



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

3 **Neutral Citation Number: [2025] CIGC (Crim) 52**

4 **INDICTMENT NO: 82 of 2022**

5
6
7 **R**

8
9 **V.**

10
11 **RICHARD LEE HYDES**
12
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15 **Appearances: Ms. Shauna-Kaye James, Crown Counsel, Office of the Director of Public**
16 **Prosecutions for the Prosecution**

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18 **Mr. Crister Brady of Brady Law for the Defence**
19

20
21 **Before: The Hon. Justice Cheryll Richards KC**
22

23 **Trial Heard: 13th February, 28th February and 7th March 2025**
24

25 **Verdict Judgment: 12th March 2025**
26
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28
29 ***Criminal Law*** – *Trial by Judge Alone pursuant to section 129 of the Criminal Procedure Code (2021*
30 *Revision); Doing an Act in Order to Obstruct, Prevent, Pervert or Defeat the Course of Justice contrary to*
31 *s.107 of the Penal Code (2022 Revision).*



VERDICT JUDGMENT

- 1
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3 1. The defendant is charged with a single count of Doing an Act in Order to Obstruct, Prevent,
4 Pervert or Defeat the Course of Justice contrary to s.107 of the *Penal Code* (2022 Revision).
5
- 6 2. The particulars are that he between the 28th day of March 2022 and the 31st day of March 2022
7 did an act in order to obstruct, prevent, pervert or defeat the course of justice, namely making
8 a false report to the police that his Volvo S 40 motor vehicle reg, #193 615 had been stolen.
9
- 10 3. The defendant pleaded not guilty and has elected a trial by judge alone pursuant to section 129
11 of the *Criminal Procedure Code* (2021 Revision). In approaching this case this Court is guided
12 by the Court of Appeal judgment in the case of *K. Richards v. R*¹ with respect to the required
13 approach to trials by judge alone.
14
- 15 4. The Court reminds itself that the burden of proof is upon the prosecution to prove the
16 defendant's guilt to the required standard which is so that the Court is sure before there can be
17 a conviction. There is no burden on the defendant to prove his innocence. The burden is on the
18 prosecution, and it never shifts. These principles were borne firmly in mind throughout this
19 case, as I listened to the evidence for the prosecution and the defence and as I considered the
20 verdict.
21
- 22 5. The offence of Perverting the Course of Justice requires proof of a positive act together with
23 an ulterior intent, namely that the course of justice be perverted. The elements to be proved are:
24 -
 - 25 i. That a course of justice was embarked upon such that proceedings were pending
26 or imminent or there were investigations ongoing which might end with criminal
27 proceedings.
 - 28 ii. The defendant did an act in respect of those proceedings.
 - 29 iii. The act had a tendency to interfere with those proceedings.
 - 30 iv. The defendant did the act with the intention to interfere with those proceedings.

¹ 2001 CILR 496, paragraph 32



1 **CASE SUMMARY**
2

- 3 6. From the agreed facts in this case, on the 29th March 2022, there was a robbery at the Esso Gas
4 Station at 150 Dorcy Drive in George Town. A Volvo motor car registration # 193 615 was
5 believed by the police to have been involved in the robbery. The police gave chase to it shortly
6 after the robbery and seized it. It was processed forensically. A DNA profile matching that of
7 an individual other than the defendant, a person (“A”²) was found on the gear knob, emergency
8 brake and driver’s side sun visor of the vehicle. Fingerprints were lifted from the rear right and
9 trunk doors which matched “A”. The defendant is the registered owner of this vehicle.
10
- 11 7. It is also an agreed fact in the case that the defendant was enrolled in the Electronic Monitoring
12 Programme on the 28th March 2022 and fitted with an electronic monitoring device. The
13 Electronic Monitoring (EM) data and geographical map for the period 29th March and 30th
14 March 2022 was produced by agreed fact. It shows detailed movements of the device worn by
15 the defendant from 5pm on the afternoon of the 29th March through to 11am on the morning of
16 the 30th March 2022.
17
- 18 8. It is common ground about which there is no dispute that on the morning of the 30th March
19 2022, the defendant called 911 and made a report to the police at 7:06am. He made the call
20 from telephone number 929 0872. He reported that his Volvo motor car 193 615 had been
21 stolen. He subsequently gave the police a witness statement in which he said that he had left
22 the car overnight with Martica’s son for repairs and when he went there that morning it was
23 missing.
24
- 25 9. The issue joined in this trial is a factual one whether the statement and the report made to the
26 police by the defendant was truthful.
27
- 28 10. The prosecution called Martica’s son whose correct name is Juan Baptista Mata Pena. He
29 testified that the defendant had not left the vehicle with him overnight. He said that he had had
30 no arrangement with the defendant to leave the car with him for him to change the rack and
31 pinion. He said that he first saw the defendant sometime after 9am on the morning of the 30th

² Redacted and anonymised due to extant proceedings

1 March 2022 when the defendant came to his workplace at Vampt Motors on Walkers Road. He
2 said that the defendant asked him to help back up a story that the vehicle was stolen from the
3 shop of Mr. Mata Pena's father.

4
5 11. Mr. Mata Pena testified that he knew that the car was not at his father's premises because the
6 place where his father keeps vehicles is near to his home on Theresa Drive. He said that he had
7 a video camera on the premises. He and his wife went through the video recording, and they
8 never saw any other vehicle there except an old car that he had parked there for some time. He
9 said that his videos showed that the only time that the defendant had come to his house was
10 earlier that morning of the 30th March 2022 at about 9:19am. He maintained through searching
11 cross-examination from defence Counsel that the defendant's car was never there.

12
13 12. DC Brian Corbin testified that the number from which the defendant called to report his car
14 stolen was a number attributed to "A" who was then a suspect in the robbery.

15
16 13. The defence case is that the defendant told the police the truth and is telling the truth at trial
17 that the car had been left with the witness and went missing. It is that the witness is lying for
18 his own reasons.

19
20 14. In an interview given under caution with the police, the defendant said that he had dropped off
21 the car to the witness Mr. Mata Pena at about 6:45pm on the evening of the 29th March. He said
22 that he went to Fairbanks Prison to drop off something for Matthew Whittakers' wife and after
23 that he had to drop off the vehicle quickly because he had to be home by his curfew time of
24 7pm. He said that he had made a prior arrangement with the witness to leave the car there. He
25 said that he had gone back the following morning, and the vehicle was not there. He then
26 walked back to his home in Windsor Park and called 911 using his phone 929 1651.

27
28 15. In Court he testified that he had left the car at the home of the witness at about 6:42pm on the
29 evening of the 29th March having made an arrangement with the witness the day before. He
30 said that when he went back the following morning he did not see the car and went to the work
31 place of the witness. The witness told him that he had not seen the car.





1 **EVIDENCE AT TRIAL - THE CASE FOR THE PROSECUTION**

2 ***Evidence of Juan Baptista Mata Pena***

3
4 16. Mr. Mata Pena testified that in March 2022 he was employed to the Sales Department at Vampt
5 Motors which was located on Walkers Road. He worked as a handy man on site for used
6 vehicles. He was then living on Theresa Drive in Windsor Park with his wife, Martha Garcia.

7 17. On the 30th March 2022 at about 10am he was at work doing his rounds as part of a regular day.
8 He had been doing some work around the rear of the premises and had just come back into the
9 office and into the kitchen to get something to drink. When he came out, he saw Mr. Lee
10 standing in the lobby. He has known Mr. Lee from childhood but does not know him by any
11 other name.

12
13 18. Mr. Lee asked him if he could step outside to have a talk. He went and they spoke. Mr. Lee was
14 saying that he had left a vehicle at Mr. Mata Pena's father's shop in Windsor Park. Mr. Lee said
15 that he had left it there for him to work on it, but the car was never on his premises or on the
16 property next door.

17
18 19. Mr. Lee did not say when he had left this vehicle at Mr. Mata Pena's father's shop. He did not
19 say what vehicle this was. He only asked if Mr. Mata Pena could help him back up a story about
20 the vehicle getting stolen from his father's shop. Mr. Lee did not say to whom he was to back
21 up the story to. He said that Mr. Mata Pena was to say that the car had been stolen and asked if
22 Mr. Mata Pena could back up his story. He said that the car had been lent to one of his family
23 members, a cousin of his.

24
25 20. Mr. Mata Pena said that he did not say anything in response to this. He said that he knew that
26 the car was not on his premises or next door. He knew this because he had a video camera on
27 his premises. This showed both his premises and the premises next door.

28
29 21. He said that he and his wife went through the video for about an hour and they never saw any
30 other vehicle. The only vehicle which was there was his own vehicle which had been parked
31 there for months.

1 22. Mr. Mata Pena said that Mr. Lee came to see him at 10am on the 30th March 2022. At 9:19am,
2 his wife sent him a video by WhatsApp and asked him if he knew the person in the video who
3 was knocking on their window. Mr. Mata Pena said that he marked the time on the camera
4 footage, and it was 9:15am. He watched it one time and recognised the face of Mr. Lee.
5

6 23. The video footage was shown to the witness in Court and he identified his home and the person
7 in the white shirt as Mr. Lee. He also identified the adjoining premises and the location of his
8 father's shop, which is down the little road next to the garbage bin. He said that the footage
9 was recorded before Mr. Lee came to his work place.
10

11 24. Mr. Mata Pena said that he had never fixed Mr. Lee's vehicle before March 2022. Prior to that
12 date they had never made any arrangements for him to work on Mr. Lee's Volvo.
13

14 25. He said that he had been travelling because of illness so he would not have known if his father
15 had fixed any vehicle for Mr. Lee.
16

17 ***Cross-Examination***
18



19 26. In cross-examination, Mr. Mata Pena testified that he and Mr. Hydes are not well acquainted
20 with each other.
21

22 27. Mr. Mata Pena said that he works with his father sometimes and in the night, he does his own
23 work too. He said that he is not aware of any other garage in Windsor Park. He said that most
24 of the time he drives past Mr. Lee's house. The distance between their two houses is a five-
25 minute walk or less than a minute drive.
26

27 28. He agreed with Counsel that it is right that vehicles would sometimes be left overnight with
28 him or his father, for work to be done, especially if it takes a while for the work to be done.
29

30 29. He said that when a vehicle is left, he would keep it in the road or in front of the little shop, but
31 you can see where it would be parked in front of the building. He said that there is a reason that
32 he has put up cameras to have a record if anything happens outside just like this video. He said
33 that he and his wife searched the camera for the recording of the evening before, the 29th March

1 2022 and they never saw anything. He had shown the video of the evening before which was
2 on his phone to the police but there was nothing on it. His wife was the one who sent the videos
3 to the police.

4
5 30. He said that his father does not have any sort of insurance for vehicles left for them to work on.
6 If a vehicle is stolen while in their custody, he would be expected to pay for it. He said that his
7 father has worked on vehicles for Mr. Lees' mother. She is Ms. Julie who has a taxi vehicle. He
8 said that he did not remember working on any Volvo or other vehicle for Mr. Lee. Mr. Lee came
9 to him asking about a vehicle that he did not know about.

10
11 31. Mr. Mata Pena said that he does know how to change rack and pinions, but he never touched
12 Mr. Lee's vehicle. There was no arrangement with Mr. Lee that Mr. Lee would leave the vehicle
13 and keys. The vehicle was never around or at his premises. There was no arrangement for him
14 to change the rack and pinion over night.

15
16 32. When Mr. Lee spoke to him, he did not say that if the car was not there it must be stolen. Mr.
17 Lee did not tell him to tell the Police that the car was at his house, and it is missing. Mr. Lee
18 told him to back up his story because his cousin was caught without his license. Mr. Lee wanted
19 him to say that the car was stolen from his shop. Mr. Lee told him that the truth was that he had
20 lent the car to a cousin.

21
22 33. The witness was asked "*why didn't you tell him you weren't going to do it?*" His answer was:-
23

24 *"I nah have no response because I know I telling the truth."*

25
26 34. He said that he was not going to do it and that he did not have a friendship with Mr. Lee and
27 had never repaired cars for him before. Mr. Mata Pena said that Mr. Lee had never come to his
28 house like that before. This was the very first time that Mr. Lee had come to his door. Mr. Lee
29 used to do business with his father.



1 35. He said that his father's shop is behind where he lives. Vehicles would be parked out front
2 where the camera is positioned because he has permission to park them there. The camera is
3 motion activated.

4
5 36. He said that he does not like trouble with anybody and is not a person that likes to be in
6 anything.

7
8 **Evidence of DC 373 Brian Corbin**



9
10 37. Brian Corbin testified that he is a Detective Constable attached to the Police Service, currently
11 attached to the Crime Task Force.

12
13 38. He said that he was on duty on the 30th March 2022. He was briefed as it relates to
14 circumstances in relation to a robbery using a firearm which had taken place on the 29th March
15 2022 at the Esso Service Station at 150 Dorcy Drive sometime between 22:02 and 22.03 hours.

16
17 39. He was the lead Investigator for the robbery. On the 30th March 2022, he made some checks in
18 relation to a 911 communication about a Volvo motor car, registration 193 615. This car had
19 been seized in connection with the robbery. Clothing and a backpack were found inside of it
20 which from CCTV footage appeared to match that worn by the persons who committed the
21 robbery.

22
23 40. There was a further report of theft of a motor car on the said morning of the 30th March. This
24 was a report made by Richard Lee Hydes who said that his car had been stolen. Mr. Hydes said
25 that he discovered it was missing on that morning. The report was made by a telephone call
26 from 929 0872. This is a number attributed to another person "A". "A" was one of the suspects
27 in the robbery at 150 Dorcy Drive at the Esso Gas Station. "A" was arrested on suspicion of
28 robbery. At that time, he was living at an address in Windsor Park.

29
30 41. On the 2nd May 2022, DC Corbin saw and spoke to the defendant who was then in police
31 custody at the Cayman Islands Detention Centre. DC Corbin told him that he was in possession
32 of a statement which the defendant had made to the police that his silver Volvo motor car
33 registration 193 615 was stolen. DC Corbin told him that based on his investigation he had

1 reason to believe that his statement to the police was a false one. DC Corbin told him that it
2 was an offence to mislead the police and cautioned him.

3
4 42. The defendant said that the report he had made about his car being stolen is true. He was also
5 informed about the robbery and denied involvement. He was arrested on suspicion of both
6 offences. His cell phone was seized as part of the investigation.

7
8 43. The defendant was interviewed under caution in the presence of his attorney on the 3rd May
9 2022.

10
11 44. DC Corbin stated that according to the Police Record Management System, the Volvo was
12 reported to be stolen at 7:06 in the morning. It had been recovered in Martin Drive by the police
13 on the 29th of March 2022 sometime around 11:30 in the night. Persons had fled from it, leaving
14 it unattended.

15
16 45. Fingerprints were recovered from the right rear door and trunk of the vehicle which matched
17 “A”. A white T-shirt was found in the vehicle which had DNA from which “A” could not be
18 excluded.

19
20 46. On 27th Sept 2022 DC Corbin formally arrested and charged the defendant.

21
22 ***Cross- Examination***

23
24 47. In cross-examination, DC Corbin said that during this investigation he did not recover video
25 footage from Mr. Pena’s address that covered 7pm and beyond on the 29th March 2022. The
26 only footage which he recovered was that for the morning of the 30th March which he submitted
27 for the Court. There is footage of the Volvo leaving Windsor Park on the 29th March at about
28 9pm. There are several Closed Circuit Television (“CCTV”) cameras in and around the area
29 through which the car would have passed. There was no assistance from the footage as to who
30 was driving the Volvo at that time.



1 48. He said that there was nothing that suggested that the defendant was anywhere other than his
2 residence on the evening of the 29th March. The Volvo was not seen at the scene of the robbery.
3 The first time that it was seen was on the CCTV footage, three to four minutes after the robbery.
4 It was seen leaving the Rock Hole area at the junction of Mary Street.

5
6 49. DC Corbin said that to the best of his knowledge the vehicle was not insured at that time. He
7 agreed with Counsel that it is possible that because it was not authorised to be driven, a person
8 driving it may try to avoid the police and that it is possible for a stolen car to be used in the
9 course of a robbery.

10
11 50. He said that he is familiar with the home addresses of the witness and the defendant, and
12 between the two it is fifteen to twenty minutes' walk in terms of distance and possibly a two-
13 minute drive.

14
15 ***Interview of Defendant***



16
17 51. The recording of the defendant's interview and a transcript of it were tendered in evidence. The
18 defendant said that he had purchased the grey Volvo sometime before March 2022. He said that
19 on the 30th March at 7:06am he had reported to the police that it had been stolen. He had
20 thereafter made a witness statement which he signed at the police station.

21
22 52. He said that his vehicle was stolen from the garage of Martica's son who lived down the road
23 from him.

24
25 53. He said that he cannot remember the date that he took it there. He dropped it off before 7pm,
26 roughly 6:45pm. He was on a curfew from 7pm to 7am which was electronically monitored.

27
28 54. He said that he had traveled from the Detention Center at Fairbanks where he dropped off some
29 stuff for Matthew Whittaker. After that he dropped off the car to the garage. The mechanic told
30 him to drop it there so that he could pick it up in the morning. When he left the car no one was
31 there.



1 55. He said that he took the car to the mechanic because the bushing and things were making noise.
2 The rack and pinions needed to be worked on. He wanted to get it licensed and insured, and he
3 knew that they were not going to pass it in the state that it was in.

4
5 56. He said that the mechanic had worked on his mother's taxi and on his vehicles before then and
6 lived right down the road from him. He did not have a number for him but had seen him a
7 couple days before and made the arrangement with him to leave the car there.

8
9 57. He said that when he returned the next morning to collect the vehicle, it was not there. When
10 he saw that the vehicle was not there, Mr. Martica was not at home so he went to Mr. Martica's
11 work place.

12
13 58. Mr. Martica told him that he had not seen the car when he arrived home from work. The
14 defendant responded that he had left the car with the key under the mat as they had arranged.

15
16 59. The defendant said that he came to the conclusion that the vehicle had been stolen and he then
17 made a report.

18
19 60. He said that he made the inquiries of the mechanic sometime about 7:30am minutes to 8am.
20 He had walked to his house and walked back. He said that he could not really remember
21 because it has been a while. He said that he called the police from his personal phone number.

22
23 61. The mechanic had told him to leave the car there the day before and leave the keys on the
24 driver's side. After he reported the car stolen, he did not speak to the mechanic again. He did
25 not visit the house after the car was reported stolen and did not go to the mechanic's work place.

26
27 ***Evidence of PC Orlando Williams***

28
29 62. Orlando Williams testified that in March 2022 he was employed to the Police Service and
30 stationed at George Town. He is no longer in the Police Service. He was on duty on the 30th
31 March 2022. At about 7am he received an assignment from 911 to attend Andy Drive in
32 Windsor Park in relation to a report of a stolen motor vehicle. He attended the location within
33 fifteen minutes.

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63. Upon arriving and speaking with the defendant, the defendant reported to him that he owns a grey Volvo S 40 and that he had left it at his mechanic the previous night at about 6:45pm, for him to effect some repairs. He said he returned there the next morning, and it was not there. He said that he left the key inside of it. The defendant gave the address and name of the mechanic as Martica’s only son and gave a description of him.

64. Mr. Williams said that he made arrangements for the defendant to provide a written statement. The Officer said that he knew Martica’s only son to be Juan Mata Pena. He went to Mr. Mata Pena’s home and to his work place at Vampt Motors and spoke to him. He asked Mr. Mata Pena to provide a statement and to check his camera footage.

65. Later that day Mr. Mata Pena’s wife provided him with two videos with footage showing the area surrounding the house. He viewed them and did not observe in the footage any Volvo motor vehicle parked anywhere at any time. He had asked the witness to go just before the time that was stated of 6:45pm onwards. He observed a bit before that period and did not observe any motor vehicle at that location. Throughout the entire video no Volvo appeared in that vicinity.

66. Mr. Williams said that he also received footage for the morning of the 30th March 2022. He watched this and observed Mr. Hydes go up the staircase to Mr. Mata Pena’s house.

67. Mr. Williams said that from the home of Mr. Hydes to the home of Mr. Mata Pena is two minutes’ drive and from there another three minute drive to Vampt Motors. He said that for him it was about fifteen minutes in total because he would have taken time to speak to Mr. Mata Pena’s wife.

Cross-Examination



68. Mr. Williams was questioned about the absence of video footage for the evening before. He said that the video which he asked for covered the time when car was said to be there that

1 evening. He said that he remembered seeing the video footage off the top of his head. He said
2 that he knows that the wife of the witness showed him footage and the car was not there.

3
4 **EVIDENCE AT TRIAL - THE CASE FOR THE DEFENCE**



5
6 ***Evidence of the Defendant***

7
8 69. The defendant testified that in March 2022 he owned a grey S 40 Volvo Motor Car. On the 29th
9 March at 6:42pm he went to the Detention Centre to drop off some stuff for Matthew from his
10 wife. He left there and went to the mechanic because his time was running out. The mechanic
11 had told him the day before to drop the car at his home and to put the keys down in it, so he did
12 that. The mechanic had done work for him before and had also worked on his mother's vehicle.
13 The mechanic was supposed to change some parts which would have taken a couple of hours
14 to do. He went there the next morning to pick it up and when he went, the car was not there.
15 When he saw that it was not there, he went by the mechanic's work place. He then went home
16 where he saw "A" there. "A" had a phone at the time, and he asked "A" for a call. He used
17 "A" 's phone to make the report to the police.

18
19 70. He said that "A" is just an acquaintance who used to live down there for a while, and he used
20 to date "A" 's sister. He denied telling Mr. Mata Pena to make up any story about his car being
21 stolen. He said that he had known the mechanic all his life growing up as a little boy.

22
23 71. He said that he did not know who was driving his Volvo on the night of the 29th March. He had
24 not given anyone permission to drive it.

25
26 ***Cross-Examination***

27
28 72. In cross-examination he said that he did not have any credit on his own phone which is why he
29 used "A" 's phone. He said when he got home, he saw "A" there.

30
31 73. The agreed evidence that he was at home between 7am and 8:27am and reported the vehicle
32 stolen before he went to Mr. Mata Pena's house was put to him. His answer was that he could

1 not recall reporting the vehicle missing at 7:06am. He maintained that the account given by the
2 witness was not true.



3
4 **ANALYSIS**

5
6 74. In submissions, defence Counsel points out that the witness lives within walking distance of
7 the home of the defendant in Windsor Park and both must have known each other very well.
8 The witness's father had worked on vehicles for the defendant's family. Counsel submits that
9 the witness himself would have a motive to be untruthful if he had taken the car without
10 permission or given it to someone else without permission. Counsel argues that the witness
11 would have reason to lie about the car not being left with him.

12
13 75. This argument does not appear to be a strong one in circumstances where the witness could just
14 as easily have said that the car was left with him and went missing. There would have been no
15 need to add anything about the defendant asking him to support a story.

16
17 76. The defence point to the fact that the witness does not appear to have handed over any CCTV
18 footage showing the relevant time period of 6:45pm or thereabouts on the 29th March 2022
19 when the defendant said that he left the car there. He did hand over the footage showing the
20 defendant visiting his home the following morning. When questioned about this the witness
21 said that he had watched the footage and there was nothing on it. The impression which I had
22 of the witness is that he did not appreciate that the absence of anything on it was in fact the
23 evidence. There is also the question of whether it had in fact been provided rather than just
24 shown to the police given the evidence of Mr. Williams.

25
26 77. Having considered all the evidence and submissions, I reject the account of the defendant for
27 the following reasons: -

28 i) I did not find the defendant to be a credible witness. Having seen and heard him I
29 do not believe him.

30
31 ii) It is telling that at the time of his interview on the 3rd May 2022 he told the police
32 that the call which he made had been made from his own phone. He made no



1 mention of using “A” ’s phone to make the call, yet in giving evidence he now says
2 that he used “A” ’s phone. Even if he did not wish to name anyone, he could simply
3 have said that he had no credit on his own phone and had borrowed a phone.
4

5 I bear in mind that a defendant who tells a lie is not necessarily guilty, that
6 sometimes a defendant who is not guilty will tell a lie for some other reason and
7 that the defendant must not and cannot be convicted wholly or mainly because he
8 lied about this or any other matter.
9

10 iii) The defendant told the police that he did not visit the house of the witness after he
11 reported the car stolen. He said that he never went to Vampt Motors after he
12 reported the car stolen. The agreed evidence from the Electronic Monitoring
13 Department is that: -
14

15 a. On the morning of the 30th March the 911 call being at 7:06am, the device
16 never left the defendant’s home at Andy Drive until 8:28am. This was
17 therefore after the defendant had made the report to the police.
18

19 b. The device went to Walkers Road some time much later.
20

21 iv) The agreed evidence from the record is that the device was in fact at Fairbanks
22 Centre before 7pm on the 29th March as the defendant said he was but thereafter it
23 was never in the vicinity of Theresa Drive, the home address of the witness. It was
24 not recorded as being there at 6:45pm. The device left Fairbanks at 6:47pm and at
25 6:55pm it was in the vicinity of Oakmill Street. At 7:06pm it was at Andy Drive at
26 the home address of the defendant.
27

28 78. The defence submission is that there is no evidence as to precisely how the EM device works
29 and that there was a two-minute gap on the defendants’ way home between being at Talbot
30 Lane and Andy Drive and this may allow time for the car to have been left at Theresa Drive.
31 This submission is considered but questioned in circumstances where the device pattern

1 appears to record specific stationary locations and times. For example, although not detailed
2 herein, the device records specific addresses. (See Admission 10).

3
4 79. In summary the evidence from the device being worn by the defendant is inconsistent with his
5 account of his movement on the afternoon of the 29th March and the morning of the 30th March
6 2022. For all the reasons listed I reject the version of events given by the defendant as
7 untruthful.

8
9 80. I then return to the case for the prosecution. It is on that evidence that I must be sure. I have
10 had the opportunity to see and hear Mr. Mata Pena and find him to be a credible witness who
11 was doing his best to tell the truth. I accept him as a witness of truth on the central issue in the
12 case, which is that the defendant came to his workplace and asked him to lie about the Volvo
13 motor car being left with him for repairs and it having gone missing.

14
15 81. The evidence of Mr. Mata Pena finds support from other pieces of evidence: -

16
17 a. The EM data showing that the defendant's device was not in the vicinity of Theresa Drive
18 in the afternoon of the 29th March 2022.

19
20 b. The phone data showing that the 911 call was made by the defendant at 7:06am on the 30th
21 March 2022. This was well before the EM data showed him to be in the vicinity of the
22 address on Theresa Drive and on Walkers Road one hour and a half later. The defendant
23 could not then have checked Theresa Drive and found the vehicle missing *before* he called
24 911.

25
26 c. The video produced by the witness of the defendant visiting his home on the morning of
27 the 30th March was time stamped after the 911 call had been made.

28 The witness testified that at 9:19am his wife sent him a video with a message asking if he
29 knew the person who was knocking on their window. He said that he recognised the person
30 in the video to be the defendant.



1 82. I am satisfied so that I am sure that when the defendant reported his car stolen from the
2 mechanic Martica's son on the 30th March 2022, this was not true.

3
4 83. I am satisfied so that I am sure that the defendant was deliberately and intentionally making a
5 false report to the police intending to send them on a false trail. I am satisfied that investigations
6 were then in train because the police were investigating a robbery committed the night before
7 in which the defendant's motor car was suspected to have been used. These were investigations
8 which might end in criminal proceedings. The false report was an act in respect of those
9 proceedings which had a tendency to interfere with those proceedings. I find all the elements
10 of the offence proven to the required standard and conclude that the defendant is guilty as
11 charged.

12
13 **Dated this the 12th day of March 2025**



14
15 **The Hon. Justice Cheryll Richards KC**
16 **Judge of the Grand Court**