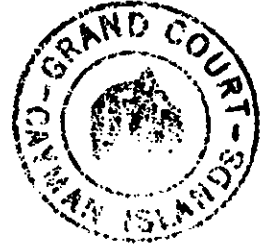


IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN



IND. NO. 23 of 1991

REGINA v. TONY THARON EBANKS AND TONY ELEFORD BUSH

Mr. Archie and Mr. Roberts for the Crown
Mr. Pierre Lamontagne QC for Tony T. Ebanks
Mr. Harrison and Mr. Levy for Tony E. Bush

JUDGMENT

Schofield J.

A remarkable number of people have disappeared from a certain area in West Bay which stretches from North West Point to Boatswain Bay. The area borders the sea, is about two miles in length and it encompasses the Turtle Farm and a corner called Goat Yard in which lives one of the defendants Tony Ebanks. Some of the disappearances are explainable, if unexplained; a person went out diving or fishing and was never seen again. Some of the disappearances are only explainable by reference to bizarre accident or foul play. Two of the latter such disappearances involve young men from the West Bay area called Bernie Anglin, who disappeared in October 1987, and Charles Steven Scott, who disappeared in December 1990. The two defendants, Tony Ebanks and Tony Bush, stand accused of the murders of Bernie and Charles. There are certain similarities in the cases. Both Bernie and Charles were friends of the two defendants and were seen in their company immediately or shortly before they were alleged to have disappeared. Both of the men who disappeared were suspected by some to be homosexuals. In neither case was the body found but an item of clothing of each was found on the shore or in the sea within days of their disappearance.

Bernie Crafton Anglin was born on 4th August, 1960, which made him seventeen years of age in October, 1987. He was described by his mother as being "slightly mentally retarded" and was receiving treatment. His aunt, Matlee Anglin, had taken him to Tampa, Florida,



for treatment in the September of that year and had bought him some clothes, including the shirt he was wearing on 3rd October, 1987. Bernie's mother went to look for him on that morning, a Saturday, because he had not been home since 7 p.m. the evening before. She found him at about 8 a.m. at Junior Barnett's residence. It seemed he had been drinking. Bernie went off to clean up the grave of his father who had died about four months previously in a motor vehicle accident. That is the last time Mrs. Anglin saw her son.

Bernie Anglin was seen at the house of Tony Ebanks in the afternoon of the same Saturday. Several people were in or around the house including the two defendants. Kent Robert Ebanks, Tony Ebanks' cousin, was on the front porch of the house. He observed Bernie in the yard with the defendant Tony Bush. They were drinking beer. Tony Bush then invited Bernie to smoke some ganja in the bushes at the back of the house and they went off together. A while later Tony Bush returned alone. Tony asked Kent Ebanks if he had seen Bernie anywhere and Kent did not reply. Tony went off and according to Kent returned later that evening. Tony Ebanks was in the house but could have left by one of two rear entrances without Kent seeing him. Bernie has not been seen since going off to smoke ganja with Tony Bush. In interviews which Chief Inspector Branch conducted on the 6th and 14th October, 1987, Bush agreed he had gone into the bushes to smoke ganja with Bernie, but said that Bernie left by another route to go to his own home. He denied returning to Tony Ebanks' house later in the evening of that Saturday.

By the Sunday the 4th October, 1987, Bernie's disappearance had been reported to the police and a search was conducted. One week later, the 11th October, two West Bayers, Lincoln Lincy Ebanks and James Christopher Ebanks, went in search of Bernie. On the ironshore, about 100 yards from the Turtle Farm and about a quarter of a mile from Goat Yard, they found the shirt Bernie had been wearing on the day of his disappearance.

Sidney Parchment testified that the last time he saw Bernie Anglin



was on a Friday night. He was at Denward McLaughlin's house in Boatswain Bay. Tony Bush arrived. Bush seemed under the influence of alcohol or drugs. Bush produced a knife and made a gesture to his throat. He said he felt like killing someone that night. He would cut their throat, tie a block to their feet and drop them in the sea. Parchment asked Bush if he was talking about him and Bush said he was not. Parchment said he did not feel threatened by what Bush said and did not take it seriously.

Hurley Ashlin Anglin is Bernie's brother. He and his wife would bartend at the Spanish Cove Resort. About two months after Bernie's disappearance Tony Bush came to the bar. Hurley and his wife refused to serve him because they felt he had something to do with Bernie's disappearance. An argument erupted in which others at the bar became involved and accused Tony Bush of killing Bernie. An ashtray was thrown. Tony Bush said to someone who said he killed Bernie Anglin 'Do you want me to do the same thing to you?'.

Ivon Clint Ebanks went to school with Tony Bush, from Primary School through to High School. For four or five months in the latter part of 1988 he also shared a cell with Bush at Northward Prison. Tony Bush told Ebanks that a Jamaican wanted someone to recover some drugs that had been stolen by Bernie Anglin or to hire someone to kill Bernie. Tony Bush agreed to kill him for payment of an ounce of cocaine and a couple of hundred dollars. This payment was handed over to Bush together with a gun. Later that day Bush said he invited Bernie to smoke ganja at the back of Tony Ebanks' house. There Bush confronted Bernie with the gun and about the drugs but Bernie denied knowledge of the drugs. Bush then related how he shot Bernie in the side of the head three times. That did not kill Bernie so Bush hit him three times across the head with a piece of grapewood and then hit him three times across the head with a big rock. Bush saw that Bernie was dead and he covered the body with leaves. Bush then said he went back to the house and told someone who he named but whose name was not given in Court that he had done the job. That he was going home to change and he wanted that person to help him move the body when he



returned. The other person agreed. Bush went home, burned his clothes and shoes and returned to Tony Ebanks' yard. He and the other man went to the body and when the other man saw it he began to vomit. They took the body to the ironshore and threw it over. As they were doing so the shirt hooked on the ironshore but Bush disentangled it.

When cross-examined Ebanks denied that he was merely reciting what he had discussed with Bush as the rumours circulating about the killing. The police, he said, came for him and told him that Bush had told him about the murder and he could get involved himself, for withholding information.

Denise Havis Ebanks lives at Goat Yard. She is now seventeen years of age. She was a friend of Charles Steven Scott, the alleged victim in the second count, and was with him shortly before it is alleged he disappeared. Denise was a girlfriend of Tony Bush and had a relationship with him starting at age twelve. Her testimony is that the relationship had ended by 1990, but that part of her evidence does not accord with the evidence of Tony Bush or certain other witnesses. Her testimony in relation to Bernie Anglin was that when she was living with her mother at Barkers, in about it seems 1988, Bush visited her and told her that he had killed Bernie Anglin. He said she must not tell anyone about it.

Four prosecution witnesses related how Tony Ebanks, behind whose house it is alleged Bernie Anglin was killed, told them of his knowledge of or involvement in Bernie's murder.

Roger Manderson is about eighteen months older than Ebanks and has known him since childhood. He gave Ebanks a lift in his car to Goat Yard one day in late 1987 or early 1988. On the way Manderson asked Ebanks who he thought had killed Bernie Anglin. Ebanks said he knew for a fact that a certain person had done it. He told Manderson that he, Bernie and another person were at his house smoking ganja and when he, Ebanks, went inside to take a shower Bernie and the other person went off into the bushes to smoke ganja. Ebanks went out of the back



of the house and towards the bushes and he heard a sound as if someone was being strangled. He went towards the sound and saw the third person strangling Bernie with his T-shirt. Bernie dropped to the ground and was trying to catch his breath when the third person took a big rock and smashed Bernie's head. When Manderson asked Ebanks why he did not report the matter to the police if he had nothing to do with it, Ebanks said he wanted to make sure the body was there before he reported the matter. He went to check for the body and it had gone.

Paula Nolita Ebanks and Andrea Yvette McCoy are sisters of Tony Ebanks. They both testified that Ebanks told them he witnessed Bernie's killing and helped to dispose of the body. Paula said that on a visit to Ebanks in prison subsequent to October, 1989, he said he could not sleep because he was having bad dreams and was seeing things. He said he and another person killed Bernie Anglin. They went behind the house with Bernie and the other person sent him for something. When he returned he saw Bernie frothing from the mouth. Ebanks asked the other person what happened and he said he had broken Bernie's neck but Bernie was not dead. Then that person picked up a big rock and dropped it on Bernie's head. The two of them then disposed of the body in the sea. The reason for the killing was that Bernie was a homosexual. Paula testified that she mentioned to Ebanks what he had told her in a later argument and he threatened to kill her. He said the police cannot convict him because there is no body. Andrea testified that Ebanks told her that he and another person took Bernie Anglin into the bush to beat him because he was a "scumbag". He then gave an account of the incident to Andrea which was similar to his account to Paula. He mentioned the incident again, some time in 1990. Their father had disappeared in April 1985 and Ebanks said Bernie knew who had killed their father. Ebanks threatened to kill Bernie if he did not tell him who had done it and, apparently, carried out the threat.

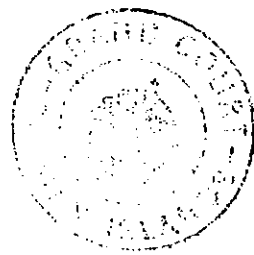
The last account Tony Ebanks gave about his knowledge of Bernie Anglin's death amounts to a denial of any criminal involvement in the



matter. On the 24th December, 1990, after he was taken into custody on suspicion of involvement in Charles Scott's disappearance, Tony Ebanks said to Detective Sergeant Mark Clarke that he wanted to tell him everything. Sergeant Clarke recorded Ebanks' statement, exhibit 4, which was to the effect that Tony Bush came to him after he had gone into the bush with Bernie Anglin and told him he had killed Bernie. Ebanks asked him why and Bush said Bernie was no good to society. Bush then pulled a gun on him and told Ebanks to accompany him to the body. After a discussion on how best to dispose of the body Bush asked Ebanks to help him to throw the body into the sea. Ebanks said he could not live with blood on his hands and so Bush picked the body up and went towards the sea.

Charles Steven Scott was born on the 4th February, 1975. He was fifteen years old when his mother last saw him at about noon on Friday the 14th December, 1990. She did not begin to get worried about him until the afternoon of the following day, the Saturday. Charles would often sleep out at the home of one of his best friends Denise Mavis Ebanks (the girlfriend or former girlfriend of Tony Bush) or Linda Christine Powery, although he had not done so for two months prior to his disappearance. Indeed Charles was in or around the company of Denise and Linda for much of Friday the 14th December. They were to go off together to the Carnival that evening but Denise changed her mind and stayed with Tony Bush by a well a few yards from Tony Ebanks' house. Tony Ebanks was in the house most of the time. We heard evidence that Charles and Linda went on a bicycle together around the West Bay area stopping off at various points to eat, drink vodka and orange juice and talk to various friends. They returned to Goat Yard at 11:00 or 11:30 p.m. and by that stage they were drunk.

Denise and Linda then went off to a party at North West Point leaving the two defendants and Charles Scott together. They were at the party for about half an hour. There is evidence that at about this time the three men asked for a lift to the Club Inferno and were dropped off at the junction of Hell Road and Watercourse Road. They were seen returning to Goat Yard later on foot. Charles appeared



drunk.

Denise and Linda returned from their party and went to Tony Ebanks' house to call Charles. Their evidence was that Tony Bush appeared on the porch sweating and without a shirt, and told them Charles was inside the house. The girls rode about on the bicycle for five or ten minutes and then returned to Ebanks' house. Charles was lying on a sofa on the porch apparently asleep. They could not wake him. The girls took some money from his pocket, which was Linda's, and went off to yet another party. Denise spent the night at Linda's house. Neither girl has seen Charles since. We have it from their friend Joely Manderson, who lived next door to Linda, that between 12:30 and 1:00 a.m. Tony Bush went to Linda's house looking for Denise.

The yard of Leonard Norene Scott adjoins that of Tony Ebanks' and their houses are about 250 feet apart. Scott is Ebanks' cousin. He testified that at about 1:00 a.m. to 1:30 a.m. in the morning of Saturday 15th December, 1990, he saw the two defendants, Charles Scott, Denise and Linda passing his house to go to the main road. Twenty or thirty minutes later the three men returned to Tony Ebanks' yard. Shortly afterwards he saw the three men again and they ran in and out of his yard, Tony Bush chasing Charles Scott as if in play. I am uncertain from the evidence whether this behaviour occurred just once or was repeated several minutes later, but Leonard Scott went over to Tony Ebanks' yard and asked him what they were trying to do. Ebanks, in polite way, said they were doing nothing and Leonard Scott returned to his home and went to bed. He awoke at 5:30 a.m. He heard nothing unusual after he went to bed.

Aldria Elizabeth Ebanks lives on the main road at the entrance to Goat Yard. Her house is about 200 yards from Tony Ebanks'. At 2:30 a.m. on the morning of 15th December, 1990, she was preparing something to eat for her son who had just come in from a party. She went out of her front door to put something in her refrigerator. Outside she saw Charles Scott standing a few feet away from the two

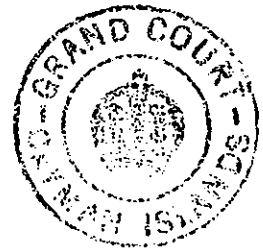
defendants. When she went into her bedroom Charles Scott was out of her sight and indeed she did not see him again. She could see the two defendants. She heard Bush say to Ebanks "All you have to do is stick with me." Bush and Ebanks hailed a car and rode off in it to return fifteen minutes later. Charles did not go with them. Bush and Ebanks ran towards Ebanks' house, and Aldria Ebanks did not see them again that night.

Mrs. Ebanks further testified that at 4 o'clock the same morning she was awakened by a scream. She got up and sat on the bed and heard a second scream coming from the direction of Goat Yard. Mrs. Ebanks thought that it came from Leonard Norene Scott's house. Mr. Scott had a sick child and she wondered whether the child had died. Mrs. Ebanks enquired the next day, but the child was still alive and no one in the neighbourhood had heard the screams.

Tony Ebanks' sisters Paula and Andrea added their evidence in connection with the second count alleging Charles Scott's murder. By December, 1990, they were living in the same house as Tony Ebanks. On the Saturday morning the 15th December they returned to their home from a party at about 3:00 a.m. and found their brother and Charles Scott on the porch. They did not see Tony Bush. They were surprised to see Charles Scott there. Tony Ebanks' girlfriend was also on the porch or inside the house.

Paula further testified that in about November of the same year her brother and one Mike Bush had been sitting on the porch of their house when Charles Scott walked past. One of the two men said Charles and Sidney Parchment should be dead because they are queers. Whoever said it met with agreement from the other person. Tony Ebanks said he could not wait until a certain person came out of prison.

Paula went on that on the Saturday the 15th December, 1990, there was a rumour that a man called Grafton Ebanks was missing. In fact Grafton had journeyed to Cayman Brac. When Paula mentioned the rumour to her brother he said "I not only have one person on my conscience




now but I have two."

Andrea testified to a conversation she had with her brother on the evening of the 15th December. He asked her if she believed there is a God and received an affirmative reply. He asked her if she believed that a parent's sins fall back on the child. She said "no". Then Tony Ebanks told his sister that their father had told him he had killed a man in Honduras.

On the Sunday morning, the 16th December, Denise Ebanks, Linda Powery, Robert Ramoon and the two defendants were smoking ganja in the bush behind Tony Ebanks' house. According to Denise and Robert when Denise asked of the whereabouts of Charles Scott, Tony Bush got up and kicked her in the arm. That led to a confrontation between Bush and Robert Ramoon and Tony Ebanks told them to leave. Bush then went to Denise's house and into her room. Denise and Linda were there. Denise told him to leave and Bush turned and kicked Denise again, this time on the side of the jaw, and the kick glanced off and hit Linda. Linda testified to the assault but was less positive as to what brought it on.

It was this assault that brought Detective Sergeant Mark Clarke on the scene. By the Monday a full scale search was mounted for Charles Scott. Michael Grundy, a Marine Park Officer, conducted an underwater search off Boatswain Bay. On the 20th December, 1990, he found a pair of jeans, which have been identified as those Charles was wearing on the night of his alleged disappearance, at a point almost opposite Goat Yard half a mile offshore and at a depth of 120 to 125 feet. The jeans were torn and one leg was missing. Mr. Grundy testified as to the action of the tide on the ironshore, the likely effects of such action on clothing and the possibility of attack on a body in the sea by marine life.

The two defendants were taken into custody suspected of involvement in Charles Scott's disappearance. They were interviewed and both denied any involvement. However there is evidence from



Superintendent Hall that Bush told him he did not see Charles Scott after 8:00 p.m. on the Friday and from Detective Inspector Brady that Bush told him he did not see Charles Scott after about 7:30 or 8:30 p.m. that evening.

Tony Ebanks did not testify. He called three witnesses who all said they saw Charles Scott after the night of the 14th/15th December, 1990. Donvert Kelly said he saw Charles in Linda Powery's company at about midnight on the Saturday night. Janet Maxine Ebanks said she saw him just after noon on the Sunday the 16th walking from the direction of his house into Watercourse Road. Sabrina Powell said she saw him between 7:00 p.m. and 9:00 p.m. on the Saturday evening in the company of Linda, Denise and Joely Manderson. They were opposite the Cuban Cafeteria in West Bay.

Tony Bush did testify. He denied killing Bernie Anglin. He said Denise lied about him because he beat her up twice in the week before his arrest and she did not want him to be her boyfriend any more. He denied telling Ivon Clint Ebanks he killed Bernie. They spoke only about the rumours circulating of the different ways people were saying he adopted to kill Bernie. Ivon told him he believed the rumours. Bush related the events of the afternoon when Bernie was last seen. He went into the bush with Bernie to smoke ganja and Bernie left him there and headed in the direction of his house. When he returned to Ebanks' house Bush asked Kent Ebanks if he had seen Bernie. He said he sat on the porch for half an hour and then went home. He did not leave his house later that evening.

Bush denied killing Charles Scott. When he told the police that he last saw Charles on the Friday at 7:30 p.m. or 8:00 p.m. he was confused. He last saw Charles in the early hours of Saturday morning at the junction of Goat Yard and the main road. He and Tony Ebanks were going off in a car to buy ganja and they left Charles behind. When they returned he and Ebanks ran down the road and Bush checked to see if Denise was home. She was out, so Bush rode home on his bicycle. He did not leave home until 9:00 a.m. that morning.

Bush testified that he assaulted Denise on the Sunday because he asked her where she had been on the Friday night and she told him it was none of his business. He followed her to the house and asked her which man she had been out with on the Friday night and she told him to leave, so he kicked her a second time.

That, then, is a brief resume of the evidence I have to consider on this indictment. Before I turn to my findings on the evidence I ought to make four, perhaps obvious, points relating to my consideration of it. Firstly, that the absence of a body is not fatal to a prosecution for murder. The fact that a murdered man was killed, like any other fact, can be proved by circumstantial evidence, being evidence which leads only to that one conclusion of fact, even though no body was found (see R v. Dnufrejczyk [1955] 1 All E.R. 247). Secondly, that the fact that these two defendants had spent time in prison (whether on remand, or after conviction and in relation to what matters we do not know) has no bearing whatsoever on my decision. Thirdly, that any extra-judicial statement made by one defendant which refers to the other is not to be considered when determining the case as against that other. And, fourthly, that I must consider the two counts on the indictment separately and independently of each other.

Against Bush, on the first indictment, we have the evidence that he was the last person we know who saw Bernie Anglin alive. There is the evidence of his remarks to Sidney Parchment shortly before Bernie Anglin's disappearance. There is the evidence of Iyon Clint Ebanks and Denise Mavis Ebanks that he confessed to them that he had killed Bernie. There is the evidence of an altercation at Spanish Cove two or so months after Bernie's disappearance in which he made a remark which the Crown asks me to find involves an acceptance that he killed Bernie. I do not find that I am able to give this latter piece of evidence the interpretation the Crown invites me to. The evidence is that a person told Bush "You killed the man's brother" whereupon Bush retorted "Do you want me to do the same thing to you?" Hurley Anglin, who gave this evidence, was relating an incident which happened five years ago. His recollection of the exact words used could be blurred




with time. Even if his recollection is accurate Bush's retort is so ambiguous and was made in circumstances where he could not be expected to weigh his words that I do not consider it to be evidence against him.

I found Ivon Clint Ebanks and Denise Mavis Ebanks to be honest and reliable witnesses. Taking all the evidence into consideration, including that of Bush, I am satisfied that Bush did recite his account of the murder of Bernie Anglin in the manner related by Ivon Ebanks. No credible explanation was given as to why Ivon Ebanks should concoct his evidence and I am satisfied that the suggestion that the two men were just discussing rumours is false. The account may seem exaggerated. According to the account three shots from a gun to the head which were not heard from the nearby house failed to kill Bernie and then other means were used. I shall come to that aspect of the matter later; it is sufficient at this stage for me to say that I believe Ivon Ebanks that Bush related to him how he killed Bernie Anglin.

Denise Mavis Ebanks appeared a straightforward witness. That Bush had, two or so years ago, beaten her and that she did not want him to be her boyfriend any more do not appear adequate reasons why this young lady should falsely testify that Bush admitted to her that he killed Bernie Anglin. Denise did not appear to exaggerate her evidence, and she testified and was cross-examined at some length. She may have been reluctant to admit that she had an ongoing relationship with Bush; it is significant that she mentioned Bush's confession and the circumstances of it to the police when her brother was a witness and not when her mother was present with her. That reluctance is understandable given her age at the time and did not detract from her overall credibility. I believe that Bush admitted Bernie Anglin's murder to Denise Ebanks.

I also believe Sidney Parchment's evidence of the conversation he had with Bush shortly before Bernie Anglin's disappearance. Indeed the contents of the conversation did not appear to be disputed.



Certainly it was elicited from Parchment that Bush was drunk and that he, Parchment, did not feel threatened by Bush's words. The most that can be said of this evidence is that it shows that Bush was expressing a certain state of mind shortly before Bernie's disappearance and that his words tie in with what he later said he did to Bernie.

Bush was apparently the last person to see Bernie Anglin. His question of Kent Ebanks as to whether he had seen Bernie come from the bush is inconsistent with his knowledge that Bernie went off in the opposite direction. Why would Bush tell two people that he had killed Bernie Anglin if he had not done so? I have considered the possibility, in the light of an apparently exaggerated account of his disposal of Bernie, that Bush was merely trying to bolster his own image in a prison environment and to his young girlfriend and was perhaps trying to gain a reputation. However, taking all the evidence into consideration I have reached the conclusion, beyond doubt, that Bush admitted to Ivon Clint Ebanks and Denise Mavis Ebanks that he had killed Bernie Anglin because he had, in fact, done so. He may have exaggerated the means, we do not know, but on all the evidence I am satisfied that Bernie Anglin was murdered and that Tony Bush murdered him. He took Bernie to the bush at the back of Tony Ebanks' house with the intention of killing him and he there put Bernie to death.

Against Tony Ebanks, on the first count on the indictment, we have evidence from four witnesses that Ebanks told them of his knowledge of the circumstances of Bernie's death or of his involvement therein. To Detective Sergeant Clarke Ebanks gave an exculpatory statement. Clearly he was trying to distance himself from the murder. He gave to Sergeant Clarke an inherently unlikely story that he was taken at gunpoint to the body by Bush presumably with a view to assisting Bush to dispose of the body but that Bush accepted his plea that he did not want blood on his hands; that Bush disposed of the body himself.

Ebanks gave another version to Roger Manderson but that version was still exculpatory. His explanation for not reporting the matter to the police, that he wanted to make sure the body was still in place

before he did so, was weak.



Ebanks' sisters Paula and Andrea both testified as to alleged conversations they had with their brother in which he admitted his involvement in Bernie's disappearance. It has been suggested that Paula, in particular, had reason to lie against her brother; she felt she was being victimised by Ebanks and wanted him out of the house. Indeed, she had in the past made an accusation which proved to be false. It is, however, significant that she has withdrawn that accusation. Andrea was positive she was not mistaken in her account. I observed the two sisters very carefully as they testified. They did not find it an easy task to give evidence. They impressed as being caught between a reluctance to testify against their brother and a duty to relate the truth, and I am satisfied they endeavoured accurately to recount their conversations. I am totally convinced that they did not rehearse their evidence and I am totally convinced they were honest and reliable witnesses. They related to Court what their brother had told them.

After full consideration of the evidence I am satisfied that the accounts given by Ebanks to his sisters are basically true. He would be more inclined to unburden his conscience to his sisters and tell the truth to them than to a police officer or to a none-too-close friend, and I am satisfied that that is what he did. He may have given two reasons why he should want to harm Bernie, but to my mind nothing rests on that. Ebanks for some reason could not deny his knowledge of Bernie's murder to two witnesses outside his family, but gave an accurate account of his involvement to his sisters.

But the highest Ebanks' involvement can be put is that he went into the bush with Bernie and his co-defendant with the intention of beating Bernie but that his co-defendant performed the act of killing in his absence. When he came on the scene Ebanks assisted in the disposal of the body. Ebanks' related reaction when he first saw the body leads me to doubt that he went into the bush with the intention of killing or doing grievous bodily harm to Bernie. That being so I



must find him not guilty of the murder of Bernie Anglin. However, the evidence points irresistibly to Ebanks [standing by] as the final blows were struck and then [assisting in the disposal of the body. He was an accessory after the fact to murder and pursuant to section 56 of the Criminal Procedure Code I find Ebanks guilty of that offence.

Let me now turn to the second count on the indictment. Charles Scott was last seen on Tony Ebanks' porch at about 3:00 a.m. on Saturday 15th December, 1990. According to Paula Ebanks and Andrea McCoy Tony Bush was not on the porch or in the house at that time. Bush said he had gone home. In the previous month Ebanks had been involved in a conversation in which it was agreed that Scott should be dead because he is a queer. Screams were heard by Aldria Ebanks from the direction of Ebanks' house at 4:00 a.m. on the 15th December. It is impossible for this Court to hold that that piece of evidence points to the fact or time of the murder of Charles Scott. No one else heard the screams. There were houses nearer to Ebanks' than Aldria's. There were several people in Ebanks' house, two of whom could be relied upon to testify if they heard screams.

I can make nothing of Ebanks' comment to his sister Paula the next day that he now had two people on his conscience because it was said during a conversation about the rumoured disappearance of Grafton Ebanks, not Charles Scott. His words to Andrea that same day about the sins of the parent being visited upon the child are strange but ambiguous. Nor am I able to make a great deal of Tony Bush's assault on Denise Ebanks on the Sunday when she asked about Charles. We have evidence that Tony Ebanks was surprised by the assault.

Tony Bush did lie to the police about the time he last saw Charles. Of course a sinister interpretation can be placed on those lies, but Bush did know why he was called into the police station and he may simply have been endeavouring, through deceit, to secure an early release. The lies are not explainable only by reference to Bush's involvement in Charles' disappearance.

Then, of course, we have the evidence of the three defence witnesses that they saw Charles Scott subsequent to the early hours of Saturday morning. All three witnesses struck me as being honest. However, two of them say they saw Charles in other company from which we trace a Friday night sighting rather than a Saturday night sighting. Probably these three witnesses were mistaken.

Taking the evidence in its totality I find that although there must be a great deal of suspicion that Charles Scott is dead and a great deal of suspicion that these two defendants are responsible for his death, there is insufficient evidence against each defendant to satisfy me beyond a reasonable doubt that either is guilty on the second count.

Accordingly I convict Tony Bush on the first count on the indictment. I convict Tony Ebanks of being an accessory after the fact to the murder of Bernie Anglin.

I acquit both defendants on the second count on the indictment.


JUDGE 

Dated this 20th day of October, 1992