

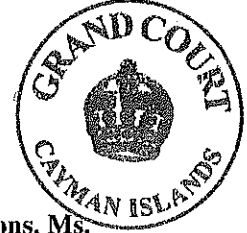
1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **CRIMINAL SIDE**

3 **INDICTMENT NO: 38/10**

4
5 **THE QUEEN**

6
7 **V**

8
9 **JORDAN MANDERSON**



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12 **Appearances:**

Director of Public Prosecutions, Ms. Cheryll Richards Q.C. and Crown Counsel Ms. Candia James for the Crown

Mr. David Fisher Q.C. instructed by Ms. Lucy Organ of Samson and McGrath for the Defendant

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21 **Before:**

The Hon. Mr. Justice Charles Quin

22 **Heard:**

16th May to the 9th June 2011

23
24 **RULING**

25
26 ***Introduction***

- 27
- 28 1. On Thursday the 11th March 2010, Marcos Mauricio Duran ("Mr. Duran")
29 was shot and killed outside apartment #7 at #28 Maliwinas Way, West Bay.
- 30 2. The Crown alleges that the Defendant, Jordan Manderson, was part of a joint
31 enterprise, with Raziel Jeffers and others, to rob Mr. Duran – an Ecuadorian
32 national who illegally sold lottery numbers to members of the West Bay
33 community – and, whilst in the process of being robbed by the Defendant,
34 Jordan Manderson, Raziel Jeffers and others, Mr. Duran was shot three times
35 and died.

1 wagon which he usually drove, which belonged to his uncle, whose last name
2 is Bolivar.

3 8. Rita Martinez said Mr. Duran stayed in her apartment for about ten (10)
4 minutes. They talked in Spanish, and they discussed the fact that she was
5 having no luck with her numbers.

6 9. Rita Martinez said Mr. Duran was wearing a grey and white striped T-shirt
7 and dark pants. She said he did not have anything on his head. She said she
8 always noticed his hair because she described it as very beautiful. By her
9 recollection Mr. Duran did not have anything in his hands either.

10 10. Rita Martinez said that after talking for about 10 minutes Mr. Duran left. She
11 said her front door was closed but not locked and she returned to watching
12 *Law and Order*.

13 11. Rita Martinez said Mr. Duran had not been gone very long, approximately
14 five (5) minutes, when she heard a “thump” – like something had hit her
15 front door.

16 12. She said she went to the window of her apartment where she saw that Mr.
17 Duran’s car was still there with the hazard lights flashing. It was parked on
18 the road in front of the apartment. Also through the window Rita Martinez
19 saw Mr. Duran lying by the front door. She then opened the front door. She
20 said Mr. Duran was lying in a sort of foetal position – with his legs “*sort of*
21 *drawn up*” close to his chest.

- 1 13. Rita Martinez said that to the best of her recollection he was lying on his left
2 side and with a pool of blood near to his head. She said that there was a light
3 on the porch, which she also called the balcony.
- 4 14. Rita Martinez said she called Mr. Duran's name and touched his leg, but
5 there was no answer, and then she called 911 and said "*hurry, hurry, hurry.*"
6 Rita Martinez said she could not help Mr. Duran. She said she was scared
7 and she said to 911 "*hurry before he dies.*"
- 8 15. She said that whilst she was in the doorway shouting on the phone a
9 gentleman came up the staircase – a heavy-set brown man who was her
10 neighbour, Mr. Bolan.
- 11 16. Rita Martinez said that it was a windy night and also she was a little hard of
12 hearing. Therefore perhaps the windy conditions, along with the noise from
13 the television, caused her not to hear any gunshots. But she said she clearly
14 recalled the "thump" approximately five minutes after Mr. Duran had left her
15 apartment.
- 16 17. Rita Martinez told the Court that her niece, Meagan Martinez, called her
17 approximately one hour after the incident. Rita Martinez said that her niece
18 has a baby called "Jaziel", who is two years of age and is named after the
19 baby's father Raziel Jeffers. Rita Martinez said she had known Raziel Jeffers
20 for approximately three years. She said Raziel Jeffers and her niece, Meagan,
21 would leave the baby with her to babysit for approximately nine or ten times
22 throughout the year. She said she would call Raziel to collect the baby and
23 she had his telephone number in her phone. She said Meagan was "*always*

1 *coming and going*” and it’s quite possible that she, Rita Martinez, could have
2 seen Raziel between January and March of 2010.

3 18. The Crown relies on the fact that Raziel Jeffers knew Rita Martinez and her
4 evidence confirms that he visited her on many occasions as he was the father
5 of her niece’s child, Jaziel.

6 *Kevin Bolan*

7 19. Mr. Kevin Bolan lived opposite and slightly down Maliwinas Way at #33
8 and he recalled that on the evening of the 11th March 2010 at approximately
9 7:20 p.m. he heard two gunshots. He said that he knew they were gunshots
10 and not fireworks. He said they were too loud to be fireworks. So when he
11 heard the first gunshot he picked up the phone and then he heard the second
12 gunshot as he was dialing 911. He said the two shots were in very close
13 succession and not even 30 seconds apart. He said he was walking through
14 his front door shortly after the second gunshot and then he heard his
15 neighbour screaming. He knew the voice to be that of Philip Cohen’s wife,
16 but he did not know her name.

17 20. Mr. Bolan’s evidence was that he had spent 7 ½ years in the US military. He
18 was very familiar with weapons and it was his view that the first gunshot he
19 heard was from a large calibre gun, whereas the second gunshot was from a
20 much smaller calibre handgun. He said the first gunshot he thought came
21 from a .44, which he described as a large gun, whereas the second shot was
22 from a .22 or .38 calibre gun.

- 1 21. He said he was walking across the front of his yard to #28 Maliwinas Way
2 and he was telling the 911 operator that there had been a shooting on the
3 street and asked for the police.
- 4 22. Mr. Bolan said at this point he saw a shadow or a figure – he called it a
5 silhouette – going round the side of the #28 Maliwinas Way building – on the
6 side of the building with the car park. He said he thought it was a male and
7 the figure went round to the laundry area at the back. He said he could see
8 the upper torso. He said he did not see any female parts and the hair was
9 short.
- 10 23. When he reached over to #28 Maliwinas Way he saw his neighbour at the
11 front door of #7 screaming. He realised she was not hurt. He said he saw
12 someone lying on the balcony. It was male with his face facing the road and
13 his feet up against the apartment building. He noticed that right under the
14 male’s head was a pool of blood and also some brain matter lying beside his
15 head, because he could see the meat and flesh there. He said he knew that the
16 man was dead.
- 17 24. Mr. Bolan said he did not want to disturb the crime scene. So when he
18 stopped he noted that Rita Martinez had also called 911 and was speaking to
19 the emergency operators.
- 20 25. Mr. Bolan said that the police and Rita Martinez’ husband, Phillip, got to the
21 apartment more or less at the same time.

1 26. Mr. Bolan said it took him about a minute to get over to the apartment after
2 hearing the gunshots, and it took the police and Phillip another 4 or 5 minutes
3 to get there.

4 27. At about 7:24 p.m. on Thursday the 11th March 2010 the police and
5 emergency services received a call to come to #28 Maliwinas Way, the scene
6 of the shooting.

7 28. Mr. Bolan recalls the two ambulances arriving and two paramedics went up
8 with a gurney and rolled the deceased on to the gurney and went back down
9 the stairs and into the ambulance.

10 29. On the landing at the crime scene Mr. Bolan said there was blood mainly
11 under the deceased's head, although some blood was on the top railing and
12 some had dripped down below onto the concrete area.

13 *John Phillip Cohen Ebanks*

14 30. Mr. Phillip Cohen Ebanks confirmed that he had lived at apartment #7 of #28
15 Maliwinas with Rita Martinez for approximately 7 years. He said he knew all
16 the residents of the other 7 apartments by name. He said over the 7 years that
17 he had lived there he had no recollection of anybody selling drugs in or from
18 the apartment building, nor did he know of anyone on the building by the
19 name of Mark. Mr. Ebanks candidly admitted that he had been a drug addict
20 and therefore would have known if anyone sold drugs. He acknowledged that
21 two new residents had come into apartment 5, but they had only been there
22 for two weeks and he had not got to know them.

1 31. Mr. Ebanks also told the Court that at the back of #28 Maliwinas Way is a
2 trail that goes from the apartments through the bushes behind, on to Ebanks
3 Road, and he said it would take approximately two minutes to get from his
4 Maliwinas Way apartment to Ebanks Road.

5 32. Under cross examination he said that this path was not commonly used but it
6 was used, and when he was growing up he would cycle through the path.

7 Samantha Grant

8 33. The next witness was Samantha Grant who was a hairdresser who worked
9 with Batabano Plaza del Sol. She knew Meagan Martinez and would see her
10 four or five times a year when Meagan would come to have her hair done.

11 34. She recalls Thursday the 11th March 2010, between 5 p.m. and 5:30 p.m.
12 when Meagan had come to the salon to do her hair. Ms. Grant received a call
13 for Meagan on her phone. Ms. Grant could see that the call came to her own
14 phone from Raziel Jeffers' phone. She said she knew Raziel Jeffers, as he
15 would drop Meagan off at the shop or by her house.

16 35. She recalls that Meagan kept getting phone calls on her (Samantha Grant's)
17 phone. This happened while she was styling Meagan's hair.

18 36. Ms. Grant said that Meagan asked her to take her down the road. Ms. Grant
19 remembers that Meagan did not specify why she wanted the lift, and Ms.
20 Grant assumed that it had something to do with her baby.

21 37. They got into Ms. Grant's car and Meagan directed Ms. Grant to drive to
22 Watercourse Road and then on to Ebanks Road. She said this was around 8

1 p.m. Ms. Grant said they reached to Ebanks Road five minutes after Meagan
2 had received the call. When they got to Ebanks Road Meagan asked Ms.
3 Grant to stop and that's when Ms. Grant said she saw a person – a dark
4 figure. Ms. Grant said there was not any street lighting. The person was off
5 the road to the side and then the person, a man, came out from where he was
6 and got into the car. Ms. Grant said Meagan asked her to take the man up to
7 Birch Tree Hill and she agreed.

8 38. Ms. Grant's evidence was that it was Raziel Jeffers who had got in the back
9 of the car. She saw his face and she knew it was him.

10 39. The journey to Birch Tree Hill took about six to eight minutes. She said
11 Raziel and Meagan were talking, but she did not hear what they said. She
12 drove from Ebanks Road to Watercourse Road, then, at that intersection, she
13 turned on to Boatswain Bay Road to the end of Finch Drive, and then turning
14 into Birch Tree Hill. Ms. Grant said that Meagan directed her to turn off the
15 road into a little dirt road where Raziel Jeffers got out and walked off to the
16 back of a house.

17 40. Ms. Grant said she and Meagan went back to the hair salon where she
18 finished doing Meagan's hair.

19 41. Ms. Grant said she recalled that sometime after 9 p.m., around 9:30 p.m.
20 Raziel Jeffers came to the salon in a jeep with two other males.

21 Meagan Martinez

22 42. Meagan Martinez is the niece of Rita Martinez who lived at Apt #7 of #28
23 Maliwinas Way. Her evidence was that she regularly visited with Rita

1 Martinez and they were very close. She would often stay over with Rita
2 Martinez with her baby. She told the Court that her baby's father, Raziel
3 Jeffers, also stayed with Rita Martinez at various times.

4 43. The witness confirmed that Rita Martinez regularly played numbers. The
5 witness said that although she did not know the deceased, Mr. Duran, she had
6 seen him visiting Rita before. She said there were times when Raziel Jeffers
7 was also there at the apartment when Mr. Duran visited.

8 44. In March 2010 she was living at Raziel Jeffers' father's house at 134
9 Fairbanks Road.

10 45. Meagan Martinez recalled that on the 11th March 2010 Raziel Jeffers dropped
11 her off at work. She recalled that Raziel Jeffers picked her up after work in
12 his blue Toyota Windom and took her to Samantha Grant's hairdressing
13 salon in West Bay. She said she got to the hairdressers at approximately 6:30
14 that evening and that Raziel Jeffers left her at the hairdressers.

15 46. She said halfway through getting her hair done she received a call from
16 Raziel Jeffers on Ms. Grant's telephone. She said Raziel Jeffers sounded out
17 of breath and nervous and he asked her to pick him up. Meagan Martinez
18 said that during the telephone conversation she could hear sirens of
19 emergency vehicles in the background, such as police cars and ambulances.
20 She said this was sometime after 8:00 p.m. – possibly 8:15 p.m.

21 47. Meagan Martinez told Raziel Jeffers that Ms. Grant said she had no gas in
22 her car to pick him up and Raziel said he would pay for the gas. She said she
23 arranged to pick up Raziel at Ebanks Road, which she knew because it was

1 behind her Aunt's house and she was aware of the pathway through the back
2 of Maliwinas Way to Ebanks Road.

3 48. When she and Ms. Grant first got to Ebanks Road she did not see Raziel.
4 Meagan Martinez said Raziel Jeffers stepped out from behind some bushes
5 and that he had been concealed. She said he was dressed in a black T-shirt
6 and blue jeans and brown Nike sneakers and he got into the car.

7 49. They proceeded to drive Raziel Jeffers to Philip Sciamonte's house around
8 Cobalt Coast, and she noticed that Raziel Jeffers had scratches over his arms
9 beneath his shirt.

10 50. She then returned with Samantha Grant to the salon to finish her hair. After
11 she finished her hair she received another call from Raziel Jeffers saying that
12 he would come and pick her up.

13 51. When Raziel Jeffers came to pick her up she noted that he was still wearing
14 his black shirt and brown shoes, but he had changed his Nike sneakers and
15 was now wearing slippers. From there they went to Ocean Club

16 52. Meagan Martinez said that she had been directed by Raziel Jeffers to give the
17 police a statement that it was the guys from Logwood that did the shooting at
18 her Aunt's house. She recalls getting this instruction from Raziel on the day
19 after the shooting, on Friday the 12th March 2010, and she ended up going to
20 the station and giving a statement.

21 53. In addition, in examination in chief, Meagan Martinez recalled Raziel Jeffers
22 calling other people to find out what went on at #28 Maliwinas Way.

1 54. Meagan Martinez said she had seen Raziel Jeffers with Jordan Manderson
2 and she has also seen Raziel Jeffers with Craig Johnson.

3 55. She also said she saw Raziel Jeffers with a .44 gun before the 11th March
4 2010, which she described as a revolver.

5 56. In cross examination she said she had been a girlfriend of Damion Ming, and
6 further she admitted that she had been interviewed in relation to an allegation
7 that she was party to a planned robbery of the Numbers Man on the 11th
8 March.

9 Aaron Hydes

10 57. Mr. Aaron Hydes recalled Thursday the 11th March 2010 at about 7:25 p.m.
11 He was walking to the Defendant's house in West Bay. As he got closer to
12 the house he noticed his sister's car – a white Honda Accord. He recognised
13 his sister's car by the colour, the shape and the rear spoiler. He saw the
14 Defendant get out of the car and initially thought he had been drinking
15 because he noticed he was limping. Mr. Hydes said as he got closer to the car
16 he noticed the car was driven by his sister's baby father, namely Craig
17 Johnson. Mr. Hydes had known Craig Johnson for about three years and they
18 hung out "24/7". He said Craig Johnson and his (Mr. Hydes's) sister lived
19 together.

20 58. Mr. Hydes knows the Defendant by his nickname "Pinga". He said that, in
21 the car, he saw another man, whom he described as brown skinned, male and
22 about 5 feet 6 inches in height. Mr. Hydes noticed that the Defendant had got
23 hurt, like he had been shot.

1 59. He recalled the Defendant saying that his foot was sore and that his foot was
2 broken. Mr. Hydes noticed that the Defendant's pants were ripped and his
3 shinbone was not in place, it looked bent. It was broken and he could see
4 blood on the Defendant's socks.

5 60. Mr. Hydes recalls the Defendant's father asking the Defendant what
6 happened to his leg and he heard the Defendant say that Andy Barnes
7 chopped him on his leg.

8 61. He recalls the father putting the Defendant's leg in a better position. Mr.
9 Hydes also recalls some talk about an ambulance. But a neighbour came by
10 in a Honda Odyssey and took the Defendant to the hospital.

11 62. Mr. Hydes said Craig Johnson and the unknown passenger, who had helped
12 the Defendant into the chair, had left together.

13 *Tina Barton*

14 63. Tina Barton had been a former girlfriend of Craig Johnson. She recalls seeing
15 him on Thursday the 11th March 2010. She recalled picking him up because
16 at that time he did not have a car because his car, a blue Trueno, was at the
17 shop. She said she saw him drive his baby mother's car, a white Honda
18 Accord. And she saw him drive it on the 11th March 2010 when he went to
19 pick his "baby mother" up from work. She said his "baby mother" was
20 Chelsea Hydes.

21 64. In cross examination she confirmed that the Honda Accord was registration
22 Q3169.

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Inspector Lauriston Burton

65. Inspector Lauriston Burton received the call of the shooting at the Birch Tree Hill and Barnett Close intersection and he started a separate Royal Cayman Islands Police Service (RCIPS) investigation into that shooting. He and other officers went to investigate the shooting and they went looking for spent shells, impact sites, bullet impact sites, bullet fragments, blood or clothing. He said they also went from house to house to see if there had been any reports of any shooting. He arranged for groups of officers to search along Barnett Close, Captain Joe and Osbert Road, and along Birch Tree Hill. Asked what they were searching for, he said they were looking for any signs of a shooting. He said the searches were extensive and over a considerable period of time and they found nothing.

Officer Stephen Best

66. Officer Stephen Best was the Scenes of Crime Officer attached to the Scientific Support Branch of the RCIPS. He arrived at #28 Maliwinas Way on the 11th March at approximately 8:55 p.m. He noted that the area had been cordoned off and he attired himself in a disposable suit with gloves and shoes in order to avoid contamination.

67. With the photos in Exhibit 1 Officer Best showed where he swabbed the areas where he found blood. With the aid of markers and the photos he demonstrated to the Court where he took swabs of blood found on the stairs, on the landing and underneath the landing. In addition he found and recovered a woolen tam (kitted hat) on the landing and recovered pieces of

1 lead bullets. DC Best also found and recovered a copper jacket on the
2 landing and a piece of lead on the wall near the door of the apartment.

3 68. Officer Best was accompanied by Woman Detective Sgt. Codner and Det.
4 Supt. Boddan, who was the senior officer in charge. He specifically swabbed
5 what appeared to be droplets of blood on the 2nd and 4th steps from the
6 ground floor.

7 69. DC Best took all the items he had swabbed and dispatched them for forensic
8 examination.

9 Dr. Ajit Amberkar

10 70. Dr. Ajit Amberkar is a Fellow of the Royal College of Surgeons in England
11 and is currently consultant orthopaedic Surgeon attached to the George Town
12 Hospital in the Cayman Islands.

13 71. Dr Amberkar's evidence was that the Defendant sustained a bullet wound
14 about 6 ½ x 4cms. He said there were no obvious bullet fragments in the
15 wound, but there were shattered pieces of bone, torn muscle and profuse
16 bleeding.

17 72. Dr. Amberkar said that the entry wound was just below the inner left knee
18 and the exit wound was on the outer aspect of the left leg, just below the
19 middle of the leg.

20 73. Dr. Amberkar explained that the bullet must have come downwards and also
21 from the inner to the outer aspect of the leg. He said, by examining the
22 wound and the x-rays, the bullet entered just below the knee and exited down

1 the leg on the outer side – travelling through the shinbone, and breaking the
2 bone during its impact.

3 74. Dr. Amberkar also confirmed that the Defendant had received a fracture of
4 the other inner bone of the leg called the fibular. This fracture was away from
5 the trajectory of the bullet and was not shattered, and his conclusion was that
6 the second fracture was sustained due to a fall and not due to the bullet.
7 Accordingly, Dr. Amberkar was of the view that the Defendant sustained the
8 fall after the bullet had broken his main shinbone.

9 75. In cross examination Dr. Amberkar said the bullet entered at an acute angle,
10 approximately 20 to 40 degrees, and he demonstrated that the bullet came in
11 above the leg and travelled down through the leg and outside.

12 Det. Constable Kevin Bogle

13 76. Detective Constable Kevin Bogle arrived at the scene and said that when he
14 saw the body of the deceased he also noticed that the deceased had a wallet
15 in his back pocket. Detective Constable Bogle took the wallet from his
16 pocket for means of identification and he said he saw a driving licence which
17 read Marcos Mauricio Duran. Officer Bogle said the deceased also had
18 CI\$225.00 and US\$40.00 inside the wallet.

19 Constable Trevor Miller

20 77. Constable Trevor Miller found a white T-shirt with blood on it on the side of
21 the road along Aurora Drive in the Birch Tree Hill area.

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Detective Sgt. Dwayne Jones

78. Late in the evening of the 11th March 2010 Detective Sgt. Dwayne Jones went to George Town Hospital, arriving there around 12:15 a.m. on the 12th March. He said the Defendant was in the critical care unit with his father, Jake Manderson. Det. Jones said that while lying in the bed, Jordan Manderson told him that he, Jordan Manderson, was walking along Birch Tree Hill Road in the vicinity of Barnett Close, when he saw Andy Barnes coming towards him from the right hand side of the road from the bushes nearby. The Defendant said he, Manderson, began to run and he fell to the ground. The Defendant then said that Andy Barnes came over and shot him and then ran off down Barnett Close. He said Andy Barnes was wearing a Hoodie over his head but he was not wearing a mask and that he, the Defendant, could see Barnes' face clearly.

79. As result, Sgt. Jones made a sketch map which became Exhibit 22. On the sketch map Sgt. Jones put four asterisks:

- i. #1: where Manderson said he was when he first saw Andy Barnes.
- ii. #2: where Andy Barnes was when the Defendant first saw him.
- iii. #3: where Jordan Manderson said he fell.
- iv. #4: where Jordan Manderson said Andy Barnes ran.

1 80. Later on the 12th March 2010 at about 11:40 a.m. Sgt. Jones visited Jordan
2 Manderson with Woman Constable Louise Thornley of the Scenes of Crime
3 unit. They told Manderson that they wanted to process his body for GSR.
4 Jordan Manderson said he was not going to provide any GSR.

5 81. On the 13th March Det. Jones went to Barnett Close in the area where Jordan
6 Manderson said he had been shot. He and other RCIPS officers tried to find
7 out if anyone had heard any gunshots and they also went in search of blood
8 and bullets. This was the separate RCIPS operation and nothing was found.

9 82. On the same day Det. Jones went to the residence of Craig Johnson. A white
10 Honda Accord, registration #Q3169 was there and the officers took the
11 vehicle away for investigation.

12 *Snr. Det. Constable Adrian Neblett*

13 83. On Monday the 15th March 2010 Snr. Detective Constable Adrian Neblett
14 went with Constable Ennis to 27 Cinder Lane, the home of Jake Manderson
15 and the Defendant, Jordan Manderson. He went to collect a statement and
16 was told that Jordan Manderson was sleeping.

17 84. On Tuesday the 16th March he returned to 27 Cinder Lane, the Defendant's
18 house, and saw the Defendant lying on a bed with his left foot bandaged. His
19 foot was propped up on a pillow and Det. Neblett noticed two crutches next
20 to the bed.

21 85. Det. Neblett and Det. Ennis spoke to the Defendant in the presence of his
22 father and his brother about the report he made to the police on the 11th
23 March 2010 that he was shot in the left leg whilst walking down Birch Tree

1 Hill Road. Det. Neblett asked the Defendant what happened and the
2 Defendant said:

3 *“Andy Barnes was the person who shot me. He was wearing a black*
4 *leather jacket, a black leather jacket with a tear at the back. I see him*
5 *with it before L1 or in L1 Nightclub when he tried to drape me.”*

6 86. Det. Neblett recalled that the Defendant said:

7 *“Andy Barnes was the one who shot me. He made threats to me while in*
8 *Court.”*

9 87. Det. Neblett recalled that he had been in Court on the 22nd February 2010 and
10 had witnessed Andy Barnes threaten the Defendant. Det. Neblett told the
11 Defendant at that time that if he wanted to make a statement he could always
12 come along to the police station with his parents and make a statement.

13 88. On the 18th March 2010 Det. Neblett took a witness statement from the
14 Defendant, Jordan Manderson, in the presence of his father.

15 89. In his witness statement Exhibit 16 the Defendant said:

16 *“Andy Barnes was the one who shot me and he was wearing a black*
17 *leather jacket with a tear at the back. Our eyes were looking at each*
18 *other. I saw him clearly. I did not see him with anything at the time but*
19 *suddenly I heard a loud explosion like a gunshot and I saw reddish*
20 *sparks come from the gun. I suddenly felt that I was falling to the ground*
21 *and then I dropped to the ground. After I dropped to the ground Andy*
22 *Barnes ran past me and pointed the gun at me and I heard click click*
23 *click. It was a black coloured gun. From the noise I got the impression*
24 *that the gun either stuck or was empty. He then ran past me in the*
25 *direction of Barnett Close and disappeared.”*

1 90. Det. Neblett said that the Defendant had told him that at 6:55p.m.on the 11th
2 March he had left his residence at Cinder Lane to go and see his friend,
3 Dujon, who lives at the corner of Barnett Close and Birch Tree Hill. The
4 Defendant said he had not seen Dujon for a couple of days and he was
5 walking along, going to Dujon’s house, when Andy Barnes came out by the
6 corner of the chain link fence.

7 91. The Defendant continued in his statement that after being shot he had got a
8 lift in a van back to his home. The Defendant in his statement said he opened
9 the sliding door of the van and shouted “*Daddy Daddy they shot me.*” The
10 Defendant said he could not recall who the driver was and even though the
11 driver had got out of the vehicle he could not recall what he looked like, and
12 he did not see the driver and he did not have any discussion with the driver.
13 The Defendant in his witness statement said that Priscilla Mellard took him
14 and his father to George Town Hospital where he received treatment.

15 92. In cross examination Det. Neblett recalled that on the 22nd February 2010
16 Andy Barnes threatened the Defendant Jordan Manderson whilst they were
17 both in Court by saying,

18 *“I will shoot you in your fucking face pussyhole.”*

19 93. Det. Neblett said that they did go looking for the Defendant’s clothing, and
20 enquiries were made, and the Defendant’s mother allowed her home to be
21 searched without needing to obtain a search warrant.

22 94. Det. Neblett said when he took the statement he read it back to them – the
23 Defendant and the Defendant’s father – and they both signed it.

1 95. Having led the investigation into the reported shooting at Barnett Close and
2 Birch Tree Hill, Inspector Burton received a forensic analysis and
3 subsequently, on the 8th April 2010, went to the Defendant's mother's house
4 and arrested Jordan Manderson on suspicion of the murder of Marcos Duran.

5 Det. Sgt Ian Lavine

6 96. On the 12th April 2010 Detective Sgt. Ian Lavine was on duty at the interview
7 room at George Town Police station with Det. Constable Adrian Taylor and
8 the female Social Worker. He recalls the Defendant entering the room under
9 the escort of Auxiliary Constable Levy.

10 97. At 11:18 p.m. he formally charged and cautioned Jordan Manderson for the
11 offence of murder, to which the Defendant made no reply.

12 Det. Constable Paul Innis

13 98. Detective Constable Paul Innis was present at the four interviews with the
14 Defendant. In addition, he was shown the custody record in relation to the
15 Defendant at Central Police Station, namely Exhibit 21. Det. Innis noted that
16 there was an entry from Sgt. Lavine with reference to the Defendant, Jordan
17 Manderson, at 11:15 a.m. to confirm that Jordan Manderson was taken from
18 his cell by Auxiliary Constable Levy and escorted to the interview room.
19 Det. Innis also noted that the female social worker was present when Jordan
20 Manderson was formally charged.

21 99. Det. Innis recalled Monday the 9th April. He was at the interview room at
22 George Town Police Station with Det. Taylor, the Attorney at Law, Mr.
23 Lloyd Samson, and the social worker. He recalls the Defendant being there

1 with his attorney, Mr. Samson. Det. Innis said the interview was tape
2 recorded and they had four separate tapes.

3 *1st Interview*

4 100. Jordan Manderson was asked about his witness statement of the 18th March
5 2010. He agreed that in that statement he said Andy Barnes had shot him
6 near the intersection of Barnett Close. The Defendant said that everything
7 that he told the police in that statement was the truth. He said "*everything is*
8 *the truth.*"

9 101. In the statement he said he had a good look at Andy Barnes's face and he
10 saw him for a good minute. He said that Andy Barnes was about 20 feet
11 away from him when he shot him and ran. He described the gun that he was
12 shot with as a black gun, perhaps a .45 revolver with a spin barrel.

13 102. The Defendant said he was taken to the house by a van with sliding doors. It
14 was then revealed to him that the police had evidence that he was taken there
15 by a car and not by a van.

16 *2nd Interview*

17 103. He was asked if he knew Craig Johnson and he said 'no'. Asked again, "*You*
18 *are not mistaken, you are positive that you don't know Craig Johnson?*" The
19 Defendant said, "*Craig Johnson, I don't know that name.*"

20 104. He was asked why he did not submit to a standard procedure GSR test when
21 the police came to him on the 12th March. He replied that he was in too much
22 pain and he just could not deal with it at that time.

1 105. He was asked if he had ever been to Maliwinas Way off North West Point
2 Road and he said no, never heard of it. He was shown #28 Maliwinas Way in
3 the photographs and he said he had never seen it and it did not mean anything
4 to him. It was then put to him that they found his blood in Craig Johnson's
5 car and the Defendant said "*mistakes can happen.*"

6 106. The Defendant then admitted that he had gone to Maliwinas Way to buy
7 some weed. When he got there he saw two guys running and the next thing
8 he heard was "*bang bang bang*" and he dropped. He agreed that it may not
9 have been a van, but it may have been a white car that took him home.

10 107. He then said that Andy Barnes was with Damion Ming. He said they came
11 running to Maliwinas Way and he heard four or five shots and one of the
12 bullets hit him and then they drove off.

13 108. Toward the end of this, the 2nd interview, he said that he went to Maliwinas
14 Way with a man called George who was driving a blue car and he had gone
15 there to buy weed. He had \$10 and the other guy had \$25 and they put their
16 money together.

17 3rd Interview

18 109. The Defendant said it was a white car and not a van that took him back to his
19 father's house after the shooting. He said that he did not know anything
20 about the killing of Marcos Duran, nor did he see anyone being killed.

21 110. He accepted that a white car took him home. He told the police that it was
22 Andy Barnes who had shot him.

1 111. Later in the interview he said it was Damion Ming who had shot him with a
2 .38, whereas Andy Barnes had a .45 and they had left in a white Mazda car.

3 112. The Defendant said:

4 *“I tell you the truth now, I am not going to lie anymore. The whole thing*
5 *is the truth.”*

6 113. Asked by the police why he had previously said it was Andy Barnes who had
7 shot him when it was Ming who shot him, he said, *“Because Andy threatened*
8 *me.”*

9 *4th Interview*

10 114. The Defendant said he saw the guy who was killed coming down the stairs
11 and he saw Andy Barnes and Damion Ming running to him. He said Ming
12 ran up the stairs and shot the man and then shot him, the Defendant.

13 115. In relation to the black jacket he said he did not recall wearing a black jacket.

14 116. He admitted that he had told the police that he never went to Maliwinas Way
15 and then later changed his story and said that he did go.

16 117. He said he went there with this other guy to look for Mark.

17 118. Asked why did he not tell the police about this earlier and the Defendant
18 replied:

19 *“I tell you all I just frightened and I did not know what to say.”*

20 In addition the Defendant said later,

1 *"I don't know why, I don't know why, I all frightened up, I too*
2 *frightened."*

3 119. It was put to the Defendant that he changed his story on three different
4 occasions. The Defendant said he was *now* telling the truth.

5 120. The police said that they found gunpowder on his jacket. The Defendant said
6 he did not know what the police were talking about.

7 *Det. Constable Anderson Taylor*

8 121. Detective Constable Anderson Taylor was present at the interview on the 9th
9 April 2010 with Attorney Lloyd Samson and the female Social Worker, and
10 he said he was there when Mr. Innis conducted the interview in accordance
11 with the Judge's Rules and with a tape recorder.

12 122. It was put to him that he, Det. Taylor, went and collected the Defendant from
13 his cell and that he said to him,

14 *"If you don't tell us who killed the man we will come back and fuck you*
15 *up."*

16 123. Det. Taylor denied this allegation. He also denied that there was tall young
17 female inspector there at the same time.

18 124. Again in cross examination he denied taking Jordan Manderson back to his
19 cell and again denied that he said:

20 *"If you don't tell us who killed the man we will come back and fuck you*
21 *up."*

1 128. Mr. Greenspan said that SB10, SB12 and SB50 were from bullets which
2 were of a totally different calibre. His evidence was that those were much
3 smaller and they were .22 calibre bullets.

4 129. Under cross examination Mr. Greenspan identified SB12 as the bullet which
5 was lodged in the head of the deceased. Mr. Greenspan agreed that the
6 minimum number of firearms discharged to produce the Exhibits would be
7 two, and the maximum would be possibly six, as the items could be
8 discharged through different firearms.

9 130. Mr. Greenspan accepted in cross examination that the items he examined
10 were capable of being kicked inadvertently or picked up by a shoe and
11 dropped. Consequently it was possible that they could have moved from one
12 place to another. In other words, the witness accepted that there could have
13 been movement of items he had examined, save for the bullet lodged in the
14 deceased's eye.

15 131. Mr. Greenspan accepted that it was possible that three guns could have fired
16 the .22, and one could have fired the .38.

17 Kevin Noppinger

18 132. Kevin Noppinger is an expert forensic scientist with a specialty in examining
19 and testing for DNA. He produced four reports for the RCIPS. Some of Mr.
20 Noppinger's evidence was challenged by the Defence expert Dr. Denise
21 Syndercombe Court, but for the purposes of this Ruling I do not require an
22 examination of the differences in their opinions.

- 1 133. The first significant item was Exhibit 23 – formerly SB9, which was the grey
2 tam, which was found on top of the stairs on the landing outside apartment
3 #7. On the interior of this tam no blood was detected, but on examination
4 there was a mixture of at least two males, namely the deceased, Marcos
5 Duran, and the Defendant, Jordan Manderson, on the interior of the tam.
- 6 134. On the exterior of the tam Mr. Noppinger noted that blood was detected. He
7 also found a DNA profile with a mixture of at least three males. Again, he
8 said the DNA matched the deceased, Marcos Duran, and the Defendant.
- 9 135. Exhibits 25 and 26 – formerly SB16 and SB17 – were swabs taken from the
10 4th and 2nd steps leading to apartment #7.
- 11 136. He found blood on both these swabs matching the DNA profile of Jordan
12 Manderson.
- 13 137. Mr. Noppinger examined SB26 which was a swab from a copper-tip bullet
14 SB10, Exhibit 5. He said he found blood and DNA matching the deceased,
15 Marcos Duran.
- 16 138. The next item was SB60 – a swab from the copper jacket of a bullet – SB7.
17 This was Exhibit 37. There was blood on it. Mr. Noppinger found a DNA
18 profile that matched the Defendant.
- 19 139. Exhibit 43 – formerly LT4 – was a white T-shirt. On this Mr. Noppinger
20 found evidence of blood and evidence that the Defendant’s blood was on the
21 back collar of the T-shirt.

1 140. Exhibit 44 – formerly LT6 – was the black fleece jacket. Mr. Noppinger said
2 there was blood on the jacket and the DNA matched that of the Defendant,
3 Mr. Manderson.

4 Det. Constable Joanne Woods

5 141. Detective Constable Joanne Woods is an Intelligence Analyst with the
6 RCIPS and she has a First Class Honours Degree in Mathematics.

7 142. She gave evidence with the use of Exhibit 13, which was a map of West Bay,
8 setting out the LIME cell site masts, namely LIME 901 and 902, as well as
9 Exhibit 14, which was a document produced by Woman Constable Woods
10 relating to the sequence of telephone calls on the evening of the 11th March
11 between 17:30 (5:30 p.m.) and 23:00 (11:00 p.m.)

12 143. Woman Constable Woods interrogated the telephones of Raziel Jeffers,
13 Craig Johnson, and the Defendant, Jordan Manderson, and was able to
14 identify when calls were made and to which phones the calls were made. As
15 a result, she was able to produce a chronology of telephone calls.

16 Chronology of Telephone Calls

17 144. At 5:57 p.m. on Thursday the 11th March 2010 Raziel Jeffers's telephone was
18 at Harquail/7 Mile Beach mast when it called Craig Johnson.

19 145. At 6:14 p.m. Raziel Jeffers's telephone was located in West Bay mast 902
20 and received a call from a third party.

- 1 146. At 6:20 p.m. Jordan Manderson's telephone was linked to West Bay mast
2 902 and he received a call from Raziel Jeffers's telephone which was located
3 at either West Bay mast 902 or Papagallo mast 903.
- 4 147. At 6:42 p.m. Craig Johnson's telephone was in West Bay mast 902.
- 5 148. At 6:48 p.m. Craig Johnson's telephone received a call from Raziel Jeffers's
6 telephone.
- 7 149. At 6:57 p.m. Jordan Manderson's telephone received a call from Raziel
8 Jeffers's telephone in West Bay.
- 9 150. Officer Woods confirmed that there was a 17-minute period of inactivity on
10 the telephones of Raziel Jeffers, Craig Johnson and the Defendant, Jordan
11 Manderson.
- 12 151. At 7:17 p.m. the Defendant's telephone is at North West Point Road mast
13 901 and he received a call from his brother, Justin Manderson.
- 14 152. Between 7:18 p.m. and 7:20 p.m. there are three calls between Raziel
15 Jeffers's phone and Craig Johnson's phone, and all phones, are in North
16 West Point Road mast 201 area.
- 17 153. At 7:24 p.m. Jeffrey Ebanks makes the first call to 911 regarding the
18 shooting at Maliwinas Way.
- 19 154. At 7:25 p.m. Rita Martinez calls 911.
- 20 155. At 7:27 p.m. Raziel Jeffers's phone calls Samantha Grant's phone to contact
21 Meagan Martinez.

1 McCarthy rejected this suggestion and said Damion Ming did not leave the
2 yard. She recalled Damien Ming saying he was definitely not going out
3 because he does not want to be blamed, because he got the blame for every
4 little thing that happens in West Bay.

5 Christopher Perry Bush

6 161. Christopher Bush lives at #48 Glade Drive in West Bay with his father and
7 his stepmother and other brothers and sisters. He also recalled Thursday the
8 11th March 2010. He said that at that time Andy Barnes was also staying with
9 him. He said Andy was wearing short pants, no shirt and no shoes and they
10 were sitting outside the house listening to music. He recalled that at about 8
11 p.m. Andy Barnes received a telephone call and, as a result of that call, he
12 called "*the Commissioner of Police*". He said Andy Barnes was with him the
13 entire evening.

14 Perry Bush

15 162. Perry Bush is the father of Christopher Bush. He also lived at #48 Glade
16 Drive. He recalled the 11th March 2010 and that he returned home at about 1
17 p.m. He said at the house at that time there was his son Christopher and their
18 children, and also Andy Barnes. He said Andy Barnes had been staying with
19 him since his baby had been killed in February. He said they were sitting out
20 at the back listening to music and playing some video games. He recalled
21 Andy Barnes being upset because he received a telephone call. He said that
22 someone had got shot and Andy Barnes's name was being called. He recalled
23 Andy Barnes trying to call Peter Kennett. He said the telephone call was
24 sometime between 8 p.m. and 9 p.m. – probably 9:30 p.m. He said Andy

1 Barnes did not get through to the gentleman but he left a message on his
2 voicemail.

3 Natasha Thompson

4 163. Natasha Thompson is the sister of Andy Barnes. She recalls the 11th March
5 2010 and she said she got home a little after 5 p.m. She said sometime
6 around 7:45 p.m. she received a message that there had been a shooting in
7 West Bay. She called her brother on his phone around 8 p.m. – shortly after
8 she got the message. She said she got through to him on the 3rd attempt and
9 she spoke to him. In the background she said she could hear Andy Barnes’s
10 children playing – namely, Jamoul and Zaire. She said “*I knew it was them, I*
11 *know their voice[s]*” The only other person with whom she spoke was her
12 sister.

13 Chief Inspector Peter Kennett

14 164. Chief Inspector Peter Kennett recalled that on the 11th March 2010 he
15 received notification of two shooting incidents that occurred in West Bay. In
16 addition he recalled receiving a call from Andy Barnes at around 9 p.m.

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1 *Summary of the Crown's Case*

2 165. To summarise the Crown's case, it is put to the Court that:

3 a. There was a planned joint enterprise between Raziel Jeffers, the
4 Defendant, Jordan Manderson, and at least one other to rob Mr. Duran,
5 the deceased, and, in carrying out the robbery, Mr. Duran was shot and,
6 consequently the Defendant was charged with the murder.

7 b. Raziel Jeffers had stayed at Apt #7 of #28 Maliwinas Way and knew of
8 the visits by Mr. Duran and the days and times of those visits.

9 c. The Crown points to Raziel Jeffers's calls Jordan Manderson at 6:20
10 p.m. and 6:57 p.m. on the 11th March 2010 in connection with this plan.

11 d. Craig Johnson is there to take the Defendant away from the scene of the
12 crime in his girlfriend's white Honda Accord, Registration Number
13 Q3169.

14 e. Raziel Jeffers is picked up by his girlfriend at Ebanks Road, out of
15 breath, nervous and with scratches on his arm after Mr. Duran has been
16 killed.

17 f. Raziel Jeffers instructs Meagan Martinez to give the police a false
18 statement blaming the Logwood Boys

19 g. The telephone evidence is that Raziel Jeffers, the Defendant, and Craig
20 Johnson are all in West Bay on that evening. At 18:57 Jeffers's phone
21 and the Defendant's phones are linked to West Bay mast 902. At 19:17

- 1 the telephones of Raziel Jeffers, the Defendant and Craig Johnson are all
2 at Northwest Point Road mast 901.
- 3 h. Mr. Duran is murdered at around 19:20 and the first call is from Mr.
4 Ebanks to 911 at 7:24 p.m. (19:24).
- 5 i. The Defendant's DNA is on the 2nd and 4th steps of the stairway leading
6 up to apartment #7 at #28 Maliwinas Way.
- 7 j. The Defendant's DNA is on bullet parts found on the landing (balcony
8 area) where the deceased fell.
- 9 k. A wool tam is found at the scene with the Defendant's DNA as well as
10 the deceased's DNA, which the Crown says irresistibly means that there
11 is contact between the Defendant and the deceased at the time of the
12 murder and shows the active part played by the Defendant in the murder
13 of Mr. Duran.
- 14 l. The Defendant is shot on the stairs leading up to Apartment #7.
- 15 m. Exhibit 9 is a copper tipped bullet of a .22 calibre weapon found on the
16 landing outside apartment #7 and the Defendant's blood is on this
17 Exhibit.
- 18 n. Exhibit 3 is a casing for a .38 calibre weapon.
- 19 o. In addition Mr. Bolan, who spent 7 ½ years in the US military said there
20 were least two types of guns at the scene – one large and one small. So,
21 by his account, there are at least two firearms, with the inference being

1 that there were at least two persons engaged in the robbery and in the
2 killing.

3 p. The deceased received 3 different bullet wounds – one through the head,
4 one in the left eye, and one in the 5th finger of the right hand.

5 q. The deceased is shot on the landing, all the blood is around him, and
6 parts of his brain and hair are scattered on the landing.

7 r. A male person is seen running from the scene to the back of #28
8 Maliwinas Way.

9 s. The Defendant returns to his home with an unusual injury, namely the
10 gunshot entering on the inner part of his left leg and exiting on the
11 middle to the lower part of the left leg.

12 t. The Crown points to the attempts by the Defendant to dispose of his own
13 clothing.

14 u. The Defendant's account that he was shot by Andy Barnes and Damion
15 Ming is contradicted by the alibi evidence of Barleigh McCarthy in
16 relation to Ming, and by Perry Bush, Christopher Bush, Natasha
17 Thompson and Chief Inspector Kennett in relation to Andy Barnes.

18 166. In addition, the Crown also places before the Court the conduct of the
19 Defendant:

20 a. The Defendant made no calls for help or to 911;

21 b. The Defendant said he did not know anyone was shot until the next day;

- 1 c. The Defendant's account of the previous threats made to him by Andy
2 Barnes, and then his several varied accounts of how and where he was
3 shot and whom he was shot by;

- 4 d. On the 11th March 2010 at 7:45 p.m. Aaron Hydes hears the Defendant
5 telling his father, Jake Manderson, that Andy Barnes shot him in the leg;

- 6 e. At sometime after 2:15 p.m. on the 12th March 2010, whilst the
7 Defendant is in the hospital bed, he tells Detective Sgt. Jones that he was
8 walking along Birch Tree Hill Road in the vicinity of Barnett Close when
9 Andy Barnes comes out of bushes, wearing a hoodie, but no mask, and
10 shoots him and runs down Barnett Close;

- 11 f. On the 16th March 2011 the Defendant told the police that he had been
12 shot in his left leg while walking along Birch Tree Hill Road;

- 13 g. In his Witness Statement, Exhibit 16, dated the 18th March 2010, the
14 Defendant said he walked to the end of Captain Joe and Osbert Road,
15 where it meets Birch Tree Hill Road, and then he walked to Dujon's
16 house. He reached the end of the wire fence, which is at the beginning of
17 Barnett Close, and he saw the person coming from about 50feet away.
18 The Dcfendant said nothing was obstructing his view and he saw the
19 person clearly. The person was dressed in full black – leather jacket,
20 black pants and black shoes. He said the collar of the jacket was up and it
21 had long sleeves. He then saw it was Andy Barnes. He said,

22 *“Our eyes were looking at each other and I saw him clearly. I*
23 *did not see him with anything at the time but suddenly I heard a*

1 *loud explosion like a gunshot and I saw a reddish spark coming*
2 *from the gun. I suddenly felt that I was falling to the ground and*
3 *then I dropped to the ground. After I dropped to the ground Andy*
4 *ran past me and pointed the gun at me and I heard click click*
5 *click. It was a black handle gun. From that noise I got the*
6 *impression that the gun was either stuck or empty.”*

7 The Defendant gave this statement in the presence of his father.

- 8 167. The Crown also places before the Court the Defendant’s Questions and
9 Answers to the police, which is Exhibit 20.
- 10 a. The Defendant initially says it is Andy Barnes who shot him at Birch
11 Tree Hill Road. When he is told that his DNA was found at Maliwinas
12 Way he admits that he was at Maliwinas and that Andy Barnes shot him
13 there;
- 14 b. The Defendant says that both Andy Barnes and Damion Ming came with
15 the guns to Maliwinas Way on the 11th March and Ming went up the
16 stairs to a landing and then he, the Defendant, heard 3 shots, and then
17 there were more shots – after which he felt that he had got shot. He said
18 he had been shot by Andy Barnes who had stayed on the ground;
- 19 c. In Court, the Defendant’s evidence is that it was Andy Barnes and
20 Damion Ming who came. Damion Ming went up the stairs, then there
21 were shots and more shots, and he “collected one” and he thinks that it
22 was Andy Barnes who shot him.

1 168. The Crown submits that the Defendant's evidence about going with George
2 to buy ganja with Mark is untrue.

3 169. The Crown submits that the Defendant's evidence that he tried to hide and
4 duck down on the steps is not true.

5 170. The Crown submits that the Defendant has lied on so many points and the
6 Court can take this into account in corroborating and supporting the case
7 against the Defendant.

8 171. The Crown submits that the series of facts and circumstances, when taken
9 together, lead to an irrefutable conclusion that the Defendant is guilty.

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Evidence on Behalf of Defence

172. The Defendant said he had left school at 16 years of age, then did some plumbing work with his uncle and worked on the boats taking tourists to Sting Ray City with his father and his uncle.

173. The Defendant told his counsel that he would drink alcohol almost every day and also smoked ganja every day. He said most of the time when he is with his friends he would smoke “weed” and drink liquor and play games, and sometimes play football.

174. The Defendant said he had no previous convictions.

175. Now, there is a Direction under law relating to Good Character:

Direction on Defendant's Good Character

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176. The Defendant, Jordan Manderson, is a young man who was 16 years old when Marcos Mauricio Duran was murdered, and he is now 18 years of age. The Defendant is a man of previous good character, in that he has no convictions recorded against him.

177. Of course, good character cannot by itself provide a defence to this charge, but it is evidence which I should take into account in the Defendant's favour in the following way.

178. He is a young man without previous convictions, and this is relevant to my consideration of the case.

179. In the first place, Jordan Manderson has chosen to give evidence and not to exercise his right to remain silent and, as with any young man of good character, it supports his credibility. This means that this is a factor which I should take into account when deciding whether or not to believe his evidence at this trial.

180. Secondly, the fact that the Defendant is of previous good character may mean that he is less likely than otherwise might be the case to commit the crime with which he is now charged.

1 181. Continuing evidence on behalf of the Defence:

2 182. The Defendant recalled that after the shooting of Carlo Webster on the 10th
3 September 2009, Andy Barnes began threatening him and threatening his
4 mother and his father. He said the reason Andy Barnes was doing this was
5 because Carlo Webster was a good friend of Andy Barnes, and it was
6 suspected that Devon Anglin, who is a friend of the Defendant, was the one
7 responsible for killing Carlo.

8 183. The Defendant said that on the 8th January 2010 he was at a Nightclub when

9 *“Andy Barnes came up and draped me by my shirt, took me into the*
10 *bathroom and said if I don't stop hanging out with Devon Anglin he was*
11 *going to kill me and kill my family.”*

12 The Defendant also said Andy Barnes told him on that occasion that he
13 had a new gun, an AK.

14 184. The Defendant said that on the 18th January 2010 his mother and his mother's
15 boyfriend received a phone call to say that:

16 *“...people were coming to shoot up the house.”*

17 At that time Andy Barnes had threatened him with a rifle and said:

18 *“Pussyhole you are going to be dead tonight.”*

19 185. On the 15th February 2010 Andy Barnes's son, Jeremiah Barnes, was shot
20 and killed and the Defendant said that Andy Barnes was after him more

1 intensely since that time because of the Defendant's association with Devon
2 Anglin.

3 186. The Defendant was arrested on the 20th February 2010 for another offence
4 and shortly after that, on the 22nd February 2010, Andy Barnes threatened the
5 Defendant again whilst they were down in the cells waiting to come to Court.
6 That Defendant said that on that occasion Andy Barnes said to him:

7 *"Pussyhole you kill my baby, I am going to shoot you in your face when*
8 *you come out."*

9 187. The Defendant said that on the 11th March 2010, the date Marcos Mauricio
10 Duran was killed, he, the Defendant, was at home, on bail for another offence
11 sitting around, sleeping and eating. He was wearing a black T-shirt with a
12 white smiley face and red hearts, which had short sleeves. He said he wore a
13 shirt underneath the T-shirt. He said he was not wearing a jacket nor was he
14 wearing a hat. He said the only time he would wear a hat or a cap would be
15 when attending a Nightclub. He said he also had on jeans pants with white
16 and black stripes, and he was wearing his earrings. The Defendant said he
17 recalled that late that afternoon he had a Coors Lite drink while outside.

18 188. The Defendant said that at 6:55 p.m. he left the house to go and get some
19 ganja and so he decided to check his friend Dujon and then go to look for
20 Mark.

21 189. On his way to Dujon's house the Defendant said he met George at the
22 intersection of Captain Joe and Osbert Road near Barnett Close. The
23 Defendant said George was driving a blue Honda Civic and it was a chance

1 meeting. The Defendant said George said “Where can I buy some weed” and
2 so the Defendant got into the car and he went with George to Maliwinas
3 Way. The Defendant said he had \$10.00 on him and George had \$25.00 so
4 they amalgamated their funds for the purchases of the weed. The Defendant
5 said

6 *“I got into George’s car and went down to Maliwinas Way.”*

7 The Defendant said they drove to #28 Maliwinas Way and parked on the
8 left side of the building, at what has been known as the 3-window side of
9 the building.

10 190. The Defendant said he had the money in the pocket of his jeans pants when
11 he got out of the car and walked across the parking lot on to the grass and
12 round the other side of the building. The Defendant said he started shouting
13 for Mark and whistling. The Defendant said he had previously been to
14 purchase weed from Mark on a couple of occasions. The Defendant said
15 Mark is a Caymanian in his thirties.

16 191. The Defendant said he was still looking for Mark and he was at the front of
17 the building when he saw two guys coming towards him with guns. The
18 Defendant said the guys were Andy Barnes and Damion Ming. The
19 Defendant said he could see them both and he could see Damion Ming’s
20 face. The Defendant said they both had revolvers and they were pointing the
21 guns at him. The Defendant said they were both dressed in black and Andy
22 Barnes had a hoodie but he, the Defendant, could see Andy Barnes’s face and
23 he had dreads hanging out.

1 192. The Defendant said he thought Andy Barnes and Damion Ming were going
2 to shoot him so he ran to the steps and then ducked down. Asked why did he
3 duck down, the Defendant responded that he was scared.

4 193. The Defendant said Damion Ming ran past him and ran to the top of the stairs
5 and that's when he suddenly heard gunshots. The Defendant said he did not
6 know how many gunshots he heard at first, but then he heard a few more
7 shots and that's when he "picked one up" – meaning a bullet hit him.

8 194. Asked by his counsel if he knew for sure who fired the shot that hit him, the
9 Defendant responded "No, Sir." His counsel asked, "*Who do you think did*
10 *it?*" and the Defendant replied,

11 "*Andy Barnes, because he was closer to me than Ming.*"

12 The Defendant could not recall what angle he was shot from, but he
13 recalled he felt burning and pain. The Defendant said he tried to walk
14 down the stairs but he fell on the ground, and then Ming ran past him and
15 both Ming and Barnes ran off.

16 195. The Defendant said that as Ming passed him he tried squeezing his gun, and
17 he, the Defendant, only heard "click click click."

18 196. The Defendant said he had not seen Mr. Duran, nor did he see him that night.
19 The Defendant said Andy Barnes and Damion Ming drove off in a white
20 Mazda out of Maliwinas Way towards the sea and the main road.

21 197. The Defendant said he felt his leg could have been broken and there was
22 pain, with blood coming out, and he was screaming and shouting and he

1 hopped to George's car. The Defendant said he got into the front seat and he
2 was screaming and crying and he felt he was going to die. The Defendant
3 said he then asked George to take him home.

4 198. The Defendant said they drove along North West Point Road on to
5 Boatswain Drive and on to Finch Drive, and to the top of Captain Joe and
6 Osbert Road, where they stopped by Dujon's yard. The Defendant said:

7 *"I asked him to take me to me Daddy's and he said no. He tried to push*
8 *me out. He said he did not want to get involved. He took off his T-shirt to*
9 *try and stop the bleeding."*

10 199. He told his counsel that he initially thought it was a van that stopped to take
11 him home, but he now remembered it was a car and there was only one
12 person in the car, and that was Craig Johnson. The Defendant said Craig
13 Johnson took him from Barnett Close down Captain Joe and Osbert Road
14 and on to Cinder Lane. The Defendant said when he reached to Cinder Lane
15 his Daddy and his uncle were there and he, the Defendant, saw Aaron Hydes
16 walking down the road. The Defendant said when he got out of the car his
17 father and uncle helped him to a chair and the Defendant said he told them
18 that Andy Barnes had shot him. The Defendant said he has a cousin called
19 Priscilla who came by in a van and they decided to take him to the hospital.

20 200. The Defendant was asked about the grey tam and he said that as far as he was
21 aware he never touched the tam and he had never seen it. Asked how his
22 DNA got on it, the Defendant said he did not know. Asked how his blood got
23 on SB59 and SB60 – Exhibits 36 and 37, which are the swabs from the piece
24 of lead and the copper jacket of the bullet, the Defendant replied,

1 *“that must have been the bullet that caught me and went through my*
2 *leg.”*

3 With respect to the T-shirt the Defendant said he had tied it around his
4 leg to try and stop the blood. The Defendant said it was quite likely that
5 his blood was found in Priscilla Mellard’s Honda Odyssey and in the
6 white Honda Accord that Craig Johnson drove.

7 201. Asked about the call he received from Raziel Jeffers at 18:20 on the 11th
8 March 2010, the Defendant said they were just friends and it was just a call
9 like any other call.

10 202. Asked why did he tell Sgt. Jones that he was shot walking along Birch Tree
11 Hill Road towards the direction of Captain Joe and Osbert Road at the
12 intersection of Barnett Close: The Defendant acknowledged that was not true
13 and said that the reason he told a lie was because he was outside his curfew
14 and he did not want to be found too far from home, and also he knew about
15 the murder and he did not want to be charged with murder.

16 203. Asked why he did not submit to the GSR test on the 12th March, the
17 Defendant said,

18 *“I told them I just did not want anybody touching me and I was in a lot of*
19 *pain. I told them I did not want them touching me then but they could*
20 *come back the next day.”*

21 204. Asked about the 16th March when he again told the police that Andy Barnes
22 had shot him, the Defendant said that he did not tell the truth then nor did he

1 tell the truth in his statement on the 18th March because he did not want to
2 get involved.

3 205. The Defendant said in examination in chief that Officer Taylor had told him
4 that if doesn't tell the truth

5 *"they would come back and fuck me up. Before and after the interview*
6 *they were threatening me."*

7 206. The Defendant told his counsel that he did not tell the truth because he did
8 not want to get his bail revoked and he did not want to be charged with
9 murder.

10 207. Asked why he changed his mind and ultimately tell the police that he was at
11 Maliwinas Way, the Defendant said,

12 *"Because they found my DNA at the crime scene."*

13 208. Asked who did the shooting he said,

14 *"I couldn't tell you, it all happened too quickly."*

15 209. The Defendant denied shooting Marcos Duran. Asked if he had anything to
16 do with Marcos Duran being shot, the Defendant said, *"No."*

17 210. Asked "Who do you believe shot you?" and the Defendant replied,

18 *"I can't definitely tell but it was definitely either Andy Barnes or Damion*
19 *Ming."*

1 211. Under cross examination the Defendant admitted that he did not tell the
2 police the truth and he said:

3 *“...it did not make any more sense, and also they found his DNA at the*
4 *crime scene.”*

5 The Defendant also said he did not want to name Damion Ming because
6 he lived beside him and he was scared of him.

7 212. The Defendant was asked why was he scared of Damion Ming when Damion
8 Ming was already dead the Defendant responded:

9 *“He still afraid to call his name.”*

10 213. Under cross examination he was asked, “But if you are a witness and a
11 victim, what were you afraid of?” the Defendant replied:

12 *“Nowadays a lot of informers get killed for nothing.”*

13 He said he was afraid of being killed for informing on Damion Ming or
14 Andy Barnes.

15 214. In relation to the threats: The Defendant was reminded that Officer Neblett
16 said that he could make a statement. The Defendant responded that he did not
17 give a statement because he was afraid – afraid of Barnes and Ming.

18 215. Asked by Ms. Richards why did he run to the steps, an open area, which
19 were near to the light, when he saw the men coming – why did not run
20 behind the building or behind the bush. The Defendant responded that he did
21 not think about it but at the time he thought it was the best spot. He said he

1 just kept moving from side to side. When he was ducking down he said he
2 saw Ming on the stairs.

3 216. The Defendant said that when he was ducking down he closed his eyes and
4 he heard five shots and at that time he did not know that anyone else had
5 been shot or injured.

6 217. Asked why did he not call 911 after he was shot, the Defendant said because
7 he was in shock.

8 *“I didn’t think to call 911 to get an ambulance. I just wanted to get out of*
9 *there.”*

10 218. Asked why he did not ask George to call the ambulance, the Defendant said,

11 *“I never really know George, I just see him now and then.”*

12 219. Asked about the black jacket, the Defendant said that he did not use the
13 jacket to tie his leg and he added that he did not know which jacket Ms.
14 Richards was talking about.

15 220. Asked about the gunpowder on the jacket, he said he was not concerned
16 because the jacket was not *“for him [his]”*.

17 221. The Defendant said that he thought the gun was a .45. The Defendant
18 explained to Ms. Richards,

19 *“You have 45’s you have 38’s. The 38 is a revolver and the 45 is clutch*
20 *back. You pull it back on the top to select which bullet.”*

1 222. The Defendant said he did not refuse to allow the police officer to do a GSR
2 test. The Defendant said he was in a lot of pain and wanted the officer to do
3 it the next day.

4 223. Under cross examination the Defendant said he recalled seeing the reddish
5 spark coming from Andy Barnes's gun. That was when Barnes was at the
6 bottom of the stairs. He said that Andy Barnes did not go up the stairs.

7 224. Asked about his lies – about the van and the sliding door he said,

8 *“I did not know what side it was or what kind of vehicle it was.”*

9 225. Questioned about the telephone calls from Raziel Jeffers, the Defendant said
10 he did not recall the call at 6:20 p.m. on the afternoon of 11th March 2010.

11 226. But the Defendant did recall the call at 6:57 p.m. The Defendant said the call
12 was of *“no big thing”* because he and Raziel Jeffers are just friends and he
13 can't remember the words Jeffers said *“after all, it was a year and two*
14 *months ago.”*

15 227. The Defendant also remembered the call from his brother at 19:17 (7:17
16 p.m.). The Defendant said his brother called him to say there had been a
17 shooting at Mount Pleasant and he was just checking if the Defendant was
18 alright.

19 228. Asked by Ms. Richards why he gave a different response to the police about
20 the call from his brother – different from the one he gave to the Court. The
21 Defendant said he was confused. He had told the police his brother had
22 called him because he had heard that someone had got killed and he was

1 asking if he, the Defendant, was alright. However, in response to Ms.
2 Richards he said his brother did not call because he had heard that somebody
3 got killed but because he wanted to find out if he was alright.

4 229. Asked why Mr. Jeffers would call about 6:20 p.m. for 37 seconds and then
5 again at 6:57. The Defendant again said,

6 *“We were just friends. It’s not a big thing. I guess we just call each*
7 *other.”*

8 230. The Defendant admitted taking hard liquor everyday and smoking ganja
9 every day.

10 231. Ms. Richards asked the Defendant about guns and he said he was always
11 interested in guns and had looked them up on the computer.

12 232. Asked how he heard about the \$9,000.00 - reminding the Defendant that he
13 had told the police that he had heard it on the news, and then he told the
14 police he had heard it on the radio, but he did not recall on which station: The
15 Defendant told Ms. Richards that he had heard it on the radio but he had also
16 heard it from people, but he did not hear it *“on the news”*.

17 233. Asked specifically about the \$9,000.00 the Defendant said:

18 *“Well, people were telling me that part.”*

19 Asked if his information about the \$9,000 had come from the radio the
20 Defendant responded:

1 *“No. I just heard it from people and friends and from people who came*
2 *into the hospital.”*

3 234. The Defendant denied that he, Raziel Jeffers, and others, had planned to rob
4 the deceased. The Defendant said he knew nothing about any plan. It was put
5 to the Defendant that Raziel Jeffers knew that the deceased sold numbers and
6 knew that the deceased visited that location. The Defendant denied knowing
7 anything about that.

8 235. It was put to the Defendant that he left home at 6:55 p.m. that evening with a
9 view to carrying out the robbery. The Defendant replied, *“I don’t know*
10 *anything about that.”*

11 236. It was put to the Defendant that he did not go to buy drugs but that he went to
12 carry out the robbery and that he went for a gun. The Defendant denied this.

13 237. It was put to the Defendant that he and at least one other person went armed
14 with guns, and they went up the stairs after the deceased man. The Defendant
15 denied this.

16 238. It was put to the Defendant that he got into a struggle with the deceased and
17 in the struggle he, the Defendant, was shot, either by the other man, or by
18 himself, based on the entrance and exit angles of the bullet, trying to rob the
19 deceased and then fired shots at the deceased, killing him. It was suggested to
20 the Defendant that either he or the other man, who was in the joint enterprise
21 robbery, who had a firearm, both fired shots at the deceased, killing him. It
22 was suggested to the Defendant that the only reason he knew about the
23 \$9,000.00 was because he was present at the robbery, and he actively

1 participated in the robbery, and that is why his DNA is on the tam. The
2 Defendant denied all this.

3 239. The Defendant denied making up the story about George and Mark, and he
4 denied trying to put the blame on Andy Barnes to cover up his own activity.
5 The Defendant denied that Craig Johnson was a part of the plan and denied
6 that Craig Johnson picked him (the Defendant) up after he had been shot.
7 The Defendant disagreed.

8 240. The Defendant disagreed that he disposed of his black jacket because he was
9 scared that GSR would be found on it.

10 241. It was later put to the Defendant that he disposed of the T-shirt and his pants.
11 The Defendant disagreed. The Defendant disagreed with the suggestion that
12 he tried to mislead the police.

13 242. It was put to the Defendant that his evidence blaming Andy Barnes was just
14 part of a plan with Raziel Jeffers to blame the Logwood Boys and the
15 Defendant disagreed with this. It was put to the Defendant that he was still
16 not telling the truth, and again he disagreed. The DPP put to the Defendant
17 that the only reason he was not telling the truth was to make it appear that he
18 was not party to the murder. The Defendant disagreed.

19 *Pauline Annmarie Russell*

20 243. On the 11th March 2010 Pauline Annmarie Russell lived at an apartment at
21 #28 Maliwinas Way. She gave a statement to the police on the 14th March.
22 She recalled coming home on the 11th March 2010 from work at about 4 p.m.
23 She said that sometime after 7 p.m. she was on her laptop in her bedroom

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when she heard an explosion, which sounded like somebody banged an iron.
With that, she went outside and she heard a woman crying "*Marcos Marcos*"
and she heard her on the phone saying, "*Come. A man has got shot at my
door.*"

244. Ms. Russell said she saw another lady going up the stairs and she, the
witness, went up the stairs along with the lady. She said she saw the deceased
lying on the landing, lying on his stomach with his head turned to the side
and she ran back down the stairs.

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Summary of Defence Case

245. The Defence asks the question: What is the evidence in the trial that Raziel Jeffers organised the robbery and therefore participated in the robbery.

246. Although it would appear that calls from Raziel Jeffers to Jordan Manderson, and calls from Raziel Jeffers to Craig Johnson indicated that he was at the Northwest Point Road mast 901, the Defence says one cannot be precise as to whether a phone is in sector II or sector III or in the green area between sector II and sector III.

247. The Defence submits that there is no evidence of what exactly the participants in the joint enterprise did. The Defence submits that there is evidence against Raziel Jeffers that he was near the scene shortly after Mr. Duran was murdered and called Meagan Martinez at sometime after 8 p.m. and sounded nervous and out of breath, and she could hear the sirens of the emergency vehicles.

248. Meagan Martinez and Samantha Grant picked up Raziel Jeffers at Ebanks Road and drove him to another house around Dolphin Point.

249. Kevin Bolan sees only a silhouette or a shadow of a person running round the side of the building at #28 Maliwinas Way away from the scene of the murder.

250. In relation to Raziel Jeffers instructing Meagan Martinez to make a statement to the police to suggest that it was Logwood Boys who did the shooting: Meagan Martinez said she made a statement. The Defence says this is indicative of someone who is lying, because in her earlier witness statement

1 she said that the instruction was to contact Rita Martinez and ask her to make
2 that allegation. Furthermore, no witness statement has surfaced. Accordingly,
3 the Defence says that the conclusion is that Meagan Martinez lied on this
4 particular issue.

5 251. In any event, the Defence submits that there is no evidence in any form that
6 anyone asked the Defendant to tell anybody that the blame should be placed
7 on the Logwood Boys.

8 252. The Defence asks the following questions:

9 A. Where is the evidence that Raziel Jeffers organised the robbery?

10 B. Who was he organising to do the robbery?

11 C. Who supplied the guns?

12 D. Who had a gun?

13 E. Who fired the three shots that killed the deceased?

14 253. The Defence submits that there is a paucity of evidence and these questions
15 would have to be answered before the Court could find Jordan Manderson
16 guilty of murder as charged.

17 254. The Defence submits that the only evidence the Crown has are the scratches
18 to Raziel Jeffers's arms, which may be suspicious, but are not evidence of
19 taking part in the robbery and the murder.

20 255. The Defence also asks what is the evidence in this trial of the active
21 participation of another or others – in addition to the Defendant – in the

- 1 robbery, which the Crown say went badly wrong, and concluded with
2 Marcos Duran being shot three times.
- 3 256. The Defence submits that the Crown must present its case on the basis that
4 there were other active participants. The Defence submits that the Crown has
5 not identified who the other participant or participants are.
- 6 257. The Defence highlights that there is evidence that there were two guns.
- 7 258. The only contact is Raziel Jeffers phoning Jordan Manderson and Raziel
8 Jeffers phoning Craig Johnson. There is no contact between the Defendant
9 and Craig Johnson.
- 10 259. The phone records confirm that the three phones attributed to the Defendant,
11 Jeffers and Johnson are in the general area of North West Point Road, mast
12 901, West Bay but the Defence says that the Crown cannot be any more
13 precise than that.
- 14 260. The Defence says that the 17-minute gap is not evidence that Raziel Jeffers
15 or Craig Johnson were present at the scene.
- 16 261. Indeed, the Defence says that the evidence that Raziel Jeffers and Jordan
17 Manderson were phoning each other at minutes to 7 p.m. would suggest that
18 they are not together.
- 19 262. The Defence says that the Crown is unable to say what part the Defendant
20 played in the plan, or whether he knew of the plan.

1 263. The Defence also says that the Crown is not able to define the nature of the
2 joint enterprise, or able to particularize to any degree the roles of the various
3 participants.

4 264. There is no evidence to support any suggestion that Craig Johnson was
5 actively involved at the scene of the crime, apart from driving his car to
6 Cinder Lane, and there is no evidence that Craig Johnson's car was at the
7 crime scene at Maliwinas Way.

8 265. The Defence submits that there is no evidence that Jordan Manderson knew
9 of any plan to rob Marcos Duran, the deceased. There is no evidence that
10 there was a joint enterprise involving the Defendant to murder Marcos
11 Duran.

12 266. The Defence submits that even if there were evidence to show that there was
13 a plan to rob Marcos Duran, there is no evidence that Jordan Manderson
14 foresaw the possibility of Marcos Duran being murdered.

15 267. The Defence says that there is evidence that Andy Barnes threatened Jordan
16 Manderson and his family and there is evidence that Andy Barnes had
17 threatened the Defendant on a number of occasions and had threatened to kill
18 him.

19 268. The Defence says that the wounding of Jordan Manderson could have
20 happened in so many ways that it is impossible to say what happened.

21 269. The Defence says that all the persons who gave evidence to support that
22 Damion Ming and Andy Barnes were not at the crime scene had good reason
23 to give that evidence to protect their own.

Lucas Direction

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275. The Defendant admittedly lied to the police when he said that he was shot by Andy Barnes on Birch Tree Hill Road near the Barnett Close intersection. He lied about the location and he lied about the fact that he was driven from there in a van with sliding doors to his home.

276. The Defendant later admitted that he was shot at Maliwinas Way and that Craig Johnson drove him from Birch Tree Hill Road to his house in Cinder Lane.

277. The Defendant's explanation for telling the police that he was shot near the Barnett Close intersection of Birch Tree Hill Road was because he was concerned that he was out in breach of his curfew and wanted to be nearer his home and, secondly, because he knew that there had been a shooting or a murder at Maliwinas Way and he did not want to place himself at the scene.

278. The Defendant repeated these lies in his witness statement to the police and now has admitted to the Court during the trial that he lied. The Defendant repeated the lies during his question and answers to the police on the 9th April 2010, although towards the end of that interview he also said that Damion Ming was involved, in that, Ming also had a gun and was at Maliwinas Way.

279. It is now admitted that the Defendant lied to the police and, accordingly, I should ask myself two questions. First, I must decide whether the Defendant did in fact deliberately tell these lies. And then I must ask myself the question why did the Defendant lie?

1 280. I must warn myself that the mere fact that the Defendant told the police a lie
2 is not in itself evidence that the Defendant is guilty of killing Marcos Duran.
3 A Defendant in a criminal case may lie for many reasons and they may
4 possibly be “innocent” ones, in the sense that they do not denote guilt, for
5 example, they may be lies to bolster a true defence or to protect someone
6 else, or to conceal some disgraceful conduct or out of panic, distress and
7 confusion.

8 281. Accordingly, what I must not do is decide this case on the lies as lies, by
9 themselves, cannot establish that it was the Defendant who murdered Marcos
10 Mauricio Duran. However, the lies themselves can be evidence going to
11 support the case for the prosecution, and therefore the over guilt of the
12 Defendant.

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The Defendant's explanation for lies

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282. Was the Defendant aware that the participants had guns?

283. Was the Defendant part of the robbery, but never ever thought someone would shoot Marcos Duran and was therefore too scared to give a full account?

284. Even if the Court finds that the Defendant was telling lies for no good reason, what evidence is there to prove he is guilty of murder, so that the Court is sure.

285. The Defence accepts that the Defendant's DNA was at the scene and that he was present and around the murder scene between 7:20 and 7:24 p.m.

286. The Defence says it is difficult to know exactly how the Defendant was shot, but it could easily have happened in the way he described, as it was a very dynamic situation, with people moving and guns moving.

287. The Defendant has accepted that he told lies about where the shooting took place, but he submits that he has been consistent all along in saying that it was Andy Barnes who shot him. Immediately after the murder, in the presence of Aaron Hydes, he said it was Andy Barnes, and in his witness statement to the police he said it was Andy Barnes, and in Court he says it was Andy Barnes.

1 DNA Evidence

2 288. The Defence accepts that the Defendant's blood was at the crime scene and
3 submits that bullets could be dislodged from original locations with people
4 going up and down the stairs.

5 289. The Defence accepts that the Defendant's blood was on one bullet.

6 290. Regarding the mixed profile DNA of the Defendant and the deceased on the
7 tam:

8 A. The Defence says that on the evidence before the Court at least 7
9 people could have been on the stairs, and a maximum of 11
10 people on the stairs. This allows for possible secondary transfer
11 and for possible contamination;

12 B. There was no evidence that the deceased wore a tam;

13 C. The Defence says there is no evidence that the Defendant wore a
14 tam;

15 D. The Defence says there is no evidence of who wore the tam;

16 E. The Defence submits that on the evidence there is a possibility of
17 secondary transfer and contamination in relation to the tam;

18 F. In any event, the DNA on the tam does not mean that the
19 Defendant is necessarily guilty of murdering Marcos Mauricio
20 Duran;

1 G. The Defence accepts that it is the Defendant's blood on the T-
2 shirt, and in Craig Johnson's car, and in the Honda Odyssey;

3 H. The Defence says that the Defendant accepts that he used the T-
4 shirt to stem the blood flow from his leg;

5 I. As for the black fleece jacket: The Defence maintains that the
6 Defendant's answers to the police substantiate that he did not
7 wear a jacket, but he may well have used the fleece to stem the
8 blood. The Defence says it is perfectly consistent with him
9 coming in contact with the fleece when he was in the vehicle and
10 trying to stop the blood.

11 291. The Defence says it is quite possible the Defendant heard the news of the
12 robbery and that he received the information of the \$9,000 from third parties.

13 292. The Defence also submits that there is no evidence that Marcos Duran was
14 robbed. To support this, the Defence says, in fact, the evidence is that Mr.
15 Duran's wallet was still in his pocket and that he had C\$225 and US\$40.

16 293. The Defence points to a number of other possibilities:

17 a. Marcos Duran was involved in selling numbers, which is an illegal
18 activity. Consequently, he may well have had a gun in his possession for
19 self protection and therefore he may have shot the Defendant.

20 b. The Defence says the Crown has not said who pulled the trigger on the
21 Defendant – did the Defendant shoot himself or did somebody else shoot
22 him?

- 1 c. The Defence submits that it is a possibility that the Defendant may have
2 been party to a joint enterprise to rob, but was totally unaware that the
3 other participants would have guns, moreover that the guns would be
4 used.
- 5 d. The Defence submits that there is a paucity of evidence to convict the
6 Defendant of murder.
- 7 e. In conclusion the Defence says that although the Court may find that the
8 Defendant lied, and lied on many occasions, the Crown cannot define or
9 articulate the actual things said or done by this Defendant to prove that
10 he was party to a joint enterprise to rob Mr. Duran, knowing or realizing
11 that the likely outcome would be Mr. Duran's death.

12 ***The Law***

13 294. The Defendant elected to be tried by a Judge Alone, rather than a Judge and
14 Jury, pursuant to s.129 of the Criminal Procedure Code of the Cayman
15 Islands.

16 295. Our Court of Appeal first dealt with the duties of a Judge in Judge Alone
17 trials in its judgment in *K. Richards v. R* 2001 CILR 496 when Justice Rowe
18 stated:

19 *“When a trial judge sitting alone has advised himself to the applicable*
20 *principles of law, and given himself any necessary warning, he must*
21 *indicate clearly in his judgment his reasons for acting as he did, in order*
22 *to demonstrate that he has acted with the requisite degree of caution in*
23 *mind and has therefore heeded his own warning. No specific form of*
24 *words is necessary for this demonstration, what is necessary is that the*
25 *Judge's mind upon the matter should be clearly revealed.”*

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1 296. In *R. v. Dave Kennedy Whittaker* Cr. App. R. No. 14 of 2006, the Court of
2 Appeal gave some guidelines regarding the duties of a Judge in Judge Alone
3 trials. In the Judgment of Mottley J.A. he adopted the Judgment of the former
4 Lord Chief Justice of Northern Ireland Lord Lowry in *R v. Thompson* [1977]
5 NI 74 in which he stated at page 83:

6 “While on the subject I might say a word on the duty of the judge when
7 giving judgment in a trial under the 1973 Act. He has no jury to charge
8 and therefore will not err if he does not state every legal proposition and
9 review every fact and argument on either side. His duty is not as in a jury
10 trial to instruct laymen as to every relevant aspect of the law or to give a
11 full and balanced picture of the facts for decision by others. His task is to
12 reach conclusions and to give reasons to support his view and,
13 preferably, to notice any difficult or unusual points of law in order that if
14 there is an Appeal, it may be seen how his view of the law informed his
15 approach to the facts.”

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17 297. More recently our Court of Appeal in *Randy Martin v. R* Crim. App. R. 2 of
18 2010 delivered their reasons for dismissing the Appeal on the 7th December
19 2010. Mottley J.A. again adopting *R v. Thompson* [1977] NI 24 also adopted
20 *R v. Thain* [1985] NI 457 where Lowry LCJ said at page 478:

21 “Where the trial is conducted and the factual conclusions are reached by
22 the same person, one need not expect every step in the reasoning to be
23 spelled out expressly, nor is the reasoning carried out in sealed
24 compartments with no inter-communication or overlapping, even if the
25 need to arrange a judgment in a logical order may give that impression.
26 It can safely be inferred that, when deliberating on a question of fact
27 with many aspects, even more certainly than when tackling a series of
28 connected legal points, a judge who is himself the tribunal of fact will (a)
29 recognize the issues and (b) view in its entirety a case where one issue is
30 interwoven with another.”

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32 298. Following Lowry LCJ in *R v. Thompson* and *R v. Thain*, Mottley J.A. said
33 in *Randy Martin v. R* at paragraph 31:

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“From these cases the following guidance may be discerned. A judge sitting in a criminal case without a jury, in rendering his decision and giving his reasons for so concluding, is not required to review every fact and to detail each argument on which the prosecution and defence rely as if he were summing up to a jury. The judge must set out the conclusion reached and make clear the reasons for arriving at that conclusion. He is required to have regard to any difficult or unusual points of law and to show how those points of law have in anyway impacted the conclusion that he has reached.”

Direction on Circumstantial Evidence

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299. Reference has been made to the type of evidence which I have received in this case. A Tribunal of Fact is often asked to find some fact proved by direct evidence, for example, if there is reliable evidence from a witness who actually saw the Defendant commit the crime; if there is a video recording of the incident which plainly demonstrates the Defendant's guilt; or, if there is reliable evidence of the Defendant himself having admitted it. These would all be good examples of direct evidence against the Defendant Jordan Manderson.

300. On the other hand, it is often the case that direct evidence of a crime is not available and the prosecution relies upon circumstantial evidence to prove guilt. This simply means that the Prosecution is relying upon evidence of various circumstances relating to the murder and the Defendant, which they say when taken together, will lead me to the sure conclusion that it was the Defendant who committed the crime.

301. As has often been stated, circumstantial evidence can be powerful evidence, but it is important that I examine it with care, and consider whether the evidence upon which the prosecution relies in proof of its case is reliable, and whether it does prove guilt.

302. Furthermore, before convicting on circumstantial evidence I should consider whether it reveals any other circumstances which are, or may be of sufficient reliability and strength to either destroy or even weaken the prosecution case.

1 303. Finally I must remind myself to be careful to distinguish between arriving at
2 conclusions based on reliable circumstantial evidence, and mere speculation.
3 Speculating in a case amounts to no more than guessing, or making up
4 theories without good evidence to support them, and that is something that I
5 as a Tribunal of Fact should never do.

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Conclusion

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Direction on Joint Enterprise

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304. The Crown's case is that Raziel Jeffers organised the robbery of Marcos Duran and solicited the assistance of the Defendant, Jordan Manderson, Craig Johnson, and possibly one or two others to join as active participants in the robbery.

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305. Section 19 of the Penal Code reads:

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“When two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offence is committed of such a nature that its commission was a probable consequence of the prosecution of such person, each of them is deemed to have committed the offence.”

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306. The case for the prosecution is that the Defendant, Raziel Jeffers and others not before the Court planned to rob the deceased, Marcos Duran, as part of a joint plan or agreement.

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307. The essence of this joint responsibility for a criminal offence is that each Defendant shared the intention to commit the offence and took some part in it.

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308. Mere presence at the scene of the crime is not enough to prove guilt. The Tribunal of Fact has to find that the Defendant was at the scene of the crime and also intended to, and did, take part in the criminal joint enterprise.

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309. I have to remind myself that where one party to the joint enterprise acted in a manner which exceeded the common purpose, the issue for me is whether his

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1 act was nevertheless within the scope of the joint enterprise and therefore
2 was either authorised by the Defendant, or that the act was foreseen by the
3 Defendant as a real possibility when he embarked on the joint enterprise.

4 310. As the Tribunal of Fact I have endeavoured to remind myself of the
5 prominent features of the evidence, both on behalf of the Crown and on
6 behalf of the Defence, because it is my responsibility as the Tribunal of Fact
7 to judge the evidence and to decide on the relevant facts of this case.

8 311. Accordingly, I have reviewed the evidence as I see it, that is, the evidence
9 from the witness box, with 40 witnesses from the Crown and three (3) for the
10 Defence, together with the 61 Exhibits and the various admissions.

11 312. I have also taken into account the arguments and submissions in the speeches
12 of the Director of Public Prosecutions, Ms. Cheryll Richards, and Defence
13 counsel, Mr. David Fisher Q.C.

14 313. I remind myself that the burden of proof is always on the prosecution. It is
15 for the prosecution to prove that the Defendant, Jordan Manderson, is guilty,
16 and further, it is never for the Defendant to have to prove his innocence.

17 314. I also remind myself that the Prosecution must prove the Defendant's guilt to
18 a high standard of proof, namely, that I must be satisfied that the Defendant
19 is guilty of the charge of murder beyond all reasonable doubt or,
20 alternatively, so that on the evidence before me, I am sure that he is guilty.

21 315. If I find that the prosecution has not made out its case to that standard, I must
22 find the Defendant not guilty. If on the evidence I am sure, then I must find

1 the Defendant guilty. Accordingly, I must carefully review the evidence put
2 before the Court and decide whether the Defendant is guilty or not guilty.

3 316. In this case there is no identification of who shot the deceased. There are no
4 eye witnesses. There is no fingerprint evidence and no guns have been
5 recovered.

6 317. I can find no evidence that the Defendant ever had a .22, .38 or .44 calibre
7 weapon, either before or at the time of the murder of Marcos Duran, and,
8 there is no evidence linking the Defendant to any of the two guns that shot
9 the Defendant.

10 318. The evidence of a man running around the back of the building around the
11 time of the shooting must be seen against the fact that the Defendant's leg
12 was already broken.

13 319. On the discovery of the mixed profile DNA evidence on the tam – with the
14 Defendant's DNA and the deceased's DNA – I find that there is no evidence
15 that either the deceased or the Defendant were wearing a tam, and there is no
16 evidence that anyone else was wearing a tam.

17 320. Additionally, it is accepted that the Defendant was shot at the scene, although
18 it was not clear who his assailant or assailants were.

19 321. However, there is evidence of at least seven or, at the most, 11 people going
20 to the stairs, and that included the paramedics who removed the body of the
21 deceased. I cannot rule out a possible secondary transfer, and, in any event,
22 the DNA does not conclusively prove that the Defendant either had a gun, or

1 indeed, shot the deceased or even took an active part in the murder of the
2 deceased.

3 322. On the phone call evidence: Although there are some calls between Raziel
4 Jeffers and the Defendant, and between Raziel Jeffers and Craig Johnson,
5 these calls do not reveal any joint enterprise or plan to rob the deceased.

6 323. The fact that their phones were linked to the same mast, and either sector 2 or
7 sector 3, or the area in between, does not put all three at #28 Maliwinas Way
8 at 7:20 p.m. on the 11th March 2010, nor does the 17-minute period of
9 inactivity on their respective phones prove that they were taking part in a
10 planned joint enterprise to rob the deceased.

11 324. I do find that the Defendant lied, and lied to his parents and he lied to the
12 police. It is very disturbing to find that he lied, and it's even more disturbing
13 to think that he lied because he was frightened.

14 325. The Defendant has given so many different accounts of what took place that
15 it is hard to know what to believe. However, even if I do not believe any of
16 his accounts, his lies do not prove that he is guilty of murder.

17 326. The Crown says that this was a planned robbery – a joint enterprise. The
18 Crown says it was planned by Raziel Jeffers, and the Defendant was part of
19 the team that planned it and actively participated in it.

20 327. There is no evidence that there was any plan or joint enterprise to murder the
21 deceased. The Crown says it was a robbery that went wrong and the deceased
22 was shot three times by two or more persons using at least two guns.

1 h. There is no evidence before me that he knew of the guns or that he used a
2 gun or that he authorized another to use a gun or that he foresaw that
3 there was a real possibility that the gun would be used to kill or cause the
4 deceased grievous bodily harm.

5 329. I find that there is insufficient evidence to satisfy me that the Defendant is
6 guilty of the murder of Marcos Mauricio Duran.

7 330. Accordingly, I must find the Defendant not guilty of the murder of Marcos
8 Mauricio Duran.

9 Judge's Note following Judgment

10 331. Before I release you, Mr. Manderson, I must say: You lied to the police. You
11 lied to your parents. You have given so many accounts it is hard to know
12 which to believe. Not only did you not assist the police about where you
13 were shot, you told them you were shot at a different location to send the
14 police off on a wild goose chase. Your lies meant there was a great waste of
15 valuable police time and effort as they carried out their investigation
16 regarding how and where you were shot. You are 18 years of age. You want
17 to think seriously about your future and what you want to do with your life,
18 Mr. Manderson.

19 332. I want to say something about the guns: The guns at the murder scene have
20 not been recovered. Someone must know where these are or what happened
21 to them. It is time for people to stop withholding vital information and to
22 give unconditional and unqualified support to the RCIPS.

1 333. If we are to stop these violent crimes we must all help and support the RCIPS
2 and respect law and order. It is the only way we can make the Cayman
3 Islands safe and peaceful again, which must be everyone's greatest wish.

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5 **Dated this the 21st day of June 2011**

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9 **Honourable Mr. Justice Charles Quin**
10 **Judge of the Grand Court**

