you said the others climbed the hill, went up on the hill, "I stayed at the bottom".

His Lordship: Mr. Marcus, this witness said he had been on top when he heard the gun was found.

10 Mr. Marcus: My humble apologies, M'Lord; I apologize to the witness too. Naturally, I meant it the other way around, when he came down off the hill, he went on top and they were at the bottom, is that so?

A: We all started in a row, sir, but I reached on top; when I heard that the gun was found, I was on top and they were at the bottom, and I came down, sir.

20 Q: Thank you, sir. Now Mr. Pharsingh, you were issued with a firearm for yourself to use?

His Lordship: What do you mean, to personally use or what?

Mr. Marcus: Yes. Are you issued, say for instance you could take it home when you are going home, take it back when you are going back to work and keep it with you?

30 A: No, sir. It is only when you are going on certain duty that you get the firearm.

His Lordship: Only when you are going on certain duty; is that what you say?

A: Yes, sir.

Mr. Marcus: Now Sir, in relation to Stone, the accused man, would the same thing apply to him, he would only get a firearm when going on duty and he would be expected to return it when he comes in back from duty?

40 A: Yes, sir.

In the Supreme
Court

No. 8
William
Pharsingh
Cross-
Examination
(cont'd)

Mr. Marcus: Have you yourself ever made a request of him to return the firearm which you said you handed to him?

A: No, sir.

Q: Tell us, sir, roughly about how many men are stationed at the St. Anns Bay Police Station?

His Lordship: When he was stationed there in August last year.

A: In August last year it would be about 35, sir. 10

Mr. Marcus: And a register of all firearm at the station is kept?

A: I don't know of any, only know of this -

His Lordship: You don't know of any other register where all the firearms are entered in?

A: No, sir, just know of this firearm-

Mr. Marcus: Is there a place for keeping firearms when not in use by the policemen? 20

A: When you say -

Q: When the policemen are not using them on duty?

A: Yes, sir, we keep them in the guard room.

His Lordship: In the guard room?

A: Yes, sir.

Mr. Marcus: A place with a lock and key?

A: Lock and key. 30

His Lordship: Under lock and key?

A: Yes, sir.

Mr. Marcus: And there is generally an officer responsible for those weapons?

A: Yes, sir.

His Lordship: If you use the term 'officer' to him to him it might mean something else; we have to be particular in these circumstances. When you are speaking of enlisted men -

Mr. Marcus: He might take it to mean a gazetted officer.

10 His Lordship: That is the problem. Who keeps them under control, under lock and key?

A: The station guard, sir.

Mr. Marcus: In other words, every time a new man is coming on duty the key is handed over to him and he takes care of it?

A: He checks off all Government property.

His Lordship: Checks off what?

A: When he is taking over duty he checks off all Government property.

20 Mr. Marcus: And to your knowledge you have never heard anyone ask Stone to bring back that particular firearm?

A: Never heard that.

Q: And that matter only came to your attention after this case came up, isn't it?

A: Yes, sir.

Q: And before you found it?

His Lordship: After when?

30 Mr. Marcus: After this case came up, sir, which means after the incident and before you found it, and I add, isn't that correct?

A: Before I found what, sir?

Mr. Marcus: Before the gun was found, it came to your attention during a particular period, only after the incident and before the gun was found; isn't that so?

A: Could you repeat?

His Lordship: You are a little vague.

Mr. Marcus: Put it this way, sir -

His Lordship: When was this matter first brought to your attention, when you had to look in the firearm register to see what was entered?

10

A: It was the day of the offence; when the offence was committed.

His Lordship: The day?

A: The same day, sir. We were asked by the Police at Ferry if this Constable was in possession of a firearm; we went through the register, sir, and we found that -

20

Mr. Marcus: You are saying something?

A: We found that the firearm was issued that day; there was no entry in the station diary stating that such firearm was returned, sir, or entry stating that Constable Stone had returned off patrol in the diary, sir.

Q: But you admit, Mr. Pharsingh, that you said that the person returning the firearm doesn't make any entry; he is not the person to make any entry.

30

A: The station guard.

Q: In other words, the person who returns the firearm is under no obligation to make an entry himself, somebody else must do it?

A: Yes, sir.

Mr. Marcus: Now, you seemed to tell us that there was no entry in the station diary. This also only came to your attention, as far as you know, after the incident, when the Ferry Police got in touch with you?

In the Supreme Court

No. 8
William Pharsingh
Cross-Examination
(cont'd)

A: Yes, sir.

Q: You don't know that in February of this year Constable Stone was suspended?

10

A: Suspended early this year; I don't remember the exact date; it could be about February or late January, sir.

Q: So you do remember now, sir, that he was attached to the station up to this year; you do remember now, ugh?

A: Yes, sir.

Q: But before that you couldn't remember?

His Lordship: I think in fairness to him, he remembers he was on duty up to Christmas.

A: Constable Stone was even on sick leave; when he returned he was suspended, so he was not there for a time, sir.

Mr. Marcus: Now Mr. Pharsingh, I am suggesting to you, and very, very strongly that - I won't ask him that again, sir, because it may be a little - I might be putting him in somewhat of a spot - I am suggesting to you that you issued a firearm to Trevor Stone on the 6th of August, that this was duly returned on the 6th day of August, that firearm that you speak of?

30

His Lordship: You can't put a double-barrelled question. He says he issued it to him but he never returned it to him; for you to put both things together in a rolled-up thing - he is admitting a part but denying another part. I think you are suggesting - hold on - are you saying it was returned to this officer?

40

In the Supreme Court

No. 8
William
Pharsingh
Cross-
Examination
(cont'd)

Mr. Marcus: No. In other words, you are not in a position to say whether the firearm was returned or not; am I correct?

A: Yes, sir.

His Lordship: You can't say of your own knowledge?

A: Yes, sir.

Mr. Marcus: Thank you, sir.

His Lordship: Any re-examination?

Mr. Hamilton: No, M'Lord.

10

His Lordship: Where is this firearm register kept?

A: Kept in the guard room, sir.

His Lordship: So anybody can go in there and write in it or what?

A: Whenever a station guard takes over he is responsible for it; unless somebody is requesting a firearm he writes it up.

His Lordship: The person who requests a firearm can also write up the book instead of the station guard?

20

A: Can write it up and sign, sir, and the station guard would have to sign to it.

His Lordship: But the station guard has to sign it also?

A: Yes, sir.

His Lordship: Well, I want to know they have a place - is it kept on top of a counter or where in the guard room?

30

A: Kept on the counter, too.

His Lordship: Just like the station diary?

A: Yes, sir.

His Lordship: Anything further you wanted to have asked, Mr. Marcus?

In the Supreme Court

Mr. Marcus: I was wondering sir, - he stated a while ago that the person requesting it can also write up the register; I was wondering sir, if when the person brings it in, if he can write up the register?

No. 8
William
Pharsingh
Cross-
Examination
(cont'd)

10

A: No, he doesn't have to write it; when it is returned the station guard write it, sir.

His Lordship: The man who is receiving it must sign for it?

A: Yes, sir.

His Lordship: But the person who is bringing it in hasn't got to make any entry at all; that is very clear. Thank you very much.

(witness leaves the stand)

20

His Lordship: Are we hoping to finish tomorrow gentlemen?

Mr. Hamilton: Yes, M'Lord; I have at least two more witnesses.

Mr. Marcus: I feel quite certain we will close tomorrow, sir.

His Lordship: So we will continue tomorrow then; please adjourn.

11th May, 1976.

COURT RESUMED - 10.10 a.m.

30

Mr. Hamilton: For the records, M'Lord, the case before us is the case of the Queen against Trevor Stone. He is charged with three counts, illegal possession of firearm, robbery with aggravation and shooting with intent. I appear for the Crown in this matter, M'Lord, and Mr. Lowell Marcus for the Defence.

In the Supreme Court

No. 8
William
Pharsingh
Cross-
Examination
(cont'd)

Mr. Hamilton: Now, before proceeding to call the next witness, M'Lord, I should like to make an application to have Constable Cole recalled so that the exhibits can be formally tendered.

His Lordship: They have been marked for identity.

Mr. Hamilton: They were marked for identity but they were not in fact tendered.

His Lordship: Because they could not have been tendered at that time, you are calling him now that there is an alleged nexus?

10

Mr. Hamilton: That is what I propose to do at this stage where the ground work has now been laid.

His Lordship: Alright.

No. 9
Keith Cole
(Recalled)
Examination

No. 9

Evidence of Keith Cole (Recalled)

CONSTABLE COLE CALLED AND SWORN

FURTHER EXAMINATION BY CROWN ATTORNEY

Mr. Hamilton: Constable Cole....

20

Mr. Marcus: I am sorry, M'Lord, I was wondering about the firearm so far no witness has come to the box and said, "I found the firearm".

His Lordship: He said he found it.

Mr. Hamilton: Mr. Cole.

Mr. Marcus: Sorry, sir.

His Lordship: Yes.

Mr. Hamilton: Constable, I believe you said you took certain things to the Ballistics Expert and he eventually returned them to you.

30

A: Yes, sir.

Mr. Hamilton: And these things included a
firearm? What can you tell us
about that firearm, Officer?

In the Supreme
Court

(Firearm shown to witness)

No. 9
Keith Cole
(Recalled)
Examination
(cont'd)

A: The firearm I found underneath
some trash in the bushes at Glade
District in the Parish of St.
Catherine where the accused ran.

Mr. Hamilton: I formally tender this as Exhibit 1.

10 His Lordship: (1) for identity, yes.

Mr. Hamilton: These were the four spent shells?

(Spent shells shown to witness)

A: Spent shells.

His Lordship: (2) for identity, now Exhibit 2.
Where is the other bullet?

Mr. Hamilton: (3) for identity, M'Lord.

His Lordship: This is what?

20 A: This is the live round, this is
the lead part of it, sir, and this
is the shell.

His Lordship: (3) for identity, now Exhibit 3.
Before you start cross-examination,
could I just put a couple of
questions?
(To witness) It was on the 19th of
April, I think, that you said you
held this accused man.

A: The 19th of February.

30 His Lordship: Beg your pardon, but the search is
not being conducted until the 26th;
why such a long period afterwards
and what had been done in the
meantime between the 19th and the
26th?

A: Well, there was not enough police
personnel.

His Lordship: Police personnel where?

In the Supreme Court

No. 9
Keith Cole
(Recalled)
Examination
(cont'd)

- A: To carry out the search, sir, because we did a preliminary search, sir.
- His Lordship: Was anything done between the 19th and the 26th?
- A: No, sir.
- His Lordship: Why?
- A: As I say, sir, I didn't have enough police personnel to go with me to search there. 10
- His Lordship: How many persons went in this search party?
- A: It was about eight to ten policemen.
- His Lordship: So let me see if I understand you correctly. All the stations in St. Catherine - Ferry, Spanish Town, Linstead, not to mention Point Hill and all those places - you could not get ten men from the other stations. Let me put it this way: was the decision left to you to gather personnel to go and search? Was there no senior officer or personnel involved in this thing? 20
- A: When I ask for the men, sir, they are always engaged in other duties.
- His Lordship: What is giving me a little concern, look how near Kingston is to St. Catherine; Kingston and St. Andrew both adjoin St. Catherine - St. Andrew actually - so why go to St. Ann to draw men from there, why go to St. Ann, what is the reason for that? 30
- A: I was not the one who send to St. Ann for these policemen, sir.
- His Lordship: Do you know who did?
- A: I was told by Detective Sergeant Simpson.
- His Lordship: That is hearsay, you don't know. Yes, Mr. Marcus: 40

Mr. Marcus: No questions, sir.
His Lordship: Thank you, Officer.
Mr. Hamilton: Is Constable Noel Douglas here?
(No answer from the witness)
Is Constable Delroy Shaw here?

In the Supreme
Court

No. 9
Keith Cole
(Recalled)
Examination
(cont'd)

No. 10

Evidence of Delroy Shaw

No. 10
Delroy Shaw
Examination

CONSTABLE SHAW CALLED AND SWORN

EXAMINATION-IN-CHIEF BY CROWN ATTORNEY

10

10.20 a.m.

Mr. Hamilton: Is your name Delroy Shaw?

A: Yes, sir.

Q: Constable of Police?

A: Yes, sir.

Q: Stationed at the Ferry Police Station
in the Parish of St. Catherine?

A: Yes, sir.

His Lordship: You are at Ferry still?

A: Yes, sir.

20

Mr. Hamilton: Do you remember Thursday, the 19th
of February this year?

A: Yes, sir.

Q: And were you at the station on that
day?

A: Yes, sir.

Q: Now, at about what time Constable?

- A: Please, sir?
- Mr. Hamilton: At about what time, did somebody come to the station to make a report?
- A: Yes, sir.
- Q: Who came there?
- A: The complainant, Lansdale Wilson.
- Q: At about what time did the complainant come to the station?
- A: It was about 9.40. 10
- His Lordship: Morning or afternoon?
- A: Morning.
- Mr. Hamilton: Now, did you accompany the complainant anywhere?
- A: Yes, sir.
- Q: Where did you accompany the complainant to?
- A: Along with Constable Cole and the complainant, they were travelling along the quarry road. 20
- Q: By what means did you travel?
- A: Marked Police land-rover.
- Q: And you say you went where?
- A: On a road, it is a back road which leads to Glade District.
- Q: Now, on reaching a certain section of the road, did you observe anything?
- A: Yes, sir. I saw a man coming towards me. 30
- Q: At that stage, did anybody speak?
- A: Yes, sir, the complainant said, 'See the man deh'.

Q: The man you saw, did he do anything?

A: Yes, sir, he looked in my direction and started to run.

Q: And this man ran in what direction?

A: He ran towards a nearby bush.

Q: Who was the driver of your vehicle?

A: Constable Cole.....

10 Q: Did Constable Cole do anything?

A: Yes, sir, he stopped the land-rover and begin chase on foot.

Q: Where did he stop the land-rover, on the road or where?

A: He stopped, it was a common, and he stopped it - the road is like there and the common on two sides of the road.

20 His Lordship: He stopped on the common or on the road or where?

A: He stopped it on the common.

Mr. Hamilton: Having stopped the vehicle, did he do anything?

A: Yes, sir, the accused jumped the wire fence.

Q: Did you do anything?

A: Yes, sir, I gave chase.

Q: At the time you gave chase, were you alone or in company?

30 A: In company.

Q: With?

A: Constable Cole, the complainant and his helper.

Mr. Hamilton: Now, did all of you run in the same direction?

A: Yes, sir, we ran in the same direction.

Q: And did you keep running in the same direction, all of you?

A: Yes, sir.

Q: Now, what eventually happened?

A: The accused pulled a revolver from his waist. 10

Q: Where was Constable Cole at this time?

A: Constable Cole was on the right and I was on the left with complainant's helper behind me and complainant behind Constable Cole.

Q: What happened after the accused pulled the revolver?

A: He pointed at Constable Cole.....

Q: Yes. 20

A: and I heard about three explosions.

Q: At this point in time, about how far was the accused from Constable Cole when you heard these explosions?

A: He was about ten to eight yards.

Q: Now, when you heard these explosions, did Constable Cole do anything?

A: Constable Cole returned the fire.

Q: Did the accused man react? 30

A: No, he continued to run further into the bush.

Q: What did you do?

A: There I lose sight of him.

Mr. Hamilton: Did you search for this man?

In the Supreme
Court

A: Yes, sir, I and complainant's helper went to one side of the bush while Constable Cole went another side.

No. 10
Delroy Shaw
Examination
(cont'd)

Q: Now, did your search reveal anything?

A: Yes, sir, while I was inside the bush searching I saw the said man coming towards me with both hands holding on to his feet and saying, 'Lord Officer, don't shoot me again me a police'.

Q: At this stage, did you notice whether anything was the matter with this man?

A: Yes, sir, he was bleeding.

His Lordship: Bleeding from where?

A: From both feet.

His Lordship: What you call feet?

A: Down here (indicating lower leg).

His Lordship: Down the bottom here?

A: He have the pants, I saw the blood running from here.

His Lordship: Showing lower leg, bleeding from both feet.

Mr. Hamilton: Did you do anything after the man spoke?

A: Complainant's helper, who was right behind him said, 'A him same one, Officer', 'A him same one, Officer'.

His Lordship: Was that in the presence and hearing of the accused?

A: Yes, sir, in the presence and hearing of the accused.

His Lordship: He said it twice?

A: 'A him same one, a him same one
shoot after we and tek way the money'.

Mr. Hamilton: What next happened?

A: Constable Cole then came running
along with complainant, and
complainant shout and say, 'Him
same one, same way him mek up him
face and say, give me the money'.
Constable Cole then arrested and
charged accused. When cautioned I 10
heard him say, 'Me think a did
Busha that is why me run'.

Q: No, from that point, did you go
anywhere?

A: Yes, sir, we went into the direction
where the accused was found and make
a preliminary search.

Q: And did you go anywhere else?

A: Yes, sir, we then proceeded to
Glade District. 20

His Lordship: Did you find anything?

A: No, we didn't find anything.

His Lordship: Yes.

A: We then proceeded to Glade District
where accused pointed out an
unfinished house and say that is
where he stay with his brother.
Constable Cole along with
complainant and helper went inside
where this unfinished house was 30
while I stay inside the land-rover
with the prisoner. After about five
minutes, Constable Cole returned
with a black bag containing clothes.
We then proceeded to the Spanish
Town Hospital with accused where
he was admitted.

CROSS-EXAMINATION BY DEFENCE ATTORNEY

10:35 a.m.

Mr. Marcus: Now according to you, you said you 40
saw this man pull a gun and fired it.

A: Yes, sir.

Mr. Marcus: On that day?

A: Yes, sir.

Q: But yet when he was charged and cautioned, all he said, 'Me think a did Busha that is why me run'.

A: Yes, that is what he said.

Q: No mention about any shooting, nothing at all about shooting. Complainant didn't ask him why him shoot at him?

A: No.

Q: You saw Rocky, the helper, run into the bushes too?

A: Rocky?

Q: Yes.

A: Rocky was behind me all the way.

Q: Right into the bushes?

A: No, he didn't enter the bush.

His Lordship: He didn't go into the bush?

A: No, sir, he was behind me.

Mr. Marcus: Then you didn't go into the bushes?

A: Yes, I went inside the bushes.

Q: You say the man was behind you?

A: Yes, sir, Rocky was behind me.

His Lordship: Was he behind you in the bushes?

A: No, sir.

His Lordship: You said he was right behind you when you saw the accused bleeding?

A: I was not too much in the bushes, I was not two yards in the bushes when I saw the accused coming towards me in the bushes.

In the Supreme Court

No. 10
Delroy Shaw
Cross-
Examination
(cont'd)

Mr. Marcus: Constable Shaw, you know that you are not speaking the truth. Don't you know that you are not speaking the truth?

A: I am speaking the truth, sir.

Q: Not too long ago I am certain you told the Court, 'We all run in the same direction and we kept in the same direction', that would include the helper, Rocky?

A: Yes, sir, I don't know if he jumped the wire fence, that was before he jumped the two wire fences.

Q: That is before who jumped the wire fence?

A: The accused.

Q: You jumped it too ?

A: Yes, sir.

Q: Rocky jumped it too?

A: I don't know if he jumped or he climbed under.

Q: But he came under the fence too and he was in the bushes with you?

A: Yes, sir.

His Lordship: Who is this, Rocky?

Mr. Marcus: Yes, m'Lord, the little boy.
(To witness) Rocky was with you all the time?

A: Yes, sir.

Q: And even when the man was, when he came forward with his hands in the air and holding on to his legs, Rocky was with you too?

A: Rocky was standing right behind me.

His Lordship: What?

10

20

30

Mr. Marcus: He said Rocky was standing behind him.

In the Supreme Court

A: He was standing in the commons, this is the bushes and you have the commons right here so (indicating).

No. 10
Delroy Shaw
Cross-
Examination
(cont'd)

Q: Tell me something, you were in front of the vehicle?

A: Yes, sir.

Q: With a shot gun?

A: Yes, sir.

Q: Now, you were coming from the Ferry area along this road, that is, the front of the vehicle was going towards Glade District?

A: Correct, sir.

Q: Constable Cole was driving?

A: Yes, sir.

Q: Now, according to you, you said you heard somebody say, 'See the man deh'?

A: The complainant said that.

Q: The complainant said, 'See the man deh'. As he said that, what took place immediately after he said that?

A: Accused looked in the direction of the land-rover and started to run.

Q: Run where?

A: Towards the bushes which was on the right hand side going towards Glade, the bushes.

Q: So what happened, Constable Cole stopped the vehicle right away?

A: Stopped it.

Q: Stopped it just as it was there?

A: Pulled off the road into the commons and stopped it.

10

20

30

Mr. Marcus: Now, what you call the common?

A: I would say between the common you have a parochial road where vehicles can drive.

Q: Yes, what?

His Lordship: Wait a minute. You were not driving on the parochial road?

A: Yes, sir, we were driving on the parochial road and the common surround it. 10

Mr. Marcus: When did Mr. Cole stop the vehicle? How was the vehicle set? Describe to us the position?

His Lordship: Was there a wire fence anywhere near to the vehicle when it stopped?

A: Yes, sir, a wire fence.

His Lordship: What was the position of the vehicle to the wire fence?

A: The vehicle was near to the wire fence. 20

His Lordship: What part of it?

A: The front.

Mr. Marcus: And that was when Constable Cole grabbed the man in his shirt back, grabbed him in the neck here and shot him twice.

A: No, I never see that.

Q: Yes.

A: No, sir.

Q: In both legs up here. 30

A: No, sir.

Q: You saw where the accused was bleeding from that day?

A: Yes, sir, I saw blood running down his feet.

	Mr. Marcus:	Running from up here?	In the Supreme Court
	A:	I didn't see it from that part.	No. 10
	Q:	You saw blood running down on both legs, on the outside of both legs - Where? Here?	Delroy Shaw Cross- Examination (cont'd)
	A:	Yes, sir (indicating upper portion of leg)	
10	Q:	I am putting it to you that you have come here to fabricate a story to support Constable Cole, that is the reason you have come here.	
	A:	No, sir.	
	Q:	Because he shot the man right here.	
	A:	No, sir.	
	Q:	You saw when Constable Cole shot at him?	
	A:	Yes, sir, I saw Constable Cole return the fire.	
	His Lordship:	How many did he return?	
20	A:	He fired about three to four shots.	
	Mr. Marcus:	And you said the accused fired how many?	
	A:	I heard about three explosions from the accused.	
	Q:	Are you certain? You say 'about'.	
	A:	I am certain.	
30	Q:	Now, when Constable Cole returned the fire, was the man running or coming towards Constable Cole? Was the man running?	
	A:	Yes, he was running.	
	Q:	How was he running?	
	A:	Running sideways towards the bush, further in the bushes.	

In the Supreme
Court

No. 10
Delroy Shaw
Cross-
Examination
(cont'd)

His Lordship: What you mean by 'running sideways'?

A: He was running like this with the
revolver in his right hand.
(demonstrating).

Q: Tell me something, what do you mean,
running sideways, going like a crab,
going sideways or is he running
sideways?

A: Could you run and fire a gun, sir?

His Lordship: No, you don't ask any questions,
answer. Is he running and firing
whilst he is running, the accused
man?

10

A: Yes, sir.

Mr. Marcus: M'Lord, I am so sorry, I had
subpoenaed the doctor, he came
awhile ago and I understand he has
left already and that is the very
reason I called him here this
morning.
(To witness) His back was not to
Mr. Cole when he returned the fire?

20

A: His back, sir?

Q: Yes.

A: Not fully, sir.

Q: You could see the accused at that
time?

A: Yes, sir.

His Lordship: How far were you from Constable
Cole at that stage when these two
men are firing at each other?

30

A: I was not more than about, I would
say about half a chain from Mr. Cole,
sir.

Q: But you didn't fire a shotgun?

A: Defective, sir.

His Lordship: The shotgun was defective at the
time? So what you carry it there
for?

A: I never know until I pulled the trigger, sir.

Mr. Marcus: Tell me something, the man was not in the bushes, the man who you say ran, the accused man, wasn't it the bushes he ran into?

A: I said he ran towards the bushes.

His Lordship: Was the firing taking place in the bushes, in the common or where?

10 A: Within the common, sir.

Q: The common? You mean the road itself, the wide area with the little track inside, the wide piece of strip where you have the road run through it. Is that the place you are talking about, what you call the common?

A: I don't understand you.

Q: The common has bushes?

A: Yes, sir.

20 Q: According to you, where the accused ran, he didn't run in the bushes.

A: No, when he run, he ran towards the bushes after jumping the two first fences and Constable Cole returned the fire, they ran into the bushes.

His Lordship: Sorry, what did you say awhile ago? After the shots, the accused jumped the first wire fence and ran into the bushes.

30 A: After he jumped the two fences.

His Lordship: He had jumped the two fences when he pulled the revolver?

A: After he jumped the fence he pulled the revolver.

His Lordship: After he jumped how many fences?

A: Two fences.

Mr. Marcus: These two wire fences that you speak of you know what those two wire fences are there for. You have seen them, what are they doing there? Do they part something from something?

A: I think maybe it was cow pasture once, I don't know if that is why the fences are there.

Q: Not one, two?

A: Yes, sir.

10

His Lordship: How near are the fences to each other?

A: They are about, I would say, half a chain, sir. What really happen, sir, I think why they have the wire fence, they have a gully.....

His Lordship: Half a chain between the two fences.

A: You have a gully between the two fences, they use it to bar out cow.

His Lordship: How deep is this gully?

20

A: This gully is about four feet deep.

Mr. Marcus: About how wide, sir?

A: I would say about same, half a chain.

Q: How wide is the gully?

A: Half a chain.

Q: So he jumps one fence, go across the gully and jumps the other wire fence?

A: Yes, sir.

Q: He jumps a gully of half a chain in width?

30

A: Say he jump the gully?

Q: How he jumped the gully? Wouldn't he have to cross the gully to go across the fence?

A: Yes, sir.

Mr. Marcus: And I asked you how wide is the gully.

A: He jumped the gully and jumped the other fence.

10

Q: Then you have to jump the gully to go to the other fence? If I understand you correctly, Mr. Shaw, the accused jumps one wire fence first. I asked you the reason for these fences and you say there is a gully.

His Lordship: Four feet deep and half chain wide.

Mr. Marcus: Now this gully is between the two fences, that is one wire fence, the gully in between and another wire fence.

A: Right, sir.

20

Q: So you had at least, or Mr. Cole could have seen the man running for at least.....

His Lordship: Not could have seen, did you see? He saw the man running?

Mr. Marcus: You could have seen the man running for at least a half chain?

A: More than that, sir.

30

Q: More than that. Put it this way: when, according to you, the man came holding on to his legs saying, 'Don't shoot me Officer, me a police', about how far was he from the jeep, distance away from the jeep?

A: About two and a half/three chains.

Q: Now Constable Shaw, I am going to put it to you that when the man said, 'Lord Officer, don't shoot me again, me a police', he was exactly beside the jeep when Constable Cole shot him twice.

In the Supreme
Court

No. 10
Delroy Shaw
Cross-
Examination
(cont'd)

A: No, sir.

Mr. Marcus: That is when he said so?

A: No, sir.

Q: Now tell me, you went on the search?

A: Yes, sir.

Q: Later on, five to six days after?

A: No, not that time. I thought you meant preliminary search.

Q: You carried a shotgun with you in the bushes?

A: Shotgun?

His Lordship: This is the day of the incident now?

Mr. Marcus: Yes, M'Lord. (To witness) You carried a shotgun with you into the bushes?

A: Yes, sir.

Q: How you went through the fence?

A: How I went through the fence?

Q: Yes.

A: I could easily well push through the wire fence.

Q: I am asking you how you did it.

A: That is how I did it.

His Lordship: You went through the fence not over the fence?

A: Through the fence.

Mr. Marcus: Did Mr. Cole go through the fence also?

A: I believe Mr. Cole jumped over the fence, I am not sure, because he was able to go over before me.

10

20

30

Mr. Marcus: How high are these fences, sir? In the Supreme Court

A: About two and a half feet to three feet. No. 10
Delroy Shaw

Q: I wonder, sir, if you could indicate to the Court, from the floor there, what you call two and a half to three feet. Cross-Examination (cont'd)

A: About here (indicating top of rail of witness box).

10 Q: You call that two and a half feet?

A: Yes, sir.

His Lordship: It is a little more than three, about three and a half feet.

Mr. Marcus: Now, this is part of Caymanas Estate where they have a lot of cattle? Isn't it? It is pasture, the whole of that area, isn't it pasture and cattle?

A: I didn't see any cattle.

20 Q: And you say that you saw two wire fences roughly three and a half feet high.

A: Yes, sir.

Q: But why you tell so much untruth, sir?

A: True, sir.

Q: You would put a fence three feet high to hold in cattle?

30 A: It depends on the circumstances, this wire fence was on the banking, sir.

Q: When you first saw the man coming, was he running, walking, trotting or what, when you were coming with the jeep and you first saw him, the accused?

A: He was walking.

Mr. Marcus: Walking, coming towards the jeep?

A: Yes, sir.

Q: Now, you say you were in a marked vehicle.

A: Yes, sir, it is a marked vehicle.

Q: And yet you heard the man say, 'Him think a Busha that is why him run'?

A: After he was cautioned.

Q: Yes. You heard this man say that?

A: Yes, that is what him say. 10

Q: I am going to put it to you, sir, that this man never ran that day.

A: Of course he ran.

Q: Constable Shaw, I am suggesting that that is what took place, Constable Cole saw him, began to drive the vehicle towards him, that is, dragging it down on him, and he moved to the side.

A: No, sir. 20

His Lordship: That didn't happen?

A: That didn't happen.

Mr. Marcus: And when he moved to the side, Constable Cole stopped the vehicle right beside him, came out, grabbed him from behind and proceeded to shoot him twice in both legs.

A: No, sir.

Q: He deliberately put the gun here and shot him here and shot him here again. (indicating legs). 30

A: No, sir.

Q: Did you see the accused with the bag that day?

A: I don't remember, sir, I don't
remember seeing him with a bag.

Q: Think again, think carefully.

A: No, I don't remember.

Q: You don't want to remember; either
you remember or you don't. Some
clothes were taken to the station in
a bag, lots of clothes?

A: Yes, sir.

10

Q: Toothpaste, toothbrush?

A: I don't remember toothpaste.

Q: Trousers and shirts and so on?

A: Yes, sir, I remember.

Q: You don't remember how that came to
the station?

A: When Constable Cole went into the
unfinished house, I believe he
brought some clothes from out of the
house.

20

Q: You believe?

A: Yes, sir.

Q: When you returned to the station,
how many travelling bags you saw
brought back by Constable Cole?

A: I remember seeing one.

Q: Only one?

A: Yes, sir.

Q: You are still stationed at Ferry?

A: Yes, sir.

30

Q: You didn't have any knowledge of
Constable Cole giving back some
clothes to the accused's brother in
a travelling bag?

In the Supreme
Court

No. 10
Delroy Shaw
Cross-
Examination
(cont'd)

A: No, sir.

Mr. Marcus: Anyway, you didn't see that man running with a travelling bag in his hand that day?

A: I don't remember seeing him with a bag, sir.

Q: And finally, sir, I am going to put it to you that what you have done, you have come to this Court and fabricate.....

10

A: No, sir.

Q:fabricate everything concerning this man running and how he got shot and that Constable Cole went into the bushes after him and you all went into the bushes, it is a complete fabrication.

A: No, sir.

Mr. Marcus: Thank you, sir.

Re-
examination

RE-EXAMINATION BY CROWN COUNSEL

20

Mr. Hamilton: Officer, it was suggested to you that Constable Cole jumped this gully, a half chain.

A: No, sir, he didn't jump.

Q: What is the terrain between both fences like? I believe you said it was four feet deep, what is the terrain at the end of this four feet, what is it made of?

A: Dirt, sir.

30

Q: In jumping from one fence over to the next fence, how did Constable Cole travel?

A: How did he travel, sir?

Q: Yes.

A: After jumping one fence, he run on the dirt and jump the other fence.

Mr. Hamilton: Thank you, sir.

His Lordship: Yes, thank you.

In the Supreme
Court

No. 10
Delroy Shaw
Re-
Examination
(cont'd)

No. 11

Evidence of Noel Douglas

No. 11
Noel
Douglas
Examination

NOEL DOUGLAS CALLED AND SWORN

11:00 a.m.

10 Mr. Marcus: I am sorry, sir, I just asked my friend if he had a statement from this witness. I got no statement from him, it is just recently has come into this; I got statements from all of them but none from this one, suddenly he is being brought into the picture.

20 Mr. Hamilton: I understand Mr. Marcus to have received all the statements in this matter. If, of course, Mr. Marcus is saying that he will be in any way prejudiced by the statement of this officer, I am hoping that Mr. Marcus will make a certain application.

Mr. Marcus: M'Lord, I will put it this way, at no time until today has this officer's name been mentioned concerning this case, I saw him here yesterday.

His Lordship: Having seen him yesterday, one would realise from what is being said that this officer would be called.

Mr. Marcus: I don't even know the link.

30 His Lordship: Having regard to what I have heard, obviously, he is the next man coming on duty and apparently he is going to say he didn't receive any gun from the accused man. What is the position then, would you like to be served the statement?

In the Supreme
Court

No. 11
Noel Douglas
Examination
(cont'd)

Mr. Marcus: I think M'Lord is reading it very right, if that be the case, I will have no objection at all.

His Lordship: If you are prejudiced in any way, you know what your rights are.

Mr. Marcus: It is all right, sir.

EXAMINATION-IN-CHIEF BY CROWN ATTORNEY

Mr. Hamilton: Is your name Noel Douglas?

A: Yes, sir.

Q: And you are a police constable? 10

A: Yes, sir.

Q: Attached to which station?

A: St. Ann's Bay Police Station in the Parish of St. Ann.

Q: Do you know one Constable Pharsingh?

A: Yes, sir.

Q: Do you know to which station he is attached?

A: Yes, sir.

Q: And that is? 20

A: St. Ann's Bay, sir.

Q: Do you recall, sir, the 6th of August, 1975?

A: Yes, sir.

Q: And were you on that day on duty at the St. Ann's Bay Police Station?

A: Yes, sir.

Q: What time did you come on duty, Officer?

A: 8:00 a.m. that said day, sir. 30

Q: On that day, Officer, your duties involved what, when you came on duty?

A: My duty was to relieve Constable Paharsingh who worked from 12:00 midnight, 8:00 a.m. to 6:00 p.m. as Station Officer.

Mr. Hamilton: And when you relieved Constable Paharsingh exactly what your relief of this Constable meant? What exactly had you to do before taking up duty?

10 A: Well, in taking over duty, my duty was to check all Government property.

Mr. Marcus: I am sorry, I get the impression that that is what you are supposed to do, he is not saying that he did it.

His Lordship: To check all Government property.

Mr. Hamilton: When you took over duty on that day, did you check all Government property?

A: Yes, sir.

20 Q: And from whom did you get that property to check?

A: Constable W.C. Paharsingh.

Q: And that Government property included handing over service revolvers?

A: Yes, sir.

Q: And you made notes at the time as to what revolvers you had received?

A: Yes, sir.

Q: Where did you make those notes?

30 A: The note was made in the station diary.

Q: Did you sign for those revolvers?

A: Yes, sir.

Q: Is it necessary for the Officer handing over to you to also sign this register?

In the Supreme
Court

No. 11
Noel Douglas
Examination
(cont'd)

- A: Yes, sir.
- His Lordship: What register?
- A: The station diary.
- Mr. Hamilton: Did Constable Paharsingh sign the register, the diary when he handed over to you?
- A: Yes, sir. 10
- Q: Does the number, 185176 mean anything to you?
- A: Yes, sir. 10
- Q: What does that number indicate to you?
- A: It means that it is a service revolver but that was not handed over to me, a service revolver belonging to the station.
- Mr. Hamilton: The position is, M'Lord, this Officer took over from Mr. Paharsingh. What the Crown seeks to establish is that this Officer did not - that when Mr. Paharsingh handed over duty to him, that particular weapon was not handed over. 20
- His Lordship: How long did you remain on duty? You took up duty at 8:00 a.m.
- A: At 12:00 midnight.
- Mr. Hamilton: When you were going on duty, did anybody hand any revolvers to you?
- A: No, sir.
- Q: Do you know the accused man, Mr. Stone? 30
- A: Yes, sir.
- Q: Did you see him at all when you were going on duty?

His Lordship: During the whole period that you were on duty from 8:00 o'clock until 12:00 midnight, did you see the accused man? In the Supreme Court

A: No, sir. No. 11
Noel Douglas
Examination
(cont'd)

His Lordship: You did not?

A: No, sir.

His Lordship: Did he hand you any firearm during that period?

10 A: No, sir.

His Lordship: In particular, revolver No. 185176. If anybody had handed you a revolver during that period, a policeman coming off duty, what would you do?

A: First I would make the relevant entry in the Firearm Register and also the condition the revolver return and sign my name to it in the Firearm Register and then make an entry in the Station Diary about the return of the firearm.

20 His Lordship: Show him - where is the Register? (Register shown to witness). Can you remember if you made any such entry in the Station Diary for that day?

A: About the said revolver?

His Lordship: About any revolver at all.

A: I cannot remember, sir.

30 His Lordship: You can't remember, you didn't check the entries in there? Since you became apprised of this matter you have not checked the Station Diary at all about any firearm?

A: No, sir.

(Register shown to witness)

His Lordship: You have the date there, 6th of August?

In the Supreme
Court

No. 11
Noel Douglas
Examination
(cont'd)

A: Yes, sir.

His Lordship: Entry No. 3.

A: Yes, sir.

His Lordship: Do you see any signature there that you know?

A: Yes, sir.

His Lordship: Whose?

A: I saw Constable Stone's signature, sir.

His Lordship: Do you know his signature? 10

A: Yes, sir.

His Lordship: What about Paharsingh, you also know his?

A: Yes, sir.

His Lordship: Is his signature there?

A: Yes, sir.

His Lordship: What I want to bring to your mind, look at the entries there about return of firearms, you see 68 and somebody's signature there as the person receiving the firearm and all those entries on the right hand side, do you know who made those entries? 20

A: No, sir.

His Lordship: Or whose signature it is?

A: No, sir.

His Lordship: What I gather you to be saying, Mr. Douglas, is that having regard to the system that operates at the station, if you had got back that particular revolver you would be the person to make the entries on the right hand side of the book there? 30

A: Yes, sir.

His Lordship: You said you did not get back this firearm from the accused? In the Supreme Court

A: No, sir. No. 11
Noel Douglas
Examination
(cont'd)

His Lordship: During the whole day you were on duty you did not get back that firearm?

A: No, sir.

CROSS-EXAMINATION OF MR. DOUGLAS BY Cross-
DEFENCE ATTORNEY 11:20 a.m. Examination

10 Mr. Marcus: Now, when did you first know that you are to come here to give evidence in this case?

A: I don't remember the time.

His Lordship: About two months ago?

A: About two months ago after the accused was arrested, sir, and then the Station Diary was taken by the Inspector, he said the statement was collected, I was informed that I would be required to come to court.

20

Mr. Marcus: How many times you have been to the Gun Court in connection with this case up here?

A: This is the third time, sir.

His Lordship: In connection with this case, is that what you said?

A: Yes, sir.

Mr. Marcus: In connection with this case you have been here three times?

30

A: Yes, sir.

Q: Speak the truth.

A: I am speaking the truth, sir, I say this is about the third time.

Q: Is it about or what? Twice you have been here, isn't it?

In the Supreme
Court

No. 11
Noel Douglas
Cross-
Examination
(cont'd)

- A: No, sir.
- Mr. Marcus: You worked from eight o'clock one morning to midnight, you alone on duty?
- A: I don't understand you, sir, would you please repeat?
- His Lordship: From eight o'clock in the morning till twelve o'clock in the night, we want to know if you were alone doing station guard duty during that period. 10
- A: Yes, sir.
- Mr. Marcus: How many men are at St. Ann's Bay Police Station?
- His Lordship: Now or then?
- Mr. Marcus: Then, sir. (To witness) Give us a rough idea, about how many were there then, at that time?
- A: Including the Special Constables, about 30, sir, but there are other duties to be performed, special duties. 20
- Q: You don't have Special Constables at your station that help in the station duty work?
- A: Not Station Guard, sir.
- His Lordship: Hold on, what has this got to do with it?
- Mr. Marcus: Very well. Mr. Douglas, you have only come here as a witness of convenience, you didn't work from eight o'clock till midnight that day, you did not? 30
- A: Yes, sir.
- Q: And you received no firearm from any of the policemen that day, nobody brought any firearm that day?

His Lordship: I think he said he can't remember. I think that is what he said, he can't remember because he has not checked the station diary since.

In the Supreme Court

No. 11
Noel Douglas
Cross-
Examination
(cont'd)

Mr. Marcus: If you received a firearm, would you make an entry in the register, not in the diary?

10 A: It would have to be made in the station diary and in the register, that is a must, sir.

Q: That is what I am putting to you that if you received a firearm, you would have to make an entry in the firearm register. As far as you know you made no entry in the firearm register that day, isn't that what you are saying, you made no entry at all in the firearm register for that day?

20 His Lordship: You remember, Officer?

A: I don't remember, sir.

His Lordship: Look in the book, you have the book there, you can refresh your memory from it, the 6th of August. (Witness looks through Register?)

A: No, sir.

Mr. Marcus: But you made entries in the station diary that day?

A: I would have to make entry.

30 Q: No, not would have to, did you? You made any up to midnight?

A: Yes, sir.

Q: And others made entries also in the station diary that day, other persons, many other persons?

A: I don't understand you, sir.

Q: You were not the only person who made entries in the diary that day, several others also made entries?

- A: Excuse me, when you say 'several others', including civilians from outside?
- His Lordship: No, policemen; civilians can't write in the diary.
- A: Yes, sir, the Inspector would have to certify the diary.
- Mr. Marcus: You know Woman Special Constable Steer?
- His Lordship: Mr. Marcus, can you do what you are doing? I have been allowing it because the diary has not been put in. If you are looking in it and using these entries to put questions, it can be put in because you are cross-examining from the document. 10
- Mr. Marcus: He having said that he was on duty that day and he was the person who took care of all things that means he would have handled the station diary, I am merely trying to test his credibility by looking if in fact he was the person for that day. 20
- His Lordship: Well, having looked at it, having said so, you are cross-examining from the document there and strictly speaking the document should be in evidence.
- Mr. Marcus: I would like to put it in.
- His Lordship: Very well, you would like to put the entries for that day? 30
- Mr. Marcus: Yes, sir, could I lay the foundation?
- His Lordship: Very well.
- Mr. Marcus: (To witness) You say you were doing station duty that day, that means you would be the person to make the entries in the station diary and the firearms register, is that so?

10

His Lordship: I don't know, I gather him to be saying, if you receive the firearm then you should make the entry in the firearms register and normally being a station guard he would make an entry in the station diary. It does not necessarily follow, that is what I gather, it does not necessarily follow because he is the station officer.

Mr. Marcus: That is exactly what I am trying to show.

His Lordship: He would also receive the firearm when it is returned, I don't know if he would agree with that, he has not been asked that yet.

20

Mr. Marcus: (To witness) Tell me something, you are not the only person who write in the station diary or at least for that day, you were not the only person who made entries in the station diary?

His Lordship: He said so already.

Mr. Marcus: Several other persons made entries in the station diary that day. Who wrote up these records?

His Lordship: Can you remember on this particular day if several other persons...?

A: I cannot recall, sir.

30

Mr. Marcus: Here is the diary, please have a look at it and tell us.

(Diary shown to witness)

That is the 6th of August, Are there several persons' handwriting in this diary, several persons for the 6th of August?

A: I saw three other persons otherwise from myself.

40

Q: And am I correct in saying that most of the entries for the 6th of August were made by Woman Special Constable Steer?

In the Supreme
Court

No. 11
Noel Douglas
Cross-
Examination
(cont'd)

- A: You are not correct, sir.
- Mr. Marcus: Who made the most entries? Look at this diary, who made the most entries for the 6th of August in that diary?
- A: I made the most entries.
- Q: You see where the 6th of August begins?
- A: Yes, sir.
- Q: Look from over that page, see where the 6th of August begins? 10
- A: I saw it, sir.
- Q: Are you the person who made the most entries on the 6th of August in this diary?
- A: Yes, sir.
- Q: How many entries you made for the 6th of August?
- A: I made 22 entries.
- Q: Your name appears every time you make an entry? 20
- A: Yes, sir.
- Q: Does your name also appear on an entry at 7:45 a.m. for that day?
- A: Yes, sir.
- Q: So you really didn't go to work at 8:00 a.m. then Mr. Douglas?
- His Lordship: He was there before that.
- A: It is usual that we sometimes relieve the other Constables before the normal time. 30
- Mr. Marcus: Yet you told the Court that you went at eight o'clock and you continued until midnight. Put it this way, Mr. Douglas, you really have come here to perjure your soul, just to perjure yourself.

A: I don't understand you when you say 'perjure'.

In the Supreme Court

His Lordship: You don't understand what is perjury - making two substantial statements on a matter on oath, that is perjury. Are you doing that?

No. 11
Noel Douglas
Cross-
Examination
(cont'd)

A: No, sir.

10

Q: I will actually put it to you that you were only brought here as a witness of convenience. No further questions.

His Lordship: Yes, Mr. Hamilton?

Mr. Hamilton: No re-examination of this witness.

His Lordship: Thank you, Officer.

Mr. Marcus: I am in a dilemma, M'Lord, I am trying to get the doctor.

His Lordship: I don't know what the position is, I have not heard from Mr. Hamilton.

20

Mr. Hamilton: The crown at this stage is closing the case.

Mr. Marcus: Could I ask your permission to try and get the doctor?

His Lordship: Alright, we will adjourn for ten minutes.

ON RESUMPTION AT 11:55 A.M.

No. 12

Evidence of Trevor Stone

Defence
Evidence

No. 12
Trevor Stone
Examination

30

Mr. Marcus: The Defence calls as its witness the accused himself.

TREVOR STONE SWORN

EXAMINATION-IN-CHIEF OF TREVOR STONE BY
DEFENCE ATTORNEY

In the Supreme
Court

Defence
Evidence

No. 12
Trevor Stone
Examination
(cont'd)

Mr. Marcus: What is your name?

A: Trevor Stone.

Q: How old are you?

A: 21 years old.

Q: And where do you live?

A: At Prospect in St. Elizabeth.

Q: In other words, that is your home?

A: Yes, sir.

Q: Now, what is your occupation?

A: A policeman, sir. 10

Q: Now, some time this year you were suspended from duty.

A: Yes, sir.

Q: Where were you then working or where were you then attached?

A: I was on suspension.

Q: Yes, but before suspension you were attached to which station?

A: St. Ann's Bay Police Station.

Q: And how long were you attached there before you were suspended? 20

A: Sixteen months, sir.

Q: That is, you were there from when?

A: Last year May, 20th of May.

Q: And you were suspended in what month this year?

A: February of this year.

Q: You remember the date, what date of February?

A: Saturday, the 7th of February. 30

Mr. Marcus: Can you tell us why you were suspended?

In the Supreme Court

A: I went on six leave, and I stayed twenty-four hours over the time.

Defence Evidence

Q: And when you went back someone said something to you; who was that someone who said something to you?

No. 12
Trevor Stone
Examination
(cont'd)

10

A: Inspector Jackson.

Q: Now, you have a brother living at Glade District?

A: Yes, sir.

Q: What is his name?

A: Cleveland Stone, sir.

Q: Have you ever visited that brother in Glade District?

A: Yes, sir.

20

Q: About how many times you visited that brother?

A: About three times, sir.

Q: You remember about when was the first time you visited him?

A: Sometime between last year October and November, sir.

Q: Were you then at this time attached to the St. Ann's Bay Police Station too?

A: Yes, sir.

30

Q: Did you again, after suspension at the St. Ann's Bay Police Station, visit your brother this year?

A: Yes, sir.

Q: You remember what date it was when you went to visit him?

In the Supreme
Court

Defence
Evidence

No. 12
Trevor Stone
Examination
(cont'd)

- A: Monday, the 16th of February, sir.
- Mr. Marcus: Now, how did you move from St. Ann's Bay to St. Catherine to visit your brother?
- A: I travelled in a service vehicle.
- Q: When you say 'service vehicle', is it a traffic polic service vehicle?
- A: Yes, sir, a police service vehicle.
- Q: Driven by who?
- A: Constable Thomas. 10
- Q: Of the St. Ann's Bay Police?
- A: Yes, sir,
- Q: In other words, he gave you a lift into Kingston?
- A: Yes, sir.
- Q: What day of the week was that?
- A: Monday, sir.
- Q: About what time that day you arrived in Glade District?
- His Lordship: Sorry, is this the visit of the 16th you are talking about? 20
- Mr. Marcus: Yes, sir, he said he visited the brother on the 16th.
- His Lordship: He is talking about the occasion when Constable Thomas gave him a lift.
- Mr. Marcus: Let me find out. You got the lift from Constable Thomas on what date?
- A: Monday, the 16th.
- Q: Where did he drop you off or where did he let you off? 30
- A: At the Ferry Police Station.

	Mr. Marcus:	And you took other form of transportation to Glade District?	In the Supreme Court
	A:	Yes, sir.	<u>Defence Evidence</u>
	Q:	Now, you sat in this court room and you heard much evidence concerning a certain incident that was supposed to have taken place on the 19th.	No. 12 Trevor Stone Examination (cont'd)
	A:	Yes, sir.	
10	Q:	Can you recall, Thursday, the 19th of February?	
	A:	Yes, sir.	
	Q:	Let us begin at the very start of the day. Where did you wake up that morning?	
	A:	At my brother's home at Glade District, sir.	
	Q:	When you woke up was your brother at home?	
	A:	Yes, sir.	
20	Q:	Did you have any conversation with your brother that morning?	
	A:	Yes, sir.	
	Q:	Concerning what?	
	A:	Transportation coming down from Glade to the main road, sir.	
	Q:	You wanted transportation that day?	
	A:	Yes, sir.	
	Q:	Why?	
30	A:	Because the journey is too far, it is about five miles from Glade to the main road.	
	Q:	So you had intended journeying that day?	
	A:	Yes, sir.	

Mr. Marcus: Journeying to where?

A: Through a back road.

Q: No. You had intended journeying
 that day, where you wanted to go?

A: To the Police Credit Union at
 Elletson Road, sir.

Q: Did you intend going any other place
 that day also?

A: Yes, sir.

Q: Where? 10

A: St. Ann's Bay, sir, the Police
 Station.

Q: You wanted that day to go to St.
 Ann's Bay Police Station also?

A: Yes, sir.

Q: To do what?

A: To find out the time I should resume
 duty, sir.

Q: I take it that you were not told
 when you were suspended what time
 you should return? 20

A: No, sir.

Q: Now, you said you discussed about
 transportation that day with your
 brother?

A: Yes, sir.

Q: Did he inform you of a way of
 getting to the main road?

A: Yes, sir.

Q: What did he tell you concerning how
 you could get to the main road? 30

A: He told me that instead of going
 around the road which is five miles,
 the main road, I could take the back
 road which is about three miles to
 the main road.

	Mr. Marcus:	Now, did you leave your home some time that day?	In the Supreme Court
	A:	Yes, sir.	<u>Defence Evidence</u>
	Q:	About what time you left your home?	No. 12
	A:	At about 10:30 A.M., sir.	Trevor Stone
	Q:	And when you left you had anything with you?	Examination (cont'd)
	A:	Yes, sir.	
	Q:	Tell us.	
10	A:	I had a travelling bag containing five pairs of trousers, a bank book, about three/four tins of black polish, Colgate toothpaste and toothbrush, sir.	
	Q:	Did you have any extra pair of shoes or so?	
	A:	Yes, sir, I had a pair of shoes in the bag also.	
20	Q:	Now, you journeyed from where your brother lives as you said in Glade, at about 10:30 you left?	
	A:	Yes, sir.	
	Q:	Now, did you take the back road?	
	A:	Yes, sir.	
	Q:	About what distance you had travelled along the back road when you first saw a jeep with policemen?	
	A:	About a half mile, sir.	
30	Q:	Now, tell us what happened while you were travelling along this back road and you saw this jeep. When you first saw the jeep how far away was it from you?	
	A:	About two chains, sir.	
	Q:	Now, you were walking at the time, walking along the back road.	

In the Supreme
Court

Defence
Evidence

No. 12
Trevor Stone
Examination
(cont'd)

- A: Yes, sir.
- Mr. Marcus: After seeing the jeep what next happened?
- A: I further observed, the jeep drove down at about three to four feet away from me.
- Q: In other words, came down in your direction?
- A: Yes, sir.
- Q: Was it driving fast or slow at the time when it came down beside you? 10
- A: It was driving fast.
- Q: What happened after it came down between three to four feet as you say from you?
- A: I saw four men alighted from the jeep, sir, one with a shotgun in his hand and another with a revolver.
- Q: The one with the revolver, you see that person, do you see the one with the revolver here today? 20
- A: Yes, sir.
- Q: Is that Constable Cole?
- A: Yes, sir.
- Q: Who came out of the vehicle first, can you remember?
- A: Constable Cole, sir.
- Q: And what did he do?
- A: He held me in the collar of my ganzie. 30
- His Lordship: Showing at the back, is that right?
- A: Yes, sir.
- His Lordship: Back of neck?

	A:	Yes, sir, and shot me in both thighs, in the upper legs.	In the Supreme Court
	Mr. Marcus:	Now, did this happen very quickly?	<u>Defence Evidence</u>
	A:	Yes, sir.	No. 12
	Q:	Comes out of the jeep, grabs you, at the same time as he grabs you...	Trevor Stone Examination (cont'd)
	His Lordship:	Mr. Marcus, please let the witness give the evidence.	
10	Mr. Marcus:	In other words, did he say anything to you before he did this?	
	A:	No, sir.	
	Q:	He didn't say anything?	
	A:	No, sir.	
	Q:	You realised, you felt when you were shot?	
	A:	Yes, sir.	
	Q:	You felt both legs pain?	
	A:	Yes, sir.	
20	Q:	Now, you have heard evidence that when the jeep ran down on you that you ran into some bushes, jumped two wire fences - two persons said that - is that so, is that true?	
	A:	No, sir, it is not true, sir.	
	Q:	Did you run at all that day?	
	A:	No, sir.	
	Q:	Never run?	
	A:	No, sir.	
30	Q:	In other words, where the jeep stopped, was it still on the road, on the back road?	
	A:	Yes, sir.	

Mr. Marcus: And when you were held by Constable Cole, was it still on the road?

A: Yes, sir.

Q: Now, after you were shot, what happened?

A: I was taken into the police vehicle.

Q: By this time did Constable Cole say anything?

A: He said, 'Yes, yes, a you rob the people them nuh'.

Q: Did you reply to him when he said that, did you say something to him?

A: I said, "It is not me Officer, I am a policeman also."

Q: When you said that did he say anything or do anything?

A: He took me into the jeep.

His Lordship: The question is, did he say anything or do anything, that is the question.

A: He drove the jeep away.

His Lordship: So he didn't say anything then?

A: No, sir.

Mr. Marcus: Did you hear any of the other persons who were with Constable Cole say anything?

A: Yes, sir.

Q: Who said what?

A: I heard Rocky.....

Q: The little boy?

A: Yes, sir, - said, 'Yes, Officer, it resemble him, him did have on dark glasses'.

10

20

30

	Mr. Marcus:	At the time when you were held by Constable Cole, did you have on dark glasses?	In the Supreme Court
	A:	No, sir.	<u>Defence Evidence</u>
	Q:	Then how were you dressed?	No. 12
	A:	I was in a pair of green trousers, a green ganzie, a black pair of shoes.	Trevor Stone Examination (cont'd)
10	Q:	Were you taken up to your brother's home that same day?	
	A:	Yes, sir.	
	Q:	When you were taken there what took place there?	
	A:	Constable Cole and Constable Shaw, Mr. Lansdale Wilson and Rocky, they all came out of the jeep, sir, and went over to my brother's house, sir.	
	Q:	In other words, you were left in the jeep?	
20	A:	Yes, sir.	
	Q:	Were you handcuffed?	
	A:	No, sir.	
	Q:	Could you move your legs then?	
	A:	No, sir.	
	Q:	And were you bleeding?	
	A:	Yes, sir.	
	Q:	Badly?	
	A:	Yes, sir.	
	Q:	From both legs?	
30	A:	Yes, sir.	
	Q:	So about how long they stayed in your brother's house?	

In the Supreme
Court

Defence
Evidence

No. 12
Trevor Stone
Examination
(cont'd)

- A: About five to ten minutes, sir.
- Mr. Marcus: All of them?
- A: Yes, sir.
- Q: And when they returned did any one of them say anything to you? Did any of them say anything to you on returning from your Brother's house to the jeep?
- A: No, sir.
- Q: Tell us about how far would you say is the distance from where your brother's house is in Glade to the little church school at the bottom of the road where the lady Miss Brown claim she teaches? 10
- A: It is about one mile, sir.
- Q: Now, did the police officer charge you that day, charge you for offences?
- A: No, sir. 20
- Q: You see, the police officer says, Constable Cole, that after he held you and he claims it was a chase, he said he cautioned you that day and you said you think a Busha that is why you run, is that so?
- A: No, sir.
- His Lordship: You never said that?
- A: No, sir.
- Mr. Marcus: Now, from Glade, that is after you went to your Brother's house, where next were you taken? 30
- A: The Ferry Police Station, sir.
- Q: And how long did you stay there?
- A: About half an hour, sir.
- Q: Where you then still bleeding?

	A:	Yes, sir.	In the Supreme Court
	Mr. Marcus:	And from Ferry you were taken where?	<u>Defence Evidence</u>
	A:	To the Spanish Town Hospital, sir.	No. 12
	Q:	Where you spent how many days?	Trevor Stone Examination
	A:	Eight days, sir.	(cont'd)
10	Q:	I wonder if you can use both hands to indicate the very section of your thigh, that is, point to where you got both shots. Use your fingers so that the Judge can see. You are actually putting your fingers on the wounds there now?	
	A:	Yes, sir. (Indicating upper section of thigh)	
	Q:	To the side of your legs, both legs?	
	A:	Yes, sir.	
20	Q:	Now, you heard the lady by the name of Dorothy Brown I think, gave evidence in this court room yesterday.	
	A:	Yes, sir.	
	Q:	She said that she had known you for years. Do you know that lady?	
	A:	No, sir.	
	Q:	Have you ever had any conversation with that lady?	
	A:	No, sir.	
	Q:	Can you remember having any conversation at all with that lady?	
30	A:	No, sir, I can't remember having any conversation with her, sir.	
	Q:	Now, as you have heard, evidence has been given in this case that you were the person who held up and robbed a van with its occupants, Lansdale Wilson and Rocky Russell, is that true?	

In the Supreme
Court

Defence
Evidence

No. 12
Trevor Stone
Examination
(cont'd)

- A: No, sir.
- Mr. Marcus: Tell me something, when was the first time you passed on that road that day?
- His Lordship: Which of them?
- Mr. Marcus: The main road, Glade main road.
- A: At about 10:30 to 11:00 o'clock, sir.
- His Lordship: When you were going, in other words, the first time you were going on that section? 10
- Mr. Marcus: When was the first time on that day that you travelled along that road?
- His Lordship: I gather that it is when he is on the back road that that is the first time.
- Mr. Marcus: He actually used the main road. When was the first time that day that you passed along, whether back road or main road then?
- A: Between 10:30 and 11:00 o'clock, sir. 20
- His Lordship: When you are leaving your home and going through the short cut to go to get to the main road, this is what I gather he is saying.
- Mr. Marcus: Oh yes, that is what I meant too. (To witness) Now, you worked at St. Ann's Bay Police Station as you said between May and February this year.
- A: Yes, sir.
- Q: You heard the police officer speak of a gun which they say was handed to you on the 6th of August last year when you were supposed to go out to a particular place of enquiry. Did you hand in back that firearm? 30
- A: Yes, sir.
- Q: You did?

A: Yes, sir.

Mr. Marcus: When was it you handed back the
firearm, that particular firearm
that we are speaking of?

A: On the 6th of August of last year,
sir.

Q: Can you recall who you handed the
firearm to?

A: No, sir.

10 Q: Since you have been working there
have you been handed firearms more
than once, more than twice?

A: Yes, sir, nearly every day.

Q: Nearly every day you are handed a
firearm to use on your duty?

A: Yes, sir.

Q: Tell us some of the duties that you
sometimes perform while stationed at
St. Ann's Bay?

20 A: Station Guard duty, sir, Beat Duty.

Q: Sometimes day or night or what?

A: Both day and night.

Q: Beat Duty would mean going out on the
street and patrolling, is that what
it means?

A: Walking along the main street of
the town, sir.

30 Q: And sometimes you would also journey
to farther places, districts on
enquiries and so?

A: Yes, sir.

Q: Like as it was mentioned, Lime Hall?

A: Yes, sir.

Q: You have ever been to Brown's Town?

In the Supreme Court

Defence Evidence

No. 12
Trevor Stone
Examination
(cont'd)

- A: Yes, sir.
- Mr. Marcus: In fact, do you remember when it was that you went to Brown's Town.
- A: It was some time in January, sir.
- Q: What was the purpose of your journey to Brown's Town in January?
- A: I went on special duties to a meeting at Brown's Town, sir, when Mr. Bertram got the seat in the House, when he won the seat. 10
- Q: In other words, political business?
- A: Yes, sir.
- His Lordship: When Mr. Bertram won his seat, is that what you say?
- A: Yes, sir.
- Mr. Marcus: What was that, a political meeting you went to?
- A: Yes, sir.
- Q: You went with other police officers?
- A: Yes, sir. 20
- Q: You remember who you went with?
- A: Yes, sir.
- Q: Please tell us.
- A: Inspector Jackson.
- Q: Yes, is that the gentleman sitting at the back of the room there?
- A: Yes, sir, Constable Johnson, Constable Robertson, Constable Beckford.
- Q: And you were handed a firearm on that duty that you went on? 30
- A: Yes, sir.

Mr. Marcus: Since the 6th of August, see if you can recall roughly how many times you have been handed firearms to take out.

In the Supreme Court

Defence Evidence

His Lordship: Well, I gather he is saying that almost every day, nearly every day he is handed a firearm.

No. 12
Trevor Stone
Examination
(cont'd)

10 Mr. Marcus: Thank you, sir.
(To witness) Has anyone ever asked you for the return of a firearm?

A: No, sir.

Q: Who was the person who told you that you were suspended?

A: Supreintendent Kirlew, sir.

Q: He is the person in charge of the St. Ann's Bay Police Station or St. Ann's Bay Police?

A: Yes, sir, he is in charge of the St. Ann Division.

20 Q: Before you spoke to Superintendent Kirlew, did another officer also speak to you, that is, a gazetted officer?

A: An Inspector of Police.

His Lordship: An Inspector is not gazetted, is he?

Mr. Marcus: Yes, sir.

30 His Lordship: Gazetted Officer is from Assistant Superintendent, an Inspector is regarded as a Sub-Officer - he spoke to an Inspector then.

Mr. Marcus: You spoke to an Inspector that day, who was it?

A: Inspector Jackson.

His Lordship: That is before you spoke to Kirlew?

A: Yes, sir.

In the Supreme Court

Defence Evidence

No. 12
Trevor Stone
Examination
(cont'd)

Mr. Marcus: Did Inspector Jackson ever make a request of you concerning a firearm or firearms?

A: No, sir.

Q: Did Constable Paharsingh ever approach you concerning any firearm?

A: No, sir.

Q: From you have been at St. Ann's Bay Station?

A: No, sir. 10

Q: And Inspector Jackson never asked you about the firearm neither?

A: No, sir.

Q: Have you ever taken a firearm out on duty and not returned it?

A: No, sir.

Q: Tell us what would happen to you if you had taken a firearm out and not return it when you come back off duty, what would happen? 20

A: I would lose the job or something like that, sir.

Q: Certainly you would expect to be asked about it?

His Lordship: Hold on, please let the witness give the evidence.

Mr. Marcus: Now tell me something, were you ever reprimanded or scolded or spoken to concerning the return of a firearm?

A: No, sir. 30

Q: And Constable Cole says that on the day when he held you, that you fired at him with a revolver.

His Lordship: No, I don't think Cole is saying that. Cole is saying that he is running and he fires at him, but you are putting when Cole held him. There is no such holding in the Crown's case at all.

In the Supreme Court

Defence Evidence

No. 12
Trevor Stone
Examination
(cont'd)

Mr. Marcus: When I said 'held' I mean 'apprehend'.

10 His Lordship: You have to be careful what you say. You are putting part of your case along with what the Crown has said.

Mr. Marcus: I mean 'apprehend' when I use the word 'held', the day when he was apprehended. (To witness) Now, on the day you were apprehended, Constable Cole said you shot at him, is that true?

A: No, sir.

Q: And did you rob anyone of money that day?

20 A: No, sir.

Q: Specifically Lansdale Wilson?

A: No, sir.

Q: And did you have any firearm?

A: No, sir.

Q: Tell me, sir, would you rob anyone with a gun?

His Lordship: What is the meaning of that question?

Mr. Marcus: Much obliged, sir, I will leave it at that.

30 CROSS-EXAMINATION OF TREVOR STONE
BY CROWN ATTORNEY 12:35 p.m.

Cross- Examination

Mr. Hamilton: Mr. Stone, you said that round about the month of August you were on sick leave.

His Lordship: August, he never said that; he came back from sick leave and he was suspended.

In the Supreme Court

Defence Evidence

No. 12
Trevor Stone
Cross-
Examination
(cont'd)

Mr. Hamilton: When were you sick?

A: On the 29th of January.

Q: That is 1975 or 1976?

His Lordship: 1976?

A: Yes, sir.

Mr. Hamilton: Now, you know Constable Paharsingh?

A: Yes, sir.

Q: Isn't it a fact that you were issued with a firearm on the 6th of August, 1975, Constable Paharsingh issued you a firearm?

10

A: Yes, sir.

Q: And this was about 6:30 on the 6th of August?

A: Yes, sir.

Q: Now, when you took that firearm where did you go?

A: I went to Lime Hall District on enquiry, sir.

Q: Did you ever return to the police station on the 6th of August, 1975?

20

A: Yes, sir.

Q: What time did you return?

A: At about 8:30 a.m. sir.

Q: When you returned who was the officer on duty?

His Lordship: Here again - you have to define what you mean by 'officer'.

Mr. Hamilton: Who was on Guard Duty, was there an officer on Guard Duty?

30

A: Yes, sir.

Q: Who was the officer?

A: Constable Douglas, sir.

His Lordship: You put the term 'Guard Duty', you mean Station Guard Duty? You agree with that?

A: Yes, sir.

Mr. Hamilton: Now, did you return that firearm?

A: Yes, sir.

Q: To whom did you return the firearm?

A: A policeman in the guard room, sir.

10 Q: Do you recall the name of that policeman?

His Lordship: He does not know.

Mr. Hamilton: Now tell me, would you accept Constable, that it is standard police practice.....

His Lordship: Well, do you know?

Mr. Hamilton: Do you know the standard police practice in relation to the return of firearms once they have been issued?

20

A: Yes, sir.

Q: Would you accept that the standard practice is for you, when you return the firearm, to return it to the Station Guard?

A: Yes, sir.

Q: And that it is also standard practice for that Constable to sign the Register for the receipt of that firearm?

30

A: Yes, sir.

His Lordship: In the Firearms Register, is that right, you know that?

A: Yes, sir.

In the Supreme Court

Defence Evidence

No. 12
Trevor Stone
Cross-
Examination
(cont'd)

His Lordship: And also to enter the return of it in the Station Diary?

A: Yes, sir.

Mr. Hamilton: Now, you say that Constable Douglas was on duty when you returned?

A: Yes, sir, he was on Station Officer Duty, sir.

Q: Why then did you not return the firearm to Constable Douglas?

A: He was the Station Officer, sir. 10

His Lordship: Why didn't you return the firearm to him, that is the question you are being asked.

A: Because he was not the Station Guard, sir.

His Lordship: Let me see if I can understand you correctly. Do you mean to tell me that he is the person in charge of the station at that time. Is that what you mean when you say the Station Officer? 20

A: Yes, sir, he supervises the Station Guard, sir.

Mr. Hamilton: Who then would have been the person for you normally to have returned that firearm to when you came?

A: The Station Guard.

His Lordship: Who, you are being asked, is the Station Guard?

A: I don't remember, sir. 30

His Lordship: In other words, let me see if I understand. You are saying that you returned the firearm to the Station Guard but you don't remember who it is.

A: Yes, sir.

Mr. Hamilton: How long have you been a police officer?

A: Eighteen months, sir.

Mr. Hamilton: Let me suggest to you at this stage that the reason why you can't remember who you returned that firearm to is that you did not return the firearm.

A: Yes, sir, I returned it, sir.

Q: Now, you say you have a brother in Glade District.

10

A: Yes, sir.

Q: Now, can you recall what day you went to Glade, the day of the week?

His Lordship: Which of them are you talking about?

Mr. Hamilton: You remember the 19th of February this year?

A: Yes, sir.

Q: On the 19th of February this year can you recall exactly where you were on that day?

20

His Lordship: He has told you. He got up in the morning, his brother is there, he speaks to the brother about transportation, then the brother tells him about a short cut and he is walking along the short cut when the police shot him, that is his evidence.

Mr. Hamilton: When you left your brother's home, did you leave your brother there?

30

A: No, sir.

His Lordship: What time had he left?

A: About 10:30 a.m.

His Lordship: He had left at 10:30, when did he leave the home?

A: About 8:00 a.m. sir.

His Lordship: Were you alone at the home there then?

In the Supreme
Court

Defence
Evidence

No. 12
Trevor Stone
Cross-
Examination
(cont'd)

- A: Yes, sir.
- Mr. Hamilton: Your brother lives alone?
- A: Yes, sir.
- Q: I believe you said it was your intention to go to Elletson Road and thence to St. Ann.
- A: Yes, sir.
- Q: Did you intend to go to any other place other than St. Ann or you intended to return to Glade? 10
- His Lordship: When?
- Mr. Hamilton: He said when he started out he wanted to go to Elletson Road and then to St. Ann's Bay.
(To witness) Having gone to St. Ann' you intended to remain there or return to Glade?
- A: I intended to remain there, sir.
- Q: Have you got a home in St. Ann? 20
- A: No, sir.
- Q: Where did you intend to stay?
- A: At a friend's home.
- Q: And this friend's home is where?
- A: In St. Ann's Bay, sir.
- Q: Any particular place in St. Ann's Bay?
- A: Yes, sir.
- Q: Where is that?
- A: 21 Musgrave Street, sir.
- Q: And the name of your friend is? 30
- A: Winsome Reynolds.
- Q: This bag that you had you said you had five pants in it, did you have any shirts in there?

	A:	No, sir.	In the Supreme Court
	Mr. Hamilton:	About how long you intended to stay in St. Ann?	<u>Defence Evidence</u>
	A:	Four/five days, sir.	No. 12 Trevor Stone
	Q:	And you didn't take any shirts with you?	Cross- Examination (cont'd)
	A:	No, sir.	
	Q:	Did you intend to change your shirt?	
	A:	Yes, sir.	
10	Q:	How did you propose to get a change of apparel?	
	A:	Yes, sir.	
	Q:	How did you propose to get a shirt?	
	A:	At Sani-Kleeners Laundry in St. Ann's Bay, sir, and at the police station.	
	Q:	I believe you said you were suspended from duty somewhere about the 7th of February.	
	A:	Yes, sir.	
20	Q:	Did you not on that occasion remove your belongings from the station?	
	A:	No, sir.	
	Q:	And on that day were you in possession of a firearm?	
	His Lordship:	When?	
	Mr. Hamilton:	On the 7th, when you were suspended.	
	A:	No, sir.	
30	Q:	Isn't it a requirement that when you are suspended you hand over police property? Did you hand over everything?	
	His Lordship:	Well, you have not given him a chance to answer the question.	

In the Supreme
Court

Defence
Evidence

No. 12
Trevor Stone
Cross-
Examination
(cont'd)

Mr. Hamilton: Isn't it a requirement that you hand over all property belonging to the Government Department that you have in your possession?

A: No, sir, I was not told to hand over all of them, sir.

Q: I believe it is your evidence that you were not told for how long you were being suspended.

A: No, sir.

10

Q: Why then did you not take your personal belongings?

A: I was told by Corporal Francis.....

Q: Please answer the question.

His Lordship: He is answering, give him a chance. Corporal Francis told you what?

A: That I can leave the rest of my clothes and the police uniform in the room, sir, and any time I have the time I could check at the station to see when I am to continue my duty, sir.

20

Mr. Hamilton: Now the primary purpose of your trip to St. Ann was to ascertain whether you were to come back on duty or not?

A: Yes, sir, to find out when I should resume duty, sir.

Q: Did you go to Elletson Road that morning?

His Lordship: He got caught before, he didn't go anywhere, the police shot him, this is the case, he didn't go anywhere at all.

30

Mr. Hamilton: Tell me, you are familiar with the district itself, Glade, that is, do you go down in the centre of the district when you visit Glade?

A: No, sir.

	His Lordship:	You are not familiar with the district?	In the Supreme Court
	A:	No, sir.	<u>Defence Evidence</u>
	Mr. Hamilton:	When you go to Glade, did you ever speak to anybody other than your brother?	No. 12 Trevor Stone Cross-Examination (cont'd)
	A:	Yes, sir.	
	Q:	Who you spoke with?	
	A:	A shopkeeper, Mrs. Melhado, sir.	
10	Q:	And she lives where?	
	A:	At Glade District, sir.	
	Q:	And her shop is where?	
	A:	At Glade District.	
	Q:	That is in the centre of the town or outside?	
	A:	In the centre.	
	Q:	And apart from the shopkeeper did you speak with anybody else?	
	A:	My brother, sir.	
20	Q:	Just the shopkeeper and your brother?	
	A:	Yes, sir.	
	Q:	Now, do you socialise in the town at all when you go there, move about, go to parties?	
	A:	No, sir.	
	Q:	So apart from going to the shop you stay indoors at all times when you go there?	
30	A:	Yes, sir, help my brother around the home.	
	Q:	Doing what?	

In the Supreme Court

Defence Evidence

No. 12
Trevor Stone
Cross-
Examination
(cont'd)

A: He is building his house and I help him to move stones and things from round the house.

His Lordship: Move stones and what?

A: And Rubbish and things.

Mr. Hamilton: You have any idea when your brother started building this house?

A: He told me that it is sometime last year, sir, early last year.

Q: How many times have you assisted your brother when you come up to Glade? How many times have you assisted him around the house? 10

A: Three times, sir.

Q: You know the school at Glade?

His Lordship: Which school now? You are talking about the basic school?

Mr. Hamilton: The basic school.

A: No, sir.

His Lordship: Is it the same school your Counsel asked you about, the church school? 20

A: Yes, sir.

Mr. Hamilton: You know the lady who teaches at that school?

A: No, sir.

Q: Have you ever seen that lady before the time you saw her in court here?

A: No, sir.

His Lordship: You never saw Miss Brown before until you saw her in court here?

A: Never saw her before I saw her in court, sir. 30

Mr. Hamilton: Miss Brown tells us that she knows you for the better part of three years.

	His Lordship:	He has already says so, he says he does not know her.	In the Supreme Court
	Mr. Hamilton:	She says she saw you the morning of the 19th of February this year, that she saw you putting a barricade across the main road, a gate, isn't that true?	<u>Defence Evidence</u>
	A:	No, sir.	No. 12 Trevor Stone Cross-Examination (cont'd)
10	Q:	That in addition you put two stones across the roadway, true or false?	
	A:	False, sir.	
	Q:	She says also that she saw a van coming on the road and she saw you with a gun, that you fired it, isn't it true that you had a gun that day?	
	A:	No, sir.	
20	Q:	And that she saw the van stop and you went up to the van and the man gave you something, the man in the van. Did you take anything from a man that day?	
	A:	No, sir.	
	Q:	She says she also heard you speak.	
	His Lordship:	Let me put it this way, Mr. Hamilton, are you going to go through every detail that she said? The accused man is denying that he held up any van man at all.	
30	Mr. Hamilton:	No, M'Lord, I am going to put my case to him.	
	His Lordship:	You have put it already, your case is that he held up the van and robbed it and he says 'No, I didn't!'	
	Mr. Hamilton:	I am also suggesting to you, sir, that it is not true when you say Constable Cole held you in your neck back and shot you.	
	A:	Yes, sir, it is true, sir.	

In the Supreme Court

Defence Evidence

No. 12
Trevor Stone
Cross-
Examination
(cont'd)

Mr. Hamilton: I am suggesting to you that on the approach of the police vehicle you ran, that you jumped two fences, took a revolver from your waist and you fired at Constable Cole.

A: No, sir.

Q: And that Constable Cole returned the fire and that is how you got shot.

A: No, sir, that is not how I got shot, sir.

10

Q: You say that in the presence of Constable Shaw you said you run because you think it was the Busha.

A: No, sir.

His Lordship: Just one moment. Mr. Stone, did you know Constable Shaw or Constable Cole before the day you saw them?

A: No, sir.

His Lordship: I gather from your evidence that you did not know Miss Brown until you saw her in the witness box, that is the first time you are seeing her when she came into the witness box.

20

A: Yes, sir.

Mr. Hamilton: Now, the suggestion has been put that the officers from St. Ann probably went and put the gun up there. Have you and the officers from St. Ann's Bay ever had any fuss?

30

A: Yes, sir.

Q: Who?

A: Constable Douglas.

Q: Constable Douglas and yourself had a fuss?

A: Yes, sir.

Q: About?

	A:	About reporting sick, sir.	In the Supreme Court
	Mr. Hamilton:	About your reporting sick?	<u>Defence</u> <u>Evidence</u>
	A:	Yes, sir.	No. 12
	Q:	When was this?	Trevor Stone
	A:	The last week in January, sir.	Cross- Examination
	Q:	Anybody else? What about Mr. Paharsingh?	(cont'd)
	A:	No, sir.	
	Q:	You and him never had anything?	
10	A:	No, sir.	
	Q:	So let me see then, apart from Constable Douglas, have you ever had any fuss with any other Constable at the station or with the officers or anybody?	
	A:	Yes, sir.	
	Q:	Who?	
	A:	Constable Thompson, sir.	
20	Q:	Which Thompson is that now? Has he come to court here?	
	A:	No, sir, but I saw him outside since morning.	
	Q:	Thompson and yourself had a fuss also?	
	A:	Yes, sir, about a gold ring.	
	Q:	Anybody else?	
	A:	No, sir, I can't remember.	
30	Q:	At the time when you got this revolver from Mr. Paharsingh, did you also get 12 rounds of thirty-eight cartridges?	
	A:	Yes, sir.	

In the Supreme Court

Defence Evidence

No. 12
Trevor Stone
Cross-
Examination
(cont'd)

Mr. Hamilton: You returned that also, I take it, at the time you returned the firearm?

A: Yes, sir.

Q: Just show him that firearm please. (Firearm shown to witness) Do you know that revolver?

A: No, sir.

Q: Do you know the number of the gun that you got that day from Constable Paharsingh?

10

A: I don't remember, sir.

Q: You don't remember?

A: No, sir.

Q: But you do know that when firearms are being given out they are entered in the Register, the serial number is put in it?

A: Yes, sir.

Q: And you signed as receiving that one?

A: Yes, sir.

20

Q: Show him the exhibit please, the Firearms Register. You see Entry No. 3 there, 6th of August?

A: Yes, sir.

Q: You signed for that firearm?

A: Yes, sir.

Q: And the number was?

A: 185176.

Q: Did you check the firearm to see if that was the number?

30

A: Yes, sir.

Q: And was it?

A: Yes, sir.

Mr. Hamilton: Now, whose signature are you saying that is in that book as having received the gun from you?

A: Constable Richards.

Q: Is that so?

A: The signature resembles Constable Richards' own.

10

Q: When were you first aware that you were being accused in relation to this firearm?

A: At the Spanish Town lock-up.

Q: At the Spanish Town lock-up you were being accused. What was told to you about the firearm?

A: I was told by Constable Cole one evening, sir, when he came to me.

Q: What did he say about the firearm, this firearm here?

20

A: "Yes, yes, we find the gun though".

Q: That is all?

A: Yes, sir.

Q: Do you know what firearm he was talking about?

A: No, sir.

Q: Do you know that the onus is on you when you take a firearm out that it should be returned?

A: Yes, sir.

30

Q: Did you stop to see that the entry is made in the Firearms Register or in the Diary, do you know that the entry must be made?

A: Sometimes, sir.

In the Supreme Court

Defence Evidence

No. 12
Trevor Stone
Cross-Examination
(cont'd)

Mr. Hamilton: No, I am talking about this particular one, did you take any steps at all to see that the entries were made?

A: No, sir.

Mr. Marcus: I would just like to ask him about two or three questions in re-examination (To witness) Tell us, Mr. Stone, is it normal that the person who brings in back the firearm stays there and sees that the entry is made or usually he hands it in the office and goes about this business, isn't that the usual case?

10

A: Yes, sir.

Q: Now, on the day that you were suspended.....

His Lordship: 7th of February?

Mr. Marcus: Yes, sir, this year - did you have a serious conversation with Inspector Jackson?

20

A: Yes, sir.

Q: Tell the court what that conversation was about, tell the court what he said, Inspector Jackson.

A: At about 8:00 a.m.....

His Lordship: What does this arise out of?

Mr. Marcus: Out of the questions which you had put to him in relation to trying to find if there were persons who him and they must have had something. I think, sir, his explanation will show to the court perhaps the exact thing what the court was trying to find out.

30

His Lordship: Inspector Jackson is saying this to you?

Mr. Marcus: You tell the court.

A: At 8:00 a.m. Inspector Jackson came to my room and told me to get dressed in my uniform and go with him to the Officers' Department, sir. I got dressed in my uniform and went with him.

In the Supreme Court

Defence Evidence

No. 12
Trevor Stone

Re-
Examination
(cont'd)

His Lordship: What did he say to you?

A: He said, "You overstayed the time Trevor Stone". He said to me, "You don't resemble a policeman to me anyhow and it don't look like you can manage the Force either".

10

Mr. Marcus: Were those the words he said to you?

A: Yes, sir.

Mr. Marcus: Thank you, sir. The Defence closes its case.

His Lordship: I thought you were making efforts to get Dr. Saunders.

Mr. Marcus: I did make some effort.

20

His Lordship: What is your position now? If you want him now let me know.

Mr. Marcus: I have taken the decision to close.

His Lordship: Very well. Would 2:15 p.m. be suitable?

Mr. Marcus: Yes, sir.

ON RESUMPTION AT 2.15 p.m.

CLOSING ADDRESS BY CROWN ATTORNEY (2.15 p.m.)

CLOSING ADDRESS BY DEFENCE ATTORNEY (2.45 p.m.)

No. 13

No. 13
Summing-Up,
Verdicts and
Sentences
11th May 1976.

30

Summing-Up, Verdicts and Sentences

His Lordship: The accused Trevor Stone is charged on indictment, first count charges him with

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Court

No. 13
Summing-Up,
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(cont'd)

illegal possession of firearm on the 19th of February this year; the second count charges him with robbery with aggravation of Lansdale Wilson of cash on the same day whilst he was armed with a firearm; the third count charges him with shooting at Constable Keith Cole with intent to do him grievous bodily harm on the 19th of February. Insofar as the actual robbery is concerned, the Crown called three witnesses, Mr. Lansdale Wilson, Mr. Rocky Russell and this witness, Miss Dorothy Brown. The story as given by these witnesses is as one would expect. In certain aspects they differ but this is quite natural among persons who are giving an account of what they saw. There are a number of discrepancies in between what Mr. Wilson and what Mr. Russell said insofar as the actual intent of robbery is concerned. This is what they are saying, Mr. Wilson is driving this van, running from the district of Glade, he says he saw stones and a gate across the road, he stopped. He says he is about to reverse when he sees a man coming from the right hand side of the vehicle and whom he identified as being the accused man. This man had a gun and discharged shots in his direction, ran to the vehicle, demanded money and he gave it to him, which money belonged to his employer. He doesn't mention that this accused man removed the gate from out of the road at all. Thereafter the man is telling him to drive and he drove away, there he hears one shot being fired.

10

20

30

When it comes to Russell's evidence he is on the left side of the vehicle, there is this gate in front of it and he is standing somewhere around the fender when he heard the first shot, he ducked down and one can well understand him doing something like that. He ducks, he sees this man then coming from the right hand side of the vehicle and again he even differs from Russell there. There again he sees the accused man behind the driver and money is handed over, he can't say exactly wherefrom the money is taken. One can see slight differences in account here and there are many more differences when it comes to what happened subsequently and I will perhaps deal with those too.

40

Now, insofar as Mr. Wilson is concerned, this accused man wasn't wearing glasses at all,

50

10 had nothing covering his face so naturally
he would mainly be able to see the accused
man's face. Mr. Russell at first seemed to
have been uncertain whether this accused
man had anything at all as disguise but he
pointed out, he admitted later on in cross-
examination that he may have told the police
this accused man was wearing what is called
mafia glasses, I presume huge dark glasses
people wearing around these days, he wasn't
so sure but he thought this accused man was
wearing mafia glasses. Also, Mr. Wilson
hasn't mentioned anything about glasses,
indeed I think he denied that the accused man
was wearing glasses at all. Here again, Mr.
Wilson doesn't remember any gloves.

20 When we come to the evidence of Miss Brown,
her evidence that she knew this accused man
before, she had spoken to him on several
occasions; she said at first she knew of him
four or seven years before; she said in her
statement she knew of him seventeen months
before, this is something she clarified. She
said she knew of him seventeen months since
he has been a policeman and she said she had
seen him quite often, she puts it as once a
month, perhaps it is a slight exaggeration.
I accept she has seen him several times
30 before, he has spoken to her and she to him
as she says. She is at the basic school which
she puts it very near to the accused man.
He is drawing away - she puts it as being five
yards from the school gate that the accused
man is drawing this gate, putting it across
the road, getting stones to block the road,
the van had gone up to the district of Glade
and she is somewhere in the school building
looking out and when she sees him blocking
the road she had gone back, looking out every
40 five minutes to see what happened. The van
is coming back four or five minutes, coming
down to the barrier he erected in the road.
The driver is about to reverse, the accused
man goes up with this gun, fires a shot
first of all and then he is going to the
side of the van, beside the driver, who
hands the accused man something, she can't
say what it is. Thereafter the accused is
telling him to drive and the van is driving
50 off and afterwards she hears about two other
shots. She is so terrified by this

experience, she jumped through the window of the school. Later she is closing up the school and not having any school. She is so terrified that she goes along with the children to the square in Glade. Approximately an hour later, according to her she sees the police bringing the accused man there. She is knowing Constable Cole for the first time on that day. She tells Constable Cole in the presence of the accused that the accused was the man who had robbed the van.

10

Now, I am being asked to discard this lady's evidence, I am afraid I cannot, I accept what she is saying, she impresses me as being a witness of truth, I don't think that she is intelligent enough to make up a story as the one she has told us although she is supposed to be a basic school teacher. One looks at her and she is hardly literate as the ones she is teaching.

20

Again, there are other differences in what Mr. Wilson and what Mr. Russell are saying but I am afraid that these witnesses impress me as being people who just, don't matter how hard they try, they have not got the intelligence to make up any story at all and tell lies on this man.

Now, much is being made of the discrepancies that these men are supposed to have given. As far as I can remember nothing has been asked of them as to what description is given. The only thing asked of Mr. Wilson - he said the accused man was wearing dark clothes and black shoes and he went on to say he is of light complexion, that is the description he gave and he said he is sure of that.

30

When it comes to the incident when they are going back now, he said immediately the accused man is brought back, he said, 'I am sure this is the accused man', he told the police that.

40

Now, I don't think Mr. Russell was asked anything at all about the description of the person, we are getting this from Mr. Cole and he is saying that whilst they were in the jeep going back now from the Service Station and going back on this road, the short-cut

back to Glade district, Mr. Russell is giving a description of colour and referring to Constable Shaw as being the same colour of the man. If that is so, it seems that both Constable Shaw and the accused man's colour - that couldn't be the right description at all. It seems to me that Constable Shaw is much darker than the accused.

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(cont'd)

10 Mr. Wilson said the accused is of light complexion, he puts it that way. One has to bear in mind that our people are not very good at giving description at all. If you ask a man to describe a man, he tells you he is a black man, but if he sees this person again he will be able to know him, that is what has happened here.

20 Mr. Wilson is saying, yes, the accused man is the same man, which brings me to the second part of the story. He is the driver of the van, he makes a report to the police of what happened. Himself and Russell going back with Constable Shaw and Constable Cole in a marked police vehicle and they are driving by this back road, this disused road which apparently is a short-cut to go to the main road from Glade district. They are going along there, I accept Mr. Wilson's evidence that he is standing on the back, he is not inside the
30 body of the jeep; Mr. Russell is inside the back; the two police officers are in front, one with a long gun and one with a short gun. If that means anything, he is standing at the back and looking out at the side of the vehicle. He did say that the man was in bushes but he eventually admitted he was in the road although bush is growing in the road and he shouted, 'See de man deh'. Not as Mr. Russell says, 'See a man running there'. I am
40 afraid Mr. Russell is mistaken when he says that. I am satisfied that at that stage the policeman drove the jeep faster to get to the accused man, that was the natural thing to do and Mr. Wilson said that was what happened, and I am quite satisfied that the accused man took to his heels and went over the fence.

Now, as to how the actual shooting happened, I am not prepared to accept what the two Constables are saying at all, to my mind I

have not been told the whole truth as to how this accused man got shot. One has to remember that neither Wilson nor Russell sees how he got shot and I believe insofar as they are concerned, they are speaking the truth, these people don't have the intelligence to make up a story, they are telling the truth as to what they actually saw of that incident, that part of it and insofar as the officers are concerned, I am afraid they left me in a state of considerable doubt as to what the truth is; not that I accept for one moment what the accused is saying, that he is standing there and he is being shot then and there, that is not true at all. I am quite satisfied that he ran and I believe he ran for the reason that he had this gun on him and he went and hid it. As to how he got shot, I am not going to accept that at all, because in looking at the gun this can't be so at all. According to the witness he is firing three shots there. Four empty shells have been found in the gun, so the most that could have been fired, if what the Constables are saying is true - I am not prepared to accept what they are saying, one is saying two. I am afraid I am not impressed with them at all and there are several other discrepancies between what Mr. Cole is saying and what particularly Mr. Wilson is saying and also the other witnesses. This is how you test the credibility of witnesses and insofar as the evidence of Mr. Wilson and Mr. Russell are concerned, I prefer, and I accept it when and where they differ from the police officers. There is no doubt that these two young constables have not got together to come here and tell me a cock and bull story, the whole truth is, they can't remember what happened at all. I don't think anything like that happened at all.

To go back to a little part of the evidence of Mr. Wilson, he is saying he never run at this man at all. Poor Rocky, he ducked when the first shot is fired. It was only the two police officers who went after him, Rocky or Wilson didn't go there at all. Mr. Wilson said he went there part-way when he heard the shots then he saw the two police officers bringing the accused man. I am not prepared to say I believe and I am not satisfied of what I have been told and in the circumstances

I am going to dismiss him of the charge, the shooting with intent at Constable Cole, I must give the accused man the benefit of any doubt as far as this is concerned.

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10 The Constable seems to be saying - he is saying something about Wilson saying 'This is the same man because is the same way him make up him face'. Now, Mr. Wilson has given no evidence of this accused man asking for money on the 2nd at all. Why should Mr. Wilson be saying that when the accused is being charged? It just doesn't make sense at all. What happens, he may have said so, but not in the presence of Wilson. What he said was that the accused man is saying 'Lord, is not me', and things like that, which one would expect a person normally in these circumstances in Jamaica to say 'Lord, is not me' - and I am sure Wilson is telling the truth.

20 Then to go back to the other matter happening at the house. There is no doubt that they went into this gentleman's house because Mr. Cole himself admitted he hit off the door; telling me rubbish that he picks up the trousers off the bench, utter rubbish. I am satisfied with what Wilson and Russell are saying. They went into the yard, not the house. Russell said he was outside by the jeep and then Mr. Cole is telling me when he goes back to the jeep with the pants and shirt and the bag, Mr. Wilson is saying, in the presence of the accused, 'This is the same kind of clothes the man was wearing', utter rubbish, he doesn't remember what happened and he is making up this thing. To my mind Mr. Wilson said when he went back to Ferry Station they showed him the pants and shirt and that is the evidence of a truthful witness, he remembered what happened.

30
40 Now it comes back to the question of identification and I am going to decide this that at sometime or the other whilst the squabble is going on this accused man had on this pair of glasses. Despite that I am quite satisfied of the evidence of Mr. Wilson and Mr. Russell that they were able to identify this accused man, although they are not able to say what caused them to identify him, I am satisfied that they know who is the man. When one looks at the

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accused man, he has a very distinctive face with or without mafia glasses, I am satisfied they are telling me the truth and when they say that was the accused man who robbed them, even if I am making a mistake about that, I have no hesitation in accepting the words of Miss Brown; she knew him before, she saw him putting the gate there. Russell said he removed the gate, Miss Brown said the same thing which goes further, when she is reminded of that, she said, yes, he did have a pair of gloves in his hand. Of course, she denied the mafia glasses when it was put to her. She said so in her statement, she said, yes but she did not remember. There can be no doubt that she knew him and he was the person and that evidence alone is enough to convict him. But as I say, I believe the evidence of these two persons that they are properly able to identify the accused man. As it is well known in Jamaica people can't give you the description of a person at all, yet they know it is the same man. I am convinced that is what happened bearing in mind that they are going to the police station and within an hour they are coming back and seeing the accused man. 10 20

Now again I am satisfied with the evidence of Mr. Parsingh. I don't think he was challenged that he issued this firearm here to the accused man on the 6th of March. Of course, he said that he handed it in back the same day. He said it looked like Constable Richard's signature. I don't accept that at all, I don't believe it. I accept Constable Douglas' evidence, it was not handed back to him and Constable Douglas was the Station Guard normally, but I think that this accused man, either by himself or someone who is privy to what he was doing, went and signed the book himself and can hand over the gun. Anyway, as I see it at this stage, the system in the Police Force is very slack where this is concerned. It calls for a lot of change here insofar as firearm is concerned. Much greater care is desired to be taken of them. I know once you had to have inspections and you had to show the firearm and all that, but certainly from August of 1975 until February before they realised that this firearm was gone, it is quite atrocious. This is perhaps one of the reasons why the accused man was able to get 30 40 50

away with it. Then the number was removed from the bottom of the gun, rubbed off apparently. I have no doubt as Mr. Wray says, this is the same firearm that Constable Parsingh, he gave the Policeman. Where is it found? I am satisfied with Mr. Cole's evidence on this aspect of it that he did go back and searched on the 25th and found this firearm in the area of where the accused man had run. I am satisfied with his evidence, and this very firearm that is produced in court here and what Mr. Wray says is the very gun that Constable Parsingh handed over to the accused man, and which as I find he did not return to the police at all, I am satisfied about that. So therefore, my findings are that this accused man did use this gun to hold up Mr. Wilson, terrified him, fired shots at him, took away his whatever hundred and something dollars it was, and then when the vehicle was moving off he fired two other shots there. I am satisfied that when he is going through the short-cut now he sees the police and realising he had the firearm on him he had to get rid of it; he jumped over the fence. I don't think it's two fences, I think it's one. He jumped over this wire fence, went over the bush and apparently hid the gun. I have already said I am not satisfied as to how he was shot here, I have to give him the benefit of the doubt; why you are not charged for shooting at Wilson, I don't know. It may have been to frighten him, I don't know, frighten the occupants of the van or whether you actually intended to shoot him. The important thing, he has not been charged with respect to the shooting at Wilson. He has been charged with shooting at Constable Cole, and I am afraid I can't venture to say what exactly happened. Perhaps there is some truth that the accused man was shot in the way he said he was shot, but certainly not when he was standing up by the side of the road, as he said. Probably when he went into the bushes they knew he was wanted and they fixed him up there. All I say is that the charge of shooting with intent at Constable Cole has not been made out so I decide to dismiss you with that.

As regards the presumption that arises from the use of this firearm in committing this robbery,

then you are in possession of illegal firearm by committing the offence of robbery with the firearm. Even if I am wrong that the firearm that you used is the very firearm that you have got from the St. Anns Bay Police Station, then there is no doubt that what you had was an illegal possession of firearm, because you are using it to commit an offence of robbery with aggravation. Therefore, first and second counts; first count, Illegal Possession of Firearm, second count, Robbery with Aggravation, I have no doubt, and I am exceedingly sure that you were the gentleman who held up Mr. Wilson, robbed him of his cash, using the firearm for the purpose of executing the robbery, and therefore you are guilty on counts 1 and 2 and not on count 3.

10

Mr. Hamilton: Now M'Lord, this is after the 4th of February.

His Lordship: So you don't need any antecedent insofar as count 1 is concerned. What about count 2?

20

Registrar: The Court having found you guilty on counts 1 and 2 on the Indictment, these are for Illegal Possession of Firearm and Robbery with Aggravation, do you wish to say anything why the sentence of this court should not be passed upon you?

Mr. Marcus: M'Lord, I think, sir, that certainly for the first count, I think it is mandatory, the punishment. I would only say this, sir, that he is very young, sir and I only hope that if he is going to be incarcerated that there may be some effort by the authority, or the powers that be to see that he leads some form of a healthy life there. That is all, sir.

30

His Lordship: Well Mr. Stone, as you have heard the sentence here on count 1 as far as the possession of firearm is concerned is imprisonment at hard labour for life. Insofar as count 2 is concerned, I have a discretion here as to what sentence to impose on you. I cannot forget that you have by your conduct disgraced the whole Constabulary Force. You are not going to hear it is Stone does so and so, you are going to hear all policemen are

40

10 thieves and you don't know how many of
them may be doing this sort of thing. One
bad apple spoils the whole barrel, and what
perhaps is a little frightening to me is
that you are trying to say that your officers
had something to do with this gun being
planted and you know it is not true at all.
You are trying to tell me that Inspector
Jackson said certain things. I don't think,
it is more than a good sub-officer would say
what he thinks and considers the type of
person he wants in the Force. As I say, I
don't know what got you into this kind of mess.
Some of us are just born that way, I don't
know. Then as I say, there you are, a police
officer at the time, by virtue of the position,
you got hold of this firearm by devious means
and as soon as you got hold of this firearm
20 you proceeded to use it, you rubbed off the
number from the bottom of the gun not knowing
that the number also was inside the wooden
handle and also on the yoke of the gun,
otherwise you would try to rub off those too,
but it seems you don't know at all that these
numbers were there. On Count 2 you will get
twenty years, and in addition you will receive
six strokes. But of course the sentences
will be concurrent.

30 Mr. Hamilton: There is just one other matter,
M'Lord. There was an earlier incident in
relation to this.

His Lordship: Involving him?

Mr. Hamilton: Yes, M'Lord.

His Lordship: What is the count?

Mr. Hamilton: This was on the 6th of February
this year.

His Lordship: What is it for?

Mr. Hamilton: This is in relation to the trial
of robbery with aggravation.

40 His Lordship: Why you didn't join it?

Mr. Hamilton: It was not ready at the time.

Mr. Marcus: I don't know why my friend is saying
it was not ready. I got all the papers.

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His Lordship: Whatever it is, let the Indictment lie on the file.

Mr. Marcus: I wonder what my friend is indicating at this stage. I am sure he realises the position. I would like to say for my part you have been extremely patient, I appreciate it very much, and I have enjoyed working in this courtroom particularly.

His Lordship: Thank you.

In the Court of Appeal

No. 14
Notice and
Grounds of
Appeal
19th May 1976

No. 14

10

Notice and Grounds of Appeal

J A M A I C A

CRIMINAL FORM I

IN THE COURT OF APPEAL

NOTICE TO APPEAL OR APPLICATION FOR LEAVE TO APPEAL
AGAINST CONVICTION OR SENTENCE

19th May 1976.

Criminal Appeal No. 82. 1976

TO THE REGISTRAR OF THE COURT OF APPEAL

Name of Appellant TREVOR STONE 20

Convicted at the Circuit
Court held at (1) Camp Rd-St. Andrew - Gun Court

Offence of which convicted (2) (1) Illeg. Poss. Firearm
(2) Robbery with Aggra.

Sentence Life count 1 - 20 years 6 strokes
additional count 2

Date when convicted(3) 11th May, 1976

Date when sentence passed(4) 11th May, 1976

Name of Prison (5) Rehab Centre (Camp Road
.....
Kgn. 5)
.....

In the Court
of Appeal

No. 14
Notice and
Grounds of
Appeal
19th May 1976
(cont'd)

I, the abovenamed Appellant hereby give you notice
that I desire to appeal to the Court of Appeal
against my (6) Conviction on the grounds
hereinafter set forth on page 2 of this notice

Signed (7) TREVOR STONE
.....

Signature and address of
witness attesting mark

10 Dated this (8) 19th day of May 1976
.....

QUESTIONS (9)

1. Did the Judge before whom you
were tried grant you a
Certificate that it was a fit
case for Appeal No.

2. Do you desire the Court of Appeal
to assign your legal aid? No

If your answer to this question
is "Yes" then answer the following
questions:-

20 (a) What was your occupation and
what wages, salary or income
were you receiving before your
conviction? -

(b) Have you any means to enable
you to obtain legal aid for
yourself? Yes

30 3. Is any Attorney-at-Law now acting
for you? If so, give his name and
address: Mr. L. Marcus
.....
Kingston
.....

4. Do you desire to be present when
the Court consider your appeal? No

5. Do you desire to apply for leave
to call any witnesses on your
appeal? No

If your answer to this question is "Yes", you
must also fill in Form 21, and send it with this
notice.

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of Appeal
No. 14
Notice and
Grounds of
Appeal
19th May 1976
(cont'd)

" GROUNDS "

- (1) Unfair trial by the learned trial judge.
- (2) Insufficient evidence to award a conviction.
- (3) misidentity of the complainant.

Appellant crave leave to file additional grounds on receipt of note of transcript.

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Notice of
Motion to add
Supplementary
Grounds of
Appeal
3rd May 1977

No. 15

Notice of Motion to add Supplementary
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IN THE COURT OF APPEAL OF JAMAICA
ON APPEAL

10

R E G I N A

VS

TREVOR STONE

1. ILLEGAL POSSESSION OF FIREARM
2. ROBBERY WITH AGGRAVATION

(GUN COURT)

TAKE NOTICE that the following are the Grounds of Appeal on which the Appellant will crave leave to rely, inter alia, at the hearing of the Appeal herein:-

20

That the Criminal Jurisdiction of the Supreme Court as fixed by the Order in Council creating the Constitution of Jamaica 1962 can only be exercised by a Judge of the Supreme Court sitting with a Jury for the trial of grave crimes:

That accordingly Law 1 of 1976 (An Act to amend the Gun Court Act, February 4, 1976) is unconstitutional as regards Sections 2 and 5 thereof in so far as it seeks to vest the above-mentioned jurisdiction in a Supreme Court Judge sitting without a Jury, without the requisite amendment of the Constitution being made in compliance with Section 49 thereof.

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That the Verdict was unsafe having regard to the evidence particularly in the following respects:-

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- 10 (i) The damaged credibility of the Police re the shooting of the accused.
- (ii) The lack of nexus re the clothing that was taken from Glade District by the Police which was not established as belonging to the Appellant.
- 10 (iii) The failure of the evidence relative to the .38 revolver to establish that the accused had not returned it in course of duty.
- (iv) The absence as an exhibit of the billfold with money allegedly found with the revolver, and the failure to connect up evidence relating thereto with the accused.
- 20 (v) The dangerous nature of the evidence of identity where clearly the robber and the Appellant appeared to be of different colour; to be differently dressed; that the robber wore large glasses (called mafia glasses) which (would) witnesses to identity did not know the accused before; and the third who claimed to have known him before gave irreconcilable evidence as to knowing the Appellant for seven (7) years which in cross-examination became sixteen (16) months; the circumstances of terror and alarm which prevailed at the time of the incident.
- 30 (vi) The strange circumstances surrounding the finding of the .38 revolver.
- (vii) The probability that since the accused was shot without any justification, it would be the more necessary for the Police to try to obtain a conviction.

40 3. That the Learned Trial Judge misdirected himself in a number of respects; and in a number of respects drew inferences for which no real evidential basis existed; and in a number of respects did not give sufficient weight to factors in favour of the accused:

Thus, inter alia,

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- (a) The Learned Trial Judge tended to minimise too much the discrepancies between the witnesses as regards factors of identification - dress, glasses, colour; for it is submitted, identity must always be closely scrutinised; particularly where the Court is not in control over Sentence on grave charges. (see pages 211 - 215 of the Summing-Up).
- (b) That where the Learned Trial Judge found that he could not accept what Police witnesses told him he drew an inference that they did not remember what happened, though the evidence gave him no room for such generosity. 10
- (c) That certain discrepancies between the witnesses (see pages 215 & 217 of the Summing-Up) were resolved without sufficient critical balance by the Learned Trial Judge, and as it so happened, adversely to the interest of the Defence.
- (d) The Learned Trial Judge drew an inference that the accused man "either by himself or someone who was privy to what he was doing, went and signed the book (Firearms Register) himself and can hand over the gun". (See page 219) of the Summing-Up): That this inference cannot be said to be wholly justified by the evidence or at all. 20
- (e) That the Learned Trial Judge did not carry his finding of the damaged credit of the Police Officers (Cole and Shaw) to its logical conclusion, so as to face the issue which would then arise, whether and to what probable extent, their interest arising from wrong doing may have affected the case as a whole. (For example, by trying to influence witnesses). 30
- (f) That the Learned Trial Judge drew an inference of a slack system in the Police Force as regards Firearms without a correct evidential basis therefore and upon the one-sided assumption that the accused was guilty. 40

Whereas if the Learned Trial Judge had assumed the innocence of the accused, then both the state of the Firearms Register and the fact that no-one prior to the incident suggested that the accused had retained a firearm from August, 1975 until February, 1976, would be consistent and normal.

That the Mandatory Sentence of imprisonment at Hard Labour for life authorised by Section 4 of Law 1 of 1976 is contrary to the Constitution and to Law.

WHEREFORE THE APPELLANT HUMBLY PRAY:-

1. That his conviction be quashed and his sentence set aside.
2. Such further and other relief as this Honourable Court may deem just.

Dated the 3rd day of May, 1977.

Sgd.

.....

IAN RAMSAY
ATTORNEY AT LAW FOR AND ON
BEHALF OF THE APPELLANT

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10

by IAN RAMSAY, ESQ., of No. 53 Church
Street, Kingston, Attorney-at-Law for and on behalf
of the Appellant.

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Judgement

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1977

J A M A I C A

IN THE COURT OF APPEAL OF JAMAICA

CRIMINAL APPEAL NO. 82/76

BEFORE: THE HON. MR. JUSTICE ZACCA J.A.
THE HON. MR. JUSTICE HENRY J.A.
THE HON. MR. JUSTICE ROWE J.A. (Ag.)

R. v. TREVOR STONE

Mr. Ian Ramsay for applicant .

Mr. Henderson Downer for the Crown

June 14, 15, 16, 17, 20, 21 July 29, Oct. 29, 1977

ROWE J.A. (Ag.)

At about 9 a.m. on 19th February, 1976, Lansdale
Wilson, a salesman, was driving a goods van in
Glade district, St. Catherine. As he came in the
vicinity of a building which he described as a

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church or a school he noticed that the road ahead was blocked with some large stones and an iron-gate. Wilson stopped his vehicle but before he could reverse a man rushed from the bushes with a gun in his hand. The man fired the gun and then robbed Mr. Wilson of some \$197.00 of cash. The man ran away and Mr. Wilson drove to the Ferry Police Station and made a report. Two police officers set off with Mr. Wilson and his assistant who was in the van at the time of the robbery, in search of the robber. While traversing a normally unused road, the police party came upon the applicant who was walking through some bushes. The applicant was taken into custody in circumstances about which there was much controversy at the trial, but not before he was shot and injured by the police. The trial judge rejected the police evidence that the applicant shot at them before he was shot. 10

It transpired that the applicant had been a police constable stationed at St. Ann's Bay Police Station. Earlier in 1976 he had been suspended from duty and on this 19th February he had no lawful permission to be in possession of a firearm. 20

At his trial in the High Court Division of the Gun Court before Melville J. the prosecution sought to prove the guilt of the applicant by adducing evidence from four quite independent sources.

The police officers who arrested the applicant searched about in the bushes nearby but did not find a firearm. On the 25th of February, 1976, a party of policemen from St. Ann's Bay Police Station together with the arresting Constable, Constable Cole, returned to the area and made a comprehensive search. Constable Cole found a .38 revolver with 1 live and 4 spent cartridges. The serial number of this firearm had been tampered with but was nevertheless positively ascertained and the revolver was identified as one that had been issued to the applicant at the St. Ann's Bay Police Station on the 6th August, 1975. The trial judge heard evidence from the prosecution that the firearm was not returned to the police Constable at the St. Ann's Bay Police Station who would normally have received it and after considering the applicant's evidence that he had returned the firearm on the same day, 6th August, 1975, and that it had been received by a Constable Richards who was not called as a witness, the trial judge rejected the applicant's evidence and accepted the 30 40

police witnesses that the .38 revolver had been issued to the applicant, that it had not been returned to the police station, and that it was found by Constable Cole in his search on the 25th February. Mr. Ramsay's arguments that these findings of fact were unreasonable find no favour with us.

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10 Mr. Wilson and his assistant positively identified the applicant as the robber. They did not know the applicant before. Their evidence as to the colour, and dress of the robber contained many discrepancies. At sometime the robber was wearing large glasses referred to as "mafia glasses" and these would tend to distort his features. If these two witnesses stood alone the evidence of identity would be clearly insufficient.

20 The trial judge was not impressed by the evidence of the police officers as to the manner in which the applicant came by his injuries and rejected their evidence that the applicant shot at them. Mr. Ramsay argued with force that the trial judge ought to have found all the police evidence to be tainted on the ground that on a finding that the applicant was shot without justification it would be more necessary for the police to try to secure a conviction. We do not believe that these submissions could in any way affect the evidence of a civilian witness, Dorothy Brown, on whose evidence alone the offences of robbery with aggravation and illegal possession of a firearm
30 would be amply made out.

40 Miss Brown, then a teacher at a Government basic school at Glade district went to school about 8.30 a.m. on the 19th February, 1976. She said that at about 8.45 a.m. she saw the applicant pass the school gate. He was within 5 yards of her. She saw the applicant put the stones in the road. She saw the applicant draw the iron-gate and put it in the road. She saw the applicant run to where Wilson's van had stopped and "let go a shot." She saw the applicant approach the van and the van driver give something to the applicant who then fired another shot before he ran away. From her school to where the robbery was staged was two chains.

Miss Brown said she knew the applicant before. She knew he was a policeman. The applicant's brother lived at Glade district and from time to time the applicant would visit his brother. On occasions the applicant had spoken to her so that

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she knew his name before the 19th February.

After witnessing the robbery Miss Brown said she ran away from her school. About an hour later she was in the square at Glade district where she saw the applicant in a police vehicle and she pointed him out as the robber. On these several points of her testimony the trial judge accepted her as a witness of truth. No proper challenge can be made to the quality of Miss Brown's evidence. We have no difficulty in holding that her evidence completely establishes the identity of the applicant as the person who robbed Mr. Wilson and in the process he was in possession of a firearm within the meaning of the Firearms Act.

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Mr. Ramsay's first and main ground of appeal was:-

"That the criminal jurisdiction of the Supreme Court as fixed by the Order in Council creating the Constitution of Jamaica 1962, can only be exercised by a Judge of the Supreme Court sitting with a jury for the trial of grave crimes. That accordingly Law 1 of 1976 (An Act to amend the Gun Court Act, February 4, 1976) is unconstitutional as regards sections 2 and 5 thereof in so far as it seeks to vest the abovementioned jurisdiction in a Supreme Court judge sitting without a jury without the requisite amendment of the Constitution being made in compliance with section 49 thereof."

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We propose to set out in summary the arguments of Mr. Ramsay. He submitted that section 97 of the Constitution entrenched the Supreme Court as that Court existed on the 5th August, 1962, thereby entrenching the jurisdiction of that Court with all its powers, privileges and traditions. The consequence of that entrenchment is that Parliament may only alter the jurisdiction and powers of the Supreme Court by complying with the special procedure laid down in sub-sections 2 and 4 of section 49 of the Constitution. He further submitted that although trial by jury in criminal cases was not expressly entrenched, it must be regarded as the unique jurisdiction of the Supreme Court or an essential incident of the criminal jurisdiction of that Court.

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Trial by jury he said is the ancient and important protection of the citizen standing between the

state and the citizen. It was secured to the people of England by Magna Carta and was transplanted in Jamaica as early as 1681 by the Statute of 33 Charles II C.83. He said that from the year 1681 to the time of the passing of Act 1/76 there was never a power in a Supreme Court Judge to sit to hear matters of great crime without a jury to find the facts. He relied on passages from Blackstone Commentaries Book 4 at p.348, and Vol. 1 of Holdsworth's Laws of England at p.347 for the submission that trial by jury as understood by distinguished writers is a unique mode of procedure of trial which amount to a substantive right and is a necessary part and parcel of the jurisdiction of the Supreme Court criminal jurisdiction. He referred to the provisions of sections 27, 28, and 29 of the Supreme Court Act and section 10 of the Criminal Justice Administration Act. He argued further that Act 1 of 1976 amends the structure or jurisdiction of the Supreme Court and not having been passed in accordance with the provisions of section 49 of the Constitution is unconstitutional and void.

Finally, he argued, the High Court Division of the Gun Court, created by Act 1/76 is a novel creature which in effect deprives the Supreme Court of a substantial portion of its jurisdiction over serious crimes.

Mr. Downer who appeared for the Crown argued that although trial by jury is regulated by statute it is a common law procedure safeguard and is not enshrined in the Constitution either expressly or by necessary implication. As a consequence trial by jury may be altered by an ordinary Act of Parliament.

Secondly, the High Court Division of the Gun Court is a label for the Circuit Court of the Supreme Court and section 97 of the Constitution has not been altered. All that has been effected by Act 1/76 is that the common law method of trial by judge and jury is now replaced by trial by judge alone.

His third submission was that if section 5(b) of the Gun Court Act did create a new Court, that Court has power to try a narrow range of offences, formerly cognizable by a Resident Magistrate and the Supreme Court. Because the range is narrow and the judicial personnel the same as the Supreme

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Court, the constitutionality of the legislation
Act 1/76 ought to be upheld.

We acknowledge our debt to the Attorneys on both
sides for their close arguments.

The Constitution contains some provisions which are
considered so fundamental to the peace, order and
good government of Jamaica, that Parliament may
only alter them after mature deliberation and with
a preponderance of concurring votes. "Alter" is a
term with a defined meaning within the Constitution.
Section 49 (9)(b) provides:-

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"In this section "Alter" includes amend,
modify, re-enact with or without amendment or
modification, make different provisions in
lieu of, suspend, repeal, or add to."

Six sections of the Constitution deal with the
Supreme Court - sections 97 to 102. Except for sub-
sections 1 and 2 of section 100 and section 102, all
the sections establishing the Supreme Court are
entrenched. Section 98 deals with the appointment of
Supreme Court Judges, section 99 with the appointment
of Acting Judges of the Supreme Court, section 100
with the Tenure of offices of those Judges, section
101 with their remuneration. It is however with
section 97(1) that we are concerned. That section
reads:-

20

"There shall be a Supreme Court for Jamaica
which shall have such jurisdiction and powers
as may be conferred upon it by this Constitution
or any other law."

30

The Order in Council establishing the Constitution
provided in section 13(1) inter alia, that:-

"The Supreme Court in existence immediately
before the commencement of this Order shall
be the Supreme Court for the purposes of the
Constitution....."

It is apparent therefore that the criminal jurisdiction
of the Supreme Court under the Constitution is
identical with that of the Supreme Court as
regulated by the Judicature (Supreme Court) Act.
Sections 28 and 29 of the Judicature (Supreme
Court) Act provide:-

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Section 28

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"Such jurisdiction shall be exercised so far as regards procedure and practice, in manner provided by this Act, and the Civil Procedure Code and the law regulating criminal procedure, and by such rules and orders of court as may be made under this Act; and where no special provision is contained in this Act, or in such Code or law, or in such rules or orders of court, with reference thereto, it shall be exercised as nearly as may be in the same manner as it might have been exercised by the respective Courts from which it is transferred or by any such Courts or Judges, or by the Governor as Chancellor or Ordinary."

Section 29

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"The Judge of the Supreme Court shall act within the Circuits in all respects as the Judges of Assize, Oyer and Terminer and Gaol Delivery have heretofore done....."

The common law Courts of Oyer and Terminer and Gaol Delivery operated with a petty jury. By the end of the 13th century a person indicted for felony was compelled by the judges to adopt the method of trial by jury and a person who when accused of a notorious felony, declined to consent to be tried by a jury would be compelled to undergo "strong and hard imprisonment." Sir William Holdsworth says:-

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"We have seen that, from the end of the 13th century onwards, the court treated the jury, not as a collection of witnesses who could be separately examined, but as a mode of proof to which the parties had submitted their case. They did not regard them altogether as witnesses, but rather as a set of arbitrators who were under a legal duty to find the facts correctly."

40

Holdsworth, a History of the Common Law, Vol. 1 at p.341. At page 320 of the same work, Holdsworth says:-

"Because it was accepted as a means of determining the facts at a time when the older methods of proof dominated men's conception of a trial, and because the

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English Judges came to be very ignorant of any legal system but their own, it was not dissected into a body of separate witnesses under the rationalizing influence of the conceptions of the civil and common law. It was consequently developed upon native lines into a wholly original method of determining the facts at issue in all manner of legal proceedings".

The Jamaica Supreme Court was established in 1681 by a Jamaica Statute 33 C.A.R. 2 Cap. 83 and in the exercise of its ordinary criminal jurisdiction, as a court of Oyer and Terminer and Gaol Delivery was said to have all the criminal jurisdiction which belongs to the Court of King's Bench, in England. See Questions and Answers "on Criminal and Civil Justice in the West Indies 1827".

10

Throughout its existence the Circuit Court in Jamaica operated with a judge and jury and prior to the enactment of Act 1/76, the only method by which a Supreme Court Judge in Jamaica could try a serious criminal case was by sitting with a jury.

20

The importance of trial by jury has received the highest commendation over the years. At the same time trial by jury has been severely criticised by some who would wish to see a reasoned decision on any disputed question submitted to a judicial tribunal and we know that juries do not give reasons or explanations. Notwithstanding its deep-rootedness within our law does trial by jury in criminal cases remain a method by which an accused may be tried, in other words a matter of procedure, or has it taken on the character of being a fundamental imperative of the Circuit Court itself. In the first place a distinction should be drawn between the general principles of the criminal law and the known course of the courts in enforcing that law. Rules of evidence and the practice and procedure of the courts can form no part of the substantive criminal law.

30

Writers of authority seem to regard trial by jury as a mere matter of procedure. In Halsbury's Laws of England, 3rd Edition, Vol. 7 at p. 167 trial by jury is given as an example of what is indubitably a matter of procedure in civil cases. See Don. v. Lippman (1841) 5 Cl. & F.l. at p. 14. In Potter's Historical Introduction to English Law - 4th Edition at p. 240 the learned author says:-

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"The Jury was introduced as a convenient method of legal procedure".

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The learned author of Plunkett's Concise History of the Common Law, 5th Edition treats the Jury as "an example of the new criminal procedure", and at p. 120 refers to the Jury "as a new mode of trial."

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Lord Devlin in his book Trial by Jury (1965) at p. 12 in dealing with the origin of the Jury says:-

10 "Meanwhile in the history of the early period,
will you note two things which especially
contribute to an understanding of the way the
jury works today? The first is that judge and
jury were never formally created as separate
institutions, there was never any separation
of powers, never any conscious decision by
anyone that questions of law ought to be
decided by lawyers and those of fact by laymen.
20 The jury derived all its powers from the judge
and from his willingness to accept its verdict,
even now, if he were to refuse to do so, he
would offend against no statute and his
judgment would be good until reversed by a
higher court. In theory the jury is still an
instrument used by the judge to help him to
arrive at a right decision, from the first and
as you will see throughout its development,
the judges have kept the jury to that nominally
subordinate role."

30 Trial by jury stood side by side with many other
common law rights which prior to 1962 the Court
would enforce for the protection of the citizen. In
1962 the Constitutional makers selected a large number
of these common law rights which they regarded as
fundamental freedoms and gave them special treatment
in Chapter III of the Constitution. A significant
observation as to the way in which these fundamental
freedoms were treated is that they were not regarded
as absolute rights. These fundamental rights and
40 freedoms were balanced against the rights of others
and of the public interest. Section 13 of the
Constitution after broadly narrating the fundamental
rights and freedoms to which every person in Jamaica
is entitled, goes on to provide:-

"The subsequent provisions of this Chapter shall
have effect for the purpose of affording
protection to the aforesaid rights and freedoms,

subject to such limitations of that protection as are contained in those provisions being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest."

Section 20 of the Constitution specifically deals with provisions to secure to the individual the protection of the law. This is a very important section and I will summarise its provisions:-

10

Sub-sections (1) and (2), provide for a fair trial in an independent and impartial Court established by Law within a reasonable time.

Sub-section (3) provides for the trial to take place in open Court.

Sub-section (4) provides certain exceptional circumstances when the trial need not take place in open Court.

Sub-section (5) enshrines the presumption of innocence.

20

Sub-section (6) contains 5 important divisions:-

Every person who is charged with a criminal offence -

(a) shall be informed as soon as reasonably practicable, in a language which he understands, of the nature of the offence charged;

(b) shall be given adequate time and facilities for the preparation of his defence;

30

(c) shall be permitted to defend himself in person or by a legal representative of his own choice;

(d) Shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before any court and to obtain the attendance of witnesses, subject to the payment of their reasonable expenses, and carry out the examination of such

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witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

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(e) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the English language.

10 Sub-section (7) prohibits retroactive criminal legislation or retroactive penalty.

Sub-section (8) deals with the principles of autrefois acquit and autrefois convict.

20 It is noteworthy that nowhere in section 20 is mention made of trial by jury. And so the question arises. If the framers of the Constitution having regard to the nature and multiplicity of matters contained in section 20, considered trial by jury in the Supreme Court to be a fundamental freedom, could they possibly have failed to safeguard this right in Chapter III either absolutely or with exceptions?

Turning again to sections 97 - 101 of the Constitution it seems that what is being safeguarded is the independence and impartiality of the Judges of the Supreme Court. As Lord Diplock said in Hinds and others v. Queen (1975) 13 J.L.R. 262 at p. 269:-

30 "The more recent constitutions on the Westminster Model, unlike their earlier prototypes, include a Chapter dealing with Fundamental Rights and Freedoms. The provisions of this Chapter form part of the substantive law of the state and until amended by whatever special procedure is laid down in the constitution for this purpose, impose a fetter upon the exercise by the Legislature, the Executive and the Judiciary of the plenitude of their respective powers. The remaining Chapters of the constitutions are
40 primarily concerned not with the Legislature, the Executive and the Judicature as abstractions, but with the persons who shall be entitled collectively or individually to exercise the plenitude of legislative, executive or judicial powers - their qualifications for legislative, executive or judicial office, the methods of

selecting them, their tenure of office, the procedure to be followed where powers are conferred upon a class of persons acting collectively and the majorities required for the exercise of those powers. Thus, where a constitution on the Westminster Model speaks of a particular "court" already in existence when the constitution comes into force it uses this expression as a collective description of all those individual judges who, whether sitting alone or with other judges or with a jury, are entitled to exercise the jurisdiction exercised by that court before the constitution came into force. Any express provision in the constitution for the appointment or security of tenure of judges of that court will apply to all individual judges subsequently appointed to exercise an analogous jurisdiction, whatever other name may be given to the "court" in which they sit (Attorney-General for Ontario v. Attorney-General for Canada (2))."

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20

We are of the opinion that the jurisdiction to try serious criminal cases is vested in the Supreme Court Judges and in section 97 of the Constitution the term "jurisdiction and powers" does not relate to the peculiarities of the methods by which the Judges exercise such jurisdiction and power. The term jurisdiction may have a meaning wide enough to include the settled practice of the court or jurisdiction may be given its strict and narrow meaning that being that a validly constituted court has the power to deal with and decide the dispute before it. As the learned author of Rayden on Divorce puts it:-

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"In its narrow and strict sense, the jurisdiction of a validly constituted court connotes the limits which are imposed on its power to hear and determine issues between persons seeking to avail themselves of its process by reference (i) to the subject matter of the issue, or (ii) to the persons between whom the issue is joined, or (iii) to the kind of relief sought; or any combination of these factors." Rayden on Divorce, Eleventh Edition p.32. See Garthwaite v. Garthwaite (1964) 2 ALL E.R. 233.

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We can see no reason why the term jurisdiction in section 97 of the Constitution should be given any other than the strict meaning associated with that term.

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We respectfully agree with Lord Diplock that the implications which necessarily arise from the establishment of a Supreme Court which is not given appellate jurisdiction, are:-

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- 10
- "(a) Unlimited original jurisdiction in all substantial civil cases;
 - (b) Unlimited original jurisdiction in all serious criminal offences;
 - (c) Supervisory jurisdiction over the proceedings of inferior Courts (viz. of the kind which owes its origin to the prerogative writs of certiorari, mandamus and prohibition." - per Lord Diplock in Moses Hinds et al v. Queen 13 J.L.R. 275.

20

We wish to lay stress upon the fact that the Supreme Court within the meaning of section 97 of the Constitution is a collective description of the individual judges entitled to sit and exercise its jurisdiction. Act 1/76 established a Court to be presided over by a Supreme Court Judge sitting without a Jury. That Court was referred to in the Act as the High Court Division of the Gun Court. In our view the name by which a Court is called does not determine the real nature of that Court. An examination of the qualification, status and method of appointment of the judge is the criteria which must be adverted to for this purpose. One must go on to consider the types of cases over which the

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Court has jurisdiction and the kind of sentence that may be imposed. These factors when properly weighed determine the nature of the Court.

The Privy Council in the case of Moses Hinds accepted that:-

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"There is nothing in the Constitution to prohibit Parliament from establishing by an ordinary law a court under a new name such as the "Revenue Court" to exercise part of the jurisdiction that was being exercised by members of the higher judiciary..... at the time when the Constitution came into force. To do so is merely to change the label to be attached to the capacity in which the persons appointed to be members of the new Court exercise a jurisdiction previously exercised by the holders of one or other of the judicial offices

named in Chapter VII of the Constitution. In their Lordships view, however, it is the manifest intention of the Constitution that any person appointed to be a member of such a Court should be appointed in the same manner and entitled to the same tenure as the holder of the Judicial office named in Chapter VII of the Constitution which entitled him to exercise the corresponding jurisdiction when the constitution came into force."

10

The procedure in the Circuit Court requires trial by judge and jury. This procedure is maintained in section 4(c) of the Gun Court Act which states:-

"(c) a Supreme Court Judge exercising the jurisdiction of a Circuit Court - hereinafter referred to as a Circuit Court Division".

To maintain that the Supreme Court Judge sitting without a jury (section 4(a) of the Gun Court Act) as well as the Supreme Court Judge sitting with a Jury (section 4(c) of the Gun Court Act) is in each case a Circuit Court of the Supreme Court would introduce the notion that there are two distinct Circuit Courts. It does not seem that Parliament ever intended to create two separate and distinct Circuit Courts, one with Judge and Jury and the other with a Judge sitting alone.

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In our opinion, the Supreme Court Judge sitting without a Jury in the High Court Division of the Gun Court is a new Court established by that Act. This new Court is given power to try "firearm offences" which by definition mean:-

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- "(a) any offence contrary to section 20 of the Firearms Act;
- (b) any other offences whatsoever involving a firearm and in which the offender's possession of the firearm is contrary to section 20 of the Firearms Act."
(Section 2 of the Gun Court Act).

Other offences also triable by this Court are listed in the Schedule to the Act, and the Minister is empowered by section 8(5) of the Gun Court Act to amend the Schedule by Order which shall be subject to affirmative resolution of the House of Representatives. All the offences listed in the Schedule relate to the unlawful use of gunpowder

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or explosives to endanger life. This appears to be in keeping with the mischief which the Act was intended to address itself to, viz. to discourage and eventually to free Jamaica from the scourge of firearms offences and related crimes.

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(cont'd)

10 Accepting as we do that Parliament has a power to establish new Courts to exercise concurrent jurisdiction with the Supreme Court provided that the judicial personnel of the new Court is qualified and appointed as Judges of the Supreme Court in accordance with the provisions of the Constitution, and provided that the Supreme Court as established by the Constitution is not deprived of its substantial functions, we are of the view that Act 1/76 has not down-graded the Supreme Court and that the degree to which the new Court's jurisdiction is concurrent with that of the Supreme Court is not such as to violate the provisions of section 97 of the Constitution.

20 Act 1/76 does not deprive the Supreme Court of jurisdiction to try the several offences which may now be tried in the High Court Division of the Gun Court although in practice firearms offences and the related scheduled offences would normally fall for trial in the High Court Division. The punishment of imprisonment for life which may be inflicted by the Supreme Court Judge sitting in the High Court Division is no greater than that which he could pass had he been sitting in the Circuit Court. Since 30 1973 a Supreme Court Judge sitting in the Circuit Court has had power to pass sentence of life imprisonment on anyone found guilty of an offence under section 20 of the Firearms Act.

When one takes into consideration the fact that the new Court does not have jurisdiction over Capital Offences, that its jurisdiction is limited to the narrow range of offences committed with an unlicensed firearm and those specifically referred to in the schedule to the Gun Court, (which are all concerned with the unlawful use of gunpowder or other explosives) it seems clear that the degree to which the jurisdiction of the Supreme Court has been eroded by the new Court cannot be said to be substantial.

40 The Constitutionality of Act 1 of 1976 was considered by the Court of Appeal in Winston Blake and others v. R. Supreme Court Criminal Appeals 36/76, 46/76 and 83/76. The three appellants were tried and convicted before Malcolm J. sitting without a jury in the High

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Judgment
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1977.
(cont'd)

Court Division of the Gun Court for the crimes of illegal possession of firearms and robbery with aggravation, which offences were alleged to have been committed before Act 1/76 became law.

Two main grounds of appeal were argued on behalf of the appellants. It was submitted that while it was competent for the High Court Division of the Gun Court to try each appellant that Court had no jurisdiction to pass sentence on them. A full bench of five Judges rejected that argument. The second ground of appeal was stated thus:-

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"The accused's right to a trial by jury and a verdict is a condition precedent to the imposition of a sentence under section 20(4) (ii) of the Firearms Act. No such trial having taken place, the sentence imposed was invalid."

Although it does not appear from the judgment of the Court that any argument was mounted on the proper interpretation of section 97 of the Constitution during the hearing of the appeal, it is significant to note that the unanimous view of the five judges on this ground of appeal was that it had no merit. Luckoo J.A. who delivered the judgment of the Court said:-

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"In so far as ground 2 is concerned, section 9(b) has effectively taken away the right to trial by jury which an accused would otherwise have had if he were to be tried before a Circuit Court and there is nothing juridically wrong if the legislature so enacts."

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This case was not relied on as binding authority but we acknowledge its persuasive value especially in the light of the composition of that court.

In summary, we hold that trial by jury in the Circuit Court has become, through the common law, a part of the Law of Jamaica. Prior to the coming into force of the Constitution all rules of the common law could be changed by an ordinary Act of Parliament. Certain common law rules were specifically selected and given the special protection of entrenchment by the Constitution. Trial by jury in criminal cases in the Circuit Court was not specifically treated. In the case of Moses Hinds neither in the majority opinion nor in the dissenting opinion was any mention made by their Lordships of the right of trial by

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of Appeal

No; 17

Order granting
Final Leave to
Appeal to Her
Majesty in
Council.

15th March
1978.

(cont'd)

the decision of the Court of Appeal handed down on
the 29th day of October, 1977, subject to the filing
of an Affidavit explaining the failure to enter into
a bond.

BY THE COURT:

(Sgd;) H.E. Harris

REGISTRAR.

FILED by MESSRS. GRANT, COWAN & CHIN-SEE of 32½
Duke Street Kingston, Attorneys-at-law for and on
behalf of the Applicant herein.

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O N A P P E A L
FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N :

TREVOR STONE Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

PHILIP CONWAY THOMAS & CO.,
61 Catherine Place,
London SW1E 6BH.

Solicitors for the Appellant

CHARLES RUSSELL & CO.,
Hale Court,
Lincoln's Inn,
London WC2A 3JL.

Solicitors for the Respondent