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

REGINA V URIAH THOMAS

Indictment # 42/45

Mr. Steve Bonnar for the Crown  
Mr. John Furniss for the Defendant

SMELLIE J.

JUDGMENT

The defendant has elected to be tried by judge alone on the present indictment which charges him with the offence of Importation of Cocaine and Conspiracy to Deal in Cocaine.

The case for the Crown rests mainly on the evidence of Annette Senior. She is an admitted accomplice who was convicted and sentenced in the Summary Court on her own plea having been found in possession of a quantity of cocaine upon her entry into the Cayman Islands on the 29th November 1994. That cocaine is also the subject of the counts of the present indictment.

The Crown's case against the defendant in respect of Count one of the indictment is that he solicited or procured Senior to bring the drugs into the Islands and in respect of Count two that he conspired with her and at least one other, a Dawn Campbell, in order

to effect that importation and the intended subsequent dealing in the drugs.

It is therefore of paramount importance that in my consideration of the evidence Miss Senior's status as an accomplice is borne in mind.

The cocaine approximately 22 ounces was discovered in liquid form by the Customs in plastic hair spray bottles in Miss Senior's hand luggage.

When confronted she at first admitted knowledge that the substance was cocaine but later on that morning of her arrival, in her first interview under caution, sought to deny that knowledge.

In that first cautioned interview she related an account to the effect that her air ticket to Grand Cayman had been bought as a birthday gift by her boyfriend, Bevan Meade. That she was asked quite by the way by Dawn Campbell (who figured prominently on the evidence on both sides in the trial) to bring the bottles to Cayman and it was arranged that someone by the name of Gregory would meet her here to collect them.

Nowhere in that first interview did Miss Senior attempt to implicate the defendant.

Mr. Furniss in his address emphasised this fact and urged me

to regard Miss Senior as too inconsistent a witness, already tainted as an accomplice, to be relied upon.

Her evidence before me is that within 24 hours of her first interview she was again interviewed, this time by the police, when she recanted her denials and told the truth.

The Crown argues that she has consistently, since that interview with the police, maintained that she was enlisted by the defendant to bring the drugs to the Cayman Islands.

Her explanation for not having implicated him from the outset was that she was afraid of going to prison and believed he was to be the only source of her redemption. As she had been procured by him to commit the offence he would be obligated to secure her release. That it was therefore to her thinking at the time paramount that the defendant not be also implicated. She also testified that as she knew the drugs were not hers she later saw no reason why she should not tell the truth.

Plausible though that explanation may seem on the face of it, the law advises, and in the particular context of this case it is all the more so obligatory that the precautionary rules be observed before her evidence as an accomplice may be accepted.

Her evidence, in summary, is as follows.

Prior to the date of the offences she had known the defendant for some 12 to 18 months.

On Friday 25th November 1994 the defendant came to her home at 11 Mona Road in Kingston, Jamaica. In a conversation between them the defendant said he "wanted her to deal with 'something' for him, to come to the Cayman Islands". She said she immediately realised the defendant meant cocaine and asked him "suppose they catch me?". His response was that she should not worry "it was something he dealt with all the while." The witness said that although she knew they were discussing cocaine, she accepted his entreaty.

It was not clear at what stage of the event in Jamaica he did so, but she also testified that the defendant offered her 800 United States dollars for her involvement.

She said that having agreed, she accompanied the defendant on the next day, Saturday 26th November, in his car to the Southdale Plaza at Half Way Tree in Kingston where the defendant attended at a travel agency, while she remained outside in the car. Upon his return he showed to her an airline ticket in her name for travel to Grand Cayman the next day, Sunday the 27th. That they then returned to her home at 11 Mona Road where she hurriedly dressed for work that afternoon, for which she was by then running late. She said that although he had shown it to her, the defendant retained her airline ticket.

Her evidence continued that on having been returned to her house and while dressing for work and while the defendant was still there, Dawn Campbell arrived at 11 Mona Road. Campbell presented her with a black plastic shopping bag which seemed to her at the time, although she did not inspect the contents, to contain bottles.

Later in her evidence in answer to the Court, the witness explained that she then believed that bag to contain the "thing" which the defendant had intended her to bring to Cayman and that this was because she had observed Campbell in conversation with the defendant on the front porch at 11 Mona Road before Campbell came inside and gave over the bag to her. Campbell also said to her upon doing so that the defendant had instructed Campbell to hand the bag over to her for keeping. Moreover, the witness asserted, because she knew that the defendant and Campbell were friends she accepted the package from Campbell and "put it down."

This reported statement of Campbell attributed to the defendant as being in furtherance of the conspiracy is, for that reason, admissible in this trial against him. (R v Walters and others, 69 Cr. App. R 115 at 121 and Archbold 1995 reissue Vol 1 paragraph 15-357).

To return to the chronology of the witness' account - having been presented with the ticket for travel on Sunday 27th she was surprised not to have seen the defendant at all on that day. Instead she next saw him on Monday 28th, it seems by happenstance at Liguanea,

another suburb of Kingston near to 11 Mona Road. She accosted him for not having shown up on the 27th as had been arranged. He explained that he had had some business to take care of. Following on that discussion her narrative continued that she accompanied the defendant in his car to a local bank and thence to New Kingston to an Air Jamaica ticket office. Again she waited in the car until the defendant's return. He told her that he was unable to get the tickets changed at that office for travel on another date and had been advised to return to the agency from which they had been bought. Thus it was that she accompanied the defendant again to the Southdale Plaza. There the defendant went inside the agency with "the ticket to get it changed."

Upon his return to the car he handed her a ticket telling her it was her ticket for the journey. After seeing that ticket she understood she was to be travelling to Grand Cayman at 8:40 p.m. that very day.

Her ticket and the usual accompanying folder and itinerary were exhibited as exhibits 7, 8 and 8A respectively.

The itinerary, which is a computer printout generated by the travel agency at Southdale Plaza shows that she would be travelling as companion to the defendant.

That fact together with other independent evidence of the witness, Patrick Griffiths, the agent who issued both those tickets,

is of importance in deciding whether Miss Senior's evidence is reliable.

Miss Senior's narrative continued that from the Southdale Plaza she travelled with the defendant in his car to the Welcome Supermarket at Liguanea. There the defendant purchased a box of fruit punch which he advised Miss Senior she should bring with her to Cayman as a decoy to the Customs. She said she then told him she was afraid and his response reassuringly was "don't worry that's how I send it up all the while." They then returned to 11 Mona Road where, before leaving her, the defendant is said to have given her 800 dollars Jamaican currency for taxi fare and departure tax and admonished her not to be late for the flight that evening. Not knowing where she would be staying in Grand Cayman the witness said she enquired of the defendant and he told her simply to put "hotel" in the entrance forms.

Later that day, said Miss Senior, Dawn Campbell again turned up at 11 Mona Road and this time she received from Miss Senior the very bag with the bottles which she had delivered to her there the Saturday before, 26th November. Dawn Campbell left with the bag. Miss Senior travelled to the Norman Manley Airport, Kingston, at the appointed time. There she saw Dawn Campbell who again handed to her what appeared to be the same bag. It contained 4 hair spray bottles which, from the general feel of the bottles, seemed to be the same bottles she had been handed on the Saturday before. The witness said that she placed the bottles in her hand bag which she kept as carry-on

luggage.

Having checked in the box of fruit ouch and her travel bag the witness said she went to the departure area and a little while later noticed the arrival there of the defendant. Although they spoke it appears from her evidence of their exchanges in the waiting area, that even then the defendant was noticeably cool towards the witness.

To satisfy her own curiosity about the contents of the bottles which she believed contained the cocaine, she went into the washroom and sprayed some of the contents onto her hand. She was even more puzzled when the spray appeared instead to be hairspray.

It is to be inferred from her account that even at that stage there was a tacit understanding between herself and the defendant that a certain distance was to be kept for she spoke of no attempt to discuss the contents of the bottles with him.

The defence points naturally to this and to the role played by Dawn Campbell even on Miss Senior's account, as basis for the inference that Campbell and not the defendant was the real procurer. The defence argues that Senior seeks now to implicate the defendant only because she hopes to benefit by a further mitigation of her sentence for testifying against him.

This is an aspect of the case to be considered in the light

of the totality of the evidence.

The witness continued that after some delay they eventually boarded the Trans Jamaica Airliner for the flight. She sat a bit ahead of the defendant on the plane. There was no conversation between them on the flight.

On arrival the witness said that the defendant and herself approached the Immigration desk at the airport. There had been only some six or so passengers on the flight and so not much of a wait there. The defendant approached the Immigration officer and during the discussion between them she heard the Immigration officer ask the defendant whether she and the defendant were travelling together. The witness answered "yes" but the defendant answered "no".

This poignant exchange was not denied by the defendant when he testified. And in his own interview under caution by the police he did admit to having a conversation with the Immigration officer about where he and Miss Senior would be staying on the Island.

Miss Senior also testified as to another exchange between the defendant and herself upon arrival in Grand Cayman when, in the Customs hall she sought his assistance to retrieve the box of fruit punch from the conveyor belt and he responded, "don't talk to me you know, mi no know you." The defendant in his interview to the police said he did not remember any such exchange.

I accept the evidence of Miss Senior in this regard and the significance of those exchanges assumes importance in this trial when put against the background of all the other evidence which clearly shows that Miss Senior and the defendant were travelling companions. The inference I draw from this will be set out below in my findings of fact.

In cross-examination by Mr. Furniss it is significant that it was put to Miss Senior that there had been no discourse whatsoever between herself and the defendant on the 25th or 26th November and that no ticket was purchased by the defendant at any time except the 28th November. That was in keeping with what the defendant said to the police in his cautioned interview. In that interview the account put forward was that the coincidence by which their names came to appear on a common itinerary had come about because Dawn Campbell must have made their reservations together. That line was maintained by the defendant in his evidence in chief in which he also at first maintained that he physically came into possession of his ticket to travel to the Cayman Islands on Monday the 28th of November 1994, the very day he travelled.

He also testified that he first became aware Miss Senior was travelling to the Cayman Islands on that day also. That he had not personally made his own travel arrangements but instead had relied upon Dawn Campbell to make them. On the basis of those arrangements he went to the Travel Agency at Southdale Plaza on the same day, Monday 28th November to collect his ticket. Then, entirely by

happenstance, both Dawn Campbell and Annette Senior got into his car and accompanied him to the Travel Agency where, for the first time, he realised Annette Senior would be taking the same flight to Grand Cayman.

That account by itself, strains belief. When considered against the defendant's later account given in evidence in cross-examination, the two accounts are irreconcilably inconsistent.

In cross-examination, the defendant admitted to having a ticket for travel on Sunday 27th November and when pressed to explain how Miss Senior would have known of that fact had there been no contact between them prior to the 28th, the defendant was unable to give an explanation. He did however go on to also accept that on the 28th November his reason for going to the travel agency and indeed earlier that day to the Air Jamaica office in New Kingston, was to seek a revalidation or upgrade of his ticket issued prior to that date.

It is against the background of this evidence in common as between the witness Annette Senior and the defendant that the evidence of the other important crown witness, Patrick Griffiths, must be examined. Patrick Griffiths is a travel agent employed to the Travel Agency located at the Southdale Plaza. He did not testify in person. Instead his statutory form of witness statement was read into evidence by the consent of the defence and with the leave of the Court. By that consent his evidence was to be taken as agreed by the defence and

as such was expressly confirmed by Mr. Furniss at the instigation of the Court as being the position based on his instructions.

In summary, Griffiths' evidence is that sometime before 28th November 1994 reservations were made for Uriah Thomas and Annette Senior to travel to the Cayman Islands in Trans Jamaica Airlines. That on the 28th November a male person whom he positively identified from a photograph shown to him as the defendant, came to the Agency to pick up both tickets. Griffiths stated that he was paid 15,645 Jamaican dollars in cash for the tickets, implicitly also by the person who collected the tickets viz: the defendant. The itinerary which he issued with the tickets would show the two persons were travelling together. The two tickets respectively bearing Miss Senior's and the defendant's names and on which they travelled were identified by this witness by reference to his own handwriting on them and by their serial numbers. Each bears the 28th November 1994 as the date of issue.

This witness' statement sheds no light on the subject of the ticket which had been earlier issued, one at least, that for himself, the defendant acknowledged in his evidence and which both himself and Miss Senior described as requiring revalidation.

Efforts to bring the witness Griffiths to testify at the instigation of the Court were unsuccessful. The result is that I am unable to accept all this witness states without reservation. I find I am in doubt as to the occasion when the full costs of the tickets

were paid and thus, by whom. The evidence of Miss Senior is that tickets had been issued on Saturday 26th for travel on Sunday 27th and that she saw one in her own name. At least insofar as his own ticket was issued on that date, the defendant eventually agreed.

The tickets exhibited in evidence and identified by the witness Griffiths, although clearly issued on 28th November 1994 I must regard as possibly being replacements for those earlier issued. If so then I must also recognise the possibility that all that might have been paid on the 28th November 1994 were the costs of revalidation. To the extent Griffiths is to be understood as stating that the defendant paid cash to him for the full costs of both tickets on the 28th November, he might have been mistaken.

I approach the case from that point of view.

Nevertheless I accept the evidence of the witness Griffiths, that the defendant it was to whom he delivered the tickets on 28th November 1994. The defendant admits going there on that date at least for his own ticket and Griffith's recollection is supported by the itinerary which he stated would usually be issued in respect of both tickets.

The itinerary exhibit 8A, an identical copy of which was attached to each ticket folder, shows that they were indeed jointly issued for travel together.

Two other aspects of the evidence in cross-examination of the defendant are worthy of note.

The defendant admitted to writing a number of letters to the witness, Annette Senior, while both have been in custody at Northward Prison. Two of them at least, upon which he was questioned, were written at times when the defendant was aware that Miss Senior was to be a witness against him.

From them it was plain that the defendant was seeking, by means of entreaty and cajolment, to persuade the witness not to testify or else to change the nature of her testimony.

The other matter came at the very end when, although having maintained that his several visits to the Cayman Islands in the past as well as the visit in question were entirely for legitimate trading purposes, he was unable to give any details whatsoever to support that account. I draw no adverse inference from this as to the defendant's past conduct. It is his inability to account for the visit in question which also leads me to reject his version of events.

#### Findings of fact

1. The evidence of Annette Senior is corroborated in a material respect by that of the witness Griffiths, in showing that the defendant was involved in making the travel arrangements for Senior's trip to the Cayman Islands.
2. As the two were clearly travelling together the defendant's

efforts to dissociate himself from Senior from the moment of their arrival in the Cayman Islands, betrays his own guilty knowledge that she had the illegal drugs.

Although this cannot be corroborative of Senior's evidence, it is important to answer any concern that the defendant may not have known of the contents of the bottles when they were finally handed over to Senior by Dawn Campbell at the airport in Kingston, and although in the defendant's absence.

3. The defendant's entreaties and attempted cajolment in his letters to Miss Senior are entirely inconsistent with any belief on his part in his own innocence on the one hand and with any natural indignation at her mendacity on the other. By one of his blandishments he even proclaimed his admiration for Miss Senior because of "how she behaved herself." This to a person who, from his point of view, will give false evidence of his involvement in drug trafficking.
4. The defendant lied in his evidence in chief to this Court and patently so, in respect of the time it was that he first made arrangements to travel to the Cayman Islands in respect of the trip of the 28th November.  
Those lies could only have been for the purpose of disassociating himself from any suggestion of earlier contact with Miss Senior on the 25th or 26th November 1994, in the manner she described. The lies, therefore, relate to a material issue and, I find, were motivated by the

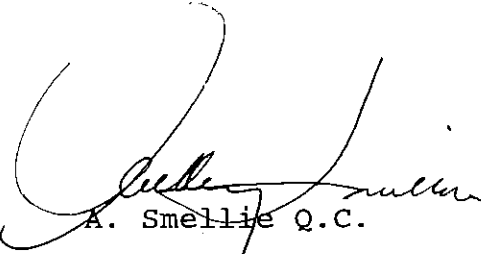
realisation, that the truth would point to his guilt.

5. I accept Miss Senior as a witness of truth as to her account that the defendant persuaded her to bring the drugs to the Cayman Islands and that he took steps to procure her airline ticket for those purposes.
  
6. I also accept her evidence to the effect that there was an agreement as between herself the defendant and at least one other, by implication, Dawn Campbell, to import the drugs into the Cayman Islands.

I am satisfied so that I feel sure of the guilt of the defendant in respect of both counts of the indictment.

Specifically, in respect of Count one, I am also satisfied so that I am sure that the defendant was concerned in the possession of the drugs handed over by Dawn Campbell to Miss Senior, and hence was concerned in the importation of those drugs into the Cayman Islands.

I therefore enter convictions against the defendant in respect of both counts of the Indictment.

  
A. Smellie Q.C.

23rd July 1996