

IN THE PRIVY COUNCIL

No. 3 of 1984

O N A P P E A L

FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N :

FRANK ROBINSON Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

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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:

FRANK ROBINSON Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

No. 1

In the Home
Circuit Court

INDICTMENT

No. 1
Indictment

The Queen vs. Frank Robinson and
Anthony Gibson

9th January
1981

In the Supreme Court of Justice

In the Circuit Court Division of the Gun
Court for the parish of Kingston

IT IS HEREBY CHARGED on behalf of our
Sovereign Lady the Queen:

Frank Robinson and Anthony Gibson are
charged with the following offence:-

20 STATEMENT OF OFFENCE

Murder

PARTICULARS OF OFFENCE

Frank Robinson and Anthony Gibson, on the
2nd day of August, 1978, in the parish of
Saint Andrew, murdered Mussington Reid.

//s//
for Director of Public Prosecutions
9th January 1981

No. 2
Proceedings
30th March 1981

No. 2
PROCEEDINGS

HOME CIRCUIT COURT,
KINGSTON

30TH MARCH, 1981

R. v. FRANK ROBINSON
ANTHONY GIBSON

Time: 11.55 a.m.

HIS LORDSHIP: Let a jury be empanelled.

REGISTRAR: Frank Robinson, Anthony Sibson, you are both charged with the offence of murder. 10

HIS LORDSHIP: Don't worry with that. They pleaded not guilty. Start off. Oh! I have to tell you, under the amendment in murder, Crown Counsel...

MISS HYLTON: Seven, M'Lord.

HIS LORDSHIP: Robinson, we are now going to start the case and we start off by empanelling a jury. Your right will be, so far as this part is concerned, that you can challenge seven jurors, any seven peremptorily meaning, you challenge them without giving a reason. If you want to challenge more than seven, you have to tell me why they should be challenged. As far as the other accused is concerned, Mr. Jarrett knows what the position is. And then I will tell you further. 20 30

EMPANELLING OF JURY

Note (First 12 jurors listed below take stand).

HIS LORDSHIP: Robinson, as I was telling you, these are the jurors who have been called to try your case. You can challenge any seven of them without giving any reason. Any amounts after that, you have to give reasons and you can wait until when 30

	HIS LORDSHIP: (contd.)	each name is called and before the juror is sworn	No. 2 Proceedings
	ACCUSED ROBINSON:	I don't know what going on. I don't want to take part in something that is going on. I want to see my lawyer.	30th March 1981 (continued)
	HIS LORDSHIP:	You don't want to take part in something what?	
10	ACCUSED ROBINSON:	I don't know what going on. I don't understand.	
20	HIS LORDSHIP:	You are charged with murder. The case cannot be tried until you have a jury. The jury consists of twelve persons; that will be the amount of persons. You, as an accused man, have the right before they are sworn as jurors, to challenge any seven of them. In other words, you look at them, whether you know them or not. You don't like the face, you say, "challenge". You have the right to challenge any seven of them. What is it you don't understand?	
	ACCUSED ROBINSON:	I want to see my barrister, sir.	
	HIS LORDSHIP:	Call the names, please.	
30	No. 53	Mr. Albert Chance Challenged by Defence (Gibson)	
	No. 54	Mr. Vassell Nethersole	
	No. 19	Mr. Adelph Dove Challenged by Defence (Gibson)	
	No. 46	Mr. Keith Tavares	
	No. 25	Mr. Sydney Masters	
	No. 30	Miss Ciscelyn Phillips Challenged by Defence (Gibson)	
40	No. 21	Mr. Jasper Markland	
	No. 24	Mr. Egbert Holding	
	No. 48	Miss Carmen Dixon	

No. 2 Proceedings 30th March 1981 (continued)	No. 36	Mr Harold Rhodd		
	No. 15	Mr. Desmond Rowe	Challenged by the Crown	
	No. 39	Miss Rosetta Darwin	Challenged by the Crown	
	No. 27	Mr. Kenneth Green		
	No. 47	Mr. George Coward		
	No. 5	Mrs. Helena Miller	Challenged by Defence (Gibson)	10
	No. 41	Mr. Harold Hanlan	Challenged by Defence (Gibson)	
	No. 17	Mr. Ferdinand Green		
	No. 23	Mrs. Minetta Cockburn		
	No. 45	Miss Laurice DeSouza	Challenged by Defence (Gibson)	
	No. 8	Mr. Handel Lawson	'Challenged by Defence (Gibson)	
	No. 50	Mr. Gladstone Sett		
	USHER:	All sworn		20
	REGISTRAR:	Members of the jury, please confer amongst yourselves and choose a foreman. You may also choose one of the ladies as Madam Foreman. Foreman selected, please stand. You have chosen Mr. George Coward members of the jury, as your foreman?		
	JURORS:	Yes.		30
	HIS LORDSHIP:	It is twenty five to one or half past twelve. What I intend to do, then, is to take the adjournment now. Mr. Robinson has a copy of the deposition. When we return, by that time you will have got in touch with Mr. Neita.		
	MR. JARRETT:	I will try my best.		
	HIS LORDSHIP:	Between Mr. Neita and Mr. Soutar.		40

MR. JARRETT: I gather that Mr. Soutar is engaged at the Gun Court.

No. 2
Proceedings

HIS LORDSHIP: I suspect that. And we will start the trial at two o'clock, subject to what recommendations you will make. So that in the meantime I will have an opportunity to read those depositions to refresh his memory of what he had said.

30th March
1981

(continued)

10

20

30

40

50

Now Mr. Foreman and members of the jury, we are now going to take the adjournment until two o'clock. I think you have been following what has been happening. There are some difficulties that are being experienced with one of the accused men. At the last minute his attorney, even without coming into court to explain to me what happened, just sent a word that he has not all the instructions, at the last minute. So what we have done is to empanel you, ² the jury. They have not yet been put in your charge; and at two o'clock we will see what is going to happen. I believe at two o'clock we will start evidence. Remember, you have not heard a thing yet. I always remind the jury that in a murder case in old time days the jury were not allowed to separate. In these days the Judges permit them to separate but we give them a warning not to allow themselves to be influenced or approached by anybody as to what to do in the case. That is the advice I give you and that would be the advice you should keep whenever we have an adjournment because this case will take about two to three days.

With regard to the members of the public, this is a Gun Court trial and under the Act nobody is to be present, who is not permitted to do so, like the attorneys, witnesses and so

No. 2
Proceedings
30th March
1981
(continued)

HIS LORDSHIP: forth. So the Court will not be open at large to the public. What I intend to do, however, what I have always done, to follow the practice, that is, where a man is on a Gun Court trial, even a murder case or any of the sexual cases, if the accused has any close relative he wishes to be present and who is not giving evidence in the case and who wishes to be present to see that the man gets a fair trial, or to be ready at hand to give instructions to the attorney defending him or even the accused, I am always willing to make them present. So if any of these men have close relatives who wish to be inside here, who are not giving evidence in the case, I will allow that person to be present.

10
20

LUNCHEON ADJOURNMENT TAKEN
AT 12.40 P.M.

Resumption 2.25 p.m.

MR. JARRETT: May it please you, M'Lord, may I apologise for being here about ten minutes late.

30

HIS LORDSHIP: Yes.

MR. JARRETT: I was in contact with Mr. Soutar, M'Lord. He, at the moment, is engaged at the Gun Court.

HIS LORDSHIP: Yes.

MR. JARRETT: But, he has undertaken, M'Lord, to get in touch with our leader Mr. Neita and to have Mr. Neita here tomorrow morning, M'Lord.

40

M'Lord, in view of this, may I humbly ask that even if the evidence-in-chief is taken, but that the cross-examination...

HIS LORDSHIP: Who you say will be here tomorrow?

MR. JARRETT: Mr. Neita, M'Lord.
Mr. Soutar has undertaken to
get Mr. Neita here tomorrow.

No. 2
Proceedings

HIS LORDSHIP: Well, I had an opportunity
during the luncheon adjournment
to read the deposition...

30th March
1981

(continued)

MR. JARRETT: Yes, sir.

HIS LORDSHIP: ...is only one controversial
witness you have.

10 MR. JARRETT: Only one witness of fact.

HIS LORDSHIP: Yes. That's what I call a
controversial witness - the
man who was allegedly in the
room, along with the
investigating officer because
the doctor is not controversial.

MR. JARRETT: No.

HIS LORDSHIP: And the person who identified
the body is not controversial.

20 MR. JARRETT: No, M'Lord.

HIS LORDSHIP: Because the man is dead. So,
we could call the man who
identified the body if the
doctor is available and
maybe we could start in-chief
with the controversial witness
and we postpone it until
tomorrow morning.

MR. JARRETT: I would be grateful, M'Lord.

30 HIS LORDSHIP: We can start off by proving
the man is dead.

MR. JARRETT: You see, M'Lord, Your
Lordship knows that if Mr.
Neita or Mr. Soutar is able to
help any at all, then Mr.
Robinson...

40 HIS LORDSHIP: So make a note of...so, the
first thing that we will do
now - we have the witness who
identified the deceased outside.
We are going to put the
accused men in charge; that

No. 2
Proceedings
30th March
1981

HIS LORDSHIP: hadn't been done, then learned
(contd.) counsel for the Crown will open,
if she wishes, and then we can
start with that and we can
have an early adjournment.

(continued)

MR. JARRETT: I will be grateful.

REGISTRAR: Mr. Foreman and members of the
jury, the prisoners at the
bar Frank Robinson and Anthony
Gibson are charged for the
offence of murder. The
particulars of offence are that
Frank Robinson and Anthony
Gibson, on the 22 day of
August, 1978, in the parish of
Saint Andrew, murdered
Mussington Reid. To this
indictment they have pleaded
not guilty. It is therefore,
your charge, having heard the
evidence, to say whether they
are guilty or not.

10

20

ADDRESS BY CROWN COUNSEL - 2.25 p.m. to
2.41 p.m.

MISS HYLTON: The first witness the
prosecution proposes to call
is Stanley Reid.

Prosecution
Evidence

No. 3
Stanley Reid
Examination

No. 3

STANLEY REID

STANLEY REID : SWORN : EXAMINATION BY
MISS V. HYLTON: (2.42 P.M.):

30

MISS HYLTON: I notice something is wrong
with his leg, M'Lord. I shall
be brief with him, however.

HIS LORDSHIP: You can stand up a few
minutes?

WITNESS: Yes, sir.

Q. Your name, sir, is Stanley Reid?

A. Yes, ma'am.

Q. And you are a businessman living in the parish of Saint Andrew?

A. Yes, ma'am.

Q. Mussington Reid was your brother?

A. Yes, ma'am.

Q. Younger than you or older than you?

A. My youngest brother, ma'am.

Q. How old was he at the time of his death?

10 A. About twenty-two.

Q. Married or unmarried?

A. Unmarried.

Q. Now, do you remember the 6th of September, 1978?

A. (No answer)

Q. Do you remember going to the morgue of the Kingston Public Hospital?

A. Yes.

20 Q. And there, did you see the body of your brother Mussington Reid?

A. Yes, ma'am.

Q. And you identified the same to the doctor?

A. Yes, ma'am.

Q. Who did a post mortem examination on the body?

A. Yes, ma'am.

Q. Now, when last before you saw your brother's body, had you seen him?

30 A. The night before him dead.

Q. Mmm?

A. The night before him dead.

Q. This was about 7 o'clock the night before he died?

Prosecution
Evidence

No. 3
Stanley Reid
Examination
(continued)

A. Yes, ma'am.

Q. Did you live in the same yard?

A. No, ma'am, about quarter mile from him. He used to live with me and he leave recently and live about quarter mile from me.

Q. I see. That's all.

(Miss Hylton sits at 2.45 p.m.)

HIS LORDSHIP: Robinson?

(Accused stands)

10

HIS LORDSHIP: That's the brother of the deceased. He says he identified the body. Any questions to ask him?

ACCUSED: A don't hear you, sir.

HIS LORDSHIP: Any questions to ask him?

ACCUSED: No, sir.

HIS LORDSHIP: Anything Mr. Jarrett?

MR. JARRETT: No cross-examination.

HIS LORDSHIP: All right, Mr. Reid. Thank you very much. You need not stay but if you want to stay and hear the case you can.

20

MISS HYLTON: I am going to call the chief witness now because I didn't ask the doctor to be here.

HIS LORDSHIP: You can start with him.

MISS HYLTON: Wilbert Irving?

WILBERT IRVING : SWORN : EXAMINATION BY
MISS V. HYLTON: (2.46 P.M.):

HIS LORDSHIP: His present address is to be kept secret.

MISS HYLTON: Yes, M'Lord and if anybody tried I was going to object.

10 Q. Now, Mr. Irving, you can see that the courtroom is clear, right?

A. Yes, ma'am.

Q. You don't have to be frightened or nervous in the box, right?

A. Yes, ma'am.

Q. Speak as loudly as you can for us.

A. Yes, ma'am.

Q. Your name is Wilbert Irving?

A. Yes, ma'am.

Q. You are a Jamaican?

20 A. Yes, ma'am.

Q. And you have always lived in Jamaica?

A. Yes, ma'am.

HIS LORDSHIP: You are a labourer?

WITNESS: Yes, sir.

Q. Do you remember the 21st of August, 1978?

A. Yes, ma'am.

30 Q. Now, the place where you were living on that occasion, was it a place that you alone lived or several people lived there?

A. Three of us was living there. A lady live by herself, and me and the brother that get dead live in one house.

Prosecution
Evidence

No. 4
Wilbert
Irving
Examination

(continued)

Q. So, in the yard that you live, a lady lived in there?

A. Yes, ma'am.

Q. And you and the brother that dead live in one house?

A. Yes, ma'am.

HIS LORDSHIP: Just a minute. Were you living at an address in Andrews Lane?

WITNESS: Yes, sir.

10

HIS LORDSHIP: What area?

WITNESS: Constant Spring Police Station.

HIS LORDSHIP: Police station?

WITNESS: Yes, sir.

HIS LORDSHIP: So, you say you had lived in a yard - kind of tenement yard like?

WITNESS: Government piece of land.

HIS LORDSHIP: And who and you lived in your room? There was a room there that you occupied with somebody else?

20

WITNESS: The brother that got die - me and him was occupying those room.

Q. You live in one room and the brother that got dead lived in another room that was adjoining to your room?

A. Yes, ma'am.

Q. Now, this house that you and the brother, as you call him, that got die lived in, what was the house made of?

30

A. Board.

Q. Board?

HIS LORDSHIP: Yes.

Q. Now, on the 21st of August, '78, whilst you were at home, were you

inside your house or outside your house?

A. Inside.

Q. Was it daytime or nighttime?

A. Night.

Q. Nighttime? Now, while you were in your house that nighttime, did you go to bed?

A. Yea.

10

Q. While you were in bed, did you become awake? Did anything attract your attention?

A. Yea.

Q. What was it that attracted your attention?

A. Somebody knock at the door and call me.

Q. When that person called you, did you recognise the voice?

A. Yes, ma'am.

20

Q. About what hour of the night was it that this person knocked on the door and called you and you recognised the voice?

A. Pretty near about 4.30 in the morning.

Q. When you recognised the voice what did you do?

A. I opened the door and went outside.

Q. You opened the door and went outside. Were you able to see?

30

A. Who calling me, I saw them.

Q. You saw - did you see anybody?

A. Yes, ma'am.

Q. One person or more than one person?

A. I saw two persons whom I could recognise but someone else was by there but I never recognise him.

Prosecution
Evidence

No. 4
Wilbert
Irving
Examination

(continued)

HIS LORDSHIP: Two persons whom you recognised?

(Witness nods)

HIS LORDSHIP: And there was one at the gate?

WITNESS: I never know it was one. I know that someone else was out the gate by argument but I never know if it was two or three.

HIS LORDSHIP: You never know him?

WITNESS: Who I recognise, I know. 10

Q. Let me see if I understand. You say when you came out you saw two persons that you recognise?

A. Yes, ma'am.

Q. According to argument, you could discover that there were one or more persons at the gate?

A. Yes, ma'am.

Q. You didn't see who was at the gate?

A. No, ma'am. 20

Q. The persons that you saw and recognised, were they men or women?

A. Man.

Q. Do you see any of those persons here today?

A. Ya, yes, ma'am.

Q. One or more than one?

A. I saw the two of them.

Q. You saw the two of them. Where do you see the two of them? 30

A. You mean now?

Q. Yes.

A. In the witness box. (Indicating)

Q. That's what you call the witness box?

HIS LORDSHIP: Well, he is pointing to the dock, Yes?

Q. Now, you told us earlier that when they had been rapping on your door and calling you had recognised the voice?

A. Yes.

Q. Whose voice was it that you recognised?

A. "Chucky".

10 Q. Now who is "Chucky"? Do you see him here today?

A. This one at the end there; darkest one. (Indicating)

HIS LORDSHIP: The one on the right or the one on the left?

WITNESS: Darkest one.

Q. You know that darkest one was "Chucky"? My back is turned and I do not want to look around.

20 HIS LORDSHIP: The last time you were here before me in a murder case I had to tell you to take your time.

MISS HYLTON: M'Lord, I am sorry. I haven't learned to take time.

HIS LORDSHIP: You are still young you know.

MISS HYLTON: Not so young, M'Lord.

HIS LORDSHIP: You rushing it. I have to write.

30 HIS LORDSHIP: "I recognised the voice to be that of "Chucky". Witness points to the accused.

HIS LORDSHIP: This man he is pointing out...

WITNESS: The one in the ganzie.

HIS LORDSHIP: The dark one. What's your name?

ACCUSED: Anthony Gibson, sir.

Prosecution
Evidence

Wilbert
Irving
Examination

(continued)

MISS HYLTON: Gibson, may it please you.

HIS LORDSHIP: Witness points to the accused
Gibson.

Q. Now, up that night, how long had you
known the person you call "Chucky"?

A. About eight months.

HIS LORDSHIP: "I had known "Chucky" for
about eight months before.
Yes?

Q. The other whom you recognised, who you
say is in the dock, did you know him
by name?

10

A. I know him name "Bubo"

HIS LORDSHIP: Yes?

Q. Now, up to that night, how long had you
known the accused whom you call "Bubo"?

A. At least the said time : eight months
I know the two of them.

HIS LORDSHIP: Yes?

Q. Now, having opened the door and come
out, you recognise those two persons
"Chucky" and "Bubo"; did any of them
say anything to you?

20

A. Yes, ma'am.

Q. Which one?

A. "Chucky", ma'am.

HIS LORDSHIP: Yes?

Q. What did "Chucky" say to you?

A. He say that he were coming from
stadium.

30

HIS LORDSHIP: Yes?

A. And he ride a motorcycle...

Q Yes?

A. ...which get out of gas, so he is
asking me to let it stay until in the
morning when he could get some gas to
remove it.

HIS LORDSHIP: Asked to have it stay with you?

Prosecution
Evidence

WITNESS: Yes, sir.

HIS LORDSHIP: Until in the morning when he
get some gas?

No. 4
Wilbert
Irving
Examination

WITNESS: Yes, sir.

(continued)

Q. Now, when he asked that favour of you,
what did you say?

A. I said O.K.

Q. You having said O.K., what happened?

10

A. He pushed - two of them pushed the
bike inside my house.

HIS LORDSHIP: Both of them?

WITNESS: Yes, sir.

HIS LORDSHIP: Pushed the bike into your
house - your room?

WITNESS: Yes, sir.

HIS LORDSHIP: Yes?

Q. After these two men pushed the bike
inside your room, did they remain
there or did they leave?

20

A. They leave.

Q. Now, explain to the court how you were
able to see these men at that time?

A. Well, I had a light come from joining
by Federal Road and Essex Avenue.

Q. What kind of light?

A. Light on the lightpost - Government
light.

HIS LORDSHIP: You mean the street light?

30

WITNESS: Yes, sir.

HIS LORDSHIP: The street light coming from
Federal Road?

WITNESS: And Essex Avenue. Between
Essex Avenue and Federal Road.

Prosecution
Evidence

No. 4
Wilbert
Irving
Examination

(continued)

HIS LORDSHIP: From corner of Essex Avenue?

WITNESS: Yes, sir.

HIS LORDSHIP: And Federal Road?

WITNESS: Yes, sir.

HIS LORDSHIP: Yes?

Q. So, after these men left, did you
return to your room?

A. Yes, ma'am.

Q. Went back to bed?

A. Yes, ma'am.

10

Q. Did you get up later?

A. Later in the day but early morning.

Q. Did you get up later - later in the
day but early morning?

A. Yea. About 6.30 in the morning.

Q. Yes. After you got up, did you remain
at home during the day or did you leave?

A. I leave to my sister for I work with
my sister.

HIS LORDSHIP: You left for work

20

Q. About what o'clock did you leave the
home?

A. About 7.30.

Q. When you were leaving where was the
motorcycle?

A. Leave it inside.

Q. Your room?

A. Yes, ma'am.

Q. What was the condition of your room
door, open or close?

30

A. Close with padlock outside, so I lock
it and put the key in me pocket.

HIS LORDSHIP: Lock the door and took away the key?

Prosecution
Evidence

WITNESS: Yes.

No. 4
Wilbert
Irving
Examination

Q. You padlock the door outside and took away the key?

A. Yes, ma'am.

(continued)

Q. Now, to get the record straight, when you are inside how do you lock the door?

10 A. With a bolt.

Q. Lock on the inside with a key but outside with a padlock

A. (Witness nods).

Q. After you had left home at about 7.30 that morning...

HIS LORDSHIP: I am sorry.

MISS HYLTON: Continue, M'Lord.

HIS LORDSHIP: Yes, please.

20 Q. After you had left home at about 7.30 that morning, during the course of the day did you see anybody in particular?

A. No, I never see anyone from up there where my sister is at Washington Gardens.

Q. Did anybody come to you?

A. No, no one don't come to me.

Q. What happened during the day then, tell me?

30 A. I work at my sister, went home back. Coming home back at my yard in the evening...

Q. Coming home back? I see. What happened?

A. I walked nearby to "Chucky" and "Bubo" yard.

Prosecution
Evidence

No. 4
Wilbert
Irving
Examination

(continued)

Q. You knew where they lived?

A. Yes, ma'am.

HIS LORDSHIP: Just a minute. "Coming home from work, I walked by the yard".

"Chucky" and "Bubo" were living in the same yard?

WITNESS: Yes, sir.

HIS LORDSHIP: They lived near to each other?

WITNESS: About six or eight chain apart. 10

HIS LORDSHIP: "Chucky and "Bubo" were living six to eight chains apart. Which road was that?

WITNESS: Grants Pen Avenue.

HIS LORDSHIP: Grants Pen Avenue.

WITNESS: Yes, sir.

HIS LORDSHIP: So, you knew the yard before?

WITNESS: Yes, sir.

HIS LORDSHIP: You knew the yard of each of them before? 20

WITNESS: Yes, sir.

Q. Is that the route you usually take walking home?

A. No, ma'am.

Q. I see. So, while you were walking home this day, did anything happen?

HIS LORDSHIP: Wait a second man. Yes? Sorry.

MISS HYLTON: That's all right, M'Lord, I understand. 30

Q. While you were walking home that day, did anything happen?

A. Yea. I went to ask if anybody can come for the bike.

HIS LORDSHIP: You went to ask what?

WITNESS: Went to ask them if they ready
to come for the bike.

HIS LORDSHIP: Went to see them?

WITNESS: I walking where I could see
them.

HIS LORDSHIP: You spoke to who?

WITNESS: To "Chucky".

HIS LORDSHIP: Ask him what?

10 WITNESS: Asked him if him going to
come for the bike. He said if
I know that the police went
and kick off my door and teck
away the bike.

HIS LORDSHIP: "I spoke to "Chucky" and he
said if I knew that the police
went to my room, kicked off
the door and took away the
bike."

20 What you say to him?

WITNESS: I said I never know.

HIS LORDSHIP: "I said I did not know - did
not know this."

Q. What time of day was that?

A. About 5.30 going to 6 o'clock.

HIS LORDSHIP: Five-thirty going to six?

WITNESS: Yes, sir.

30 Q. Now, when you were having that
conversation with "Chucky", did you
see the other accused whom you call
"Bubo"?

A. No.

HIS LORDSHIP: Yes?

Q. Now, "Chucky" having told you about
your door being kicked off, did you go
anywhere or do anything?

A. I went at my home and recognise that the
door were kicked off in truth.

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Evidence

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(continued)

HIS LORDSHIP: That the door kicked off?

WITNESS: Yes, sir.

Q. Was the motorcycle there?

A. No, ma'am.

HIS LORDSHIP: Motorcycle was missing?

WITNESS: Yes, sir.

Q. When you saw your door kicked off
and the motorcycle missing, did you do
anything?

A. I went to Central. 10

Q. To central?

A. Yes, ma'am.

HIS LORDSHIP: Central Police Station?

WITNESS: Yes, sir.

HIS LORDSHIP: And made a report?

WITNESS: Talk to Superintendent Richards

HIS LORDSHIP: "I spoke to Superintendent
Richards."
Whom you knew before?

WITNESS: Yes, sir. 20

HIS LORDSHIP: Yes.

Q. After you went to Central Police
Station and made that report, did you
return home?

A. Yes, ma'am.

Q. Now, during the course of the day,
from the accused men, as you say, had
woken you at night and had left the
motorcycle in your room, until when
you returned home that night, having
made the report at Central, did you
see Mussington Reid during the course
of the day at all? 30

A. When I came back from Central I
saw him.

Q. I see. Where did you see Mussington
Reid when you came back from Central?

A. He were cooking.

Q. He was cooking?

A. Yes.

HIS LORDSHIP: The cooking place was
outside in the yard?

WITNESS: On an old 'fridge he was
cooking in a coal stove.

HIS LORDSHIP: Outside?

(Witness nods)

10 Q. Talked with him?

A. (Witness nods)

Q. You mustn't nod. You must talk up.

A. Yes, ma'am, yes, ma'am.

HIS LORDSHIP: Yes?

Q. Now, after you talked with Mussington
Reid did you retire for bed for that
night?

A. Yea, after we 'round the place... I
never went back to the street.

20 Q. I see. You never went back to the
street?

A. Yes, ma'am.

Q. When you were retiring to bed did you
see if Mussington Reid was in the yard?

A. Yes, I stay in my room and talk to him
in his room so I know that the two of us
went to bed.

HIS LORDSHIP: What separates the rooms, a
door?

30 WITNESS: No, just a window. My room
was there before that one put
on.

HIS LORDSHIP: "I stayed in my room and
talked with Reid". Through a
window?

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Evidence

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(continued)

WITNESS: Yes, sir. We don't close that window. That window just stay between the two of us; never close.

HIS LORDSHIP: I see.

Q. Made of what?

A. Board same way.

HIS LORDSHIP: Yes?

Q. Now, Mussington Reid's room, did it have a door?

10

A. Yes, ma'am.

Q. How did his door close, on the inside?

A. We have a lock just like my own only thing my own is a latch and his own is a good lock.

Q. One of those that you turn?

A. Yes.

Q. And your own was a bolt that you pushed in?

20

A. Yes, ma'am.

Q. I see.

HIS LORDSHIP: Latch inside?

WITNESS: Yes, sir.

Q. By the way, who make those houses?

A. A rent a rent the house.

Q. I see. Now, after you had retired to bed that night and you had been talking to Mussington Reid in his room, did you fall asleep?

30

A. Yes.

Q. And during the course of that night did something happen?

A. Near to daylight.

Q. Near to daylight.

HIS LORDSHIP: Yes?

Q. Now, near to daylight, what was it that happened?

A. I hear a knocking on the door.

HIS LORDSHIP: On your door?

WITNESS: Yes, sir.

HIS LORDSHIP: Yes?

Q. Apart from the knocking on your door, did you hear anything else?

10

A. After I heard the knocking I say who is that?

HIS LORDSHIP: Yes?

Q. Did anybody answer you?

A. Yes, ma'am.

Q. Did you recognise the voice that answered you?

A. Yes, ma'am.

Q. Whose voice was it?

A. "Bubo", ma'am.

20

Q. What did the voice that you recognised to be "Bubo's" voice say?

A. Eee knock on the door and him say - and I hear the knocking and I say 'who is that?' The person say "me, "Bubo" ".

Q. I see. "Me "Bubo"?"

A. Yes.

Q. When he said "Me, "Bubo"", did you do anything?

A. I get up off my bed and open the door.

30

Q. When you opened the door did you see anybody?

A. I saw "Bubo".

Q. Did he say anything to you?

A. He say that - the rain was dewing the morning about 6.30...

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(continued)

Q. Yes?

A. ...Daylight Saving Time - so the rain was dewing and Irvin', which is Mussington Reid, had a piece of zinc over his doorway, so "Bubo" went under the zinc.

HIS LORDSHIP: The deceased had a piece of zinc?

WITNESS: Over his doorway. Not "Bubo" have the zinc; the owner for the house that live there has a piece of zinc that if you stand up under there when rain fall you wouldn't wet. So meanwhile the rain was falling and he knock and call me, he just went underneath the zinc.

10

HIS LORDSHIP: So who went under the zinc?

WITNESS: "Bubo", sir.

20

Q. So when you opened your door you saw "Bubo" standing underneath the zinc at Irvin's door? Who is Irvin'?

A. Mussington Reid, but is Irvin' I call him. I know him as Irvin'.

Q. I see.

HIS LORDSHIP: Yes?

Q. So, when you saw "Bubo" at this doorway underneath this zinc, did he say anything to you?

30

A. He say "Come Nuh, a wah say something to you."

HIS LORDSHIP: Speaking to you?

WITNESS: He said, "Come nuh, I want to say something to you".

HIS LORDSHIP: He was speaking to you?

WITNESS: Yes, sir.

HIS LORDSHIP: That's what "Bubo" said?

WITNESS: Yes, sir.

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HIS LORDSHIP: "Come nuh...?"

WITNESS: Yes, sir.

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HIS LORDSHIP: "...I want to say something to you"?

WITNESS: Yes, sir.

(continued)

Q. Did you go to him?

A. Yes, ma'am.

HIS LORDSHIP: Just a second.

10 (Paper handed to the judge).

HIS LORDSHIP: This is important enough that I can read it out. There was an assassination attempt on President Reagan. He was shot and he is in hospital. His condition is serious.

HIS LORDSHIP: "Come nuh, I want to say something to you".

20 I feel so upset I don't think we can do anything more.

(To Miss Hylton) We could stop at this?

MISS HYLTON: Yes, sir.

HIS LORDSHIP: Now, we won't finish today, so, I think the police will take care of you this evening.

WITNESS: Yes, sir.

30 HIS LORDSHIP: So, you co-operate with them and come back here tomorrow when the evidence will be through.

MISS HYLTON: The inspector is here. Let the inspector come into court.

HIS LORDSHIP: Yes, so the inspector will make arrangements to look after you.

WITNESS: Yes, sir.

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(continued)

MISS HYLTON: Inspector, I want you to come into court to hear what the judge has to say. The Judge said the police will take good care of the witness, please inspector.

INSPECTOR: All right.

HIS LORDSHIP: All right, we are going to adjourn now.

Members of the jury, it is now 3.25. You have just heard the sad news of an attempt to assassinate the President of the United States. I hope that he will recover. Seem like Satan is all over the world. Last night we lost a very outstanding West Indian. That one was a natural death. This one is forced killing like the president's killing.

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I hope you have a safe journey home. Tomorrow morning we will continue with the case.

ADJOURNMENT TAKEN AT 3.27 P.M.

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31.3.81

WILBERT IRVING CALLED, ENTERS WITNESS BOX.

(Registrar was about to swear witness but Judge intimated that witness was still on his oath.)

REGISTRAR: You are still on your oath.

10 HIS LORDSHIP: He is under oath already.
It is not everyday you have to swear him. It is a continuation of the man's oath.

(Mr. Jarrett stood to address Judge as soon as witness settled in witness box)

(Judge to Mr. Jarrett) Yes, you were saying something Mr. Jarrett?

20 MR. JARRETT: M'Lord - May it please you, M'Lord, Mr.Soutar, the junior to Mr. Neita whom your record shows appears for Robinson, is outside as also Mr. Neita. Mr. Neita is not dressed for Court, M'Lord. They have asked me to respectfully ask you, M'Lord, if you would...

30 HIS LORDSHIP: Well, they are counsel, so they can come and sit down. They can't address me but they can sit at the back. They are attorneys.

MR. JARRETT: Mr. Neita has aksed me to ask you respectfully if you would kindly, along with counsel for the Crown,hear a submission from him in your chambers.

HIS LORDSHIP: Who wants to make the submission?

40 MR. JARRETT: Mr. Neita, M'Lord; it has to do with the matter before your Lordship and it is quite pertinent.

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(continued)

HIS LORDSHIP: You know what the matter is?

MR. JARRETT: It has to do with
representation, M'Lord.

HIS LORDSHIP: Well, have you told the Crown
representative what it is
that Mr. Neita wants to say?

MR. JARRETT: Mr. Neita just came across
and saw me before...

HIS LORDSHIP: Well, tell her.

(Mr. Jarrett speaks with
Miss Hylton.)

10

You have told her?

MR. JARRETT: Yes, sir.

HIS LORDSHIP: Is there something of
substance? I can take five
minutes and go in there then
Miss Hylton?

MISS HYLTON: M'Lord, it is something that
can be dealt with in five
minutes: but it is my opinion
that it is something that
ought to be dealt with in
open Court. I am quite
prepared to go if your Lordship
wishes to hear it in chambers.
My honest view is that it
can be dealt with in open
Court.

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HIS LORDSHIP: If in open Court it can be
dealt with, I see Mr. Soutar
is in a position to address me.

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MR. SOUTAR: May it please you, M'Lord, in
fact Mr. Neita had asked that
I ask your Lordship if you
would meet him in chambers
where certain matters pertaining
to the representation of the
accused man Robinson would be
discussed with your Lordship.
It is my view, M'Lord, having
regard to what Mr. Neita hinted
to me, that perhaps the matter
might initially be best dealt
with in chambers and if at a
later stage it might be

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(continued)

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necessary that the matter be put on record, but perhaps that might not be necessary, it depends entirely on what transpires when he meets your Lordship in chambers. He had asked M'Lord, that I make this application at this time and having regard to what he hinted to me, it is my view, M'Lord, that perhaps initially it might best be dealt with in chambers, sir.

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HIS LORDSHIP: Well, for the purposes of the record, let me state what I understand the position to be. I was informed yesterday by Mr. Jarrett that Mr. Neita and yourself were briefed or have been briefed by Frank Robinson, one of the accused in this case, but that full instructions had not been given to him and as a result he wouldn't be able to appear for the accused. This was conveyed to me by Mr. Jarrett - he hinted to me in chambers - Mr. Jarrett got permission to come into chambers and hinted that to me.

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When I came into Court and I was told the history of this case, I made certain comments and briefly list that there were nineteen previous occasions that the case had been called up, yesterday was the twentieth and among those occasions there were six previous trial dates and the real reason why this case has been on the list pending for nearly two years is that the chief witness, this gentleman, couldn't be located. The police had to do even above the normal course of duty to go around the island, go around the different crannies and crevices to find him. We had another murder case that was on and the Crown, Miss Hylton told the Court that the possibility

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(continued)

HIS LORDSHIP: would be that if this case
(Contd.) should be taken out of the list
we might not be fortunate
enough to see this witness
again. So we decided to
start the trial. What was
said to me yesterday by
Mr. Jarrett, I told Mr. Jarrett
then and there that the move
by Mr. Neita appears to have
been in breach of one of the
canons governing the legal
profession in a murder case,
that at the last minute he is
withdrawing. The Court
hasn't given any permission for
that to be done and the Court
was not satisfied that any
ground had been shown why the
case should be adjourned,
inasmuch as the matter was
regulated by Section 6 of the
Criminal Justice (Administration)
Law, whereby no person may
postpone the trial at the
Circuit Court unless good
ground is given to the Judge,
in which case the Judge will
then use his discretion. So
that is a summary of the
position: and I also suggested
that Mr. Neita should appear
in Court to give an account
of himself, because I was
told that he was parading
outside there in the corridor
dressed in the habit of a
counsel, so he could have
come in here and told me.
So that is the position as
it is.

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However, you are saying that
he wishes to say something to
me with you, I think Mr.
Jarrett would want to be
there and Miss Hylton who
represents the Crown. In
those circumstances I will
adjourn for seven minutes.
I hope it won't be longer than
that time and I will go in
that chamber there and hear
what he has to say.
(To witness) You can go down
you see.

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MR. SOUTAR: I am obliged to your Lordship.

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HIS LORDSHIP: So Mr. Foreman and members of the jury, it is about, at most ten minutes just to find out something.

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(Court adjourns 10.45 a.m.)

(continued)

Court resumes 10.58 a.m.

HIS LORDSHIP: They are all relatives?

MR. JARRETT: All close relatives.

10 HIS LORDSHIP: In pursuance of what I said yesterday...

MR. JARRETT: Yes, M'Lord.

HIS LORDSHIP: Yes Mr. Soutar?

20 MR. SOUTAR: May it please you, M'Lord, the record discloses that Mr. K.C. Neita appears for the accused Frank Robinson and Mr. Jarrett for the accused Gibson. What the record does not disclose, M'Lord, is that I am associated with Mr. Neita in this matter as his junior.

HIS LORDSHIP: Yes?

MR. SOUTAR: I am instructed by senior counsel to inform the Court of certain facts related to representation of Robinson at his trial.

30 HIS LORDSHIP: Yes?

MR. SOUTAR: The benefactors of Mr. Robinson retained Mr. Neita...

HIS LORDSHIP: Yes?

MR. SOUTAR: ...in this matter some time last year. The case came up for trial on more than one occasion while Mr. Neita's name was on the records.

HIS LORDSHIP: Yes?

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(continued)

MR. SOUTAR: The fact is that although he was in attendance....

HIS LORDSHIP: Yes?

MR. SOUTAR: his retainer was not completed. The question never arose because the case was never in a position to start and consequently...

HIS LORDSHIP: The defence was not in a position to start.

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MR. SOUTAR: The case was not in a position to start.

HIS LORDSHIP: The case?

MR. SOUTAR: The case.

HIS LORDSHIP: When you say the case, what do you mean, the Crown?

MR. SOUTAR: The Crown was not in a position to start, to be more accurate, M'Lord....

HIS LORDSHIP: Yes?

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MR. SOUTAR:and consequently the Court was not aware of counsel's position in relation to being properly instructed. The matter was fixed for trial on the 30th.

HIS LORDSHIP: Then what about those, to use your term, 'the benefactors of the accused', were they not aware that the...

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MR. SOUTAR: Yes, M'lord, I was coming to that, but perhaps I can just do it at this stage.

HIS LORDSHIP: Yes?

MR. SOUTAR: Persons who retained counsel were aware and agreed that counsel was not properly instructed, but counsel was left with the promise of their ability to pay and of their intention to satisfy counsel's

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MR. SOUTAR (contd). instructions, sir. The matter was set for trial on the 30th of March and counsel was in the same position, in that he was not properly instructed....

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(continued)

HIS LORDSHIP: Yes?

10 MR. SOUTAR:because the persons who were responsible for the retainer had maintained at all times that they intended to complete the necessary instructions before the trial of this matter. Counsel was left in a predicament in that he was unable to indicate to the Court before the trial day....

20 HIS LORDSHIP: Yes?

MR. SOUTAR:that he was not in a position to conduct the defence in this matter. I am instructed, M'Lord, by my senior, to ask the Court for permission for him to withdraw.

HIS LORDSHIP: Well, both of you?

30 MR. SOUTAR: M'lord, I was coming to that. In view of the fact, M'lord, that I appear with Mr. Neita as his junior, it follows, M'Lord, that what affects him in this respect would also affect me and I would also ask the Court's permission to withdraw. I am going to ask, M'Lord, the Court to be mindful that the
40 accused man is charged with one of the most serious offences in our jurisprudence and I am going to ask your Lordship to allow the accused men time in order that an assignment might be made.

HIS LORDSHIP: What kind of assignment?

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(continued)

MR. SOUTAR: A legal aid assignment, M'lord, might be made to him if it is at all possible.

HIS LORDSHIP: Do you do legal aid assignment in the Circuit Court?

MR. SOUTAR: Yes, M'lord; in the circumstances of this and what transpired between myself and his benefactors, I feel inhibited, M'lord, making myself available in that respect.

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HIS LORDSHIP: You are on the roll?

MR. SOUTAR: Yes, M'lord, I am alone.

HIS LORDSHIP: Mr. Neita is on the roll too?

MR. SOUTAR: I really don't know, M'lord.

HIS LORDSHIP: Yes?

MR. SOUTAR: I would just ask your Lordship out of your Lordship's abundant sense of justice to allow the accused man time so that he would be assigned a counsel. May it please you, M'lord.

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HIS LORDSHIP: Well, I need not repeat myself by rehearsing the history of this case, but learned counsel Mr. Soutar having outlined the position as it affects his leader and himself, then I will have to make a ruling and make some comments.

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In recent times and when I say recent I am speaking at least of the last eight to ten years, there has been a practice that has been developing particularly among junior counsel whereby at the last minute, having been retained by an accused man charged in the Circuit Court, he asks for an adjournment on the ground that he has not got proper instructions; and that generally means that

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HIS LORDSHIP: the client or those who are
(Contd.) assisting the client have not
satisfied the agreement made
towards representation; in
other words, not fully paid.
That practice, as I said, has
blossomed over the last
eight years with the result
that Judges who are minded to
grant these applications find
that they are really clogging
the case and as it were
ignoring the plain provision of
Section 6 of the Criminal
Justice (Administration) Act
which when paraphrased means
that no accused or anybody on
his behalf has the right to
have a trial that is fixed
postponed except for good
reasons shown if the Judge
thinks that further time
should be granted towards
the instructions for the
Defence.

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This case has been before
the Court for nearly two
years. The Prosecution has
encountered a lot of
difficulty in finding the main
witness to attend and as a
result, as I said this
morning and it has not been
contradicted, the statement
of Miss Hylton is to the
effect that it has had at
least nineteen appearances
or nineteen mention dates in
this Court, six of them being
trial dates. After a
careful investigation and a
lot of time used by the
police, he was able to track
down this witness who started
his evidence yesterday.
Under the Legal Profession
Act, The Legal Profession
(Canons of Professional
Ethics) Rules published in
The Jamaica Gazette
Supplement on the 29th of
December, 1978, instances are
given under Canon IV where an
attorney may withdraw from
his employment to represent
a client whether in a civil or

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(continued)

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(continued)

HIS LORDSHIP: criminal matter and instances
(Contd.) where the attorney shall
withdraw; two sets of
circumstances. One of the
circumstances outlined under
Canon IV (a) (i) is:-

where the client fails,
refuses, or neglects to
carry out an agreement
with, or his obligation to,
the Attorney as regards the
expenses or fees payable
by the client

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he may withdraw and that Canon
continues under (o) (v) :-

where appropriate obtaining
the permission of the Court
where the hearing of the
matter has commenced

that he should withdraw. So
the move by Mr. Soutar this
morning was no doubt prompted
by this Canon.

20

Now as I said, the matter
about which he is telling me
is that his leader Mr. Neita
was approached or briefed
initially by what counsel
calls 'the benefactors of the
accused Robinson' some time
last year, the latter part of
last year and after that
acceptance of retainer or
part of the retainer or the
undertaking to defend this
man, subject of course to all
instructions being given, a
trial date had actually been
fixed, but since this case
has been on the record from
April, 1979, it would mean
that this accused would have
had other attorneys before.
I don't know how many, but I
understand from Miss Hylton
yesterday that other attorneys'
names appear on the record.
It appears that they withdrew
and then now Mr. Neita came
in; but the case was before
the Court on a date in January
I was told and then it was
fixed definitely for the 30th

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HIS LORDSHIP: of March. So it is
(Contd.) difficult to follow the
reasoning of counsel who at
the last minute then, not
seeing that all the instructions
are given, is going to spring
on the Court an application
to be relieved of his
responsibility and to ask
that the way be made clear
for the accused now to get a
legal aid assignment. Why,
because Canon IV (o) states
that -

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(continued)

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An Attorney who withdraws
from employment by virtue
of any of the provisions of
Canon IV (n) shall not do so
until he has taken reasonable
steps to avoid foreseeable
prejudice or injury to the
position and rights of his
client including -

(i) giving due notice:

(ii) allowing time for
employment of another
Attorney;

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that could mean that one
Attorney's fees may be so
high that he would frighten
the client. The client cannot
pay and another Attorney may
take a smaller portion. In
these circumstances it will
be the duty of Counsel then to
make it quite clear to the
client that the case is fixed
for trial on the 30th of March
and "unless by a certain date
I get all the instructions,
then I will have to withdraw"
and then you will have time
to instruct another Attorney.
That hasn't been done in this
case. This rule has been
breached. So consequently I
do not have before me any
material for the exercise of
my discretion on the proviso
of Section 6 of the Criminal
Justice (Administration) Act
inasmuch as I am not satisfied

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(continued)

HIS LORDSHIP: with the way that the
(Contd.) Counsel has gone about
this matter.

I do not want to say
anything more which may be
construed as being highly
critical of, or prejudicial
to the conduct of the
Counsel and I will be telling
the jury in due course that
what I may say about Counsel
has nothing to do with the
clients: but the result of
the matter is that on the
special circumstances the
application for Counsel to
withdraw is refused: but of
course, I can't tie down
Counsel down there. Firstly
refused, secondly, the case
will continue. Counsel is
not here to represent him,
then the accused will state
what his defence is and what
assistance I can give him
will be given to him. He
will get his trial. There
will be nothing done to
interfere with what we have
already started. The trial
will not be aborted. Yes
Mr. Soutar?

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MR. SOUTAR: M'lord, in the
circumstances of your Lordship's
ruling I am going to ask for
a short adjournment so that I
may inform Mr. Neita of your
Lordship's ruling.

HIS LORDSHIP: Yes, tell him that I refuse
the application for his
withdrawal, but I am not in a
position to do anything if he
doesn't come: but as far
as the record goes he is
not allowed to withdraw and
the trial is continuing.
So how many minutes you
want?

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MR. SOUTAR: M'lord, I think he has gone to
Half Way Tree Court. I will
have to drive there to get him.

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HIS LORDSHIP: Oh my!

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MR. SOUTAR: M'lord, I would ask for an
adjournment until 2.00
o'clock.

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HIS LORDSHIP: 2.00 o'clock.

(continued)

MR. SOUTAR: 2.00 o'clock.

10 HIS LORDSHIP: Tell me something Mr. Soutar,
don't you think that this
Court is being treated with
the greatest disrespect?
Mr. Neita was in chambers
awhile ago with you. He was
not in a position to come in
here as he was not dressed
properly to address me. He
knows or he knew that an
application of this nature
was going to be made. He
has been at the Bar for some
years, couldn't he have
20 foreseen that there would be
the possibility, assuming for
the moment that he is aware of
all these things that I have
been trying to quote and he
can't plead ignorance of it,
couldn't he have foreseen
that there would be the
possibility of the application
being refused and also that he
would be on the spot to advise
30 you? Why should I grant the
adjournment until 2.00 o'clock?

40 MR. SOUTAR: M'lord, I do not know what
was the state of Mr. Neita's
mind at the time. In fact he
left me no instructions in
relation to the possibility of
the application being refused.
However, M'lord, I think that
quite apart from Mr. Neita, I
think that in the interest of
justice I would make the
application and ask your
Lordship not to consider what
might be regarded as Counsel's
omission as it is a very
serious charge and the accused
man I think would benefit from
the adjournment that I seek.

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(continued)

HIS LORDSHIP: You say you want until 2.00 o'clock for what purpose you say?

MR. SOUTAR: So that I can inform Mr. Neita of the Court's ruling.

HIS LORDSHIP: You want until 2.00 O'clock, it is half past 11.00 now. You can get him in ten minutes on the phone.

MR. SOUTAR: I was going to drive to Half Way Tree, M'lord. 10

HIS LORDSHIP: How long it takes you to go to Half Way Tree? You want to take on the spot instructions and you come back?

MR. SOUTAR: You see, I don't know what Mr. Neita's position will be after I give him the information, but I am obliged to inform him of it and I think perhaps the best course is for me to drive there. I wouldn't want to ask the Court to adjourn until say 12.00 o'clock and then find myself in difficulty in returning at that time. 20

HIS LORDSHIP: In the meantime this witness who has started his evidence is anxiously waiting to finish his story to the jury. 30

MR. SOUTAR: M'Lord, I wouldn't make any comments on that, M'lord. He is here and there will be no difficulty to have him wait. He has waited a long time.

HIS LORDSHIP: Well, I am going to give you an adjournment until quarter past 12.00. I am really stretching...

MR. SOUTAR: Your Lordship, please make it 12.30. Forty-five minutes is really difficult. 40

HIS LORDSHIP: All right, 12.30; I don't want you to break any stop and go sign or anything like that and tell me later on that

HIS LORDSHIP: there was a leader and a better.
(Contd.) So then you are free to go.
Be back here by 12.30.

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(To Miss Hylton) It means
Miss Hylton that we have to
hold on for an hour or so.

(continued)

MISS HYLTON: Yes, M'lord.

10 HIS LORDSHIP: Even if you don't do anything
else for this week I am not
going to abort the trial.

MISS HYLTON: M'lord, I agree with your
Lordship because we really
had to take very special steps
to have the witness found and
brought.

HIS LORDSHIP: We need not go over that
again. That point has been
made several times.
So Mr. Jarrett...

20 MR. JARRETT: M'lord, may I express my
gratitude to the Court for
allowing Mr. Soutar to try and
find Mr. Neita to find out
what further instructions he
has.

30 HIS LORDSHIP: Well, I generally take the
view that, consistent with
the law, a client should not
be put on an edge of a sword,
on the outer edge because of
the conduct of his attorney
and anything within reasonable
limit could be granted.

40 Mr. Foreman and members of the
jury you understand what has
been happening and those of
you who may want to take a
walk don't go too far. By
half past 12.00 the Court
will assemble; so half
past 12.00.

COURT ADJOURNS: 11.35 a.m.

COURT RESUMES: 12.38 p.m.

HIS LORDSHIP: Anything to report Mr. Jarrett?

MR. JARRETT: No, M'lord, I cannot say that

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(continued)

MR. JARRETT: Mr. Neita is here. I think
(Contd.) I can safely say Mr. Soutar
will be back, M'lord.

HIS LORDSHIP: How long does it take from
downtown to Half Way Tree
one way, about fifteen
minutes?

MR. JARRETT: A bit longer than that, M'lord,
about half-an-hour. My
learned friend said fifteen
minutes for her, M'lord. 10
I think I will go along with
that, M'lord.

HIS LORDSHIP: Yes, seventeen minutes;
well, I tell you something,
neither Mr. Soutar nor
Mr. Neita is present. Where
is Mr. Irving, outside?

MISS HYLTON: Get the witness for me, please

(Mr. Irving enters courtroom,
enters witness box.) 20

HIS LORDSHIP: I just want to find out
something. Using the biblical
term, is everything all right
with you?

MR. IRVING: Yes, sir.

HIS LORDSHIP: What I intend to do then is
that - by my watch call it
twenty minutes to 1.00, so it
is around lunch time - we 30
are going to adjourn now until
2.00 o'clock and we are going
on with the evidence at 2.00
o'clock. We can't wait
anymore. We can't call it
waste, we can't consume any
more time. (To Mr. Irving)
Do you hear?

MR. IRVING: So until 2.00 o'clock, sir.

HIS LORDSHIP: Until 2.00 o'clock; you can
go and have lunch. Mr. Foreman
and members of the jury, the
most I can ask you, we all have
to exercise a little patience
in the circumstances. At
2.00 o'clock sufficient time
would have been given to one 40

HIS LORDSHIP: or both gentlemen to come and
(Contd.) tell me what is their stand.
In the absence of that, to
move the Court for anything
else, we continue with the
evidence.

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(continued)

FOREMAN: Yes, M'lord.

HIS LORDSHIP: Adjourn until 2.00 o'clock.

JURY ROLL-CALL.

10 HIS LORDSHIP: Yes What is it Mr. Soutar?

MR. SOUTAR: May it please you, M'lord.

HIS LORDSHIP: Yes?

MR. SOUTAR: I visited Half Way Tree court
and Mr. Neita was engaged in
a matter in court I.

HIS LORDSHIP: Yes.

MR. SOUTAR: In fact, he was at the time
cross-examining.

HIS LORDSHIP: Yes.

20 MR. SOUTAR: I managed to appraise him of
Your Lordship's ruling.

HIS LORDSHIP: Yes?

MR. SOUTAR: But he was unable to give me
any directive...

HIS LORDSHIP: Yes?

MR. SOUTAR: ...in response to Your
Lordship's ruling.

HIS LORDSHIP: Unable to give a directive in
response?

MR. SOUTAR: To Your Lordship's ruling.
I left him in court at 12.20.

HIS LORDSHIP: Left him in court at when?

MR. SOUTAR: Twenty past twelve. He will get here by Your Lordship's deadline. In fact, when I got here I was informed that court had been adjourned until 2 o'clock I was in my chambers until minutes before 2 o'clock, as I expected that perhaps he might try to reach me on the telephone. I have received no word from him. 10

HIS LORDSHIP: So that is the extent of...

MR. SOUTAR: I would, M'Lord, just add that he managed to point out, when I saw him after 12 o'clock, that Your Lordship had indicated to him that he might leave and I could make the application when we meet in chambers.

HIS LORDSHIP: Yes, I didn't expect that you could make the application. 20

MR. SOUTAR: I think you also indicated, M'Lord, that he might leave if he wanted to.

HIS LORDSHIP: Oh, in other words, since he was not dressed in the habit of barrister to come inside you could make the application on his behalf so he wouldn't have to be inside. 30

HIS LORDSHIP: I have some recollection, so, as far as that part was concerned, there was no intention to obstruct or to cause any embarrassment.

MR. SOUTAR: No, M'Lord. I might just add, M'Lord, one other thing. I am of the view that he left with the impression that perhaps he might have been allowed to withdraw. 40

HIS LORDSHIP: He left with the impression?

MR. SOUTAR: Yes, M'Lord.

HIS LORDSHIP: Now, let me explain what happened under this ruling because it may affect you too. What this means is this:

HIS LORDSHIP: As I had pointed out this morning, the rules under the Cannon Four deal with two situations: one where an attorney may withdraw and one in which an attorney must withdraw. I will give you an example. If a client insists upon a defence on a complaint that the counsel in his conscience can't put it up and the man insists that you do it, then, you withdraw. Of course that would be in court and you would tell the judge why.

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Proceedings

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(continued)

10

20

30

40

If you charge a thousand dollars and you think eight hundred not good enough, then, you may withdraw and it would be better if you ask the court's permission. Now, permission having been asked for this morning and I refused doesn't mean that he stays away or you leaving and leaving the man there. That would be in contempt. It does not mean that would be an order for contempt but it is for the purpose of the record - the judge showing his view of the whole thing. He doesn't agree with the move or the move in those circumstances, but I can't tie him or you there but the records will show that the judge doesn't agree with the move. In other words, as far as you are concerned, you are junior. It doesn't mean (what I am saying) that if you think, in the circumstances, you should withdraw too, that I can tie you. Can't work, you understand?

50

MR. SOUTAR: I understand, M'Lord. For my part, M'Lord, I am in the invidious position.

HIS LORDSHIP: You follow the leader?

MR. SOUTAR: I am here physically but I have to follow the leader

No. 5
Proceedings

31st March
1981

(continued)

MR. SOUTAR: because I would not have been
(Contd.) here at all but for the leader.

HIS LORDSHIP: Right. So where your leader
is you go too?

MR. SOUTAR: Not exactly; insofar as that
is concerned I have to follow
his footsteps.

HIS LORDSHIP: So, you can let him know we
are going to continue with
the case.

10

MISS HYLTON: May it please you, M'Lord.
I wish to tell Your Lordship
that, subject to what Your
Lordship has to say, and with
no objection from the defence,
I propose to interpose the
doctor. (Dr. Henry, please)
I had arranged with him to be
here at 2.00 sharp and he was
here five minutes before.

20

HIS LORDSHIP: Yes. Certainly.

Prosecution
Evidence

No. 6
Percival
Henry
Examination

No. 6

PERCIVAL HENRY

PERCIVAL HENRY : SWORN : EXAMINATION BY
MISS HYLTON (2.18 p.m.):

MISS HYLTON: Can the witness go out of
hearing for the time being?

HIS LORDSHIP: No, whatever the doctor has
to say that wouldn't affect
his evidence.

30

MISS HYLTON: No, M'Lord.

HIS LORDSHIP: Just a second doctor.

MISS HYLTON: May it please you, M'Lord.

Q. Your name, sir, is Percival Henry?

A. Yes, please.

Q. And you are a Registered Medical Practitioner?

A. I am.

Q. And Medical Officer for East Lower Saint Andrew?

A. I am.

10 Q. A part of your duty, sir, is to perform post mortem examination upon bodies?

A. Yes.

Q. And when you do so you make notes of your findings on a form called a Post Mortem Examination Report Form?

A. Yes, I do that.

Q. In respect of this case for which you were summoned to court, have you got one such form with you?

20 A. Yes, I have.

Q. Do you wish to refresh your memory from that form?

A. If you wish.

MISS HYLTON: May he be permitted?

30 Q. Now, having refreshed your memory doctor, do you recall on the 6th of September, 1978, performing a post mortem examination on a body of an adult male identified to you by Stanley Reid as being the body of his brother Mussington Reid?

A. Yes, I do recall.

HIS LORDSHIP: Yes?

Q. That was at the Kingston Public Morgue?

A. Yes, it was.

Q. Did you examine that body externally?

Prosecution
Evidence

No. 6
Percival
Henry
Examination
(continued)

A. Yes, I did.

Q. Go slowly and tell the court your findings on external examination and when you are doing so, can you please indicate the respective parts of your own body so we follow you easily?

A. Well, on external examination I found a bullet wound on the right frontal bone (indicating) approximately one and a half inch above the right eyebrow. This appeared to be an entry wound.

10

Q. Now, did you dissect the head?
Continue.

A. The bullet wound penetrated the right scalp and frontal bone. It entered and damaged the brain mass and the blood vessels of the right hemisphere of the brain.

HIS LORDSHIP: Entered and damaged?

20

WITNESS: The brain mass.

HIS LORDSHIP: The brain mass.

WITNESS: ...and blood vessels of the right hemisphere of the brain as well as part of the occipital region. (indicating)

Q. And when you say occipital you are touching the back of your head?

A. Yes.

Q. And those lot of findings were what you discovered on dissection?

30

A. On dissection.

Q. Now, did you discover anything?

A. Well, I will give you a full detail of the dissectional part, including internal. On dissection the bullet penetrated the right scalp and frontal bone, entered and damaged the brain mass and blood vessels, upper right hemisphere - the brain, as far as part of the occipital bone. It fractured and penetrated the occipital bone but did not penetrate the scalp of the occipital region.

40

HIS LORDSHIP: I see. Yes?

A. The bullet was recovered at the base of the occipital and it was handed over to the investigating officer.

HIS LORDSHIP: Recovered at the base of the occipital.

10

Q. So, from what you saw externally and internally on the dissection of the head, the brain in particular, did you form an opinion as to what caused the death of Mussington Reid?

A. Yes. In my opinion death was due to cerebral contusion and haemorrhage resulting from shot to the head.

(Miss Hylton sits - 2.25 p.m.)

HIS LORDSHIP: Any questions?

MR. JARRETT: No cross-examination.

HIS LORDSHIP: Anything Robinson? Any questions?

20

ACCUSED: No, sir.

HIS LORDSHIP: Very grateful to you doctor for coming.

WITNESS: Thank you.

MISS HYLTON: Mr. Irving, please.

HIS LORDSHIP: Just a minute.

HIS LORDSHIP: (To Registrar) Just tell him he is still on his oath.

REGISTRAR: You are still on oath.

(Witness nods)

Prosecution
Evidence

No. 7
Wilbert
Irving
Examination
(continued)

WILBERT IRVING: FURTHER EXAMINATION BY
MISS HYLTON (2.26 p.m.):

MISS HYLTON: I had marked where I had reached yesterday.

HIS LORDSHIP: Just a second. My note here - it was the deceased had a piece of zinc under the doorway. "Bubo" went under the zinc at deceased door. "Bubo" said to me 'come nuh, I want to say something to you'"

10

MISS HYLTON: Yes, M'Lord.

Q. Now, "Bubo" having said to you "Come nuh, I want to say something to you", did you do anything?

A. I went to him.

Q. You went to him.

HIS LORDSHIP: You do anything to him?

WITNESS: I went to him.

HIS LORDSHIP: You went to him.

20

Q. When you got to where the accused whom you call "Bubo" was, did he say anything to you?

A. I went to his side - Irvin's house. After a went to him, meanwhile going to him after he said come he proceed into Irvin' house - I proceed behind him.

Q. And you say Irvin' - is Reid you call Irvin'?

A. Yes.

30

Q. I see.

HIS LORDSHIP: Yes?

Q. So, having followed "Bubo" inside the house now, what next happened?

A. Irvin'had a chair inside...

Q. Yes?

A. ...he said I could have a seat - sit down on that chair.

Q. Who said that to you?

A. "Bubo".

HIS LORDSHIP: "Bubo" told you to sit down
on the chair?

(continued)

WITNESS: Yes.

Q. Pause right there for me. When you
entered the room following "Bubo", having
got into the room, did you see
Mussington Reid whom you call Irvin'?

10 A. Yes, ma'am.

Q. Where was Mussington Reid?

A. Lying on his bed?

HIS LORDSHIP: Then how you were able to get
into his room?

WITNESS: Irvin' room?

HIS LORDSHIP: The deceased's room.

WITNESS: When I got up I saw his door
open. He had a practice to
leave his door opened sometimes
at night.

20

HIS LORDSHIP: When you say you got up, half
past six?

WITNESS: Suppose to be those time -
Daylight Saving Time.

HIS LORDSHIP: Daylight Saving Time. "When
I got up deceased's door was
opened." You say he used to
have a habit of keeping it
open?

30 WITNESS: Yes, sir.

HIS LORDSHIP: Yes?

Q. This chair that "Bubo" told you to sit
on, where was that chair in relation to
the bed that Reid was on?

A. About four feet away from the bed.

Q. Did you go to the chair?

Prosecution
Evidence

No. 7
Wilbert
Irving
Examination

(continued)

A. Yes, ma'am.

Q. Having sat on the chair, did you notice anything or anybody?

A. As I going to sit down on the chair I notice that "Chucky" was behind the door.

HIS LORDSHIP: As you were about to sit down on the chair...?

WITNESS: Yes, sir.

HIS LORDSHIP: You noticed "Chucky" was where? 10

WITNESS: Behind the door.

HIS LORDSHIP: Behind that door. So he was in the room then?

WITNESS: Yes, sir.

Q. What next happened after you noticed "Chucky" behind the door?

A. "Bubo" said he would like to know "which one of you boy informed the police that bike was in your room."

HIS LORDSHIP: "Bubo" said "I would wish to know which one of you boys...", what? 20

WITNESS: Informed the police that the bike in your room.

HIS LORDSHIP: Yes?

Q. When "Bubo" said that, did anybody reply?

A. Irvin' said he don't business with nobody business.

HIS LORDSHIP: The deceased replied - what were his exact words? 30

WITNESS: He said he don't business with nobody business.

HIS LORDSHIP: I do not business with anybody's business."?

WITNESS: : Yes, sir.

Q. Did you say anything?

A. As I was going to talk "Bubo" said,
"Shot the boy dem inna dem bumbo
cloth."

HIS LORDSHIP: Just a minute. "As I was
going to speak "Bubo" said
shoot the..." what?

(continued)

WITNESS: "Shot the boy dem inna dem..."

HIS LORDSHIP: In their what?

WITNESS: "Bumbo cloth".

10 HIS LORDSHIP: Yes?

Q. What next happened?

A. I heard a sound of a gunshot fire at me.

HIS LORDSHIP: Fire at you?

WITNESS: Yes, sir.

HIS LORDSHIP: Yes?

Q. Can you say why? Why you say it was
fired at you?

A. Him point the gun at me.

Q. Who pointed the gun at you?

20 A. "Chucky".

HIS LORDSHIP: And like "Chucky" is there,
where you were? (indicating)

WITNESS: About like here from you.
(indicating)

HIS LORDSHIP: Where I am now?

WITNESS: Yes, sir.

HIS LORDSHIP: Yes?

30 Q. So, when "Chucky" pointed the gun at
you at that distance, you said you
heard something?

A. I heard an explosion.

Q. Heard an explosion. Did you become
aware of anything else? Anything else
happened?

Prosecution
Evidence

No. 7
Wilbert
Irving
Examination

(continued)

A. Well, that shot never catch me.

HIS LORDSHIP: Shot never catch you?

WITNESS: That shot that him fire first
never catch me.

HIS LORDSHIP: Yes?

Q. What next happened?

A. A heard the shot - he was trying
to get up as him heard the shot.
A saw him was getting up for him was
lying down meanwhile the argument.

10

Q. I see.

HIS LORDSHIP: You saw the deceased trying
to get up?

WITNESS: Yes, sir.

HIS LORDSHIP: Off the bed?

WITNESS: Yes, sir.

Q. What next happened?

A. As he raised up his head I noticed
"Bubo" point the gun at him and I
heard an explosion and I heard when
him say "Mmm" and him drop back.

20

Q. Who say "Mmm"?

A. Irvin'.

HIS LORDSHIP: As he raised his head, saw?

WITNESS: "Chucky".

HIS LORDSHIP: Who pointed the gun at him?

WITNESS: "Chucky" had the gun.

HIS LORDSHIP: And then you heard an
explosion you say?

WITNESS: Yes, sir.

30

HIS LORDSHIP: You heard the deceased make
a groan?

WITNESS: Yes, sir.

HIS LORDSHIP: And then what? He dropped

off the bed?

WITNESS: No, he dropped back on his bed.

HIS LORDSHIP: Drop back on his bed?

(continued)

WITNESS: Yes, sir.

Q. What next happened?

A. Then he pointed the gun at me next.

Q. Who pointed the gun at you?

A. "Chucky".

10 Q. Yes?

A. And I heard the gun go off and a feel me neck burning me.

HIS LORDSHIP: You felt a burning where?

WITNESS: Right here. (indicating)

HIS LORDSHIP: Right there?

WITNESS: Yes, sir.

20 Q. Let us pause here. The place where you felt your neck burning you, did anything happen to that part of your neck?

A. A gunshot go through.

HIS LORDSHIP: The gunshot?

WITNESS: Yes, sir.

HIS LORDSHIP: Went through there?

WITNESS: Yes, sir.

Q. And have you got anything at the spot to show to the court?

A. Yes, ma'am.

Q. What's there?

30 A. See the bump there (indicating)

Q. Turn around so the court and jury can see.

Prosecution
Evidence

No. 7

Wilbert
Irving
Examination

(continued)

HIS LORDSHIP: Shot go right through?

WITNESS: Yes, sir.

Q. To be particular, did anything come from that spot?

A. Blood.

Q. After that explosion - after that pointing of the gun at you, then you heard it go off and your neck burn you, did anything else happen?

A. He tried the gun at me; it go like that (indicating) him hear "click" - tried it again, it go "click" and no shot come from it.

10

HIS LORDSHIP: Tried the gun at you how many times.

WITNESS: Two times, sir.

HIS LORDSHIP: Twice?

WITNESS: Yes, sir.

HIS LORDSHIP: You heard the click?

WITNESS: Yes, sir.

20

HIS LORDSHIP: But the gun didn't go off?

WITNESS: No, sir.

Q. Now, after the gun...

HIS LORDSHIP: Just a second. Yes?

Q. Now, after the gun clicked twice without anything else coming from it, what next happened?

A. Then "Bubo" saw a knife on Irvin' chunk part of his bed..

Q. Yes?

30

A. ...and him throw it and give "Bubo" and say bring the boy come.

HIS LORDSHIP: "Bubo"?

WITNESS: "Chucky" throw a knife and

give to "Bubo". That was
Irvin' knife. He had a gun
in his hand, took up the knife
and throw it to "Bubo".

(continued)

HIS LORDSHIP: "I saw "Chucky" take up"
...what you call Irvin's knife?

WITNESS: Yes, sir.

HIS LORDSHIP: Where he got it from?

WITNESS: Off the chunk part of the bed.

10 HIS LORDSHIP: Chunk part of what?

WITNESS: The bed head.

HIS LORDSHIP: And he threw the knife to
"Bubo"?

WITNESS: Yes, sir.

HIS LORDSHIP: And said what?

WITNESS: Bring the boy come.

HIS LORDSHIP: And you are the boy?

WITNESS: Yes, sir.

HIS LORDSHIP: "Bring the boy come". Yes?

20 Q. What kind of knife was it?

A. It was board handle kitchen knife,
used to cook food.

Q. What next happened?

A. So as he got the knife in his hand,
he made to stab me in me head and I go
down like this (indicating).

Q. Who made to stab you?

A. "Bubo".

HIS LORDSHIP: Show us what he did.

30 WITNESS: See the knife cut me here
(indicating)

HIS LORDSHIP: So what?

WITNESS: When he stab at me head I go
down so (indicating)

Prosecution
Evidence

No. 7
Wilbert
Irving
Examination
(continued)

HIS LORDSHIP: And it caught you there?

WITNESS: Yes, sir.

HIS LORDSHIP: So him stab at your head then?

WITNESS: Yes, sir.

Q. And you are showing your arm.
What arm is that?

A. My left hand.

Q. And you are showing - what part of
your arm is that?

A. My wrist.

10

Q. Wrist.

HIS LORDSHIP: Caught you right there?

WITNESS: (Indicates)

Q. Is there anything at the spot where
the knife caught you?

A. Yes, ma'am, see it there (indicating)

Q. What is there?

A. A wound.

Q. A what?

HIS LORDSHIP: A scar. A scar?

20

WITNESS: Scar, sorry.

HIS LORDSHIP: Scar is still there?

WITNESS: Yes, sir.

HIS LORDSHIP: Yes?

Q. What next happened?

A. Meanwhile him stab at me now, the
knife drop.

Q. Yes?

A. He continue holding me now like 'im
going to bring me outside.

30

Q. Who holding you?

A. "Bubo".

Q. I see.

(continued)

HIS LORDSHIP: The knife drop.

Q. Holding - and you are showing the court where he was holding you. Put that into words for me.

A. Holding me my shirt like this.
(indicating)

10 Q. You say he held you in your shirt?

A. Yes, ma'am.

Q. Right.

HIS LORDSHIP: Yes?

Q. When "Bobo" did that, did you do anything?

A. So meanwhile he bringing me now, I rest my left hand on the door.

Q. Yes?

A. Was trying to brace...

20 Q. Yes?

A. ...and when I notice, I saw a 'cutlis' that Irvin' have.

Q. Yes?

HIS LORDSHIP: You saw a cutlass?

WITNESS: Right beside the door. If the door did turn back I wouldn't see it.

HIS LORDSHIP: That's Irvin's cutlass?

WITNESS: Yes.

30 HIS LORDSHIP: Behind the door?

WITNESS: Yes, sir.

HIS LORDSHIP: So, what you did now?

(continued)

WITNESS: I hold the 'cutlis'.

HIS LORDSHIP: "I grab the cutlass". You don't hold it?

WITNESS: I hold the handle and I trying to get it but it fasten and ben' to how him put it between the pos'. So by drawing now, him realise that I holding something, so him let me go.

10

HIS LORDSHIP: So the accused now, believing that you holding something to draw out something, him let you go?

WITNESS: Yes, sir.

Q. Now, when "Bobo" let you go, where was "Chucky"?

A. The two of them coming outside one time.

Q. I see.

20

HIS LORDSHIP: So both of them went outside now?

WITNESS: Yes, sir.

HIS LORDSHIP: Leaving you where?

WITNESS: Stand up by the doorway. Them let me go, sir.

Q. And they having let you go now, what did you do?

A. After letting me go they went outside and after they let me go I start to bawl for murder. They went outside and start to stone the house for I a brace on the door and a bawl for murder so them start to fling stone now to let I move from the door.

30

HIS LORDSHIP: You bawl for murder?

WITNESS: Yes, sir.

HIS LORDSHIP: Two of them fling the stone?

WITNESS: Well, I just heard some stone

WITNESS for I was inside and bracing
(contd.) on the door. I don't know
if the two of them was
flinging one time.

HIS LORDSHIP: So the stone was raining on
the house?

(continued)

WITNESS: Lick on the door - all about,
sir.

HIS LORDSHIP: Yes?

10 Q. After a while did the sounds of the
stones stop?

A. Ceased.

Q. And after the stoning ceased what
did you do?

A. I look through the door - had some
little creases like this, (indicating)
so I look through and notice that they
went nearby to the house, going like
they going away.

20 Q. I see. Now, after you saw like they
were going away what did you do?

A. I run out the house.

HIS LORDSHIP: You did what?

WITNESS: I run out from out the house.

HIS LORDSHIP: You run out the house?

WITNESS: Yes, sir.

Q. Where did you run to?

A. I run on Halifax Avenue and went on
East Kings House Road.

30 HIS LORDSHIP: Halifax Avenue?

Q. And to East Kings House Road, you say.
When you got to East Kings House Road
did you see anybody, or, did anything
happen?

A. I saw a taximan passing.

Q. Yes?

Prosecution
Evidence

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Examination

(continued)

A. So I stop him and I told him that...

Q. You spoke to him?

A. Yes.

Q. And after you spoke to the taximan
did you go anywhere with him?

A. I told him...

Q. You tell him what happened. You
reason with him.

A. I told him to carry me at the
nearest police station.

10

Q. And where he took you to?

A. Constant Spring.

Q. You made a report there?

A. No, I never made a report on that day.
As I went there Mr. McInnis told a
policeman to bring me to 'Public'.

Q. As you got to the police station you
were sent off to the Public Hospital?

A. Yes, ma'am.

Q. And were you admitted into the
hospital?

20

A. Yes, ma'am.

Q. How long did you stay there?

A. Five days.

Q. Now, while you were in the hospital,
did any police officer come to visit
you there?

A. Superintendent Richards.

HIS LORDSHIP: Superintendent Richards?

WITNESS: Yes, sir.

30

Q. Upon leaving hospital, did you go
anywhere?

A. To 'Central', ma'am.

HIS LORDSHIP: At the Central Police Station?

WITNESS: Yes, sir. I went to
Supt. Richards.

Q. I see. You went to Superintendent
Richards?

(Witness nods)

(continued)

Q. After you ran from that room that
morning, did you ever see Mussington
Reid whom you call Irvin' again?

A. No, ma'am.

10 Q. Now, that same morning that you were
injured in Mussington Reid's room - now
follow me. From the time that you
got up - when you were awakened by
"Bobo" - you remember?

A. Yes, ma'am.

20 Q. ...until the time when "Chucky" and
"Bobo" came out of the room and you
started to brace the door and call
for murder, about how much time
passed?

A. Could be about three minutes to four
minutes.

HIS LORDSHIP: Three to four minutes from when?

WITNESS: From "Bubo" call me until the
shooting took place.

HIS LORDSHIP: I see.

Q. Now, during that three to four minutes
was there anything to prevent you from
seeing what was happening around you?

30 A. Nothing at all.

HIS LORDSHIP: He said it was daylight you
know.

MISS HYLTON: I know, M'Lord. He said it
was around 6.30 a.m. Daylight
Saving Time.

HIS LORDSHIP: So when the men were beating
you up it was broad daylight?

WITNESS: Yes.

Prosecution
Evidence

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(continued)

HIS LORDSHIP: Now, let me see something -
we are almost in April now...

MISS HYLTON: Yes, M'Lord, tomorrow is
April.

HIS LORDSHIP: April now ...half past six
everybody no...

MISS HYLTON: I know, M'Lord. That's
about the end of my...

HIS LORDSHIP: Just a second.

(To witness) When the men were leaving
it was broad daylight? You
said it was about half past
six.

10

WITNESS: Yes, sir.

HIS LORDSHIP: Now, let me find out from you -
how old are you? What's
your age?

WITNESS: I am thirty-nine.

HIS LORDSHIP: Speak up.

WITNESS: Thirty-nine, please.

20

HIS LORDSHIP: What year you born?

WITNESS: 1941.

HIS LORDSHIP: '41. You are a church man?

WITNESS: No, sir.

HIS LORDSHIP: Not a church man?

WITNESS: Use to go to church when I
am small but from a come big I
never go to church.

(Miss Hylton sits - 2.59 p.m.)

Examination
by Court

EXAMINATION BY COURT

30

Q. Say you used to go to church when you
were a little boy. Your parents
used to send you?

A. Yes, sir, my grandmother.

(continued)

Q. Then after this experience you don't go to church to give the Lord thanks?

A. I went Christmas Sunday.

Q. You went Christmas Sunday?

A. (Witness nods)

Q. I see. You give Christmas offering too?

A. Yes, sir.

10 Q. Just one other thing. You told the jury that you knew where they lived.

A. Yes, sir.

Q. Before the night when they came there with the motorbike, did they ever come to your yard?

A. Yes, sir.

Q. Oh, they used to come to your yard?

A. Yes, sir.

Q. Both of them?

A. And even "Bubo" brother.

20 Q. "Bubo" brother too?

A. Yes, sir.

Q. "Used to visit my yard".

Q. Then when them come visit your yard you would have a drink with them and chat with them?

A. Yes.

Q. And share food and all that?

A. Yes, sir.

Q. What you used to give them beer or...?

30 A. Drink beer and Guinness.

Q. And Guinness stout?

A. Yes, sir.

No. 7
Wilbert
Irving
Examination
by Court

(continued)

- Q. Beer and Guinness
- Q. Eat food too?
- A. Yes, well, we have food.
- Q. At whose expense now? Who prepared that, you?
- A. Well, at one occasion "Chucky" went at my house on a Sunday and he give me Ten Dollars to buy some beer and cigarette.
- Q. "Chucky"?
- A. Yes, sir.
- Q. "On one occasion...", that's a Sunday?
- A. Yes, sir.
- Q. "Chucky" gave me Ten Dollars to go and buy...", what?
- A. Beer.
- Q. Beer?
- A. Yes, sir.
- Q. And you did that?
- A. Yes, sir.
- Q. You had a good session there that day then?
- A. (Witness nods)
- Q. Ten dollars from "Chucky" for beer.
- HIS LORDSHIP: Robinson?
- ACCUSED: Yes, sir.
- HIS LORDSHIP: Any questions to ask this witness?
- ACCUSED: No, M'Lord.
- HIS LORDSHIP: No?
- ACCUSED: Yes, sir.
- HIS LORDSHIP: Mr. Jarrett?

WILBERT IRVING: CROSS-EXAMINATION BY
MR. JARRETT (3.02 p.m.):

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Irving
Cross-
Examination

Q. Mr. Irving, you are saying this thing happened in August of 1978, sir.

A. Yes.

Q. You said up to that time you knew Gibson for about eight months?

A. Yes, sir.

10 Q. I take it then, sir, that you first knew Gibson in 1978?

A. A don't hear what you say.

Q. You are saying you knew him upto that time for eight months?

A. Up to the morning when I got shot I knew him for about eight months.

Q. So, I am saying you knew him in 1978, that same year?

A. Yea.

20 Q. Where you were living, you see sir, about what distance away it was from where Gibson was living?

A. Who you call Gibson?

Q. The one you call "Chucky".

(Accused stands)

A. At least about three-quarter mile

Q. You didn't know he was Gibson?

A. Never call him him right name, I know him name "Chucky".

30 Q. How old you say are, sir, thirty-nine?

A. Yes, sir.

Q. Would you say you are a big man compared to Mr. Gibson?

A. Of course. How you mean? You mean in age?

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Wilbert
Irving
Cross-
Examination

(continued)

Q. Yes, sir, in age.

A. Yes, sir.

MR. JARRETT: He said yes sir.

HIS LORDSHIP: You say you are a bigger man
in age?

WITNESS: Yes, sir.

Q. Mr. Irving, you are not really a
friend of Mr. Gibson, are you? You
not really his friend, are you?

A. We know one another.

10

Q. But you are not really his friend,
are you? You don't really know much
about Mr. Gibson, do you?

A. A don't hear what you say.

Q. You don't really know much about
Mr. Gibson, do you?

HIS LORDSHIP: Wait a second, now, I wouldn't
quest it that way. You
understand what I am driving
at?

20

MR. JARRETT: Yes, M'Lord.

Q. Tell me, you see Mr. Irving, you
didn't really know Mr. Gibson -
"Chucky" - did you?

A. Please?

Q. You didn't really know Mr. Gibson
as any "Chucky"?

A. When you say didn't know him as any
"Chucky" I don't understand you.
I said I know them call him "Chucky" -
don't know him name "Chucky".

30

Q. You see, Mr. Irving, I am going to
suggest you don't really know Mr.
Gibson any at all - don't know much
about Mr. Gibson at all - very little
if anything.

A. I don't get you.

HIS LORDSHIP: Wait a second.

Q. I suggest that you do not know much about Gibson at all.

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Irving
Cross-
Examination

10 HIS LORDSHIP: Mr. Jarrett, tell you again, how you putting it you could invite a little controversy. I remember just coming from the country circuit and another attorney was doing a murder case and I warned him about the same thing and he wouldn't take heed and he ran right into a lightpole. When the whole thing was finished now, he wanted me to make a certain order, although he was warned and he didn't do it. Yes?

(continued)

20 Q. You see, Mr. Irving, tell me, didn't you, at Half Way Tree in the R.M. Court...

HIS LORDSHIP: Where is that?

MR. JARRETT: On page 2, M'Lord.

HIS LORDSHIP: Page two?

MR. JARRETT: Yes, M'Lord. I am going to deal with the first paragraph and the last line in the first paragraph, M'Lord, and then...

30 HIS LORDSHIP: Is there really anything in that? Before you go further, let me point out something to you. If you turn to page 3, the evidence of the detective corporal who investigated the case...

MR. JARRETT: Yes, M'Lord.

HIS LORDSHIP: ...and the last paragraph, you will see a name.

MR. JARRETT: Yes, M'Lord.

40 HIS LORDSHIP: Otherwise called.

MR. JARRETT: Yes, M'Lord.

HIS LORDSHIP: Which agrees with his...

MR. JARRETT: Yes, M'Lord, I follow you.

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Examination

(continued)

HIS LORDSHIP: So that even if he had started off - as I see it - if he had started off by this for that and that for this and corrected himself later on and he seemed to be confirmed by a independent witness - is there anything to it?

MR. JARRETT: What I am saying, M'Lord, he is mistaken as to who is who. 10

HIS LORDSHIP: Well, even if he is mistaken as to who is who, is he mistaken as to identity?

MR. JARRETT: I will come to that.

HIS LORDSHIP: Go ahead.

Q. Mr. Irving, I am saying you are mistaken as to who is "Chucky" and who is "Bubo".

A. So you say. You say I am mistaken?

Q. Yes, sir. 20

HIS LORDSHIP: Suggesting that you are mistaken as to who is "Chucky" and who is "Bubo". What's your answer to that?

WITNESS: Please, sir?

HIS LORDSHIP: What's your answer to that? Are you mistaken?

WITNESS: I am not mistaken now but I made a mistake like that once.

HIS LORDSHIP: "I am not mistaken now but I made a mistake like that once" Yes? 30

Q. So, what you are telling us, sir, is that you were mistaken at one time as to who was "Chucky" and who was "Bubo"?

A. By pointing.

Q. Yes. You pointed out the wrong one?

A. Yes.

HIS LORDSHIP: "I made a mistake by pointing"

(continued)

Q. Later on you corrected that mistake, sir?

A. Yes, sir.

Q. Mr. Irving?

A. Yes, sir.

Q. Can you also you see, sir...

A. Yes, sir?

10

Q. ...remember saying before the resident magistrate that it was Gibson, the one you call "Chucky" you see, who knocked on your door and call your name?

A. I don't heard what you say, sir.

Q. Can you remember also telling the resident magistrate that it was Gibson or "Chucky" who came to your house that night and knocked on your door and call your name and not "Bubo"?

HIS LORDSHIP: Where is that?

20

A. I told you it was "Bubo" knocked on my door.

Q. What I am saying, can you remember...

HIS LORDSHIP: Where is that, sir? On what page?

MR. JARRETT: Page 3, M'Lord.

HIS LORDSHIP: Top, middle or bottom? The top part?

MR. JARRETT: Beg your pardon, M'Lord? Yes, M'Lord. First and second line.

30

HIS LORDSHIP: Oh, that it was Gibson, that is "Chucky" who knocked on the door and called your name. You remember telling the R.M. Court that?

WITNESS: Up at Gun Court?

HIS LORDSHIP: Yes.

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Examination

(continued)

WITNESS: I don't remember directly if
I did say that.

Q. In fact, Mr. Irving, can you remember
going on to say that "I got up,
opened the door and saw the accused",
referring to Gibson then or "Chucky"
"...standing at the doorway while it
was raining?

MISS HYLTON: M'Lord, I hate to do this but
I don't think it is fair for
counsel to say* "I got up,
opened the door and saw the
accused, referring to Gibson
or "Chucky", because that
doesn't appear.

10

HIS LORDSHIP: What I will tell the jury, it
doesn't matter who is "Chucky"
or who is "Bubo". The question
would be whether it was those
two men, and whether they,
working together - that is the
essence in the case. So if
there is a mix-up between
"Chucky" and "Bubo" it would
be immaterial if the witness
is certain as to the identity
of the men.

20

HIS LORDSHIP: Yes, Mr. Jarrett?

Q. Yes, Mr. Irving, what I am saying, you
see, is that you are mistaken as to
who is who; this is the reason why
you say today that it was "Bubo" who
knocked at your door.

30

A. On what occasion, when the bike or when
a gwine get shot?

Q. When the man got shot?

A. I heard the knocking and I say who is
that and I heard a voice say "Me,
"Bubo" ".

Q. So when you went outside you are
telling us here today that you saw
"Bubo"? What I am saying,
sir, is that you are mistaken
because on an earlier occasion you
told another court that it was
Gibson or "Chucky" you saw outside.

40

MISS HYLTON: M'Lord, the fine point I am making - it is not proper to say Gibson or "Chucky" because that doesn't appear.

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Examination

HIS LORDSHIP: That doesn't appear.

(continued)

Q. Or you saw Gibson outside...

A. Who you call Gibson?

Q. The one you call "Chucky".

10

A. I never saw that one. I never saw "Chucky".

Q. You told a court that you saw Gibson outside?

A. I never remember that.

Q. You also told a court that it was "Bubo" and not Gibson...

A. Well, if I said that, sir I made a mistake. I don't remember saying that.

Q. You are saying you made a mistake?

20

HIS LORDSHIP: When was that?

WITNESS: Pointing to "Bubo" for "Chucky" or...

Q. Tell me something, Mr. Irving, when you saw "Chucky" that night, you see, sir, did you notice anything different about him?

A. Which night, sir?

Q. The night of the 21st when you said you saw him.

30

A. When the bike went at my yard?

Q. Before you said "Bubo" came and knocked on your door you say you went in a room and saw "Chucky".

A. I went in a room and saw "Chucky".

Q. You follow "Bubo" into a room.

A. Was a morning, not a night.

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Examination

(continued)

- Q. Well, a morning, and you saw "Chucky". You notice anything about him? You notice for example that he was injured or anything like that?
- A. "Chucky" was injured?
- Q. Yes.
- A. No, I never notice anything like that.
- Q. Did you see his hand, to be more specific, was wrapped in plaster of paris. 10
- A. If I ever see "Chucky" hand in plaster?
- Q. Did you see his hand - the person you said you saw and you know is "Chucky" - on that morning, sir, did you see his hand in plaster of paris?
- A. That morning when I got shot?
- Q. Yes.
- A. No. His hand never was in any plaster of paris.
- Q. You are saying this thing took place about what time in the morning? 20
- A. Please, sir?
- Q. You are saying it took place about what time in the morning?
- A. About 6.30.
- Q. About half past six. You said from the time the men came and knocked on your door, you see sir, to the time the deceased was shot is about three to four minutes? 30
- A. (Witness nods)
- Q. Until when the explosion in the house and you start to run, that is about three to four minutes during that time. You say up to the time you saw them running away?
- A. Yes, until I draw the 'cutlis'. It was about three to four minutes apart.

(continued)

- Q. You agree with me, sir, it happened very fast then?
- A. Yes, no one never stay long- they never came to stay any hours.
- Q. I am talking about the incident - happened fast?
- A. Yes, just quick thing happening.
- Q. Were you afraid, Mr. Irving, at any time?
- 10 A. Please, sir?
- Q. Were you afraid at any time?
- A. You mean for what took place?
- Q. Well, from the time the men knocked on the door until they run away.
- A. If I was afraid?
- Q. Yes.
- A. No.
- Q. You wasn't afraid?
- A. Until I get shot, I got frightened.
- 20 Q. You got frightened after you got shot?
- A. Yes.
- Q. You see, Mr. Irving, I am going to put it to you sir, that Mr. Gibson or "Chucky" was not there any at all that morning. You didn't see him any at all...
- A. So who shot me?
- Q. ...in Mr. Reid's room.
- HIS LORDSHIP: Just wait. Just a second. Yes?
- 30 Q. You agree with me, sir?
- A. Please, sir?
- Q. That you didn't see Mr. Gibson or "Chucky" that morning in Mr. Reid's Room any at all.

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Examination

(continued)

A. So is me shoot Reid and shot myself then.

Q. I don't know who shot you sir. I know it's not Mr. Gibson.

A. You was there?

Q. You agree with me, sir, that...

A. I don't agree with you.

Q. ...that Mr. Gibson was not there?

HIS LORDSHIP: You don't hear his reply to you?

10

The first answer was "Who shoot me?"

Q. Mr. Irving, let me put it to you, sir that Mr. Gibson didn't shoot you any at all that morning - didn't have a gun and he wasn't there and din't shoot you.

A. (Witness smiles) Can't answer that question what you saying for I already told the court that I certain "Chucky" shoot Irvin' first, shot me in my neck, shoot a shot at me - never catch me, shoot at me and it catch me in my neck. "Bubo" who stab me with the knife.

20

Q. I am putting it to you that at no time was Mr. Gibson in Mr. Reid's room with a gun.

HIS LORDSHIP: The witness has answered it about three times. No, look! look! When counsel ask you a question and I intervene...

30

WITNESS: Yes, sir.

HIS LORDSHIP: I am in charge here, you see, you keep quiet.

WITNESS: Yes, sir.

HIS LORDSHIP: I know you are a little excited but you have already answered the question three times and you are not going to answer it again. Yes?

40

Q. Let me also suggest to you, sir, that the reason why at times you call Mr. Gibson or you refer to Mr. Gibson as "Bubo" - the reason why you have made these mistakes is because you don't really know Mr. Gibson.

(continued)

HIS LORDSHIP: Don't answer that. That one is an argument. You are not here to answer argument.

10 Q. You telling us about the motorcycle, you see, sir.

A. Yes, sir.

Q. Did you see the motorcycle any at all after you came back from your sister's place?

A. No, sir.

Q. Never seen it since?

A. No, sir.

20 Q. You say the morning when you went to the station, when the taxi took you there, sir, you saw Mr. McInnis?

A. At the station.

Q. That morning?

A. Yes, sir.

Q. And he sent you on to the hospital or told somebody to take you?

30 A. As I went inside the station at least three police say to me say "What happen to you Stone?", and me say "Chucky" and "Bubo" just shoot me and kill me friend.

HIS LORDSHIP: No, no, that isn't in evidence. You went to the station. You talked to the police.

WITNESS: Yes.

Q. Was it Mr. McInnis who advised you to be taken to the K.P.H., sir?

A. Never advised me. He asked a policeman.

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Irving
Cross-
Examination

(continued)

- Q. Was he the one who spoke to the policeman?
- A. Yes, sir.
- Q. You were then taken to the K.P.H.?
- A. I don't know which hospital you call K.P.H., I know Public Hospital.
- Q. You were taken to the Public Hospital after that?
- A. Yes.
- Q. The one at North Street? 10
- A. Yes, sir.
- Q. When you went inside the room you see sir, before the man you call "Bubo" - can you remember what Mr. Reid was doing?
- A. When I went inside the house? Lying down on his bed.
- Q. Did you speak to him any at all?
- A. No, nothing at all I never say to him that morning. 20
- Q. Up to the time when you are saying he got shot, did you say anything at all?
- A. Nothing at all that morning until him dead - I never say nothing to him on that morning.
- Q. Tell me something, how long were you on the chair, you see, before you notice that there was somebody in the room other than yourself and "Bubo" and the deceased? 30
- A. Please, sir?
- Q. How long were you in the room before you realise that there was somebody else in the room other than yourself and Mr. Reid and the man you call "Bubo"?
- A. How long before I realise that it was me, Irvin', "Bubo" and "Chucky" in the room.

Q. Before you realise that somebody else was there other than yourself and Mr. Reid and "Bubo".

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Irving
Cross-
Examination

A. As I was going to sit down on the chair.

(continued)

Q. As you were going to sit down you are saying you saw "Chucky" coming?

A. Coming from behind the door.

Q. Facing you?

10 A. Yes.

HIS LORDSHIP: Saw "Chucky" coming from behind the door?

WITNESS: Yes, sir.

Q. Did you say anything to him, or did he say anything to you?

A. Please, sir?

Q. Did he say anything to you, or did you say anything to him?

A. Who, "Chucky"?

20 Q. Yes.

A. No, we never say anything - "Bubo" who talk.

Q. No. Did you say anything to him?

A. No.

Q. How near is your house to the road, sir?

30 A. My house in the middle between two road, so when you pointing to a road now, you would have to tell me which road you talking.

Q. Well, how near is it to the nearest roadway?

A. At least a chain and a half.

HIS LORDSHIP: You are speaking of the house he was living in?

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Wilbert
Irving
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Examination

(continued)

- MR. JARRETT: Yes, M'Lord.
- Q. Which road is this?
- A. I guess is Essex Avenue that road is supposed to name.
- Q. Essex Avenue?
- A. Yes, off Federal Road.
- Q. Is it a road that you have a lot of people living on, sir?
- A. Yes, sir, apartment house building on that road. 10
- Q. Busy road?
- A. Busy for the people who living round there. Is not plenty car driving round there who don't live round there.
- Q. Not plenty people with car living there?
- A. Plenty people with cars is the only people with cars living road there, otherwise garbage trucks.
- Q. Mr. Irving, let me put it to you finally, you see sir, that you are mistaken when you say Gibson or "Chucky" is responsible for shooting Mr. Reid or for shooting at you. You are also mistaken when you say that "Chucky" was in Mr. Reid's room on the morning of the 21st of August, 1978. 20
- A. You say I am mistaken?
- Q. You agree with me? 30
- A. I don't agree with you - you say that - say I am mistaken.
- MR. JARRETT: No more questions.
- (Mr. Jarrett sits - 3.36 p.m.)
- HIS LORDSHIP: Any re-examination?
- MISS HYLTON: Yes, may it please you, M'Lord.
- HIS LORDSHIP: Yes?

WILBERT IRVING : RE-EXAMINATION BY
MISS HYLTON (3.36 p.m.)

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Wilbert
Irving
Re-examination

Q. Now, Mr. Irving, you said in answer to Counsel that it is not true that you are mistaken as to who is "Bubo" and who is "Chucky", but that you made a mistake once by pointing. On what occasion did you make that mistake by pointing?

10 A. When the judge Mr. Murray said point to "Bubo" - when I point.

HIS LORDSHIP: At the Gun Court when the preliminary enquiry was held?

WITNESS: Yes, sir.

Q. So that was the occasion you were talking about?

A. Yes, ma'am.

20 Q. But you also went on to agree with Counsel that you corrected yourself later?

A. Yes, ma'am.

HIS LORDSHIP: That you corrected yourself later on?

WITNESS: Yes, sir.

HIS LORDSHIP: Yes?

MISS HYLTON: No further questions, M'Lord.

(Miss Hylton sits - 3.37 p.m.)

EXAMINATION BY COURT:

Examination
by Court

30 Q. Do you have a pet name?

A. Yes, sir.

Q. What they call you?

A. Stone, sir.

Q. Stone?

A. Yes, sir.

Q. Did Reid have a pet name?

A. Yes, sir.

No. 7
Wilbert
Irving
Examination
by Court

(continued)

- A. Yes, sir.
- Q. What they call him?
- A. Mafia.
- Q. Mafia?
- A. Yes, sir.
- Q. Now "Chucky" - what did "Chucky" call you? He used to address you? Call you Stone when he is addressing you?
- A. Yes, sir.
- Q. What did "Bubo" call you when he is addressing you? 10
- A. Stone, sir.
- Q. Stone too?
- A. Yes, sir.
- Q. But the motorbike that was left at your home - it was a morning - an early morning?
- A. Yes.
- Q. About 4 o'clock you say?
- A. About 4 o'clock. 20
- Q. That motorbike - you did take a note of the make or number or anything like that?
- A. I never recognise the number but I know it was a 350-4.
- Q. A 350-4?
- A. Yes.
- Q. Get a ride on the bike?
- A. I never ride a big bike like that. I used to ride the little Honda 50. 30
- Q. You never handle a big one like that?
- A. No, sir.
- Q. Last question. It was "Chucky" who left the bike with you? Which of them handed over the bike?

(continued)

- A. The two of them push the bike inside the house.
- Q. Two of them push the bike?
- A. Yes, sir.
- Q. I see. Both of them.
- Q. But which of them - was it both of them who told the story about running out of gas?
- A. "Bubo".
- 10 Q. "Bubo"?
- A. Yes.
- Q. Where was Irvin', that is, the deceased? Or put it this way, you know whether Irvin' was next door in his room when they took the bike there?
- A. Well, I don't know if he knew when he is inside but when the day light I know him wake up from his room.
- Q. When day light you saw him?
- 20 A. Yes, sir.
- Q. Do you know whether he knew that a bike was left at your room?
- A. Yea. When he woke up the morning he said to me...
- Q. He spoke to you?
- A. Yes, sir.
- Q. Did he come into your room that morning?
- 30 A. He stan' at the doorway and say to me...
- Q. He stan' at the doorway?
- A. He stan' at my doorway...
- Q. And he could see the bike?
- A. When him peep in him could see it. I have no idea if him see it.

No. 7
Wilbert
Irving
Examination
by Court

(continued)

Q. But him could see it though?

A. Yes, sir.

Q. What work did Irvin' do? What was his job?

A. I know he was working at a gas station once.

Q. A gas station?

A. Yea, out by Shortwood Road and Grants Pen Road.

Q. But up to the time of his death you don't know if he was doing the same kind of work?

10

A. He worked all around where he could get something for I never know him have a trade.

Q. But he used to work at the gas station as a general helper?

A. Yes. Him used to patch tyre.

Q. Patch tyre?

A. Yes.

20

Q. So he lived alone then?

A. Yes, both of us live alone in the same apartment.

Q. Each of you live alone in his apartment?

A. Yes.

HIS LORDSHIP: All right, it's ten to four now. What I am going to do you see, I am going to release you. In other words, you will not be bound to return tomorrow. You understand?

30

WITNESS: Yes, sir.

HIS LORDSHIP: You get your pay? The Registrar pay you to come to court?

WITNESS: No.

No. 7
Wilbert
Irving
Examination
by Court

HIS LORDSHIP: So, what you do, you come back tomorrow and I am going to direct them to make up your pay. You understand?

(continued)

WITNESS: Yes, sir.

HIS LORDSHIP: The days you come here and the money you spend and your travelling and all that.

10 WITNESS: But I am asking you please if you could make it stay another day, I live far from here and from Sunday I move.

HIS LORDSHIP: So you will come another day?

WITNESS: Any other day except tomorrow.

HIS LORDSHIP: I am going to release him. Where is the inspector?

20 MISS HYLTON: M'Lord, I was going to suggest that perhaps Mr. McInnis, the police officer could collect his travelling expenses for him.

WITNESS: Yes, ma'am.

HIS LORDSHIP: But is the sheet made up yet?

MISS HYLTON: I don't know, M'Lord. It's generally made up at the end of the case. At the end of the case they make up for everybody but in this particular case...

30 HIS LORDSHIP: In this particular case they are going to make up a special one for him.

MISS HYLTON: M'Lord, Mr. McInnis is a witness in this case so this witness doesn't have to come back down as Mr. McInnis is stationed in a certain area...

WITNESS: I wouldn't be glad to come back.

40 HIS LORDSHIP: I am going to release you so thank you.

No. 7
Wilbert
Irving
Examination
by Court

(continued)

WITNESS: Thank you Your Honour.

(Witness withdraws - 3.51 p.m.)

HIS LORDSHIP: (To Police officer) The witness expenses for this witness who was just giving evidence is to be made up this evening. Particulars to be taken from him to ascertain how much he is to be paid.

HIS LORDSHIP: So then, Mr. Jarrett, I think we are going to take the adjournment now.

10

MR. JARRETT: Yes, M'Lord.

HIS LORDSHIP: Mr. Foreman and members of the jury, it is five minutes to four. We are going to take the adjournment. Let me remind you, when you used to go to school teacher used to tell you to go to another teacher - fool you up. Remember tomorrow is All Fools Day but we are going to adjourn nevertheless to work tomorrow, so safe journey home and return tomorrow when we will continue with the case.

20

C.As.44:46/81
Wed.1.4.81

10.47 a.m.

MISS HYLTON: Bring up Robinson and Gibson,
please.

HIS LORDSHIP: Yes, jury present:

10 MISS HYLTON: M'Lord, the Inspector has just
told me that Mr. McInnis has
not arrived as yet.

HIS LORDSHIP: That is the sick man?

MISS HYLTON: Yes, m'lord. He has
difficulty in walking, I know
that, but it is long past
ten o'clock.

HIS LORDSHIP: Well, I will be in chambers,
down the bottom.

MISS HYLTON: Yes, m'lord, down the...?

20 HIS LORDSHIP: Yes, so as soon as the witness
comes you let me know.

MISS HYLTON: Yes.

JUDGE RISES	-	10.53 a.m.
SITS	-	12.18 p.m.

HIS LORDSHIP: I think I understand the
position. I will explain
to the jury.

MISS HYLTON: Your lordship pleases.

30 HIS LORDSHIP: Mr. Foreman and members of the
jury, you remember yesterday
all the witnesses except the
investigating officer, detective
Corporal McInnis was called and
you may have seen the corporal
walking in court with a limp,
he was in a motor car accident.
He was really on duty in a

No. 8
Proceedings
1st April 1981
(continued)

HIS LORDSHIP: police vehicle and he was involved in an accident and his knee was recapped, so as a result he was on sick leave but he lives somewhere off the main road in Gutters, St. Catherine. The police as been providing vehicles for him. They sent out the vehicle this morning but it broke down on the way so they had to recall the vehicle and send out another vehicle, a sounder one, and that has been despatched but I gather we will not be seeing him in less than an hour's time. It is twenty past twelve, I don't think it would be wise to continue waiting, so we are going to adjourn until two o'clock when we hope he will be here. Just one of these things. The police motor vehicles are not so reliable these days, just like those of us who own motor cars can't get parts and we run into car troubles, so we have to exercise that patience: so, two o'clock sharp then. 10
20
30

12.21 p.m.

2.06 p.m.

HIS LORDSHIP: Yes, the corporal is here now?

MISS HYLTON: Yes, m'lord, and he has asked me to explain, m'lord. Go in the box, Mr. McInnis. As your lordship knows he has the injured leg.

HIS LORDSHIP: Yes. 40

MISS HYLTON: I thought he had resumed work but he has not resumed work, he is still at home and the vehicle should have been sent for him but no vehicle went on time, as your lordship was advised.

HIS LORDSHIP: Yes. All right!

DONALD McINNIS

No. 9
Donald
McInnis
Examination

DONALD MC INNIS: SWORN:
EXAMINATION - MISS HYLTON:

MISS HYLTON: And I should add further before I commence, m'lord, that he lives out of the Corporate area, not in the Corporate area where he could get transport.

10 HIS LORDSHIP: So I understand.

MISS HYLTON: Your name, sir, is Donald McInnis?

A. Yes, ma'am.

Q. And what is your rank now?

A. Detective corporal.

Q. And when you are on the job which station are you attached to?

A. Red Hills police station.

20 Q. Now, in August of 1978, you were attached to the Constant Spring Station?

A. Yes, ma'am.

Q. Do you recall the early morning of the 22nd of August, 1978?

A. Oh, yes, ma'am.

Q. Were you then at the Constant Spring police station?

A. Yes, ma'am.

Q. Did anyone in particular come there?

A. Yes, ma'am.

30 Q. Who was that?

A. Mr. Ronald Irving.

Q. Did you notice anything about him?

Prosecution
Evidence

No. 9
Donald
McInnis
Examination

(continued)

A. Yes, ma'am.

Q. What was it you noticed?

A. I noticed he was bleeding from a wound to his left wrist as well as a wound from the right side of the base of his neck; the right side of his neck.

Q. Did he say anything to you?

A. Yes, ma'am.

Q. Thereafter did you do anything?

10

A. Yes, ma'am.

Q. What did you do?

A. I sent him to the Kingston Public Hospital.

Q. Now, you have said Mr. Ronald Irving, that's the name you have given?

A. Yes.

Q. This person whom you told us about, when last have you seen that person whom you call Mr. Ronald Irving?

20

A. Yesterday, ma'am.

Q. Where did you see him yesterday?

A. In court.

HIS LORDSHIP: The evidence is from Wilbert Irving. That is the same gentleman?

MISS HYLTON: Yes, m'lord, but because of the name...

HIS LORDSHIP: Yes! Nobody is taking any point on that?

30

MISS HYLTON: No, m'lord, but we have problems sometimes, elsewhere: elsewhere: grave problems, sometimes.

A. I can say something else about the name.

(continued)

Q. As you noticed the condition of that man and you sent him off to the hospital, you said you saw him here yesterday, did you commence investigation?

A. Yes, ma'am.

Q. Where did your investigations lead you to?

A. I went to 26 Andrews Pen Lane, commonly called...

10

HIS LORDSHIP: 26...?

A. Andrews Pen Lane.

HIS LORDSHIP: Commonly called what?

A. Wattle Pen, m'lord.

MISS HYLTON: When you got there, having regard to what you had been told, did you notice anything?

A. Yes, ma'am.

Q. What?

20

A. I saw a two-bedroom board building.

Q. Yes?

A. And in one of the room...

Q. Yes?

A. I saw a body - of the deceased. Mushington Reid.

Q. Now, did you know that man before?

A. No.

Q. I see! You later got the name?

A. Later.

30

Q. I see! How was that body clothed when you saw it?

A. He was dressed in a bath trunk, topless.

HIS LORDSHIP: Yes?

A. Lying on his back...

Prosecution
Evidence

No. 9
Donald
McInnis
Examination
(continued)

MISS HYLTON: Yes?

A. With a wound in his head.

Q. What area of his head, do you recall?

A. I cannot recall. It was somewhere in his forehead.

Q. In his forehead. Now, thereafter, what did you do?

A. I searched the room.

Q. Did your search of the room yield anything?

10

A. Yes, ma'am.

Q. What did you find?

A. Expended bullet.

Q. Now, did you do anything about that body which you saw in the room?

A. Yes, ma'am.

Q. What did you do?

A. The body was removed.

Q. To?

A. The Kingston Public morgue.

20

Q. You said it was a two-bedroom board house?

A. Yes, ma'am.

Q. Now, did you continue your investigations?

A. Yes, ma'am.

Q. I take you now in particular to the 31st of August of 1978. On that day did you see anyone in particular?

A. Oh, yes, ma'am.

Q. Who was it that you saw?

30

A. I saw one Frank Robinson.

Q. Did you know him before?

(continued)

A. Oh, yes, ma'am.

Q. By what name did you know him?

A. Frank Robinson, o/c "Bubbles".

Q. Do you see that person here today?

A. Yes, ma'am.

Q. Where do you see him?

A. He is sitting on the dock and he is on the left from here.

Q. Now, as I am turned on this side?

10 A. He would be on the left from me.

Q. The left from you?

A. Yes, ma'am.

Q. I see! Now, you say you knew him before, about how long?

A. I knew him for about four years.

Q. When you saw Frank Robinson whom you also knew as 'Bobo', did you speak to him?

A. Yes, ma'am.

20 Q. Tell the court exactly what happened?

A. I identified myself to him as detective corporal.

Q. Yes?

A. Told him that I was investigating a case in connection with Mushington Reid and he was a suspect.

Q. Yes, having told him he was a suspect what next happened?

A. I cautioned him.

30 Q. Upon caution did the suspect, as you then said, Frank Robinson say anything?

A. Yes, ma'am.

Q. Did you do anything whatever to cause him to speak?

A. No, ma'am.

Prosecution
Evidence

No. 9
Donald
McInnis
Examination

(continued)

Q. What did he say?

A. He said, "It mus' be Chuckie. I don' know 'bout that".

HIS LORDSHIP: Yes?

MISS HYLTON: Thereafter did you do anything?

A. Yes, ma'am.

Q. What?

A. I arrested and charged him.

Q. For?

A. Murder.

10

Q. Of?

A. Mushington Reid.

Q. Upon arrest did you caution him?

A. Yes, ma'am.

Q. Upon caution did Frank Robinson say anything?

A. Yes, ma'am.

Q. Tell the court, please.

A. "Mr. Mc., yu know me cool. Me nah fire no gun."

20

HIS LORDSHIP: "Yu know me cool?"

A. Yes, m'lord. "Me nah fire no gun."

MISS HYLTON: I take you now to the 6th of September of 1978. Did you on that day attend a post mortem examination conducted upon the body of Mushington Reid?

A. Oh, yes, ma'am.

Q. Where he was identified to Dr. Henry?

30

A. Yes.

Q. By his brother, Samuel Reid?

A. Oh, yes, ma'am.

Q. After the post mortem examination did you receive anything?

A. Oh, yes, ma'am.

Q. What did you receive?

A. I received one expended bullet.

Q. From?

A. Dr. Henry.

Q. I take you next to the 26th day of September, 1978: on that day did you see anyone in particular?

A. Oh, yes, ma'am.

HIS LORDSHIP: Yes?

MISS HYLTON: Whom did you see on that day?

A. Anthony Gibson, otherwise called...

Q. One moment. Did you know Anthony Gibson before?

A. Oh, yes, ma'am.

Q. By what name?

A. "Chuckie".

Q. Where did you see him?

A. In the Constant Spring police station.

Q. What transpired when you saw him?

A. I identified myself to him as detective corporal.

Q. Yes?

A. And informed him of the murder of Mushington Reid.

Q. Yes?

A. I cautioned him.

Q. Yes?

A. And he said...

Prosecution
Evidence

No. 9
Donald
McInnis
Examination

(continued)

Q. Yes?

A. Must be Bubo and him frien'. I don't know 'bout those things.

Q. Thereafter, did ... One moment. Yes?

A. Excuse me, ma'am, may I sit?

Q. Oh!

HIS LORDSHIP: Sit?

A. Yes.

HIS LORDSHIP: (Nods)

MISS HYLTON: I am sorry, m'lord, I should have asked you. 10

HIS LORDSHIP: Must be Bubo and his friend. Me no know ...what?

A. "I don't know 'bout these things", m'lord.

HIS LORDSHIP: Yes?

MISS HYLTON: Thereafter what did you do?

A. I arrested and charged him.

Q. For?

A. Death of Mushington Reid.

Q. Did you caution him? 20

A. Yes, ma'am.

Q. Upon caution did he say anything?

A. No, ma'am.

Q. Now, did you know where the oerson you knew as Chuckie, that is, Sibson, lived in August of 1978.

A. Oh yes ma'am.

Q. Where was that?

A. It was 5 Grants Pen Avenue, in a big yard.

Q. Did you know where Bobo, Frank Robinson, as you knew him, lived in August of 1978? 30

A. Yes, ma'am.

(continued)

Q. Where?

A. He was also living at Grants Pen Avenue in the yard of a cabinet shop operated by his father.

Q. Now, about how far is the yard in which Chuckie lived at Grants Pen Avenue from 26 Andrews Pen Lane where you saw the body of Mushington Reid in that two-bedroom board house?

10 A. It is about quarter mile away.

Q. Now, ... That is about all. 2.20 p.m.
One moment, do you know Federal Road?

A. Yes, ma'am.

Q. Do you know Essex Avenue?

A. Oh, yes, ma'am.

Q. Where is Andrews Pen Lane in relation to Federal Road and Essex Avenue?

A. They join together.

20 Q. I see! Three roads, as it were, converge?

A. Yes, ma'am.

HIS LORDSHIP: Essex Avenue and Federal Road?

A. Essex Avenue and Federal Road and Andrews Pen, yes, m'lord.

MISS HYLTON: Now, you know the Stadium?

A. Yes, ma'am.

Q. If one is travelling from the Stadium to go to the yard that Chuckie lived - you are following me?

30 A. Yes, ma'am.

Q. Would one have to go by way of Andrews Pen Lane, or could one go by way of Andrews Pen Lane? [sic]

HIS LORDSHIP: I think we are going into the realms of speculation.

Prosecution
Evidence

No.9

Donald
McInnis
Examination

(continued)

MISS HYLTON: Your lordship pleases.

HIS LORDSHIP: Several areas you can go to find one's body. Just a second. Robinson, is there any question which you wish to ask this officer?

2.21 p.m.

MR. ROBINSON: I don't know what him talking 'bout.

HIS LORDSHIP: You don't know what him talking 'bout. No cross-examination. Anything, Mr. Jarrett?

10

Cross-
Examination

MR. JARRETT: Yes, sir. Corporal McInnis?

A. Yes, sir.

Q. You said you saw Irving, you see, sir...

HIS LORDSHIP: Where did you see the deceased? I am sorry.

A. Witness.

HIS LORDSHIP: The witness?

20

MR. JARRETT: I didn't get that, m'lord.

HIS LORDSHIP: I think the witness, Irving, told us he used to call the deceased Irving too?

MR. JARRETT: Oh, yes, sir, this is so.

HIS LORDSHIP: So you have to be careful which Irving you are talking about. From the evidence you are speaking about the injured man.

30

MR. JARRETT: In respect to the occasion how many Irvings did you know?

A. Two Irvings. One Irving in the early stage, one after.

Q. When I talk - about Wilbert Irving, right! Now, when was the first time you saw Mr. Wilbert Irving?

A. On the 22nd of August, 1978, at
six-thirty a.m.

Q. Did you know him before this day?

A. No, sir.

(continued)

HIS LORDSHIP: On the 22nd of August, 1978,
at about six-thirty?

A. Yes, m'lord, a.m.

HIS LORDSHIP: Six-thirty a.m. You did not
know him before?

10 A. No, m'lord.

HIS LORDSHIP: Yes?

MR. JARRETT: You said you saw him at the
Constant Spring police station?

A. Yes, sir.

Q. As he made a report to you, you said?

A. Yes, sir.

Q. Did he speak to you alone or were you
with other police officers?

20 A. He spoke to me. Other police was in
the office at the time.

Q. Did he speak to you in an office or in
the police station itself? By that I
mean at the front of the police
station?

A. It was in the - between the office
and the corridor.

Q. Would you say he was addressing you
when he spoke, detective McInnis?

A. Yes, sir.

30 Q. You said he made a report to you then?

A. Yes, sir.

Q. Did you take down the report any at
all? Did you write it down?

A. Yes, sir.

Prosecution
Evidence

No. 9
Donald
McInnis
Cross-
Examination
(continued)

- Q. And transcribe it?
- A. Yes, sir.
- Q. When he made it to you on that morning?
- A. Yes, sir.
- Q. You wrote it down then?
- A. Wrote down what, sir?
- Q. What? His report to you. You said you saw him at six-thirty and he made a report to you. What, I am asking you, did you put on that report on that morning at six-thirty a.m. in writing?
- A. I wrote it down, sir.
- Q. When he was talking to you on that morning?
- A. Yes, sir.
- Q. Did he at any time make a statement in writing to you?
- A. No, sir.
- Q. When was the next time after that morning you saw Mr. Irving?
- A. Some time after, sir.
- Q. You don't remember if it was in the month of August or was it in September?
- A. I cannot remember what month I saw him.
- Q. Did Mr. Irving when he spoke to you on the morning, you see, sir...
- A. Yes, sir?
- Q. ...told you about a motorbike?
- HIS LORDSHIP: No, no. Don't answer that.
- MR. JARRETT: All right. Do you know if the police seized a motorbike from the yard?
- A. When, sir?

10

20

30

Q. At any time at all.

HIS LORDSHIP: Well, did you seize a motor bike?

A. I did not seize any motor cycle, m'lord.

(continued)

MR. JARRETT: You didn't seize a motor bike?

A. No, sir.

10 HIS LORDSHIP: And may I remind you of something. Mr. ..., which I observed yesterday and I'll be reminding the jury later on. In your cross-examination I have heard - you asked everything, everything except that incident dealing with the bringing in of the motor bike. Am I right? You cross-
20 examined on everything except that, that incident. No, I am not stopping you. I am just reminding you.

MR. JARRETT: I think I had asked one or two questions, m'lord.

HIS LORDSHIP: What question?

MR. JARRETT: As to whether or not he had seen the bike. I think I had asked him if he had seen the bike.

30 HIS LORDSHIP: You mean when he was back from his sister's yard?

MR. JARRETT: No, no. Since the incident.

HIS LORDSHIP: If he had seen the bike?

MR. JARRETT: Yes.

HIS LORDSHIP: Only that, and he said no.

MR. JARRETT: I think so, sir. M'lord, my learned friend has just reminded me that I also asked him, asked him if Reid had seen the
40 bike, m'lord.

HIS LORDSHIP: Oh, yes. The point that I was

Prosecution
Evidence

No. 9

Donald
McInnis
Cross-
Examination

(continued)

really making - perhaps I would be putting it to the jury wrong - is that there was no challenge by the - by you, in cross-examination, that that part of the story wasn't true. Put it that way then.

MR. JARRETT: Only to the extent that I did put to him that he hasn't seen.

HIS LORDSHIP: Yes.

10

MR. JARRETT: Seen Gibson any at all.

HIS LORDSHIP: That somebody left a bike there. That wasn't challenged. What was challenged was that he didn't see Gibson there.

MR. JARRETT: Any at all for that day, sir, the 22nd.

HIS LORDSHIP: I'll check on that later on.

MR. JARRETT: No, m'lord, the incident was from the first.

20

HIS LORDSHIP: Continue.

MR. JARRETT: Tell me, Mr. McInnis, you said you saw Robinson in September, sir? I am - I am sorry, Gibson?

A. Yes, sir.

HIS LORDSHIP: In...?

MR. JARRETT: In September. At the Constant Spring police-station?

A. Yes.

30

Q. You remember when you saw him if his hand was in a sling and if plaster of Paris...

HIS LORDSHIP: That is about three questions put together.

A. I saw him at the Constant Spring police-station, m'lord. I cannot remember if his hand was in a sling.

MR. JARRETT: Did you see his hand in plaster of Paris?

40

A. I cannot recall.

Q. You cannot recall. May I have a second please, m'lord?

HIS LORDSHIP: Yes.

(continued)

(Mr. Jarrett speaks with accused. ...2.30 p.m.)

10

MR. JARRETT: Mr. McInnis, I am putting it to you, you see, sir, that when you saw Gibson on the 26th of September, his hand was in plaster of Paris.

A. As I told you, sir, I cannot recall.

Q. What about when you - the left hand - that is; say you can't recall if the left hand was in plaster of paris, right? on the 26th of September, when you arrested him?

A. As I told you, sir, I cannot recall.

20

Q. What about when you attended the preliminary enquiry at the Gun Court, can you remember seeing his hand in plaster of paris?

A. I cannot recall either.

HIS LORDSHIP: So, is this relevant, Mr. ...?

MR. JARRETT: Yes, m'lord.

HIS LORDSHIP: Whether his hand was in plaster?

MR. JARRETT: Yes, m'lord. Very, very relevant.

HIS LORDSHIP: Yes?

30

MR. JARRETT: Let me put it to you, you see, Mr. McInnis, that when you saw him at the preliminary enquiry his hand was in plaster of Paris?

A. I have said already ...

HIS LORDSHIP: He cannot recall that. In other words he is not in a position to challenge you. He doesn't recall it.

Prosecution
Evidence

No. 9
Donald
McInnis
Cross-
Examination

(continued)

MR. JARRETT: This is so, m'lord. Let me also put it to you, Mr. McInnis, that when you spoke to Gibson, when you said you cautioned him and he said that it must be Bobo and him frien' do it, that this is not the truth, sir: that Gibson at no time said that to you.

A. Yes, sir, he did say so.

10

Q. No more questions, m'lord.

2.34 p.m.

HIS LORDSHIP: Yes, re-examination?

Re-examination DONALD MCINNIS: RE-EXAMINATION - MISS HYLTON

MISS HYLTON: Mr. McInnis, did you say in answer to counsel that the witness, Mr. Irving, never made a statement in writing to you? My question is, did you ever receive a statement in writing from Mr. Irving?

20

A. Oh, yes, ma'am.

HIS LORDSHIP: Yes?

MISS HYLTON: And let me see if I understand you correct. You got a statement in writing but it was not recorded by you?

A. No, ma'am.

2.35 p.m.

Examination
by Court

DONALD MCINNIS: EXAMINATION - THE COURT

HIS LORDSHIP: The room where you saw the dead body of the deceased, about what size? It's a big room? About what size?

30

A. It's about a ten by twelve, m'lord.

HIS LORDSHIP: Ten by twelve. What kind of bed in it? A single bed?

A. It was a double bed, m'lord.

HIS LORDSHIP: Double bed. You see any signs of blood anywhere there?

A. Yes, m'lord.

HIS LORDSHIP: Where?

A. It was on the mattress. There was no spread on the bed. It was on the mattress.

HIS LORDSHIP: Did you know the deceased before?

10 A. No, m'lord.

HIS LORDSHIP: You told us earlier on you found a spent bullet in the room?

A. Yes, m'lord.

HIS LORDSHIP: Bullet or shell?

A. Expended bullet, m'lord.

HIS LORDSHIP: Expended bullet?

A. Yes, m'lord.

HIS LORDSHIP: You have it there?

20 A. I don't know if it is among the documents there, m'lord, because it was at Gun Court and it was small.

HIS LORDSHIP: And you have the one now that was extracted from the base of the skull?

A. Yes, m'lord.

HIS LORDSHIP: At the...?

A. Yes, m'lord.

HIS LORDSHIP: So there were two bullets then?

30 A. Yes, m'lord.

HIS LORDSHIP: One that was found in the room?

A. In the room.

HIS LORDSHIP: And one that the doctor found in the body?

(continued)

No. 9
Donald
McInnis
Examination
by Court

(continued)

A. One that the doctor found.

HIS LORDSHIP: You going to be trained on
fire-arms?

A. Yes, m'lord.

HIS LORDSHIP: You have how many years service?

A. What is that, m'lord?

HIS LORDSHIP: How many years service you
have?

A. Twelve years service, m'lord.

HIS LORDSHIP: So you have been handling
fire-arms from the training
days? 10

A. Yes, m'lord, from training days.

HIS LORDSHIP: As part of your training you
were taught the elements of
the identification of fire-arms?

A. I have knowledge of it, the fire-arm,
m'lord.

HIS LORDSHIP: Knowledge?

A. Not identification of a particular
bullet. I can say whether the gun -
whether it is a .38 or .45. 20

HIS LORDSHIP: Oh, you can say that?

A. As to the type of gun it come
from, m'lord, I cannot say.

HIS LORDSHIP: I see. Can say whether the
gun is .38 or .45?

A. Or .45 or .22

HIS LORDSHIP: Or .22?

A. Yes, m'lord, but I cannot say it is
from a Webley & Scott or Smith &
Wesson. 30

HIS LORDSHIP: I see. The bullet you saw in
the room, your view is that it
came from a small arm, that
it's a ...?

A. .38.

HIS LORDSHIP: From a .38?

A. Yes, m'lord.

HIS LORDSHIP: That's your view?

A. Yes, sir.

HIS LORDSHIP: Well, thank you, very much,
and on behalf of the jurors
and myself I hope you will
soon be back on your feet
again.

10 A. Thank you. 2.42 p.m.

MISS HYLTON: That, may it please you,
m'lord, is the case for the
prosecution.

No. 9
Donald
McInnis
Examination
by Court

(continued)

No. 10
PROCEEDINGS

No. 10
Proceedings
1st April
1981

HIS LORDSHIP: Robinson?

A. Yes, sir.

20 HIS LORDSHIP: The prosecution has closed its
case. There are three courses
open to you. First of all
you can go there and give
evidence, in the witness box,
in which case you will be
liable to be cross-examined
by Miss Hylton, asked questions
by Mr. Jarrett and I can ask
questions too, or you may
stay from where you are and
make a statement, nobody can
30 ask you any questions from
there, but it hasn't got the
strength as if you had gone
there, or you may keep quiet,
that means to say you can say
you have nothing to say. And
you are also entitled after
you have done any of these three
things to call witnesses that

No. 10
Proceedings

1st April
1981

(continued)

that you wish to support what
you have said. Now, what do
you wish to do?

MR. ROBINSON: I don't do nothing sir.

HIS LORDSHIP: Eh?

MR. ROBINSON: I don't know the procedure.

MISS HYLTON: He says, "I don't know the
procedure".

HIS LORDSHIP: You don't understand English?
Eh? Mr. Jarrett?

10

MR. JARRETT: M'lord.

HIS LORDSHIP: You, apparently, you will be
able to communicate better
than I can. (Mr. Jarrett
speaks with accused.)
You understand what Mr.
Jarrett tell you now?

MR. ROBINSON: Yes, sir.

HIS LORDSHIP: Well, all right! What you
goin' do?

20

MR. JARRETT: M'lord, he says he will make
an unsworn statement.

HIS LORDSHIP: Unsworn statement?

MR. JARRETT: From the dock.

HIS LORDSHIP: Thank you, very much. All
right! Just wait.

2.46 p.m.

FRANK ROBINSON - UNSWORN STATEMENT

No. 11
Frank
Robinson
Unsworn
Statement

1st April 1981

ACCUSED : FRANK ROBINSON: UNSWORN:

MR. ROBINSON: I was at home, as usual.

HIS LORDSHIP: Just a second. Yes, I was
at home?

MR. ROBINSON: Yes, sir.

HIS LORDSHIP: Aa-ah?

MR. ROBINSON: And I don't ...(inaudible)

10 HIS LORDSHIP: Aah?

MR. ROBINSON: I was at home, I don't ...
(inaudible)

HIS LORDSHIP: I was at home as what?

MISS HYLTON: As usual, sir.

MR. ROBINSON: I don't leave my home, sir.
I work there.

HIS LORDSHIP: I didn't leave my home... Yes?

MR. ROBINSON: Me mother will swear that I was
at home.

20 HIS LORDSHIP: My mother is there to swear...
that what?

MR. ROBINSON: I was at home, sir.

HIS LORDSHIP: "I was at home?"

MR. ROBINSON: Yes, sir.

HIS LORDSHIP: That's all?

MR. ROBINSON; Yes, sir.

HIS LORDSHIP: You calling your mother?
2.48 p.m.

30 MR. ROBINSON: See her right there. I heard
that she gone home, sir.

HIS LORDSHIP: Well, do you wish to call your
mother then? You say your
mother is there to swear that
you were at home?

Defence
Evidence

No. 11
Frank
Robinson
Unsworn
Statement

1st April
1981

(continued)

MR. ROBINSON: Yes, sir.

HIS LORDSHIP: Meaning you are speaking of
the early morning of the...?

MISS HYLTON: M'lord...!

MR. JARRETT: She is here.

HIS LORDSHIP: Wait! First of all you want
to call your mother?

MR. ROBINSON: Yes, sir.

HIS LORDSHIP: All right. Let the mother
take the stand.

10

Defence
Evidence

No. 12
Joyce
Robinson
Examination

No. 12

JOYCE ROBINSON

JOYCE ROBINSON: SWORN:
EXAMINATION - THE COURT:

HIS LORDSHIP: What is your name, madam?

A. Joyce Robinson.

HIS LORDSHIP: Joyce Robinson. What they
call you? You are a
housewife, business woman
or what?

A. Business woman.

HIS LORDSHIP: Aah?

A. Business woman.

HIS LORDSHIP: And mother of Frank Robinson?

A. Yes, sir.

HIS LORDSHIP: How old is he? How old is your
son?

20

A. About twenty-three.

HIS LORDSHIP: About twenty-three.
And where he lives now, at
your yard or where?

A. Yes.

HIS LORDSHIP: He lives at your yard?

A. Yes.

HIS LORDSHIP: 15 Grants Pen Avenue?

A. (inaudible)

10 HIS LORDSHIP: Kingston?

A. Eight.

HIS LORDSHIP: All right, Robinson?

MR. ROBINSON: Yes, sir.

HIS LORDSHIP: Stand up. You coming to the
crucial point now. You want
to question your mother or you
want me to bring out the point
for you?

20 MR. ROBINSON: Pardon me, sir, I don't
hear what you say.

HIS LORDSHIP: I say do you want to bring
out the point, that is,
question your mother on what
you want to go before the
jury or you want to leave it
to me for me to examine her on
your behalf?

MR. ROBINSON: Anything, so long she say I
was at home.

30 HIS LORDSHIP: All right. That's all?

MR. ROBINSON: Yes, sir.

HIS LORDSHIP: You want to put that point.
All right. Tell me something,
you got information that your
son had been arrested?

A. Yes, sir.

HIS LORDSHIP: For murder?

Defence
Evidence

No. 12
Joyce
Robinson
Examination

(continued)

A. Yes, sir.

HIS LORDSHIP: All right! The policeman, the police corporal who arrested him told us that it was the last day of August of 1978 they held him.

A. Yes, sir.

HIS LORDSHIP: And the indictment is saying that it was on the 22nd of August, that he shot and killed a man named Reid. Aah?

10

A. Yes, sir.

HIS LORDSHIP: Now, can you help us about that night? Where he slept? If you remember the night of the 22nd of August, coming on to early morning; if you can help us about where he was?

A. Well, he was at home the night.

20

HIS LORDSHIP: From what you know?

A. Yes, from what I know.

HIS LORDSHIP: Wait! Wait! "From what I know, he, Frank, was at home?"

A. Yes, sir.

HIS LORDSHIP: The night of August when this man... You did know the man, Reid?

A. No, I don't know them, m'lord.

HIS LORDSHIP: ...when the man was shot? Aah?

30

A. Yes, sir.

HIS LORDSHIP: Then how you remember that he was at home? Both of you slept in the same room?

A. Yes, in different apartment; that his girlfriend even slept with him the night, and the morning somebody told his father that a man was shot. We have a work'shop there.

HIS LORDSHIP: Oh, I see. The accused has a girlfriend?

40

A. Yes, see her there ... (indicating)

HIS LORDSHIP: And she lives at the house there too?

A. Yes.

HIS LORDSHIP: Has a girlfriend. What time you went to bed that night? That would be the night of the 21st, you see, because according to the prosecution this happened the early morning, the 22nd, so it would be the night of the 21st. Let me check and see what day of the week that was. 1978. No! I am looking on it and I see here that the 22nd of August, 1978, was a Tuesday, so the 21st would be a Monday. You did check it, Mr....?

10

20

MR. JARRETT: Yes, m'lord. That's correct.

HIS LORDSHIP: That's correct. So now, you would have to tell us, tell the jury why you specially remember that night, the night of the 21st, the Monday night.

A. Because...

HIS LORDSHIP: That the girlfriend sleep there. The girlfriend live at his house?

30

A. She go and come. She lives on the Avenue.

HIS LORDSHIP: Yes, she lives on the Avenue. Aa-ah?

A. With her parents.

HIS LORDSHIP: Aah?

A. With her parents.

HIS LORDSHIP: But certain times she come over the yard and sleep?

A. Sleep over ...(inaudible)...

40

HIS LORDSHIP: Yes?

(continued)

Defence
Evidence

No. 12
Joyce
Robinson
Examination

(continued)

A. And...(inaudible)...

HIS LORDSHIP: She starts off by saying, "What really I could remember about it."

A. In the morning his father was at the work'shop doing his work in the morning.

HIS LORDSHIP: Aa-ah?

A. And somebody came to him and tell him that a man was shot over Wattle Pen, That's what they call the place.

10

HIS LORDSHIP: At Wattle Pen?

A. Yes.

HIS LORDSHIP: Oh, I see, and you heard the person telling the father that?

A. Yes, and he was sleeping at the time. That's what I know.

HIS LORDSHIP: He was sleeping at the time?

A. Yes.

HIS LORDSHIP: Then what time was this you heard the somebody telling the father somebody at Wattle Pen was shot?

20

A. It could be about seven-thirty to eight because it was early morning.

HIS LORDSHIP: "I heard someone ..."

A. I was getting ready to go ...(inaudible)

HIS LORDSHIP: Telling ... When you say telling the father, telling your husband?

A. Yes.

HIS LORDSHIP: Telling his father - that is your husband - that a man was shot at Wattle Pen?

30

A. Yes.

HIS LORDSHIP: And this is the same Andrews Lane?

A. Yes.

HIS LORDSHIP: Call it Wattle Pen. When this was being told he was in his bed?

A. Yes.

HIS LORDSHIP: Then what time you get up the morning?

A. Well, I really get up about four, you know.

HIS LORDSHIP: Well, what time the morning? What time you get up?

A. I get up around four.

HIS LORDSHIP: All right. When you get up around four that morning - just wait a second. "I had got up about four a.m." When you got up at four a.m. you know whether your son was in his room with his girlfriend?

A. Well, I really - I have to come from my room and pass through their room.

HIS LORDSHIP: Aa-ah?

A. Go through the living-room to the kitchen to the pipe.

HIS LORDSHIP: Aa-ah! And he was there?

A. Yes.

HIS LORDSHIP: I see! Got up about four a.m. I have to pass through...?

A. My room.

HIS LORDSHIP: My room.

A. A next one and then his room.

HIS LORDSHIP: Then through his room to go outside?

A. The kitchen and ...

HIS LORDSHIP: To go to the kitchen?

A. Yes, and the outside pipe.

HIS LORDSHIP: And then outside?

(continued)

Defence
Evidence

No. 12

Joyce

Robinson

Examination

(continued)

A. Yes.

HIS LORDSHIP: And in passing through you saw him?

A. Yes, sir.

HIS LORDSHIP: And his girlfriend? The both of them?

A. Yes, they were there.

HIS LORDSHIP: Then, as you get up at four o'clock you went to the kitchen or was it...?

10

A. Well, I have to wake at four because the water thing is very low and, you know, we have to catch water, that we have water, before the other tenants use the other pipes up there.

HIS LORDSHIP: Oh! So you have to get up early in the morning in order to catch water?

A. Yes.

HIS LORDSHIP: So, you say then, long before six o'clock...?

20

A. Yes.

HIS LORDSHIP: You got up and he was in the house?

A. Yes, m'lord.

HIS LORDSHIP: Yes! He was there sleeping in his room, eh?

A. Yes, m'lord.

HIS LORDSHIP: Well, Robinson?

MR. ROBINSON: Yes, sir.

30

HIS LORDSHIP: Well, you heard what your mother has told the jury. Any other point you want her to bring out?

MR. ROBINSON: Me and me sister and me brother 'dem was ...(inaudible)... and she was out there, sir. Is not only the two of us.

HIS LORDSHIP: Yes, your family was there?

A. Yes. It's a family of ten, your lord.

HIS LORDSHIP: Family of ten?

A. Ten children, m'lord.

HIS LORDSHIP: How much children?

A. Ten children, me husband and myself
but nine really at home.

HIS LORDSHIP: Family of ten children,
husband and wife. And there
were nine children there?

10

A. That's right.

HIS LORDSHIP: That's all?

MR. ROBINSON: Yes, sir.

HIS LORDSHIP: Aah!

MR. ROBINSON: Yes, sir.

HIS LORDSHIP: All right! Anything,
Mr. Jarrett?

MR. JARRETT: No, m'lord. No questions

3.03 p.m.

20

JOYCE ROBINSON: CROSS-EXAMINATION -
MISS HYLTON:

Cross-
Examination

HIS LORDSHIP: Yes, Mrs. ...?

MISS HYLTON: Mrs. Robinson, you say it's a
family of ten children,
your husband and yourself?

A. Yes, ma'am.

Q. Keep you voice a little bit up for
me, you see.

A. (Witness nods).

30

Q. And so it was twelve of you of the
family in the house that night, aah?

Defence
Evidence

No. 12
Joyce
Robinson
Cross-
Examination

(continued)

A. Yes, ma'am.

Q. How many bed'rooms?

HIS LORDSHIP: Wait now. She said there were nine children.

A. First one is not there.

MISS HYLTON: You said there were nine children and your husband and yourself, so it's eleven?

A. Yes.

Q. Aaah!

10

A. Eleven.

Q. Eleven members of the family there that night?

A. Yes, ma'am.

Q. How many bed'rooms?

A. Three. Three and we have a living room and the kitchen.

Q. And in going to your bed'room, or coming from your bed'room you walk through the other bed'room?

20

A. Yes. How the house is built, we walk ... a front door, middle door and we go through the other.

Q. So, is there no other way of getting from your room to the kitchen apart from walking through the other bed'room?

A. Yes, we have a door that we could walk, under a shed, and go 'round but it not really convenient in the morning to go that way.

30

Q. I see! You say Frank Robinson's girlfriend lives on the same Avenue?

A. Yes, she lives there.

Q. And sometimes she comes there to sleep?

A. Yes.

Q. About how often in the space of a month would you say she comes there to sleep?

A. Well, I really don't recall that, you know.

HIS LORDSHIP: She could steal a sleep there and you don't know?

A. Really, because my husband and myself wake very early because, you see, he works hard and I work and I have to wake early in the morning.

(continued)

10 Q. Does Frank Robinson have a bed for himself?

A. Yes, yes.

Q. Does he cover when he is sleeping?

A. (Witness smiles) Sometimes.
I don't know.

Q. Any other male member of the family occupies the room that Frank Robinson occupies?

A. Yes, m'lord.

Q. How many other male members?

20 A. Three boys.

Q. Three boys?

A. Yes.

Q. Occupy the same room?

A. Yes.

Q. Younger or older than Frank?

A. Two is earlier.

Q. Two older?

A. And one is younger. See him there.

30 Q. So, I am talking about the room that Frank occupies, you know.

A. Yes.

Q. Two older brothers?

A. Yes.

Q. And one younger brother than himself?

Defence
Evidence

No. 12

Joyce
Robinson
Cross-
Examination

(continued)

A. Yes.

Q. Occupy that room?

A. Yes.

Q. And that is the same room his
girlfriend comes to sleep in, you say?

A. Yes, but he has a bed and there is a
thing between.

HIS LORDSHIP: He, he has a bed and who?

A. And there is a next twin between the
two other.

10

HIS LORDSHIP: Oh, I see!

A. And this younger brother have a bed and
the next younger brother have a bed.

MISS HYLTON: So, you say you have four beds
in that room?

HIS LORDSHIP: How many beds?

A. Two single bed and one big bed.

MISS HYLTON: Two single beds and one big bed?

A. Yes.

Q. What's the size of the room?

20

A. I don't have no idea of ...

Q. Aah?

A. I don't really know about that, you
know.

Q. You don't really know about that?

A. No, I could not say the size of the
room.

Q. So, with the double bed and the two
single beds, there is still space to
walk around in the room freely?

30

A. Yes, that room... and very wide.

Q. Yes. The business that you carry on
there, what type of business?

A. I don't carry on a business, my husband, he has a wood-work shop.

Q. I thought you said you were a businesswoman?

A. My own is at 20 Charles Street.

(continued)

Q. I see! Do you have any idea about measurement at all?

A. Not when it comes to building a house or?

10 Q. Is it a big room?

A. Yes.

Q. This morning when you heard, according to you, somebody talking to your husband about the shooting over Wattle Pen, what day of the week was it?

A. It's from so long, I don't know.

Q. Aah?

20 A. I don't really remember because it is so long ago, I don't - I didn't recall that because I didn't even know he was involved in that, so I don't know.

Q. Do you know...?

HIS LORDSHIP: You don't know what day of the week?

A. No.

MISS HYLTON: Do you know when your son, Frank, was held by the police?

A. Yes! Yes!

Q. What day of the week was that?

30 A. I don't really remember. I were at work and when I come home I hear that.

Q. I see! Now, tell me, does your son, Frank, do any work at all?

A. Yes. He helps his daddy in the work'shop.

Defence
Evidence

No. 12
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Robinson
Cross-
Examination

(continued)

Q. Help his daddy in the work'shop?

A. Yes.

Q. A wood-work shop?

A. Yes, and he has other men working with him.

Q. Now, do any of your children go out at nights?

A. Well, they may go to a little party or ...

Q. Does Frank go out at night?

10

A. Sometimes.

Q. Do you know the stadium?

A. In Vineyard Town?

Q. Do you know the stadium?

A. Where is the stadium? At Vineyard Town?

HIS LORDSHIP: Mountain View.

A. The stadium at Mountain View?

HIS LORDSHIP: Stadium.

A. Yes.

20

MISS HYLTON: So far as you know has Frank ever been to the stadium?

A. Sometime when they have foot'ball they always go, and his younger brother and his father too, they like foot'ball.

Q. Now, tell me, do you know Gibson who is in the dock sitting beside your son, Frank?

A. I don't really know him. He comes to the house there sometimes.

30

Q. He comes to the house sometimes?

A. Yes.

Q. When he comes to the house sometimes, does he come to adults, that is, you and your husband or to the children?

A. He comes to all of them, all of them.

Q. To all of them? Them being who?

A. The family because sometimes ...

Q. The family?

A. ...because sometimes he sit in the house and watch T.V.

Q. So you would say that Gibson is a friend of your family?

A. Yes.

10 Q. So as far as you are aware has Gibson even been out with your children?

A. I don't really know.

Q. Aah?

A. I really don't know.

Q. Now, you say that your children goes to the stadium when there is foot'ball because they like it and sometimes their father?

A. Yes.

20 Q. So far as you know has Gibson ever accompanied them on any of their outings to foot'ball?

A. Well, I really don't know if he ever accompany them.

Q. Now, your son, Frank, told the court, you know, that he works at home and he doesn't leave his home.

A. Yes.

Q. Would you agree with that?

30 A Well, as I say, he goes out to foot'ball; sometimes they go to a little party, all of them, and he works with ...

Q. So, then, it is not true to say that he works at home and he doesn't go out?

HIS LORDSHIP: No! I don't understand the question.

Defence
Evidence

No. 12

Joyce
Robinson
Cross-
Examination

(continued)

- A. He go to match.
- HIS LORDSHIP: Wait a second! "I was at home as usual. I did not leave my home", and I think he would be referring to that day that it is alleged that he is supposed to have... I don't take him to be saying that he didn't even take a walk outside the street. I think he is referring to the date. 10
- MISS HYLTON: As your lordship pleases. I ask you again. The morning when you say you heard somebody speaking to your husband about the shooting, do you recall what day of the week was that?
- A. No, I really don't.
- Q. That morning when you got up and walked through your son's room, as you say, at about four o'clock, did you go back to the room again? 20
- A. Yes, I go and come, you know: I have to do things and I have to go and come through.
- Q. What time did your husband get up that morning?
- A. Well, he always get up after me and have a bath and I prepare a cup of tea for the both of us. 30
- Q. Yes! What o'clock is Frank accustomed to getting up?
- A. Well, I don't know. I leave him there and my husband goes into his shop and ...
- Q. So, you are accustomed to leave for the shop and leaving Frank in bed?
- A. Yes, I have to go to work, you know. I go to work like eight: sometimes I have to go earlier and tidy up the shop. 40
- Q. I see! That morning in question when you heard that somebody talking to your husband, what time did you leave for work?

A. About eight.

Q. And when you were leaving Frank was still in bed?

A. Yes, they were there.

Q. In bed?

A. I don't remember if they were in bed but I left them there.

Q. There where?

A. At home.

10 Q. At home where? In the dining-room having breakfast or in bed sleeping with his girlfriend?

HIS LORDSHIP: Wait a moment. It is difficult to ... What she had said earlier on "I heard someone about seven-thirty, eight, telling my husband that a man ... and in passing through, children were in the room." Yes, she has said she ... but about seven-thirty, eight o'clock he was in his room.

20 MISS HYLTON: Yes, m'lord. So, Mrs. Robinson, about - every morning you leave home about the same time?

A. No, not every morning.

Q. But you remember that morning in particular?

30 A. Yes.

Q. Why?

A. Well, that morning I had was to go to buy some goods that morning and, you know, I ask my husband to take me out early.

Q. Since you remember that morning so well, try again and see if you can remember the day of the week?

40 A. No, I really don't know. I don't remember that day.

Q. The night before that morning, the

Defence
Evidence

No. 12
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Cross-
Examination

(continued)

Q. night before, do you recall what time you went to bed?

A. I don't recall. What I know, I go to bed early in the nights. I don't recall what time because sometime I may sit and watch T.V.

Q. When you were going to bed the night before that particular morning, do you recall if your son, Frank, was at home?

A. It is very hard to remember.

10

HIS LORDSHIP: Yes?

A. It is very hard to remember being so long ago.

MISS HYLTON: Now, tell me, have you ever seen your son, Frank, riding a motor cycle?

A. No, I don't know of him having any cycle.

Q. I didn't ask you about having, I asked you if you had ever seen him riding?

20

A. No, I don't see him riding.

Q. Mrs. Robinson, were you sitting in court, here, while Wilbert Irving was giving evidence?

A. Today?

Q. On Monday.

A. No, I wasn't here.

Q. You weren't sitting in court over there?

A. No, I wasn't here on Monday. I was here yesterday.

30

Q. You were not dressed in a pink dress and at one time you were walking across here to go outside there during an adjournment?

A. Yesterday was what day?

HIS LORDSHIP: Yesterday was Tuesday.

A. I wasn't here on Monday. It was yesterday I walk across there.

MISS HYLTON: Walked across there?

A. Yes.

Q. You were sitting in court?

A. Yes.

Q. And you were sitting there while
Wilbert Irving was giving evidence.

A. Yes.

Q. Do you know 26 Andrews Pen Lane?

A. No.

10 Q. But you know Andrews Pen Lane?

A. Yes.

Q. Now, on the morning - do you remember
the morning before that day when you
heard somebody talking to your
husband?

A. Before that day?

Q. The morning before that day?

20 A. I don't remember before that day.
I remember the morning when I heard
someone talking. I don't remember the
day before.

Q. I see! So, you are unable to help the
court as to whether your son, Frank
Robinson, was at home on the night
previous to the night which ended early
morning the 22nd? You can't say?

A. I don't remember.

30 Q. Now, tell me, has your son, Frank,
ever stayed out late at night and come
in early morning?

A. No! No!

Q. Never?

A. No! No!

Q. Now, when you go to bed and you go to
bed early, do you know the comings and
goings of your children?

(continued)

Defence
Evidence

No. 12

Joyce
Robinson
Cross-
Examination

(continued)

- A. Well, when they come in I know because we have to lock - according to how the house is locked up.
- Q. Yes?
- A. The door ... You see, I have to get up and open it for them.
- Q. So, every time somebody comes in late you have to get up and open?
- A. They wake me.
- Q. They wake you?
- A. Yes, I have to.
- Q. So, what door you open for them to come in?
- A. The door to the living-room.
- Q. The door to the living-room?
- A. Yes. As you enter that door and come into the bed'room: you can also enter that door and go to the kitchen.
- Q. I see! And anybody who is out late...?
- A. Yes.
- Q. ...they have to knock up you to wake to come in?
- A. Yes, that's how they...
- Q. So, are you knocked up many times at night?
- A. No, not really because they do their home'work and things: they don't really go out. They have special - as I told you - when they have foot' ball maybe at stadium and they stay a little late and so, you know.
- Q. I see! Do you recall about six-thirty the morning of the 22nd of August, what the lighting like at that time?
- A. Could you explain what you mean by lighting.
- Q. When you get up at four o'clock...?

10

20

30

(continued)

A. Yes.

Q. ...to catch water, you go out in the yard?

A. Yes. Yes.

Q. Were you able to see at four o'clock when you went out in the yard?

A. No, it is dark because I could recall at that time I think it was day'light-saving time.

10 Q. Yes, so at about six-thirty what is the lighting like?

A. Well, we have to go outside, we have to turn on...

Q. At six-thirty?

A. Yes, I think that time was day'light-saving time. It's a little dark.
3.20 p.m.

Notes written one on top of the other.
Machine not moving.

20 JOYCE ROBINSON: EXAMINATION - THE COURT
(Contd.)

Examination
by Court

HIS LORDSHIP: One, but I have my bed'room that I could enter in in the same position. And then now, there is a key for another door?

A. After you enter you can just go straight through the other room.

30 HIS LORDSHIP: Yes, but any of the boys or the daughters now staying out to a party and when they come into the house they have't got to come to disturb you and your husband?

A. No, but their door, they have to walk through the livingroom to go back into their room, so they always said to me that ...

Defence
Evidence

No. 12
Joyce
Robinson
Examination
by Court

(continued)

HIS LORDSHIP: No, no. We are not interested in that. So, who would have the key to that other door now, to come into your house?

A. I would have the key because it's a sort of Yale lock.

HIS LORDSHIP: Then who would have the duplicate?

A. Nobody don't keep a duplicate, sir.

HIS LORDSHIP: You keep everything under lock and key, eh? All right. Thank you, madam.

3.24 p.m.
Robinson, anybody else?
That's all?

10

MR. ROBINSON: No, sir.

HIS LORDSHIP: Aah?

MR. ROBINSON: No.

HIS LORDSHIP: You don't have anybody else?

MR. ROBINSON: The next brother that work, sir.

20

HIS LORDSHIP: Aah?

MR. ROBINSON: The next brother and sister. Them at work, sir.

MISS HYLTON: His next brother and sister at work.

HIS LORDSHIP: Oh, yes. So you don't have anybody else to call?

MR. ROBINSON: No, sir.

HIS LORDSHIP: Yes. All right. 3.25 p.m.

Yes, Mr. Jarrett?

30

MR. JARRETT: M'lord, the accused, Gibson, will make an unsworn statement from the dock.

ANTHONY GIBSON - UNSWORN STATEMENT

No. 13

Anthony
Gibson
Unsworn
Statement
1st April
1981

ANTHONY GIBSON: UNSWORN:

HIS LORDSHIP: Now, stand Gibson.

MR. GIBSON: Yes, sir.

HIS LORDSHIP: I want you to speak slowly and clearly. What do you wish to say? Go ahead.

10

MR. GIBSON: Well, on the second week in January...

HIS LORDSHIP: In the second week of January?

MR. GIBSON: Yes, sir ... 1978 ...

HIS LORDSHIP: Yes?

MR. GIBSON: ...Coptic out St. Thomas ...

HIS LORDSHIP: Aah?

MR. GIBSON: Out on Coptic farm out at St. Thomas.

HIS LORDSHIP: I don't hear you.

MR. GIBSON: Coptic employ me.

20

HIS LORDSHIP: You were employed?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: On the road at St. Thomas?

MISS HYLTON: No, m'lord. Out at Coptic, out at St. Thomas employed him as a farmer.

HIS LORDSHIP: Yes?

MR. GIBSON: Yes, sir. Well, during the whole period of those times. sir, ...

30

HIS LORDSHIP: During what?

MR. GIBSON: During those period of time, from 1978, second week in January, ...

Defence
Evidence

No. 13
Anthony
Gibson
Unsworn
Statement

1st April
1981

(continued)

HIS LORDSHIP: Yes, during that period?

MR. GIBSON: Yes, sir, I was on that farm,
sir, working out.

HIS LORDSHIP: I was on that farm working?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Yes?

MR. GIBSON: Also do agriculture work.
I planted banana.

HIS LORDSHIP: I did agriculture work planting
banana.

10

MR. GIBSON: I did agriculture work planting
banana.

HIS LORDSHIP: I did agriculture work planting
banana?

MR. GIBSON: Yes, sir, and look after
cattle.

HIS LORDSHIP: And look after cattle?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Yes?

MR. GIBSON: Well, on the 6th of August ...
On the 6th of August, sir ...

20

HIS LORDSHIP: Yes?

MR. GIBSON: I receive a broken arm, left
hand, sir.

HIS LORDSHIP: You receive a what?

MR. GIBSON: Broken arm, sir.

HIS LORDSHIP: A broken arm?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Yes?

MR. GIBSON: I coming from off the farm
that day, sir, coming off for
lunch and coming toward the
garage on the farm, sir, ...

30

1st April
1981

(continued)

HIS LORDSHIP: While coming off ... ah'ah?

MR. GIBSON: I see a mechanic there by the name of Wilbert...

HIS LORDSHIP: By the name of what?

MR. GIBSON: Wilbert.

HIS LORDSHIP: You saw one Wilbert, a mechanic?

MR. GIBSON: Yes, sir, working on a Ford car, sir.

10 HIS LORDSHIP: He was working on?

MR. GIBSON: On a Ford Escort, sir.

HIS LORDSHIP: Aah?

MR. GIBSON: On a Ford Escort, the engine: working on the engine.

HIS LORDSHIP: Ah'ah?

MR. GIBSON: So he call me, that time after I coming off the farm, sir, and he beg me to assist him, to help him lift out the engine.

20 HIS LORDSHIP: Ah'ah?

MR. GIBSON: After I lifting out the engine, sir ...(inaudible)... pressing side'way on the bonnet on the front part...

HIS LORDSHIP: Oh, you are telling us now how you got the injury?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Yes? Yes?

30 MR. GIBSON: I leave after I get the broken hand, sir. The engine rest on the front part of the car, my weight slip off it and drop down on my hand, sir ... (indicating)... and a green jeep...

HIS LORDSHIP: You reach what?

MR. GIBSON: ...a green jeep, go to the hospital out at Morant Bay, Morant Bay hospital.

Defence
Evidence
No. 13
Anthony
Gibson
Unsworn
Statement

1st April
1981

(continued)

HIS LORDSHIP: Yes?

MR. GIBSON: When I went there and I stay 'round twenty minutes, twenty minutes before I get looked after.

HIS LORDSHIP: Yes?

MR. GIBSON: Then after they put piece of cloth 'round me hand - something like piece a cloth.

HIS LORDSHIP: What you mean? They bandage it? 10

MR. GIBSON: Yes, sir, and spray it. I leave from there after finish getting treatment.

HIS LORDSHIP: Aah?

MR. GIBSON: I leave from there after getting treatment, sir.

HIS LORDSHIP: I left hospital after getting treatment?

MR. GIBSON: Yes, sir. 20

HIS LORDSHIP: Yes?

MR. GIBSON: Well, I went back on the farm sir, ... (inaudible).

HIS LORDSHIP: You went back on the farm and did what?

MR. GIBSON: I go out back on the farm, sir. Nya call me and inform me that the time me hand fe well up back fe go back to work, sir. So after they told me that I leave from there and come along Orange Street. 30

HIS LORDSHIP: Go to where?

MR. GIBSON: Orange Street, Coptic garage. They have a Orange Street. After I go there, I go down there to my uncle. I was there over a period of time, around two week I stay round there. 40

HIS LORDSHIP: I .. about two weeks, what?

1st April
1981

(continued)

10

MR. GIBSON: I stayed round there for about two week, round Orange Street, and I leave and went up at Grant's Pen Avenue, 7 Grant's Pen Avenue where I live, sir, and when I go home me mother inform me that Mr. McInnis want to see me and I went at the station, sir.

HIS LORDSHIP: And I went to Constant Spring police-station?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Yes?

MR. GIBSON: I went up there from about the 26th, 26th of December, sir; September, September.

HIS LORDSHIP: Went there 26th of September?

MR. GIBSON: 25th.

20

HIS LORDSHIP: Yes?

MR. GIBSON: And I didn't see Mr. McInnis on that day but Mr. Ford, a policeman, told me that Mr. McInnis say anywhere him see me going stop me.

HIS LORDSHIP: Yes?

MR. GIBSON: Well, after him lock me up, sir, I receive bail.

HIS LORDSHIP: You were locked up?

30

MR. GIBSON: Yes, sir, the following morning which is the 26th.

HIS LORDSHIP: Yes?

MR. GIBSON: Officer took - officer come round there, round the lock-up for me and told me that Mr. McInnis send them for me.

HIS LORDSHIP: Yes?

Defence
Evidence

No. 13
Anthony
Gibson
Unsworn
Statement

1st April
1981

(continued)

MR. GIBSON: I go into the C.I.D. - they
take me to the C.I.D. office,
sir.

HIS LORDSHIP: Yes.

MR. GIBSON: When I go inside the office,
sir, I see him along with
around three other policeman.

HIS LORDSHIP: Yes?

MR. GIBSON: When him see me him say,
"Welcome home, Nya".

10

HIS LORDSHIP: "Welcome hom, Nya", who say so?

MR. GIBSON: Mr. McInnis.

HIS LORDSHIP: "Welcome home", what?

MR. GIBSON: "Nya".

HIS LORDSHIP: Yes? Go ahead.

MR. GIBSON: Him say, "Bwoy, yu no know
seh a long time me a look
fe yu?"

HIS LORDSHIP: Boy, is a long time I
looking for you?

20

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Yes?

MR. GIBSON: Well, I say to him, "For
what now, sir?"

HIS LORDSHIP: "I say to him", what?

MR. GIBSON: I say to him, "For what now,
sir?"

HIS LORDSHIP: For what happen?

MR. GIBSON: "For what now, sir?"

HIS LORDSHIP: Oh, "For what".

30

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Yes? Go ahead.

MR. GIBSON: Him say, "Tek yu han' out a the
sling, bwoy". That is the
sling I have over my hand.

HIS LORDSHIP: Tek the hand out the sling?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Yes?

MR. GIBSON: And them turn, look at me,
speak indecently say, "Gibson,
why you and Robinson go and
kick off the man door an'
kill him?"

1st April
1984

(continued)

HIS LORDSHIP: Why you and Robinson do what?

10 MR. GIBSON: "Why you and Robinson go and
kick off the man door an'
kill him?"

HIS LORDSHIP: Yu dropping your voice.
"Why you and Robinson...?"
You heard?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: You heard him, Miss Hylton?

20 MISS HYLTON: Yes, m'lord. "Why you and
Robinson go kick off the man
door and kill him?"

HIS LORDSHIP: Oh! "Why you and Robinson...?"

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Yes?

MR. GIBSON: Well, I turn to him and say,
"I don't know what yu
talking about, sir."

HIS LORDSHIP: Yes? Go ahead.

30 MR. GIBSON: He tell the next officer,
constable Ford, put me on a
chair to sit down. I tell
them; I tell them...(pause)

HIS LORDSHIP: Aah-ah?

MR. GIBSON: I tell them say - the
constable, Ford and Mr. McInnis
start to ask me where I was
when those thing tek place.

HIS LORDSHIP: Yes?

MR. GIBSON: I show him that I was on Coptic
farm

Defence
Evidence

No. 13
Anthony
Gibson
Unsworn
Statement

1st April
1984

(continued)

HIS LORDSHIP: That you were what?

MR. GIBSON: I told him, sir, that during those time I was on Coptic farm, sir.

HIS LORDSHIP: Yes?

MR. GIBSON: And they ask me where I get the broken arm from. I told them I was on Coptic farm and them say "Bwoy, a lie yu a tell". And constable Ford told me to tek off me shoes and I sit down on the floor and rest it on the table and them lift up me foot and start beat me on me foot bottom. Him say, "Bwoy, yu nah tell we a who kill the man?"

10

HIS LORDSHIP: What?

MR. GIBSON: Him say, "Bwoy, yu nah tell me a who kill the man?" And after, them start beat me with the baton.

20

HIS LORDSHIP: Started to?

MR. GIBSON: Him say, "Bwoy, yu nah tell we a who kill the man?" And I tell him say I don't know, know about it, sir; don't know who kill him. Anyway, Mr. McInnis look at me and say I was to bend to him.

30

HIS LORDSHIP: You must do what?

MR. GIBSON: I must repent to him and turn christian.

HIS LORDSHIP: Mr. Foreman, you really hear him?

FOREMAN: On and off, your honour.

VOICES ON JURY: Can't hear him.

HIS LORDSHIP: Let him come right there and finish his story, right there in the well of the court because I am finding it difficult to hear him. 3.42 p.m. Come right to a point there. Right!

40

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Now, I didn't hear the part
about turning christian.
What him say? What?

MR. GIBSON: Him say, "Bwoy, yu better
repent and turn christian.

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1981

HIS LORDSHIP: Oh, Mr. McInnis say that?

(continued)

MR. GIBSON: Yes, sir.

HIS LORDSHIP: "Bwoy, yu better repent and
turn christian".

10

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Yes?

MR. GIBSON: He told me that Frank Robinson
done show him already that I -
me perform the murder, sir.

HIS LORDSHIP: That you perform the...?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: The what?

MR. GIBSON: Murder, sir.

20

HIS LORDSHIP: Yes?

MR. GIBSON: After that, sir, him start to
interrogated me about incident
that take place on top of the
Grant's Pen Road.

HIS LORDSHIP: Yes?

MR. GIBSON: He say either, or. Either -
He say either, or. Either him
going charge me for two -
going lay two charge against
me, sir.

30

HIS LORDSHIP: Either or either?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Going to charge you with what?

MR. GIBSON: Him say some people 'pon the
top of Grant's Pen Avenue
where I living say they lose
a motor car, who Mr. McInnis

Defence
Evidence

No. 13
Anthony
Gibson
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Statement

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(continued)

MR. GIBSON: say is me and my frien'
(Contd.) Mr. Robinson stick up those
people and take 'way the car.

HIS LORDSHIP: Uh'huh?

MR. GIBSON: Those time when him tell me
that, sir, Mr. Robinson was
at G.P. Him say him goin'
charge me and Mr. Robinson and
I tell him I don't know anything
about it. And he keep a
parade - parade for me:
charge me for it, sir, and
keep a parade.

10

HIS LORDSHIP: Told him that I knew nothing
about it?

MR. GIBSON: Yes, sir. Well, after he
keep the parade, sir, witness
come around the front part of
the glass.

HIS LORDSHIP: Yes?

20

MR. GIBSON: Looking. Look. She, there,
looking, looking, sir, till
she go away. She go away.
She look and look till she go
away, sir.

HIS LORDSHIP: The witness looked and looked
and went away?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Yes?

MR. GIBSON: Saw sergeant come out of the
parade room, sir, and told me
that ...(inaudible)

30

HIS LORDSHIP: That what?

MR. GIBSON: The witness didn't point me out.

HIS LORDSHIP: The witness didn't point you
out?

MR. GIBSON: No, sir.

HIS LORDSHIP: Yes?

MR. GIBSON: After I come off the parade,

MR. GIBSON: sir, and went around the
(Contd.) front part of the station
where the police dey...

HIS LORDSHIP: Yes?

MR. GIBSON: They make a 'phone call to
the police-station and ask the
police-station if I free to go
and them say no, them want me
for murder. So they transfer
me from there go to G.P., sir.

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(continued)

10

HIS LORDSHIP: Yes?

MR. GIBSON: So when I go down G.P., sir,
I even take off the plaster
'palish' because the whole
time, through those time I
have on the bandage, around
three to four days.

HIS LORDSHIP: Yes?

MR. GIBSON: I don't know anything about
that shooting, sir.

20

HIS LORDSHIP: You don't know anything
about the shooting?

MR. GIBSON: No, sir. And I never tell
Mr. McInnis that Frank
Robinson do any murder, sir.
I, he say I show him at the
station that is Robinson told
him that I - both of us, sir,
but I didn't say anything like
that.

30

HIS LORDSHIP: Yes?

MR. GIBSON: I also don't know anything
about any motor cycle, sir.
The motor cycle that I hear
him say...(inaudible).

HIS LORDSHIP: Don't know anything about
motor cycle?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Yes?

40

MR. GIBSON: Well, the witness, my lord,
the first time I can remember
seeing that man, m'lord, is at
the prelim. at Gun Court.

Defence
Evidence
No. 13
Anthony
Gibson
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(continued)

HIS LORDSHIP: You mean the witness, Irving?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Was at the Gun Court?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Yes?

MR. GIBSON: He came to say, sir, - he
told you further on ...

HIS LORDSHIP: Aah?

MR. GIBSON: He tell you further on in
court, sir, that he know me
from such and such a time and
I don't know anything about
that, sir.

10

HIS LORDSHIP: Yes?

MR. GIBSON: I never see that witness come
to my house no time at all,
sir.

HIS LORDSHIP: Never saw him come...?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: ...to my home?

20

MR. GIBSON: At no time at all.

HIS LORDSHIP: Yes? Finish?

MR. GIBSON: Yes, sir.

HIS LORDSHIP: Go back.

3.52 p.m.

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1981

MR. JARRETT: M'lord, may it please you,
that is the case for the
defendant, Anthony Gibson.

10 HIS LORDSHIP: Well, it is nearly five minutes
to four. Tomorrow morning
when we reassemble I think how
it would go now, Miss Hylton
would address first, followed
by the - followed by Robinson,
followed by you.

MR. JARRETT: Yes, sir.

HIS LORDSHIP: So, Robinson?

MR. ROBINSON: Yes, sir.

20 HIS LORDSHIP: We are going to take the
adjournment now, and I am
explaining to you because you
were telling me that you don't
understand what was happening,
the procedure. When we come
back tomorrow, all being well,
you see.

MR. ROBINSON: Yes, sir.

30 HIS LORDSHIP: We are on what you call the
closing stages of the case
and that lady, Miss Hylton,
she going to address the jury
and then now followed by you,
you will address them on your
case, tell them the same thing
as what you told me, and that
this man, Mr. Irving, making
a mistake when he said that
you were there because you
were at home with your girl
friend and so on, and then
now Mr. Jarrett will talk for
Gibson and then I will sum up
40 the case. All right! So,
think about what you are going
to tell them. You understand
the position?

MR. ROBINSON: Yes, sir.

No. 14
Proceedings

1st April
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(continued)

MR. GIBSON: Me yu talking, sir?

HIS LORDSHIP: No, the other accused, Robinson.

MR. ROBINSON: Yes, sir.

HIS LORDSHIP: If you don't understand it it seems that Mr. Jarrett is a good interpreter in that he has been helping me a lot. You can ask Mr. Jarrett to explain.

So, Mr. Foreman and members of the jury, it is nearly five to four. We are going to take the adjournment now until ten o'clock tomorrow morning. Remember the advice that I gave you. All the evidence is in now, leaving the addresses and the summing-up so, we should be in time yet.

10

20

3.57 p.m.

C.As.44:46/81
Thurs.2.4.81

No. 15
Summing-up

10.38 a.m.

2nd April
1981

MISS HYLTON - ADDRESSES: 10.51 - 11.34 a.m.
ACCD: ROBINSON: 11.34 - 11.37 a.m.
MR. JARRETT: 11.37 - 12.16 p.m.

No. 15

SUMMING-UP

PARNELL, J:

10 Mr. Foreman and members of the jury,
this is the fourth day of the trial. The
case is very simple. On the facts outlined
to you the prosecution is relying on one
main witness in this case. Each of the
accused made a statement from the dock.
In the case of the first accused he called
his mother to support his statement that
he was at his home in bed at the relevant
20 time when the prosecution said the deceased
was shot. And you have just listened to the
addresses, first by the attorney for the
prosecution followed by the accused,
Robinson, and then by Mr. Jarrett on behalf
of Gibson.

30 I shall remind you of certain views
put forward by the attorneys as I sum up
the case. Many of the views put forward in
each case, they were emphasised with
eloquence, strength. Any views they
put forward you can use so much or all of
them if you agree with these views.
And if I exercise the right which the judge
has to express a view you are under no duty
to accept that unless you agree with it
because you are the judges of the facts
in the case.

40 I start off by urging you to reject
any question of sympathy or prejudice that
you may take in the case. Look at those
two accused men. One sees that they are
very young men. Those two accused men are
young men. The deceased, Reid, we are told

No. 15
Summing-up

2nd April
1981

(continued)

he was about twenty-two when he died. He too died young. So, you will have two young men charged with the murder of a young man. Do not allow that to influence you in your deliberations, because a young man has been ushered on before his time by a violent man: and do not be disturbed also or influenced by the mere fact that two young men are charged and we should give them a chance. Things like those will not assist you in the administration of justice. Any extraneous matter should be dismissed from your mind. What you are concerned with may be put thus: That you follow the directions I give you in law: you find the facts from the evidence put before you; you draw reasonable inferences from the facts: you use your common sense and you give your verdict courageously in accordance with your findings and in accordance with the evidence you have heard. No more nor no less is required of you.

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20

In weighing the evidence, Mr. Foreman and members of the jury, you take into account the demonstration given by the witnesses in the box, the demeanour shown, that is, how they behaved particularly under cross-examination; and you try to recapture the atmosphere as the witnesses gave the evidence and say to yourself, were these witnesses or each of them, as we consider, speaking the truth? Can we rely on them? Take for instance the chief witness for the crown, Irving - Wilbert Irving. You saw him there. You saw his reaction to questions asked by counsel, Mr. Jarrett, under cross-examination. Mr. Jarrett put a certain suggestion to him and before he answered he looked like he was astonished when Mr. Jarrett suggested to him that his client, Gibson, otherwise called 'Chuckie' wasn't there at all. He turned to Mr. Jarrett with a half-smile and said, "Then who shot Irving? And who shot me?" As much as to suggest, I was there, you were not. That's the kind of reaction that you try and remember. And it is part and parcel of the demeanour of the witness. Was that a situation where the witness was speaking the truth, telling you exactly how it happened? What took place? Or was he then a smart fellow trying to mislead you and stage-acting at the same time?

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The mother of the accused, Robinson, gave evidence and you saw her. I shall remind you of what she told you, later on. In reply to cross-examination by Miss Hylton, her answers and her re-action to those questions.

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12.25 p.m.

(continued)

(MRS BROWN continues)

12.25 p.m.

10 Both accused made a statement from the dock. So the question of their demeanour doesn't arise, because the demeanour of a witness arises when the witness has actually given his evidence on oath and is being cross-examined. One doesn't speak of the demeanour of a man who gave a statement from the dock in that respect.

20 Now before I go any further, let me for the purposes of the record briefly remind you of a certain incident. You remember when the case started on Monday, when it took us some time before we started the case, we were told that Mr. Churchill Neita, one of the senior/junior counsel, that is, he has been practicing for some years, appeared for the accused Robinson. We were also advised and it wasn't challenged that Mr. Neita was seen dressed in the habit of a barrister, that is like how
30 counsel there is dressed ready to address the Judge, parading outside the corridors of the No. 1 Court, but when the case was called up it was Mr. Jarrett who told us that he was appearing with Miss Linton who is off the island - she went to London to argue a big matter - both were appearing for Gibson. In the absence of his leader, Miss Linton, he held on: that is
40 to say he will man the fort for Gibson: and then he told us now that Mr. Neita didn't get all the instructions necessary to carry on the defence of Robinson, that the Judge should be so advised and in the end what it really meant was, an application was being made asking for the case to be adjourned until such time as further instructions or full instructions could be given to him. This was weighed against
50 what was told to me that the case was coming up for the twentieth time - nineteen

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(continued)

previous occasions the case had been called up, six of those occasions had been fixed for trial - but on each of those occasions the Prosecution just couldn't move because the chief witness Mr. Irving who was here on Monday couldn't be located. Eventually the police found him, so I gather, over and above the call of duty in the investigation. If there were going to be a further adjournment, we wouldn't see him again. So the case stopped: so we were in that position.

10

An application was made then for an adjournment mainly on the ground, what it really amounts to is that Mr. Neita didn't get all his money. That is what it was in plain Jamaican language, so I refused it. In the refusal, I need not go over it, I quoted canons that guide the legal profession in Jamaica and I quoted a certain section of the Criminal Justice (Administration) Act and I relied also on the point that counsel cannot at the last minute, particularly in a case of murder, who was privately retained, come and just ask for an adjournment and expect to leave his client unrepresented. So I explained to Robinson the case would be going on. At first he appeared to have been a little concerned, but you notice that he took part. He didn't cross-examine Irving, he didn't cross-examine the policeman, but he made a statement from the dock. He called his mother in support of the alibi which he has raised and he addressed you for three minutes and he made the point which I shall stress later on, the point too that has been made by Gibson's counsel - the fact that I have called my mother, because it is my mother who supported the point that I was at home, that it is not the truth. That is the point. He told the point from a logical stand-point and from other practical reasoning. So that is how the case went, with Mr. Jarrett in his usual style defended Gibson. So that is how the case was conducted before you.

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We turn now Mr. Foreman and members of the jury to another important point in the case. Where a man is charged with a serious offence like murder, the Prosecution is under no duty to prove motive; but if the Prosecution has

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(continued)

evidence to indicate what the motive was,
that is the reason for the killing, then
the evidence should be put so that the
background of the case can be understood.
The reason for it is that a man and it
will apply to a woman too, is not going to
do something of a serious nature, something
that will have very serious repercussions
on himself like being charged with
10 murder, unless there is a reason. You can
generally look at that, there must be some
reason behind it. You will leave out of
the picture the man who is insane, because
the man who is insane can't have a motive.
An ordinary, sane man is not going to go
to a man's house, kick down the door, shoot
the man dead while he is in bed, because
that is part of the evidence in this case.
20 The door wasn't kicked down, the door was
half open, it was almost daylight, but we
are told that Reid was shot while he is
in bed. The other witness, chief witness
in this case, he had a close call.

So what is the evidence that the
Crown has put? It would suggest that
there was a motive here. Let me record
it and let me remind you briefly what is
the background of the case. The Crown is
30 saying that both accused were seeking their
revenge against Reid who is dead and they
want to exact the revenge against Irving
who is the chief witness, but he lived to
tell the tale. How did it arise? The
evidence is that, coming from Mr. Irving,
at about half past 4.00 on the morning of
the 21st of August, 1978, while he was in
his room - he was then living in a room
which adjoined the room of Reid at a place
called Andrews Lane in St. Andrew,
40 o/c Wattle Pen - these two accused whom he
had known before, at least eight months
before, brought a big motor bike, I think it
is an A 364, told a story about they were
coming from, I think "Chuckie" the accused
Gibson related a story of how they were
coming from the Stadium and the motor bike
ran out of gas. So he was asking him to
allow the motor bike to stay in the room
until later on in the day when he would
50 get gas to put in it and to take it away.
That is the first thing, half past 4.00.
So, they are asking him to allow the
motorbike to stay in the room until later
on in the day when he would get gas to put
in it and to take it away. That's
the first thing - half past four.

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(continued)

At half past five to six o'clock, thirteen to fourteen hours after, Irvin', having locked up his room with the motorbike in it, left for work at about half past seven. He was working with his sister at the time. Around half past five to six, very late when he is returning now from his workplace, he called at the house of "Chucky". He saw him on the way. He knew where they lived, and "Chucky" is telling him something like this: 'You know that the police went to your yard, kick down your door and tek 'way that motorbike, do you know that?' Well, that was a surprise to Irvin'. Irvin' went home and discovered that it's true the door that he had padlocked was open, the motorbike was gone. Then, now, early next morning, about twelve hours now after he told him that the motorbike has been seized, according to him, these two men are coming back to that very yard, and I will go in details later on. The question now that is being put to him and to his next door neighbour the deceased is 'Who informed the police that the motorbike was there? Who? No satisfactory answer coming - the order is given out to shoot the men. "Chucky", according to him, he let loose first at the witness and how he was able to escape that one, because he said he was about from there to where I am from here. Then, the deceased now, on his bed, see what has happened, tried to raise up, "Chucky" turn to him, now, and nail him - shot him. The man just make a low groan - fell back. Then, he fired at the witness again. This time the bullet went through this part - let me show it to you - right across there. Click it again - made another attempt - twice and the gun didn't go off. To show that there was a determination to eliminate him, a knife came into play. I shall tell you more about that later on. The man is as fortunate as Brother Clive. He was the one who tried to kill himself. Clicked several times and the gun didn't go - unloaded gun but he lived to fight the battle at Posse. Plenty things can happen. You find it a mystery how things work, but the Almighty is not asleep. Astonishing to see how certain events can happen. So, you have Irvin' here now to tell you in details. A question for you, Mr. Foreman and members of the jury is whether there is motive why these two men,

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according to the Crown, having gone there, acting together, shot and killed Reid - wanted to eliminate Irvin' too.

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(continued)

10 Now, as Mr. Jarrett told you in his final address, there are certain facts in the case that are not in dispute. That is to say, there is no challenge on those facts. Mr. Jarrett in his address told you of three of them - three people - three main ones at any rate which I made a note of. The first fact that is not disputed is that Mussington Reid is dead, and that at in the very room of the incident where Reid was shot and killed. That is not disputed. Not disputing that. It is not in dispute also (if I were to paraphrase what Miss Hylton said in her address to you) that Reid died as a result of bullet wound to the head. The doctor found a bullet - a spent bullet - embedded in the base of his skull: took it out and gave the policeman. All that not in dispute. What is the issue here is who did it, and can you rely on the evidence of the witness Irvin' to the extent that you feel sure that these two accused men, acting together that the night before when they brought the motorbike there for him to keep for them, are the ones who were responsible. That is the issue.

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40 As I always remind the jury, however long a case is it takes a trial. However many witnesses are called, when the thing is examined and common sense is used, you may find about three or four main points in it. Not as difficult as some people, by lengthy cross-examination, may want to let you believe. I am not saying it's done in this case but it is done deliberately to cloud the issue and to confuse. Anyway it's a question of fact for you.

50 Now, the witness, Irving - Just reminding you of what the indictment states* Frank Robinson - and he is otherwise called 'Bobo' - and Anthony Gibson - from the evidence he is otherwise called 'Chuckie' - on the 22nd day of August, 1978, in the parish of St. Andrew, murdered Mussington Reid otherwise called 'Irving' by the witness, Irving, the chief witness, and he has another pet name, 'Mafia'. And as you heard the evidence

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(continued)

you could see emerging one of the facts of life, as Mr. Jarrett told you. He didn't tell us what they used to call him at school but when we are boys and girls at school, Miss Hylton was telling you too, in her district call her by her right name they wouldn't understand: but, of course, people in my mother's time - you wouldn't remember that time - would know you by the nick'name. And there was a boy I remember when I was at school, just couldn't find a nick'name to give him, so one boy kill a fly, put it in his pocket and promptly the nick'name, called him 'Fly-pocket'.

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I am making this point because one of the points made by Mr. Jarrett here is that the witness, Irving, at the preliminary enquiry was mixing up 'Chuckie' for 'Bobo': 'Bobo' for 'Chuckie' and 'Chuckie' for 'Bobo', but he corrected himself in the end.

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What I will be telling you is this, that in the end it won't be whether he has mixed up 'Bobo' with 'Chuckie' but whether those two men, those two men are the ones who, working together, effected, carried out this plan - because of the reason that I have explained - killed Reid and wanted to kill him too: and if you have no doubt about it then they are guilty of murder, both of them, because in this case - as I will summarise it later on and tell you - there is no issue of man'slaughter at all, that is, provocation, accident or anything like that: it is murder or nothing. Either guilty of murder or they are not guilty of any offence.

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I tell you at this point we will adjourn and come back at two, and I hope to finish this summing-up this afternoon and give you sufficient time to consider your verdict too. When I return at two o'clock I will go through about five phases of the evidence of this witness, the main witness that was called.

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So, Mr. Foreman and members of the jury, we are now going to take the adjournment until two o'clock and I hope everybody will try to be here by two o'clock so that we - in case, another hour,

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about an hour and fifteen minutes will give you sufficient time to consider your verdict.

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Remember the advice I gave you when we started.

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12.51 p.m.

(continued)

L U N C H E O N ADJOURNMENT

2.06 p.m.

10 MISS HYLTON: May it please you, m'lord, Mr. Jarrett has asked me to say he is going to be about half-an-hour late. He is having car problems and he is gone to fetch his car.

HIS LORDSHIP: Yes. Thank you, very much.

20 Mr. Foreman and members of the jury, when the adjournment was taken I had gone through with you certain facts, as I outlined, that was conceded by Mr. Jarrett which were not in dispute. Mr. Reid is dead and he died as a result of bullet wounds to the head, as the doctor told you: and that the chief witness, Wilbert Irving, was shot and wounded on the morning of the 22nd of August, around the same time when this man got his fatal wounds, the deceased. The question is, who did it? And, you remember - and I had outlined for the purposes of going through what I call five, about 30 five areas of the evidence of the chief witness - I had outlined certain events: The event of the 21st of August - remember we were told the 21st of August is a Monday: 21st of August, 1978, was a Monday - half-past four when Irving said he was asleep and then they woke him up, these two accused, by pushing this motorbike: first one, half-past four. Half-past five to six o'clock the evening of that day when 40 according to Irving, I asking him the question whether he knew that police had gone there to take away the motorbike. And then now, coming on to day'light the following day: mid'night coming on to day'light of the 22nd, in the room of the deceased: notice the three steps?

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(continued)

Now, did Irving know both accused before the 21st of August, 1978? And as to that point the witness told you that he knew both of them for eight months before: and both of them were living along Grant's Pen Road, about six to eight chains apart, that he the witness used to visit their home and they used to visit his and then he even told you of one particular Sunday when 'Chuckie' paid him a visit and they had a drinking session: ten dollars were given to him to buy beer. Well, Miss Hylton who apparently is more versed, told you that in 1978 ten dollars couldn't buy much beer in any event. Well, we weren't told whether this beer was to supplement any other drink. Well, it sounds good. She goes to the supermarket and she knows the price of beer. This evidence is to show you how close he was to them, that he knew them: and he told you that his home at Andrews Lane was about three quarter mile from Grants Pen Road where the accused men lived. Remember the police officer Mr. McInnis says it is a quarter of a mile. Not only did he know them, he knew their voices: and let's sift that piece of evidence in the case. If you were in your home and particularly in these days and you hear a voice calling outside, unless you are sure who the person is you are not just going to open up your door like that. So you take all that into account: but according to the witness, on the early morning of the 21st of August it was 'Chuckie' who called him. He knew his voice, he opened the door, he knew who the man is, so that would be a case, if you believe it, that he was accustomed to them and at that early morning he was prepared to open his door and find out what he wanted. Some people would peep through a hole or do all sorts of things to satisfy that it is really a genuine man out there that they know who is in distress. So that is the evidence that we have now in saying that he knew both men and both men knew him well.

To complete the other portion of the evidence of this witness, which is not challenged, that deceased lived in the next room and just a board window separated them, you remember he told you that sometimes before going to bed he would just stay in his room talking to the other

man next door. Apparently they are single men living alone. This early morning of the shooting nobody else was in the room other than the deceased. I have already dealt with the portion where both men called there 4.30 on the 21st of August and left a big motor bike and told him of this gas trouble that they had. I need not go over that part.

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(continued)

10 The second part I have already referred to it, that he locked up the motor bike in his room. He had to leave for work at around half past 7.00. He padlocked the place, took away the key and went somewhere in the Corporate Area where his sister had some business at some place and he was working with his sister. He is leaving work now at 5.00 to half past 5.00 that
20 very day and in coming he is passing around Grants Pen Road where these men live and he saw 'Chuckie' and 'Chuckie' is telling him now - first time he is hearing of this - that the police had gone down to his room, kicked down the place and taken out the motor bike. That is the next step in the evidence.

30 We turn now to the other step which is the important one, of this visit around daylight on the 22nd: but let me fill in a few gaps. The witness told you that after 'Chuckie' had told him that the motor bike was missing from his home, he went there, checked it out himself and found that it was so. I think he told you he made a report to one Superintendent Richards whom he had known. He told him about the story and that he told you too that when he went home after he got the information from 'Chuckie' and remember 'Chuckie' is
40 the accused Gibson, he saw the deceased. The deceased was cooking - some old stove used as a place to position his pot, or stove - and he the witness didn't go out at that time and the deceased man didn't go out, but they were talking together until they retired to bed: and he told you that the deceased was in the habit of keeping the door to his room open. We are not sure
50 whether that would mean during the whole night or not, but remember he was telling you that he had that habit. I think his evidence would suggest that even at night he would leave it open, as much as to suggest "I don't have any enemies, what anybody

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(continued)

coming in here for?" We did have that piece of evidence from him. This is what he said. On the morning of the 22nd coming on to daylight, he called it 6.00 to half past 6.00, and let me turn to the relevant portions of his evidence, "Near to daylight something happened. I heard a knocking on my door. I said 'who is that?' 'Bobo' answered and said, 'Me "Bobo" '. I come off my bed and opened the door and I saw 'Bobo'. It was during - and you remember he was telling you that there was an old piece of zinc under the doorway of this deceased man. I think he said it was the landlord who had put it there. I don't remember if it is when it is dewing or raining that portion keeps off the rain or the dew: remember he was telling you that. "Bobo said to me 'come nuh, a want to say something to you'." So he Irving now went, not suspecting what is going to happen, because he is not a prophet, but he went. When he went and according to him now he is invited by 'Bobo' to go inside the room of the deceased, "Come nuh". If you believe that, Mr. Foreman and members of the jury, that is what you call luring the man. But, from the evidence that is going to emerge is not 'Bubo' alone was out there: "Chucky" is inside there too - inside the room behind the door of Reid. He told you that when he went inside "Bubo" pointed to a chair - a chair that was there - say 'You sit down there', and as he was about to sit down, lo and behold, behind the door of the room where Reid was lying he saw "Mr. Chucky". Now this is the question that was asked of him, and Mr. Foreman and members of the jury, you may see it looks like a kind of conference now - what you call confrontation. Deceased there - about four feet from the chair where he was sitting and both accused are here. Who is the spokesman, according to him, or what you call interrogator? "Bubo". And so he starts off: "I would wish to know which of you informed the police that the bike was in the room?" "I wish to know that." The deceased replied - while still on his bed lying - "I do not business with other people's business". And as he Irvin' was going to speak "Bubo" said "Shoot the boy dem in dem B.C." Then he said he heard a sound of a gunshot fire at him and it was "Chucky" who was pointing the gun at him from this distance - from there to here. From

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there to where I am. That's the distance he pointed out.

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Summing-Up

10 He said he heard an explosion but the shot didn't catch. The deceased attempted again to get up and as he raised his head "Chucky" pointed the gun at him and he heard an explosion and the deceased growled or yell and dropped down on the bed. Then, "Chucky" pointed the gun at the witness again, the gun went off and he felt a burning in here - somewhere here. It seems like bullet went right through. It didn't touch any vital spot. A lucky man. Blood came from the spot.

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(continued)

20 He said "Chucky" pointed the gun again at him, clicked it twice and it didn't go off. Then he saw "Chucky" take up Irvin's knife - that is the deceased's knife that was on the chunk bed - threw the knife at "Bubo" and said, "Bring the boy come". So, Mr. Foreman and members of the jury, if you believe this you may think that he was of a determination to kill the man Irvin'. Maybe he was sure now that one was gone.

30 He said "It was a board handle knife and "Bubo" made an attempt to stab at myself and I did this..." you remember the demonstration there - "... and it caught him somewhere off here...the wrist." He showed the scar - still there. He said, "The knife drop, then "Bobo" held me so". You remember he demonstrated like when policemen want to drape a man - put the hand right here in the shirt collar - hold him up.

40 He said he held one hand on the door and tried to brace it, then he saw a cutlass, put his hand and going on like him taking up something, whereupon, according to him, the accused, believing that he was drawing something, "Bubo" let me go and both went outside," "Them still standing at the doorway and they started to stone the place". Then, afterwards, he looked through the door and noticed that they were going away. You remember that when they were outside he called for "Murder! murder!" When he saw that them gone away, now - didn't see them - he walked out to Halifax Avenue, East Kings House Road: hailed a taxi which took him to Constant Spring Police Station.

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(continued)

When he went to Constant Spring Police Station, you imagine that the blood is flowing, so it is not a question of keeping him there to sit down around any desk and for any pretty statement to be taken from him. The man's life is in danger, so the police sent him to the Kingston Public Hospital where he spent five days. While he was in the hospital Superintendent Richards, who seem to know him well, visited him there and, on his way back from the hospital, he went to Central Police Station where, I suppose, he gave a statement. You remember Mr. McInnis. Yesterday under cross-examination he told us that he had seen a statement purported to have been taken from Irving, but he personally didn't take it. He told us that the whole story - from the time "Bubo" called to the time when the shooting and the - was about three to four minutes. He told Mr. Jarrett that it was a quick time - well, three to four minutes. It was short, but in the circumstances under which he outlined it looked like eternity. Death staring him in the face all this time. That is his evidence-in-chief.

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He wasn't cross-examined by Robinson but he was cross-examined by Mr. Jarrett. Two things emerged during cross-examination by Mr. Jarrett. One: he told us that when he gave evidence at the preliminary enquiry at the Gun Court - that's Camp Road - he made a mistake concerning the pointing-out in the name of one man for another. He mixed up "Bubo" and "Chucky", but afterwards he corrected himself. You heard the comment of Mr. Jarrett on that point. Mr. Jarrett says, 'Well, here is a man that the Crown is relying on and who is not sure who is who.' But what I gather from the witness' evidence when he made the mistake is the nickname. He didn't make any mistake as to the identity of the men because he said he knew them. You remember when Mr. Jarrett was cross-examining and reached at that point I told him that I intended telling you the fine points. The question is not whether he made a mistake who is "Chucky" or who is "Bubo", it is whether he is making a mistake as to these two men.

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That is, if you believe him.

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(continued)

10 The other point, which emerged in the
cross-examination, was Mr. Jarrett asking
him whether he had seen the motorbike since
the morning when it was left at his place
and he says he hasn't seen it. Now, I
want you to remember this. There was no
challenge to this witness by Mr. Jarrett
in cross-examination suggesting that a
motorbike wasn't left there. As a matter
of fact I go further. There was no
challenge that the motorbike wasn't left
there by these two men. What the challenge
was all about is the incident the next
morning now, that they were not the men
who came there. I want you to remember
that, how the case is conducted because the
judge is supposed to sum up the case to the
jury according to how it is conducted, and
20 the case is conducted according to the
questions asked by the attorneys engaged
in the case or by any questions asked by
the judge himself too. Unless the
summing-up goes along those lines then it
would be out of unison, out of line to the
story that is told to the jury.

30 Now, dealing with this motorbike, the
witness told you that he rides a motorbike.
I used to handle a what you call a Hunter
Fifty. Well I can't ride a motorbike but
I suppose a small motorbike as compared with
an A-364, which was the one or rather
the kind that was left at his house, which
is a bigger machine: and arising out of
that point about the motorbike you heard
the argument of Mr. Jarrett. Mr. Jarrett's
argument goes something like this: There is
no evidence, Mr. Foreman and members of the
jury, that any of these accused men can
40 ride a motorbike: no evidence so how would
the motorbike come from the stadium to that
place? Well, with respect, that argument
isn't good. I'll tell you why. The
question here is not whether they can ride a
motorbike. The question here is whether
they were the men in the first instance who
left a motorbike there, that is the main
point. And the second point dealing with
this motorbike is not whether or not
50 Mr. McInnis in his investigation saw it
or was given any information about it
because if he was given information about
it that wouldn't be evidence, that would be

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(continued)

hearsay, somebody telling him. The witness is, however, telling you this story about this motorbike. The crown is saying that it is the disappearance of the motorbike from Irving's room which moved them to act, believing that they informed the police that they had left it there and they are deprived of their motorbike. That is the relevance of that piece of evidence.

Another thing that emerged during the cross-examination of this witness is this. He was asked whether he had observed that 'Chuckie', that is, Gibson, had an injured hand, had a plaster of Paris on his hand, and he said he didn't observe anything like that; and you remember, the detective corporal was asked that very thing too and he said he don't remember. Now, you see the relevance of that? The relevance of that is that according to Gibson it was on the 6th of August, that his left hand was injured in St. Thomas when he was giving assistance to another man in, I think, handling some machinery: injured the hand but it was the left hand. He even had to go to hospital in Morant Bay. So, I take it that the point that is, the hint that is being given to you now is that the man who was supposed to have used the gun is an injured man, so it is not likely that a man who has had such a severe injury to the hand - I am not quite sure if he had told us whether it was fractured or not, but it is sufficiently injured enough to admit him in hospital and would have had only one hand available - could one hand handle a gun? But I understand it is the left hand. What had happened to the right? And if your left hand is injured why you couldn't fire gun still? But that is the point that was being made to you, as I understand it, the injury that Gibson is supposed to have suffered as a result of this incident in St. Thomas. I'll come back to that later.

So, those were the high' lights of the cross-examination of Mr. Jarrett. But with this one which I must remind you. Question by Mr. Jarrett:

"Q. Were you afraid at any time?

A. No, I was not afraid but I get frightened when I get shot.

"Q. I put it to you that you did not see Gibson at all that morning?

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A. Then who shot me? Then it was me who shot me? I shot myself, sir?"

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The question was repeated, the witness smiled and repeated his answer. That was the high'light of the cross-examination which I remind you. I haven't got to go through it in detail; those parts that I think can assist you.

(continued)

So, that is the evidence of the witness, Irving, otherwise called 'Stone', that is the witness on whom the crown relies, because if you do not accept the evidence of Irving as to the incident, different situations and in particular as to his identification of these two men, the men who in the first place had come there and deposited the motorbike with them, one of them attack him and asked him about whether he knew that police had gone away with the 'bike; coming there the next morning and carrying out the job, executing one man and then executing him, if you accept that; and even if you are left in a state of reasonable doubt about part you have to find them not guilty too: but he is the man that the crown is relying on.

The witness, Stanley Reid, is the brother and he didn't take it much further but that he identified the body. The doctor, I have already referred to the substance of his evidence. He found a bullet wound on the right frontal, and remember, he showed you as he went along, just along the eye'brows, here, penetrated the skull and frontal portion, entered the brain and damaged it; and when on dissection, told you what it penetrated. In the end he was able to find it embedded at the base of the occiput, a bullet which he handed over to the policeman. Cause of death: Bullet wound to the head.

Mr. McInnis now had known both accused for some time. You know a policeman, as I always remind the jury, because I remember from a boy, when a policeman comes into a town or an area one of the first things he must do is to try and know the names of the different people from early. That is the only way you are going to do your job well. He says he McInnis had known both accused

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(continued)

for some time. He said as far as 'Bobo' is concerned he has known him for four years, four years. He told you of his being stationed at Constant Spring and he saw the witness Irving coming there early morning, was bleeding and he rushed him off now to K.P.H., commenced investigation and he went to 23 Andrews Lane o/c Wattle Pen where in a room of a two bedroom board house he saw the dead body of the deceased and remember he was telling you about the bullet wound that he saw. The body was removed to Kingston Public Hospital and now while carrying out investigation on the 31st of August, the last day of August, he saw the accused Frank Robinson o/c 'Bobo'. He knew him for four years too. He identified himself, told him that he was investigating a case of murder at 63 and that he was a suspect. He cautioned him.

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Now it is the duty of a constable who is investigating a case in those circumstances to tell the suspect what he is doing and to caution him: and this is what the accused Robinson is supposed to have said: "It must be 'Chuckie'. I don't know about that." Then he arrested him for murder, cautioned him and he said, "Mr. McInnis, yuh know mi cool, mi nah fire nuh gun."

30

Now dealing with the first statement that the accused Robinson said, "It must be 'Chuckie', I don't know anything about that", Mr. Foreman and members of the jury, in the first place it is to be regarded as a denial. In other words, he doesn't know anything about it, he is not accepting what is being said, or any suggestion that he is a suspect and he did it: and secondly, when he said "It must be Chuckie", 'Chuckie' wasn't there. So that statement which you have is not evidence against 'Chuckie' because 'Chuckie' wasn't there. For example, a person is calling another man's name linking him with the commission of an offence in Savanna-la-mar when the man is somewhere else to implicate that man. That is not evidence against that man. The man isn't there. You challenge it, or accept it as the case may be, because where a statement is not made in the presence and hearing of a person alleging that he has committed an offence, or implicating him in the commission of an offence, what is

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said is not evidence against him. It is only evidence against a person in so far as by words and conduct he admits the truth of it. So if he hasn't got an opportunity of admitting the truth by being present and hearing and you can see his reaction, you can see his demeanour, you can see his answer, it is not evidence against him. So that is my direction.

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(continued)

10 With regard to the other part now
where he was arrested and cautioned and he
said, "Mr. McInnis, yuh know mi cool, mi
nah fire nuh gun", "yuh know mi cool", the
question here now is, what does that mean?
Does it mean that it is in line with what
he has said earlier on, using words to
show that he doesn't know anything about
it, or does it mean how Miss Hylton had put
it to you this morning in her address,
20 because the evidence is that it was 'Chuckie'
who did the firing in that room the morning.
That is the evidence you have heard and
'Bobo' is the one giving the instructions,
"Shoot the men in their b.c." So the
handling of the gun which was fired at
Irving and fired at the deceased is not
being done by 'Bobo' it was done by
'Chuckie'. So according to Miss Hylton,
when he used the words, "Yuh know mi cool,"
30 it could mean that perhaps not knowing
what the law is, that if he is there giving
instructions and knows the man who is
handling the gun, he does not realize that
he is just as liable as if he had fired the
gun himself, because he is there present
aiding and abetting and assisting him.
That is how Miss Hylton has put it. Well,
it is a matter for you, but it could be
40 looked upon on the other side, that it is
in line with what he said at first intimating
that he has no knowledge of the situation
and he is denying it. So at least you
have those two interpretations there. I
can't tell you which one to take if any.
I leave them to you and on the overall
picture to say which one of them you think
makes any sense to you.

50 We turn now to the accused Gibson. It
was the 26th of September, according to
Mr. McInnis, when he saw Gibson at Constant
Spring Police Station. He identified
himself to him, told him of the murder of
Reid, cautioned him and he said "Mus'be

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(continued)

'Bobo' and his friends. I don't know about these things." Here again is the reverse now. 'Chuckie' is saying, "Mus'be 'Bobo', 'Bobo' is saying mus'be 'Chuckie'. That is not evidence against 'Bobo' because 'Bobo' isn't there and even if he were around at the station, we have no evidence that he was present hearing, listening and reacted to suggest that he accepted the truth of what the accused man is saying. So it isn't evidence against him; and when arrested and cautioned he said nothing further. Mr. McInnis told you that the yard of Reid the deceased was about a quarter mile away from the home of 'Chuckie' who was living at 5 Grants Pen Avenue in a big yard, while the other accused 'Bobo' was living in a yard where his father has a cabinet business: and that is the evidence.

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When he was cross-examined by - he wasn't cross-examined by young Robinson - when he was cross-examined by Mr. Jarrett, he told us that a statement in writing was taken from the witness Irving but he didn't take it, nor did he seize any motor bike, nor can he recall if the hand of Gibson was in any plaster of paris; and when it was suggested that Gibson didn't use any words, namely that it must be 'Bobo' and his friends, he said yes, he did.

30

Now, you remember I asked him a few questions. He has twelve years service in the Police Force. Everybody knows that a policeman, particularly in these days, has to be taught the elements of firearm and how to handle firearms. That's a part of the training. He has twelve years service. What he was really saying in effect, he doesn't hold himself to be an expert as to a Webley and Scott or a Smith and Wesson but he only see a bullet - a 38. He said in evidence a 38.

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You remember he told you that when he went to the home of the deceased on that early morning of the 27th he found a spent bullet, and I allowed him to give his opinion on that point although he is not an expert. In other words, in the identification of firearms there is nothing wrong in asking a policeman of twelve years experience to give his views. So, Mr. Foreman and members of the jury, that is a review of the Prosecution's case.

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(continued)

10 The accused man Robinson, when his rights were explained to him - you remember I tried to convey to him what his rights were - his reply was he didn't understand the procedure, so Mr. Jarrett was good enough to go to the dock and explained to him. He seems to have understood Mr. Jarrett and then he made a very short statement from the dock. It goes like this: "I was at home as usual. I did not leave my home. My mother is there to swear that I was at home. That is all." That is a short statement that he made - "I was at home as usual..."

20 Now, the interpretation which could easily be put - Mr. Jarrett made reference to it that - "I was at home as usual." 'I am a home man. I don't leave home at all, so there is no question of my leaving my home at that ungodly hour of the morning and go to any man house.' On the other hand, I had intimated that a possible interpretation could be put at it and I ask you to consider it. I can't direct you to take it. I see that Mr. Jarrett eloquently adopted this view that '...was at home', as far as this case is concerned, this particular case in which it is alleged that 'I took part in any shooting or murder' - "I was at home."
30 Mr. Jarrett is telling you now that it must be that because these days young boys must take a walk outside now and again.

40 We heard from the mother that he has a girlfriend who comes and sleep with him sometimes. A boy at that age - twenty-two we gather or twenty-three - you can't tie him at home, he would have to go to a dance or something - must take a walk. However, the point that he is making from the dock is that he was not one of the two men referred to by Irvin' in his evidence. He wasn't there. So, the mother is called now and the mother gives evidence. The substance of the evidence is this. She lives with her husband in a house with three bedrooms. She is a businesswoman. Her husband is a businessman, and following the practice of people of that age and our age too to get up early in the morning, she
50 gets up early in the morning - but it seems that there is a reason why: where she lives she has to get up early in the morning. The reason for it: the water pressure is low and

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if you don't get up early when people start using the water you can't get a drop out the pipe. So, she make sure get up. Well, not disagreeing with her about that.

(continued)

On the morning of the 22nd she got up as usual - around 4 o'clock. Passing in her room to get outside to the kitchen she will have to pass the room her son was in. He was in bed, and the girlfriend was there too. And then she told us the reason why she remembered that occasion. She remembers it, she said, because that very morning she got information - and there is nothing wrong although she is getting information - she got information, or, she heard somebody giving information to her husband that a man from Wattle Pen - meaning same Andrews Lane - was shot. So, she remembers that incident and remembers getting up that morning and seeing her son in bed: girlfriend in there too. You remember it is a house in which herself and her husband - and she has ten children and nine are at home - you have to do a little packing because is three rooms and you have several beds - about three beds in one. The substance of her evidence is that her son was there. So, if this shooting took place around 6 o'clock and at four she got up and saw him there: and she said that he didn't get up until around half past seven - eight in the morning - late sleeping for a young man of twenty-two/twenty-three should get up before normally, unless it's a holiday or he is sick. You don't have the command given to young boys and young men today like in our time - my time at any rate. Don't let the sun catch you in bed unless you sick. Anyway that is the substance of her evidence. The prosecution will have to destroy that evidence that she has given supporting what the accused has said from the dock that he was at home. To put it another way: the alibi which has been raised as part of the general burden of proving guilt must be displaced by the prosecution. The prosecution is saying that that has been displaced by the evidence of Irvin'. That's how they answer it. I will come back to it.

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And that is the defence of Robinson.

We turn now to the defence of Gibson.

Gibson tells you a very short story.
Remember we found difficulty in hearing him
from the dock so he came down in the well of
the court to complete it. In substance if
I were to paraphrase it in a few words
what he is saying is that some time early
in January, second week of January, he was
engaged - from the second week of January,
1978, he was engaged in the Coptic farm
in St. Thomas doing work like planting
bananas, looking after bananas and cattle;
and on the 6th of August, 1978 - and when I
refreshed my memory I observe that on the
6th of August, 1978 was on a Sunday: the
following week would be a public holiday now,
would be Independence Day - the following
day he met an accident injuring his left
hand. He was assisting a mechanic who was
working on an engine and then he was
injured, the left hand. It was severe
enough which warranted his going to the
Morant Bay hospital, then the hand was
bandaged and then he came into Kingston.

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(continued)

When he came into Kingston he spent
some time with an uncle some where in
Orange Street, and that would put us-
about two weeks he spent with the uncle;
and after that he went up to Grant's Pen
Road to his home; and then he got the
message from his mother to the effect
that the police would like to see him.

Now, if you - suppose you put it
roughly - if you had two weeks - from what he
put it that would be the 20th, that is
putting it very near to the incident now,
the 21st of August. He presented himself
to the Constant Spring police-station on the
24th - sorry, on the 25th; didn't see
Mr. McInnis, the corporal who wanted him but
they lock him up, and then the following day
now Mr. McInnis saw him and Mr. McInnis said,
"Welcome home, Nya. Bwoy, it's a long time
I looking for you. And I said to him,
'For what. For what now, sir?'" and
according to him at that time the sling - the
hand was in a sling, suggesting that he was
injured. Mr. McInnis said, "Gibson, why
you and Robinson go kick off the man door
and kill him? I told him that I didn't
know what he was "talking about", and then
further talk. McInnis said, "Bwoy, yu
better repent and turn christian". Then he
was telling you now that Mr. McInnis continued
to interrogate him and said, "Either or either

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I am going to charge you." He arrested and charged him with murder. Told him he didn't know anything about it. Told him, "I did not - I do not know anything about the shooting." And that is his statement.

(continued)

He said that he didn't know Irving until - rather, he didn't see Irving until at the Gun Court; that is the first time he was seeing Irving, at the Gun Court. And he never saw him come "to my yard" at any time at all. So Irving was a stranger to him until when he appeared at the Gun Court, at the preliminary enquiry. And that is his statement.

10

So, that is a review of the evidence for the prosecution, the statement from both accused and the evidence of Mrs. Robinson who was called by the first accused.

Now, as I have already told you, I read the indictment to you. The indictment charges murder. Murder is committed where there is an intentional and unprovoked killing of a human being, without just cause or any lawful excuse. And intentional there means an intention to kill or to cause such serious injury likely to result in death. That is a simple wording of the definition.

20

What is alleged is this: Is that the fire-arm - and according to Mr. McInnis likely to be a .38 revolver from the spent bullet he saw in the room - a fire-arm was used to shoot the deceased in his head; and according to the witness who survived, Irving, you may have to call it 'at point-blank range'. For a weapon like a .38, anywhere here in the court, and you don't need an expert to come and tell you this. From here, at one man in this court'room, to fire at a man point-blank it would kill him, and to fire at a spot... he is gone. So, the prosecution is saying that in those circumstances it must have been an intention to kill the man; the weapon used, the spot where the wound was, the purpose behind it. Then the prosecution says don't forget that when one man was fighting, that is the one on the bed, and then the other man now, when the gun failed to go off - so that would be further evidence, if you accept it, to show what the intention was, to use

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a latter-day term, to liquidate them. Well, if you **accept** that, Mr. Foreman and members of the jury, that that was the intention, either to kill or to cause severe injury likely to cause death for the reason that the crown has suggested and you have no reasonable doubt about it then it is murder then in full, because the evidence shows, if you accept it, that both were working hand in glove. And the common sense view is that where two or more persons are acting together in pursuance of a common purpose, each man playing his part, doing the part that is allotted to him then the act of one is the act of all. And in the case where we have two or three men, one have a gun and the other two or three are there assisting him, helping, counselling, their purpose is to help him if he runs into trouble, and the object is to kill, then it doesn't matter who pulls the trigger, all would be equally guilty. That is how the prosecution has put its case.

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(Continued)

In every criminal trial as in this one, it is the duty of the Prosecution to prove guilt. The Prosecution proves guilt by bringing evidence before you which satisfies you to the extent that you feel sure that the accused and in this case two of them, that the accused men are guilty. You have to examine, to look at the evidence as put forward touching each of them and also showing what part each played while they were together and I have already pointed that out. Put it in another way, the Prosecution must prove guilt beyond a reasonable doubt and in the case of 'Bobo', Frank Robinson, an alibi has been raised, supported by his mother; and an alibi means 'I was elsewhere when the offence was committed.' The Prosecution must destroy the alibi, displace the alibi and even if you reject out of hand what the mother is saying or what Robinson is saying and what the other accused said that he was not there, it wouldn't necessarily mean that they are guilty. You will have to examine carefully the evidence of the chief witness and ask yourselves whether you are satisfied to the extent that you feel sure that you can rely on it. If the answer is yes, we are prepared from the strength of the Prosecution case, according to how Irving gave his evidence, the story that he has given, to say that we have no reasonable doubt whatever that this

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(continued)

deceased man came to his death in the way that has been related to us by the survivor - when I say the survivor it is because the two of them were to be liquidated, the two of them were to die, one survived - and his story is true, you can rely on him, if you take that view, then Mr. Foreman and members of the jury it will be your duty to convict them of murder as charged.

10

In this case there is no evidence whatever to support any issue of manslaughter and no question of accident or self-defence can arise. It is either guilty of murder or not guilty of any offence. I will remind you that the Prosecution is relying on Mr. Irving. If you can't accept him as any witness of truth, you can't rely on him, find them not guilty. If you find that there is a reasonable doubt, find the men not guilty. If you accept what the accused men in their statement from the dock has said and in particular the evidence of the mother Joyce Robinson that her son was at 5 Grants Pen Road around the time when this shooting was taking place about a quarter mile away, find the men not guilty. Even if you don't accept it, that you are left in a state of reasonable doubt, find him not guilty.

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Finally now, Mr. Jarrett in his - take Mr. Jarrett first - Mr. Jarrett in his address has left to you the question whether there is any evidence that the accused can ride a motor bike and there is no evidence to show that the men are motor cycle riders. The shoe is on the other foot. There is evidence that Irving can ride a motor bike. I have already told you how to treat that piece of argument. The question is not whether they can ride a motor bike, but whether they left the motor bike there. Mr. Jarrett reminded you also of his statement that his hand was in plaster of paris as a result of this accident in St. Thomas, indicating that the man was not in a physical condition to fire any gun. Remember that what was injured was the left hand and as Miss Hylton said, at least two weeks would have elapsed before this thing took place.

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Miss Hylton in her address pointed out

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(continued)

10 certain things to you, following the old
time practice which I am pleased to see
is coming back. She quoted Scripture,
reminding you that in Deuteronomy Cap. 5
v. 17 you will find one of the Ten
Commandments, "Thou shalt not kill". Then
she turned to Romans Cap. 7 v. 1. In the
luncheon adjournment I had a quick look at
Romans 7 v. 1, because it is dealing with the
law, dealing with wife and husband, wife
must obey the husband and husband must love
the wife. So it has nothing to do with that
part.

20 Robinson in his address to you made the
point and I urge you to think about it, not
because it is my mother that I have called
why you must reject her evidence when she
says that I was at home that morning in bed;
because when you look at it on ther other
side, who else can I call except somebody
from the household; if not the mother then
a brother or a sister; point well taken,
which I ask you to accept.

30 So Mr. Foreman and members of the jury
I have told you I wouldn't be more than about
an hour and fifteen minutes and it would
seem that I have kept my word. I think
that is the survey of the case and I cannot
see where I can be of any further help to
you. It is a matter which has taken nearly
four days and I am now going to leave it
to you; but before I do that let me find
out - start off with the Crown - if there is
anything else that I should urge. (To
Miss Hylton) Is there anything?

MISS HYLTON: No, may it please you, m'lord.

40 HIS LORDSHIP: Robinson, you heard my summing-
up to the jury. Is there any
point you would like me to
urge the jury or any point I
have omitted?

ACCUSED ROBINSON: No, sir.

50 MR. JARRETT: Not the incapacity to use a
gun, but it would be seen, it
was in a sling and had on plaster
of paris. What I am saying is
that Irving ought to have seen
the injured arm; not the
man's inability to use the gun,
but that it would be seen. That
is the object of that statement.

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(continued)

HIS LORDSHIP: I thought the object of it was really to show that the man would be in a physical condition as it were - you wouldn't find a man with a sling...

MR. JARRETT: The arm was in a sling, we are saying and Irving didn't see his arm resting (Mr. Jarrett demonstrates the position of an arm in a sling) and as he said...

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HIS LORDSHIP: I see. Your point is that if he had the sling there, that could be an identifying thing there?

MR. JARRETT: Yes, M'lord.

HIS LORDSHIP: But as far as I remember, nobody asked Irving about a man with a sling. You wouldn't ask him that.

20

MR. JARRETT: I think I did ask him about the injury that Gibson suffered, whether or not he had seen him with an arm in a sling.

HIS LORDSHIP: You asked him about a sling at the Gun Court, but not in Court here. It is certainly not in your interest to ask him anything for the morning, because it would be a dangerous question then since he could be saying that he had on a sling and the evidence is that the man had no sling.

30

HIS LORDSHIP: So, as far as I remember I didn't put that so. I thought how you put it to the jury, the object of that piece of statement would really be to show capacity.

40

MR. JARRETT: His answer to me was that when he saw the man he said was Gibson there was nothing wrong with the arm. He didn't see him with an arm in plaster-of-paris or in a sling as far as I can remember.

HIS LORDSHIP: So, you are saying it is an identifying thing like part of the identification?

No. 15
Summing-Up

MR. JARRETT: Yes, M'Lord.

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1981

HIS LORDSHIP: Anything else?

(continued)

MR. JARRETT: No, M'Lord.

10 Well, Mr. Foreman and members of the jury, you have heard the comment of learned counsel - yes, I have found that part. The note that I have here under cross-examination of Mr. Jarrett: "I did not notice if "Chucky" was injured. "Chucky's" hand was not in plaster-of-paris". So, he is positive but he didn't notice if he was injured otherwise. So, Mr. Foreman and members of the jury, I am now going to ask you to consider your verdict. If you wish to retire then do so.

HIS LORDSHIP: You wish to retire?

20 FOREMAN: Yes, M'Lord.

HIS LORDSHIP: All right.

JURY RETIRE AT 3.23 p.m.

JUDGE RISES AT 3.24 p.m.

JURY RETURN AT 3.45 p.m.

JUDGE SITS AT 3.46 p.m.

HIS LORDSHIP: Let the foreman stand.

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No. 16
VERDICT AND SENTENCE

REGISTRAR: Mr. Foreman and members of the jury, have you arrived at a verdict?

FOREMAN: We have.

REGISTRAR: Is your verdict unanimous? That is, are you all agreed?

FOREMAN: We have.

REGISTRAR: Now, how do you find the accused Frank Robinson, guilty or not guilty? 10

FOREMAN: Guilty.

REGISTRAR: How do you find the accused Anthony Gibson, guilty or not guilty?

FOREMAN: Guilty.

REGISTRAR: Mr. Foreman and members of the jury, you say you find both accused guilty of murder, and so say all of you? 20

FOREMAN: Guilty of murder.

HIS LORDSHIP: Just a second. Let both of them stand.

MISS HYLTON: Proclamation?

HIS LORDSHIP: Not necessary.
Mr. Jarrett, I have been telling Counsel all over the years that in a conviction of murder the sentence is effected by law... 30

MR. JARRETT: Yes, M'Lord.

HIS LORDSHIP: ...and strictly speaking, this practice of calling upon them (why the sentence should not be passed) doesn't make any sense.

MR. JARRETT: I follow Your Lordship.

HIS LORDSHIP: However, as a formality...

No. 16
Verdict and
Sentence

REGISTRAR: Frank Robinson and Anthony
Gibson, the jury having found
you guilty of murder, do you
wish to say why the sentence
of this court should not be
passed upon you?

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(continued)

ACCUSED GIBSON: Not guilty.

ACCUSED ROBINSON: Not guilty.

10

SENTENCE

HIS LORDSHIP: Robinson and Gibson?

BOTH ACCUSED: Yes, sir.

HIS LORDSHIP: The jury having found you
guilty of murder there is
only one sentence which the
law of Jamaica allows me to
pass and that is you Robinson
shall suffer death in the
manner authorised by law and
you Gibson shall suffer death
in the manner authorised by
law. Take them down.

20

HIS LORDSHIP: Now, Mr. Foreman and members
of the jury, let me thank you
for the rapt attention which
you paid to the evidence in this
case, and also for returning,
in my view, the correct verdict.
I always like to let the jury
know when they try a case how
I feel about the verdict
because the judge is taking
part in the trial too.
In my view there is no other
verdict. This is one of
these cases in which Providence
has spared him to tell the
truth. The Almighty stepped
in.

30

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There is one thing that a lot
of gunmen in this country have
forgotten, that even if they
get away from man here they
can't get away from Him, and
He has a way of working it

No. 16
Verdict and
Sentence

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1981

(continued)

HIS LORDSHIP: out that there is some
(Contd.) survivor to tell the tale for
them to be dealt with while
on earth.

The inspector will make
provisions to escort you out -
especially the ladies.

We will adjourn until 10
o'clock Monday morning.

MISS HYLTON: Your Lordship, please.

10

ADJOURNMENT TAKEN AT 3.54 p.m.

No. 17

NOTICE OF APPEAL, FRANK ROBINSON

In the
Court 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

No. 17
Notice of
Appeal,
Frank
Robinson

6th April
1981

CRIMINAL APPEAL NO. 44/81

TO THE REGISTRAR OF THE COURT OF APPEAL

10 Name of Appellant Frank Robinson

Convicted at the Circuit Court held at (1)
Kingston

Offence of which convicted (2) Murder

Sentence Death

Date when convicted (3) 2.4.81

Date when sentence passed (4) 2.4.81

Name of Prison (5) St. Catherine District
Prison

20 I, the abovenamed Appellant hereby
give you notice that I desire to appeal to
the Court of Appeal against my (6) Conviction
& Sentence on the grounds hereinafter set
forth on page 2 of this notice

Signed (7) Frank Robinson

Signature and address or witness attesting
mark

Dated this (8) 6th day of April 1981.

QUESTION (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 you legal aid? NO
3. If your answer to this question is
"YES" then answer the following
questions:-

No. 18
PARTICULARS OF TRIAL - FRANK ROBINSON

JAMAICA

COURT OF APPEAL LAW 1932

PARTICULARS OF TRIAL

Rev. v. Frank Robinson

1. Age and occupation of Appellant:
- 22 - Wood Work
2. Date when convicted: 2-4-81
Date when sentenced: 2-4-81
Before whom tried: Mr. Justice Parnell
Place and Court of Trial: Home Circuit
Court
3. Offence (See note (a)): Murder
4. Plea Not Guilty
5. Verdict Guilty as charged
6. Sentence Death
(and any recommendation or
order made by the Court)
7. Previous Convictions as per List
attached -
(if no Previous Conviction
please so state)
8. Name of Counsel for the Defence None
9. Name and Address of Solicitor for the
Defence None
10. Was the Appellant defended at request
of Court or privately?
11. Name of Shorthand Writer Mrs Y Brown,
Mr. S. Anderson, Mrs Shields & Ms H.Forte
12. Were any Exhibits put in before Committal
or at the trial? (See note (b)) No
13. Was any statement by Appellant read and
not marked as an Exhibit? (See note
(c)) No

No. 18
Particulars
of Trial
Frank
Robinson

8th July
1981

10

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No. 18
Particulars
of Trial
Frank
Robinson
8th July
1981

(continued)

- 14. Was Certificate given, under Sec. 15(b) of the Law, that it was a fit case for appeal? (See note (d)) No
- 15. Was Appellant on bail before trial, if so, with how many sureties and in what amounts? No

(Signed) Illegible
for Clerk of the Circuit Court

for the parish of Kingston

Dated this 8th day of July 1981

10

Notes:

- (a) Set out a short Summary of the Indictments upon which the Appellant was convicted. If there were any other indictments against the Appellant make a note to that effect and forward all such Indictments (with Depositions, etc., relating thereto) with this form.
- (b) A list of all Exhibits put in must be sent with this form. Any Exhibits and any copies thereof which are in the custody of the Clerk of the Court of Trial and can be conveniently sent by post, should be sent with this form. 20
- (c) If any such statement was read or handed, in it must be sent with this form.
- (d) If such certificate was given and is in the custody of the Clerk of the Court of Trial, it should be sent with this form. 30

No. 19

NOTICE OF APPEAL - ANTHONY GIBSON

J A M A I C A

CRIMINAL FORM I

No. 19
Notice of
Appeal
Anthony
Gibson

6th April
1981

IN THE COURT OF APPEAL

NOTICE TO APPEAL OR APPLICATION FOR LEAVE
TO APPEAL AGAINST CONVICTION OR SENTENCE

CRIMINAL APPEAL NO. 46/1981

TO THE REGISTRAR OF THE COURT OF APPEAL

10

Name of Appellant ANTHONY GIBSON

Convicted at the Circuit Court held at (1)
Kingston

Offence of which convicted (2) Murder

Sentence Death

Date when convicted (3) 2.4.81

Date when sentence passed (4) 2.4.81

Name of Prison (5) St. Catherine District
Prison

20

I, the abovenamed Appellant hereby
give you notice that I desire to appeal to
the Court of Appeal against my (6)
Conviction & Sentence on the grounds
hereinafter set forth on page 2 of this
notice

Signed (7) ANTHONY GIBSON

Signature and address of witness attesting
mark

Dated this (8) 6th day of April 1981.

QUESTION (9)

30

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 you legal aid? NO

No. 19
Notice of
Appeal
Anthony
Gibson

6th April
1981

(continued)

3. If your answer to this question is 'YES' then answer the following questions:-

(a) What was your occupation and what wages, salary or income were you receiving before your conviction?

FARMER
\$100.00 per wk.

(b) Have you any means to enable you to obtain legal aid for yourself?
YES

10

4. Is any attorney-at-law now acting for you? If so, give his name and address: Mr. Keith Jarrett

5. Do you desire to be present when the Court consider your appeal? YES

6. Do you desire to apply for leave to call any witnesses on your appeal? NO.

If your answer to the question is yes you must also fill in Form 21 and insert with this Notice.

20

Evidence is insufficient to warrant a conviction.

Further grounds of appeal will be filed by my attorney-at-law Mr Keith Jarratt.

No. 20
PARTICULARS OF TRIAL - ANTHONY GIBSON

—————
JAMAICA

COURT OF APPEAL LAW, 1932

PARTICULARS OF TRIAL

Rev. v. Anthony Gibson

No. 20
Particulars
of trial
Anthony
Gibson

8th July 1981

10

1. Age and occupation of Appellant:
21 Farmer
2. Date when convicted: 2.4.81
Date when sentenced: 2.4.81
Before whom tried: Mr. Justice Parnell
Place and Court of Trial: Home Circuit
Court
3. Offence (See note (a)) Murder
4. Plea Not guilty
5. Verdict Guilty as charged
6. Sentence Death
(and any recommendation or order
made by the Court)
- 20 7. Previous Convictions as per List
attached -
(if no Previous Conviction
please so state)
8. Name of Counsel for the Defence K. Jarrett
9. Name and address of Solicitor for the
Defence K. Jarrett
10. Was the Appellant defended at request
of Court or privately? -
- 30 11. Name of Shorthand Writer Mrs Y. Brown,
Mr. S. Anderson, Mrs. Shields, Miss H.Forte
12. Were any Exhibits put in before
Committal or at the trial? No
(See note (b))
13. Was any statement by Appellant read and
not marked as an Exhibit? No
(See note (c))

No. 20
Particulars
of trial
Anthony
Gibson

8th July
1981

(continued)

14. Was Certificate given, under Sec.
15(b) of the Law, that it was a
fit case for appeal? No
(See note (d))

15. Was Appellant on bail before trial, if
so, with how many sureties and in what
amounts? No

(Signed) Illegible
for Clerk of the Circuit Court

for the parish of Kingston

10

Dated this 8th day of July 1981

NOTES:

(a) Set out a short Summary of the Indictments
upon which the Appellant was convicted.
If there were any other indictments
against the Appellant make a note to
that effect and forward all such
Indictments (with Depositions, etc.,
relating thereto) with this form.

(b) A list of all Exhibits put in must be
sent with this form. Any Exhibits and
any copies thereof which are in the
custody of the Clerk of the Court of
Trial and can be conveniently sent by
post, should be sent with this form.

20

(c) If any such statement was read or
handed, in it must be sent with this
form.

(d) If such certificate was given and is in
the custody of the Clerk of the Court of
Trial, it should be sent with this form.

40

No. 21

NOTICE OF REFUSAL OF APPLICATIONS
FOR LEAVE TO APPEAL

IN THE COURT OF APPEAL

NOTICE TO AUTHORITIES OF RESULT
OF APPLICATION

CRIMINAL APPEAL No. 44 & 46
of 1981

THE QUEEN VS. FRANK ROBINSON & ANTHONY GIBSON

10

*To the Director of Public Prosecutions

This is to give you notice that the
abovementioned having applied for -

(a) leave to appeal to the said Court:

against conviction & sentence.

(c) *

the Court has this day finally determined his
said applications and has given judgment
to the effect following:-

18th March, 1983

20

Applications for leave to appeal refused.

/s/ Joseph D. Casey
Dep. Registrar (Ag.)

No. 21
Notice of
Refusal of
Applications
for leave to
Appeal

18th March
1983

In the
Privy Council

No. 22

ORDER GRANTING SPECIAL LEAVE TO
APPEAL AS A POOR PERSON

No. 22
Order granting
Special Leave
to Appeal as
a poor person

AT THE COURT OF SAINT JAMES

18th November
1983

The 18th day of November 1983

PRESENT

THE COUNSELLORS OF STATE
IN COUNCIL

WHEREAS Her Majesty in pursuance of the
Regency Acts 1937 to 1953 was pleased by
Letters Patent dated the 3rd day of November
1983 to delegate to the six Counsellors of
State therein named or any two or more of
them full power and authority during the
period of Her Majesty's absence from the
United Kingdom to summon and hold on Her
Majesty's behalf Her Privy Council and to
signify thereat Her Majesty's approval for
anything for which Her Majesty's approval
in Council is required: 10
20

AND WHEREAS there was this day read at
the Board a Report from the Judicial
Committee of the Privy Council dated the
20th day of October 1983 in the words
following viz:-

"WHEREAS by virtue of His late
Majesty King Edward the Seventh's
Order in Council of the 18th day of
October 1909 there was referred unto
this Committee a humble Petition of
Frank Robinson in the matter of an
Appeal from the Court of Appeal of
Jamaica between the Petitioner and
Your Majesty Respondent setting forth
that the Petitioner prays for special
leave to appeal as a poor person from
a Judgment of the Court of Appeal of
Jamaica dated 18th March 1983 which
refused the Petitioner's application for
leave to appeal against his conviction
and sentence for murder in the Home
Circuit Court Kingston on 2nd April
1981: And humbly praying Your Majesty
in Council to grant the Petitioner
special leave to appeal as a poor
person against the Judgment of the 30
40

Court of Appeal of Jamaica dated 18th
March 1983 and for further or other
relief:

No. 22
Order granting
Special Leave
to Appeal as
a poor person

10 "THE LORDS OF THE COMMITTEE in
obedience to His late Majesty's said
Order in Council have taken the matter
of the said humble Petition into
consideration and having heard Counsel
in support thereof and in opposition
thereto Their Lordships do this day
agree humbly to report to Your Majesty
as their opinion that special leave
ought to be granted to the Petitioner
to enter and prosecute his Appeal as a
poor person against the Judgment of the
Court of Appeal of Jamaica dated 18th
March 1983:

18th November
1983
(continued)

20 "AND Their Lordships do further
report to Your Majesty that the proper
officer of the said Court of Appeal
ought to be directed to transmit to the
Registrar of the Privy Council without
delay an authenticated copy of the
Record proper to be laid before Your
Majesty on the hearing of the Appeal."

30 HER MAJESTY Queen Elizabeth The Queen
Mother and His Royal Highness The Prince
Charles Prince of Wales being authorised
thereto by the said Letters Patent have
taken the said Report into consideration and
do hereby by and with the advice of Her
Majesty's Privy Council on Her Majesty's
behalf approve thereof and order as it is
hereby ordered that the same be punctually
observed obeyed and carried into execution.

40 WHEREOF the Governor-General or
Officer administering the Government of
Jamaica for the time being and all other
persons whom it may concern are to take
notice and govern themselves accordingly.

N.E.LEIGH

O N A P P E A L

FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N :

FRANK ROBINSON Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

PHILIP CONWAY THOMAS & CO
61 Catherine Place
London SW1E 6HB

Solicitors for the
Appellant

CHARLES RUSSELL & CO
Hale Court
Lincoln's Inn
London WC2A 3UL

Solicitors for the
Respondent