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IN THE GRAND COURT OF THE CAYMAN ISLANDS

IND. NO. 71 OF 2008

THE QUEEN

V

SHANE EDWARD CONNOR



IN OPEN COURT
THE 18TH TO 25TH MAY 2010
BEFORE CHIEF JUSTICE ANTHONY SMELLIE

APPEARANCES: Mr. Kenneth Ferguson, Crown Counsel for the Prosecution
The Defendant, Shane Edward Connor, in person
Mr. James Stenning as amicus curiae

JUDGMENT

1. This matter came on for trial before me as judge without a jury on the election of the Defendant pursuant to section 129 of the Criminal Procedure Code.
2. Although granted legal aid, the Defendant opted to represent himself. Five attorneys had either voluntarily surrendered their briefs in the case or had surrendered their briefs at the request of the Defendant for changes of attorney.
3. Having been one of those five, Mr. Stenning was good enough to offer his services as amicus and did assist throughout the trial. He ensured, for instance, that the witnesses whom the Defendant wished to call were contacted and proofs of statements obtained in advance of their testimony in Court.
4. The trial proceeded over the course of six days with some 16 witnesses testifying on behalf of the prosecution and 4, including the Defendant himself, being called on the defence.

5. The indictment (as amended) alleges a single Count of Burglary contrary to section 243(1)(b) of the Penal Code (2007 Revision) in these particulars:

“Shane Edward Connor at 7th of May 2008, having entered as a trespasser the premises known as Texaco Star Mart, West Bay Road, Grand Cayman, stole therein one hundred and forty phone cards, a quantity of cigars and cigarettes, three sets of keys, one screw driver and cash, the property of James C. Parsons Jr.”

6. The real issue on this indictment is one of identity – whether the Defendant Shane Connor was one of three men shown on CCTV recordings to have broken into the Texaco Service Station and Star Mart of James Parsons Jr. located along the West Bay Road, on 7th May 2008. These CCTV recordings show the three men rummaging and ransacking inside the Mart at the time in question – the early morning (between 3 am and 4 am) of 7th May 2008. The evidence of the specific items stolen by them comes from two of his employees and from Mr. Parsons himself.
7. The burglars are not identifiable from the CCTV recordings because they each took the precaution of covering their heads and faces with clothing. Nor were identifiable prints recovered by the scenes of crime officers because the burglars all wore covering – apparently socks – over their hands and arms.
8. Their clothing was, however, quite distinctive and extensive CCTV recordings of the clothing worn by one of the three became of particular importance to the prosecution’s case against the Defendant.
9. The prosecution also relies on the visual identification of the Defendant by a police officer at the scene, as well as upon inferences to be drawn from the

conduct of the Defendant who was arrested shortly afterwards not far from the scene of the burglary, at the conclusion of a chase.

10. Before turning to examine the evidence in detail, I will here set out the legal principles which apply for my consideration, as I see them arising in the case.
11. The burden and standard of proof is, of course, on the prosecution to satisfy me so that I am sure about the Defendant's guilt before I might convict.
12. As the Defendant was reminded at various stages of the trial, there was no burden at any time on him to prove his innocence. He assumed no such burden when he opted to give evidence in his own defence.
13. In his evidence he gave an account of his whereabouts and actions on the night of 6th May leading into the morning of 7th May, which was consistent with the account he gave to the police in a cautioned interview following his arrest for the offence. The record of that interview was tendered into evidence by the prosecution although it is exculpatory in nature.
14. Given its exculpatory nature, I would have been required to be very circumspect in ascribing much weight to it, in any event. That is a view which, on the authorities of *R v Sharp [1988] 1 W.L.R.* and *R v Duncan 2001 CILR 496*; I am allowed to take. As matters transpired, the Defendant did testify in the course of which he reiterated substantially his account given in the interview. I therefore regarded the interview as being of potential significance only insofar as it may point to a consistency in his accounts, going to the issue of the Defendant's reaction and attitude when interviewed about the allegations and so if at all probative, only as to his credibility as a witness.

15. The evidence of the visual identification of the Defendant at the scene of the burglary was given by Cons. Beverley Sullivan. She described the following circumstances.
16. At about 3:35 am on 7th May 2008, while on duty at the George Town Police Station, she received a call from 911 to respond to a panic alarm which had gone off at the Pizza Hut Restaurant along West Bay Road.
17. She proceeded alone in a police vehicle to that location.
18. On arrival there she parked in the parking lot that is contiguous between the Texaco premises and the Pizza Hut, with her vehicle turned towards the Pizza Hut. The Texaco Star Mart was then diagonally behind and off to the left of her vehicle.
19. As she emerged from the left side of her vehicle, she proceeded towards the left of the Pizza Hut building intending to check around it for signs of entry. She described the area as well lit from the street lights that were on and this is discernable from photographs which were taken shortly afterwards at the scene, by Scenes of Crime Officer Pollard.
20. She said that as she stepped away from her vehicle, she saw a male person walking, heading across her path and line of vision and coming from the Texaco Star Mart. He was then only about 15-20 feet away from her. He was dressed in dark coloured pants and a green shirt with a white T-Shirt over his head, leaving only his eyes visible. The person started running and as he did so, he proceeded to remove the T-Shirt from his head. She was then able to see his face in profile and shouted to him "Police, stop!"

21. Apparently not having noticed her arrival at the scene, the person turned towards her as if startled, then turned away and kept running.
22. From this brief encounter, she said she recognised him as he turned to face her, as the Defendant whom she knew before; although she did not then remember his name. Since starting to work as a police officer in the Cayman Islands in August 2007, she had come into contact with the Defendant in the course of her duties at the Central Police Station on 4 or 5 occasions before the 7th May 2008. On those earlier occasions – which she described as having occurred during cell checks on persons in custody – she had had no personal interaction with the Defendant. She had, nonetheless, been able on those occasions to observe him.
23. Given those circumstances, in particular the brief moment of confrontation which Officer Sullivan described as “a second or two at most” when she saw the fugitive’s face; I must treat the visual identification as involving a “fleeting encounter” as considered in *R v Turnbull* 63. CR. App. R 132 – the principle which the Defendant himself reminded me I should apply, when considering this evidence of his visual identification by Officer Sullivan.
24. I remind myself of the *Turnbull* guidelines – in particular of the “ghastly risk” of injustice in cases of fleeting encounters – that the witness, may be mistaken in the identification of another – the risk that the witness who may be convinced in her own mind that she recognised the Defendant, may nonetheless be mistaken. Such mistakes have been shown to be made even in relation to someone who was well known to a witness before.
25. Nevertheless, all the circumstances of the case must be considered and from them it is clearly shown that as the evidence unfolded, there was to be found much

- support for the conclusion that Officer Sullivan was correct in her identification of the Defendant; although she was cross-examined by the Defendant who put to her quite firmly that she was mistaken in her identification of him.
26. I will only briefly describe each of the other circumstances as there was, in the end, little dispute about the narrative of them as given by the other police officers. What the Defendant says is that the inference of guilty involvement which the prosecution says is to be drawn from all the circumstances, is not the correct inference.
27. I pick up the narrative at the scene of the burglary at the Texaco Star Mart/Pizza Hut location. Office Sullivan said that the fugitive she identifies as the Defendant ran to the rear of the Pizza Hut premises and scaled the chain link fence there, then disappeared into the darkness.
28. She then made her way to the West Bay main road that runs along the western boundary of the premises. As she stood there by the roadside, a dark car approached her from the area of the Marriott Hotel on the opposite side of the road, with no lights on. That area is further along in the direction southward in which the fugitive had been going. At the same time, she observed a marked police vehicle beyond the dark car, also coming towards her further from the south, from the George Town area. As the dark car approached her it made a "U" turn then headed off towards George Town at a high rate of speed.
29. She signalled to the police car to give chase and the driver turned the police car around and did so immediately.
30. The two cars disappeared from sight and she returned to the scene of the burglary. There she noticed the broken exterior glass of the Star Mart with a hole in it, big

enough for ingress and egress and, from the state inside, it was obvious that the place had been burglarized. She saw a number of items – including sunglasses lying around outside – which were identified in Court as having been taken from the Mart.

31. Constable Clay Coleman was the driver of the police car that gave chase.
32. He testified that as he approached the area of the Texaco Star Mart he saw Officer Sullivan. She was gesturing to him, indicating the vehicle that had just passed his vehicle going in the opposite direction at a high rate of speed with no lights on.
33. He immediately turned his vehicle around and gave chase. As he got within 90 yards or so of the vehicle which he made out to be a dark coloured Honda Civic, it turned right into the parking lot of Treasure Island Hotel; as did he. Although he then lost sight of it, he was quickly able to locate the car in the car park. He alighted from his car to investigate. He felt the bonnet which was warm, confirming he had the right car. With the aid of his flashlight, he looked into the vehicle for the occupants (he had seen two persons in it as it passed in the opposite direction on West Bay Road) but saw no one. The vehicle was locked and abandoned.
34. But there, in plain sight on the dashboard, was the driver's licence of the Defendant whom he recognised from the photograph on the licence. He too knew the Defendant before, having come across him in the line of duty.
35. He called for a tow truck to take the car to the Central Police Station and that was done. But, in the meantime, Cons. Andrew Grevitt and Jonathan Horner had arrived, having been radioed to attend at the parking lot behind the Treasure Island Hotel to give assistance.

36. Cons. Grevitt also testified to seeing the Defendant's driver's licence on the dashboard and to verifying that the vehicle must have been driven recently by the heat which he felt coming from the bonnet, exhaust and brakes.
37. Although the Defendant cross-examined these witnesses and the tow truck operator (Mr. Raymond Richard) at quite some length to suggest that the car – which he admitted was his car and left there by him – had been opened and entered for the purpose of removing it to the police station; in the end it became clear that that proposition was of no relevance to his case. This was because the Defendant accepted that all the items – including his drivers licence – which the police officers testified were found in his car, were admitted by him to have been left by him in the car and so found by the police.
38. Apart from the significant fact that the car was indeed his car; driven, parked and left by him as found by the police at the time, it became significant that a number of items found in the car – cigars and a screw driver – were of the same kind as items taken from the Star Mart that morning.
39. Having abandoned his car, the Defendant had further encounters with the police, ending with his arrest after hot pursuit on foot, about a mile and a half away from the scene of the burglary.
40. The foot chase began when the Defendant was seen by Cons. Grevitt and Horner after they left the location of the Defendant's car at the Treasure Island parking lot. This happened as they came upon the intersection of West Bay Road and Snooze Lane headed towards George Town.

41. There, as they approached in their police vehicle, they say two males run across the West Bay Road from the Snooze Lane side, towards Slate Drive on the opposite side.
42. Officer Grevitt's vehicle was then about 100 yards from the two men. He noticed that one of them was wearing a green shirt and had a white item in his hand, loose and flopping like a piece of clothing.
43. They gave chase in the police car and saw the two men run into a yard on a road off Slate Drive, later identified as #22 Helen Drive.
44. They followed immediately in the police car and came upon the men as they tried, single file, to pass through the car port at 22 Helen Drive which had cars parked in it. As the first male was squeezing through, the second; the one wearing the green shirt, turned and faced the police car which had its headlights and floodlights on. Officer Grevitt recognised him to be the Defendant whom he also knew before; having also come across him in the line of duty. The Defendant was then less than 10 feet away. He appeared to officer Grevitt "like a startled rabbit caught in the headlights".
45. The Defendant paused only for a matter of seconds then turned and ran but not, as Officer Grevitt insists, before he had gotten a clear view of him.
46. He described the Defendant in more detail as wearing a green shirt with a white top beneath it, blue jeans pants and holding a white piece of clothing in his hand.
47. As the officers got out of their car at 22 Helen Drive, they could see the Defendant and his companion "hopping fences"; heading in the general direction of the Merren Plaza further to the south.

48. I break the narrative of events here to note that the Defendant admitted to this encounter with officers Grevitt and Horner. He took issue only with two things – the first that he was not there with another person and second, that he did not then have the white item of clothing in his hand as he had only subsequently grabbed it off a backyard clothes line, “*to use as protection for his hands*” as he scaled the fences.
49. I will come to examine the Defendant’s reasons given for having abandoned his car and having admittedly led the officers in a chase, when I come to deal with his evidence given in his defence.
50. The narrative is picked upon again with the chase continuing from 22 Helen Drive, with Cons. Grevitt going by road in the police vehicle and Cons. Horner on foot in pursuit of the two men.
51. The pursuit took them around the Merren Plaza and into the nearby Watlers Road community, where they lost sight of the men.
52. Shortly afterwards however, Cons. Grevitt – at about 4:34 am - received a radio call from Cons. Durrant and Banfield (who had responded to the radio bulletin in search of the fugitives) which summoned him to No. 22 Springfield Court Apartments, in the nearby Courts Road area, off Eastern Avenue; a few hundred yards from the Watlers Road area, still further to the south and east.
53. There he saw the Defendant in handcuffs, dressed only in boxer shorts and a pair of socks on his feet, sitting on the ground in the middle of the driveway.
54. The Defendant was covered in sweat and breathing heavily. He appeared exhausted.

55. Cons. Durrant had joined the search having already attended at the scene of the burglary. There, having arrived only very shortly after Cons. Sullivan; Cons. Durrant had seen a second man running from the scene, dressed in black. His pursuit of that man was unsuccessful but, like Cons. Sullivan, it had taken him out to the West Bay Road. As he walked along the West Bay Road, he heard the engine of a car as it started and revved in the car park of the Marriott Hotel. The car exited at speed and he saw the chase engaged by the police car driven by Cons. Coleman.
56. Cons. Durrant followed on foot to the car park of the Treasure Island Hotel where he also saw the car abandoned; later to be admitted by the Defendant to be his.
57. While there he heard a radio transmission from Cons. Grevitt (who had already inspected the Defendant's car, left and, with Cons. Horner encountered the Defendant with his fugitive companion at Helen Drive). Cons. Durrant responded with Cons. Banfield in their patrol car by going to the Courts Road area.
58. There an area search was done and while making checks at the Springfield Apartments, Cons. Durrant heard someone calling "in a low tone of voice" behind some bushes – a groaning sound. Cons. Durrant checked behind the bushes and saw the Defendant sitting on the ground dressed – as he was later seen by Cons. Grevitt and Horner on their arrival – only in boxer shorts and a pair of socks. There were other items of clothing scattered on the ground. The Defendant stood up, gathered up the clothing and attempted to run.
59. But Cons. Durrant jumped over the fence between them, gave chase and apprehended the Defendant within a matter of yards.

60. When arrested and cautioned in respect of the Star Mart burglary, the Defendant responded "I am drunk".
61. The Defendant was handed over to Constables Grevitt and Horner while Cons. Durrant carried out a search of the area. At different places outside Apt. #22 Springfield Court, he found money (twelve \$100 bills); a white T-Shirt and blue long jeans pants; a green Jersey shirt with a white T-Shirt tucked on the inside and a pair of Nike "Air Max" sneakers.
62. Photographs of all the items found were taken in situ by Cons. Pollard and formed part of the photo album (Exhibit 15) in the case.
63. Among the items found by Cons. Durrant in the pockets of the blue jeans pants was a pair of white socks. The Defendant denied any knowledge of these socks in his evidence in Court although he admitted that all the other items of clothing were his.
64. The account the Defendant gave for having undressed and apparently jettisoned his clothing was that he became heated from the chase and was feeling ill.
65. The socks recovered from the ground, when taken with the green Jersey shirt, the underlying white T-Shirt, the blue jeans pants and the second white T Shirt (said by the Defendant to have been grabbed from a clothes line as he ran) appear to match exactly the combination and colour of clothing worn by one of the three burglars, as shown on the CCTV recordings. As already noted, white socks appear to have been worn by each of the burglars over their hand and arms.
66. This combination of clothing matching that shown in the CCTV recordings, is a factor going beyond mere coincidence and upon which the prosecution submits I should rely in support of Cons. Sullivan's visual identification of the Defendant.

67. I agree.
68. So too, I find must be regarded the discovery of certain items inside the Defendant's car after it was towed to the Central Police Station.
69. There, later during the day of 7th May 2008, when it was unlocked by keys obtained from the Defendant and in his presence, Cons. Pollard found, among other items, a black hooded jacket on the back seat, with 14 cigars stashed inside one of its zippered pockets. A single cigar of the same kind was also recovered from the back seat underneath the jacket.
70. Also, from the pocket of the driver's side door, was recovered a screw driver which Mr. James Parsons described as being exactly alike one which he kept at the service station to assist his customers. He also identified the 15 cigars as being exactly like those which he sells, 16 of which were stolen from his Star Mart during the burglary.
71. These items were photographed in situ as seen by Cons. Pollard; then taken from the car as exhibits and were exhibited in Court.
72. An employee of Mr. Parsons, Mr. Arnold Mayouga, took an inventory as usual at close of business on 6th May 2008; before the burglary. He therefore could account for what was missing after the burglary. He testified that among the items stolen were sixteen (16) cigars (sold singly and of the kind found in the Defendant's car); thirty-eight (38) packs of cigarettes, one hundred and forty (140) phone cards and twelve (12) sun glasses. The cash pan had also been removed (but recovered along with three sets of keys at the scene by Det. Cons. Ian McDonald) and \$100 in coins and bills taken from the pan. These together are the items particularised in the Indictment.

73. Mr. Siegfried Toledo, another employee at the Star Mart, testified to having made a CD copy of the CCTV recordings of the relevant period (3 am to 4 am on 7 May 2008) – which he provided to the police.
74. This copy was admitted by Cons. Alvin Boxwell to have been subsequently received by him from the Exhibits Officer at the Central Police Station but mislaid by him after he had made further copies for investigative purposes.
75. One of these further copies was identified by him as among those which he made and played in Court. This was after it had been shown to Mr. Toledo who testified that the images were those which he had seen on the CCTV recorder when he made the very first copy provided to the Police.
76. I was satisfied about this and so allowed the prosecution to rely on the exhibited copy in Court.
77. While none of the faces of the burglars could be seen in the CCTV recordings and while they left no identifying fingerprints or other marks; the images of the clothing give rise to the inferences already identified above in relation to the Defendant himself. Moreover, I am able to further conclude, from the hooded jacket shown, that one of the other two burglars must have been the passenger seen in the Defendant's car by Cons. Coleman as it sped from the Marriott Hotel and by Cons. Grevitt as the Defendant and his fugitive companion were temporarily “cornered” in the garage of the house at #22 Helen Drive. This latter is the only reasonable inference to be drawn from the presence of the black hooded jacket found in the back seat of the Defendant’s car with the cigars in the pocket.

78. The case for the prosecution was completed with the evidence of Det. Cons. Paulette Hinds, the case investigating officer. She testified, among other things, to the garnering of exhibits at the scene of the burglary and to her conduct of the interview of the Defendant.
79. In cross-examination, she acknowledged that the Defendant had been taken to the hospital upon his arrest. He had complained of stomach pains when he was detained at the Springfield Court Apartments.
80. The report of his hospitalisation was tendered in evidence as Exhibit 33. Among other things, it shows that he must have consumed alcohol prior to his arrest. There was however, no inference to be drawn from it that he must have been so inebriated as to have been unable to participate in the burglary, the inference which the Defendant, in his defence, nonetheless invited the Court to draw.
81. At the suggestion of the Defendant, Officer Hinds said she had not checked the Marriott Hotel car park and so could not say whether there were signs there of him having thrown up in the car park. This, in support of his account in his evidence of how he came to be in the car in the car park in the early hours of the morning of 7th May 2008, is what the Defendant said had happened.
82. Having been reminded of his rights, the Defendant elected to give evidence and to call witnesses. While not being obliged to do so, the evidence he gave had to be assessed like that of any other witness and the conclusions at which I arrived were reached after my consideration of all the evidence in the case. His narrative from the witness box was to the following effect.
83. On the night of the 6th into the early morning of the 7th May 2008, he had gone “bar hopping” along the West Bay Road on his own.

84. He had started at the Jungle Nightclub, then worked his way south towards George Town by stopping at the Deckers Restaurant and Bar, then the Royal Palm Beach Bar and finally the Aqua Beach Club, adjacent to the scene of the burglary.
85. He had parked on the opposite side of the road to the Aqua Beach Club in the Marriott Hotel parking lot, because there was no space available at Aqua Beach.
86. There, at Aqua Beach, he continued his binge until closing time when he walked over to his car taking with him an unfinished drink of wine. He said he finished off the wine, smoked a cigar and relaxed a bit. He then became ill because of drinking excessively and vomited outside his car. He went back inside his car, drank some water, started to relax again and eventually fell asleep "for a good while."
87. He said he was alone throughout.
88. When he woke up, which was then about 4 am, he started the car and drove out of the car park onto the West Bay Road headed towards George Town. He noticed a police officer standing in the middle of the road but as he did not signal for him to stop, he continued on his way. He was driving at a normal rate of speed.
89. Then it was he said that he saw the oncoming police vehicle (that which Cons. Coleman came to testify that he was driving) going in the opposite direction. As it passed, he "checked his rear view mirror" because, in his words: "*I know that the car was insured but it was not licensed, and also I was drinking.*" He continued: "*so I noticed the brake lights came on and that time in the morning, I assumed that it would have been a traffic stop, so I pulled off into the Treasure Island parking lot and went straight to the back and I parked the car between another car and some hedges and locked it up.*"

90. Having thus locked and abandoned his car, the Defendant described his southward progress on foot towards George Town until he arrived at St. Matthews Hall of Residence at the Snooze Lane intersection, where he had his encounter with Constables Grevitt and Horner and which he described in this way:

"I walked across the road there and at that point in time I saw the USG [Uniformed Support Group (vehicle)] pull down the road, so I ran because I had something illegal on me. I didn't know (whether) by them seeing me, they would have asked for a search. So I ran, ran straight through Dog City [Watler Road Community] and into Courts Road, George Town. I was located by the officers several minutes later by Springfield Courts apartment 22. And from there I was arrested. And taken (sic) to the hospital...for excessive vomiting and from the hospital I was discharged into police custody."

91. It is of significance in the case that, in cross examination; he insisted that he was alone and so Cons. Grevitt and Horner saw no other man running with him. The cigars found in his car he said he had bought at "Reflections", a well known store in George Town. He smokes them regularly, he says, and buys them in bulk. He claimed that the black hooded jacket belongs to him, as does the screw-driver found in the driver's door pocket of his car and described by Mr. Parsons as exactly alike that taken from the Star Mart.
92. His taking flight when confronted by the USG Officers, he explained; was due to the "something illegal" he had on his person but having nothing to do with the burglary of the Star Mart. Moreover, he insisted, having just sold his motor bike

and having obtained \$500 by way of a loan from his mother, he had \$2,300 in cash on him and certainly did not need to commit a "petty burglary" to get cigars. He could afford to buy all the cigars he wanted. The screw-driver, which is a common place item, belongs to him and so Mr. Parsons is mistaken in suggesting that it might have come from the Star Mart.

93. The "something illegal" was of such significance to him that he had decided to keep it on his person, having parked his car and set out on foot at the Treasure Island hotel and even as he ran away from the USG Officers.
94. He said he kept whatever it was until he was able to get rid of it as he ran through Dog City, by handing off to someone whom, not surprisingly, he would not care to identify.
95. In other words and in effect, that he had nothing whatsoever to do with the burglary at the Star Mart, but unfortunately got caught up in the chain of events leading to his arrest for that offence simply because he happened to be in the wrong place at the wrong time. He had engaged the police in a run around because he had that something illegal on his person, which he chose not to abandon.
96. The Defendant called three witnesses.
97. The first, David Cooke, is a tow truck operator who was asked to speak to the impossibility of the Defendant's car being towed away from the Treasure Island Car Park without first being entered, as the Police Officers insisted it had been.
98. In cross-examination of the witnesses, the Defendant had also challenged the evidence of the officers and of Mr. Raymond Richards, the tow truck operator who actually towed the vehicle.

99. At the point in the trial when those witnesses were cross-examined, it appeared that the Defendant might have been alleging that the potentially incriminating items found in his car had been planted there by the police in his absence, at the Treasure Island car park.
100. But as his defence unfolded, it became clear that no such thing was being alleged and the manner in which his car came to be towed from the Treasure Island car park to the Central Police Station became irrelevant. As discussed above, the Defendant came, in his defence, to claim the cigars, the hooded jacket and the screw driver all as his property.
101. In any event, Mr. Cooke's evidence served only to confirm that the car could have been towed as the officers and Mr. Richards had described.
102. The Defendant's mother, Ms. Paulette Chambers, testified simply that she had indeed loaned the Defendant \$500 around the time the alleged burglary took place.
103. Abijah Ramoon, who was produced as a defence witness from the Northward Prison where he is incarcerated for some other matter; testified to the negative proposition that at no time (it seems contrary to allegations which had been put to him by the police) did he and the Defendant commit any crime together. He also said that he had been truthful to the police, in denying their further assertion, that he had been the passenger seen in the Defendant's car in the early morning of the 7th May 2008.
104. In his closing address to me, the Defendant argued, and I might say quite articulately; that the account given of the events by the police officers has been

embellished because “they are trying to make it look like I was leaving the scene of a crime at high speed”.

105. He said that he ran from the police, “not because of any burglary but because I had something illegal on me”. He said he had no socks in his pocket and denied that socks were so found by Cons. Durrant. Cons. Durrant’s account, he pointed out, is not supported by the photographs as no such pair of socks is shown in the photographs taken at 22 Springfield Court Apartments.

106. The Defendant challenged the authenticity of the video shown in Court as not being an accurate replica of the original copy of the CCTV recordings which Cons. Boxwell admitted he had mislaid. Moreover, he argued that in any event, no inference could be drawn from the colour of the clothing shown because they are such common place items of clothing.

VERDICT

107. Having considered all the evidence in this trial, I am satisfied so that I am sure that the Defendant was one of the three men shown on the CCTV recordings to have burglarised the Texaco Star Mart of Mr. James Parsons during the early morning of the 7th May 2008. I am satisfied so that I am sure that he was correctly identified by Cons. Sullivan as he ran away from the scene and that he fled from the Marriott car park in his car which he abandoned and then tried to escape the police on foot, all because of his involvement in the burglary.

108. I reject the Defendant’s account that he abandoned his car because it was not licensed and/or because he had been drinking.

109. I reject his account that he fled from Constables Grevitt and Horner because he had "something else illegal on his person". I reject his reason given for having jettisoned his clothing at Springfield Court Apartments. I find that he did so because he was aware that the clothing would link him to the burglary notwithstanding that he and his accomplices had taken the precaution of covering their heads and faces from detection by the CCTV cameras.
110. The legal requirements and particulars of the indictment are proven and I find that the defendant is guilty as charged.
111. The Defendant is convicted accordingly.


Hon. Anthony Smellie
Chief Justice

Dated June 9, 2010

