

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

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4  
5 **Ind. No. 79 of 2011**  
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7  
8 **REGINA**

9  
10 **V.**

11  
12 **CHAKANE JAMEILE SCOTT**  
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18 **Appearances:** **Mr. Trevor Ward & Ms. Nicole Petit of the Office or the**  
19 **Director of Public Prosecutions for the Crown**

20  
21 **Ms. Sasha Wass, Q.C. instructed by Ms. Lucy Organ of**  
22 **Samson & McGrath for the Defendant**  
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24  
25 **Before:** **Hon. Justice Henderson**  
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28 **Heard:** **May 30, 2012**  
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32  
33 **RULING**

34  
35 **(PLEA – ARRAIGNMENT)**

36  
37 **(ORALLY)**  
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- 40 1. I address now a procedural difficulty which has arisen. It has been brought to  
41 my attention that through inadvertence the defendant has never been arraigned  
42 on the indictment (No. 79 of 2011) which is the subject of this trial. He has  
43 entered an election to be tried by judge alone. That was done before Justice  
44 Quin on April 13, 2012.

1

2 2. The narrow point is whether the failure to arraign the defendant means that  
3 everything which has transpired in this trial to date is a mere nullity. That was  
4 the position at common law. There is a decision of the Court of Appeal in  
5 England in *R. v. Ellis* (1973) 57 Cr. Appl. R. 571 which points in that  
6 direction, although the comments were unnecessary to the decision. In  
7 addition, in his landmark *History of the Criminal Law of England*, Sir James  
8 Fitzjames Stephen expressed that view.

9

10 3. The position has changed. There is a decision of the Court of Appeal in the  
11 United Kingdom in *R. v. Williams* [1978] Q.B. 373 in which the Court  
12 considered the *Ellis* decision and the view expressed in the *History of the*  
13 *Criminal Law* and then said this (at page five):

14 The dire consequences of non-observance of the ritual in  
15 pleading not guilty no longer threaten a person accused  
16 in an indictment. Insistence on an express plea of not  
17 guilty by the defendant himself is no longer a necessary  
18 safeguard of justice where that is the intended plea  
19 and where the ensuing proceedings are precisely what  
20 they would have been if the accused had himself made the  
21 plea in plain terms.  
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23 4. In the result, in the *Williams* case the conviction was upheld.

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25 5. The position before me today is on all fours with the passage I have just  
26 quoted. Counsel are agreed that the proceedings to date have been precisely  
27 what they would have been if the accused had been arraigned and pleaded not  
28 guilty at the outset of the trial. For that reason, I am satisfied that the  
29 proceeding is not a nullity. It will not be necessary to repeat any of the

1 evidence and arguments which have been presented to date. I consider that the  
2 better practice is to have an arraignment now, so I will proceed to do that.

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4 Dated this 30<sup>th</sup> day of May, 2012

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7 Henderson, J.  
8 Judge of the Grand Court