



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

4 **Neutral Citation Number: [2025] CIGC (Crim) 32**

5 **Case No: SCA 9 of 2024**

8 **BENJAMIN ISAIAH CARRINGTON**

10 **V.**

12 **REX**

14 **Appearances:** **Ms. Prathna Bodden of Samson Law for the Appellant**

15 **Appellant is present**

16 **Ms. Alliyah McCarthy Crown Counsel of the Office of the**
17 **Director of Public Prosecutions for the Respondent**

18 **Before:** **The Hon. Justice Cheryll Richards KC**

20 **Submissions Heard:** **14th May 2025**

21 **Judgment Delivered:** **6th June 2025**

23
24 ***Criminal Law*** – *Appeal against convictions pursuant to s.165 of the Criminal Procedure Code (2021*
25 *Revision). Principles on Appeal; Instructions to Defence Attorney at trial; No record produced of*
26 *endorsement made of Attorneys' brief.*



SUMMARY COURT APPEAL JUDGMENT

- 1
2
3 1. The Appellant appeals his convictions after trial for the offences of Importation of Ganja
4 and Possession of Ganja with Intent to Supply. The convictions were entered on the 26th
5 February 2024. On the 4th March 2024 the defendant was sentenced by the Summary
6 Court to 48 months imprisonment for each offence. In respect of the offence of Illegal
7 Landing to which he had pleaded guilty he was sentenced to 10 months imprisonment.
8
- 9 2. The Notice of Appeal was filed by the Appellant in person on the 11th March 2024.
10 There is no ground visible on the face of the notice. Counsel for the Appellant upon my
11 inquiry as to the ground of appeal advises that it is the Appellant's recollection that *'he*
12 *had written that he wanted a retrial, because of evidential issues, the DNA and*
13 *fingerprint evidence and so forth'*.
14
- 15 3. The Appellant was represented at trial by Counsel Mr. Crister Brady. Before this Court,
16 Counsel Ms. Bodden argues that there has been a material irregularity in the trial such
17 that the convictions are unsafe and should be set aside and a re-trial ordered.
18
- 19 4. In summary it was alleged at trial that on the 23rd September 2023 the Appellant was one
20 of two people found by the Police at premises on 76 Rockhole Road in George Town.
21 The owner of the premises had filed a complaint that she had given no one permission
22 to be at the premises which were supposed to be unoccupied and that neighbours had
23 reported sightings of unknown people there. When the police arrived, the Appellant was
24 seen sitting on a bucket in a corridor in the upstairs section of the premises. There was a
25 strong scent of ganja coming from a room to the left. When the room was checked,
26 several plastic bags with approximately 150 pounds of ganja were found in an open
27 closet.
28
- 29 5. The Appellant was arrested and a cell phone seized from his hand. It was examined by
30 PC Andre Isaacs, a digital forensic examiner employed to the Royal Cayman Islands
31 Police Service. He gave evidence of multiple photographs and videos found on the phone
32 as well as conversations relating to drugs and transfers of cash.
33

1 6. The Appellant, a Jamaican national was interviewed by the police under caution in the
2 presence of his attorney. He gave a prepared statement in which he stated that he left
3 Jamaica on the 15th September 2023 and arrived in the Cayman Islands on the 16th
4 September 2023. He accepted that he had landed illegally but denied knowing about and
5 possessing the ganja found. At trial he declined to give oral evidence.

6
7 7. The learned Magistrate’s (“the Magistrate’s”) note at the end of the case for the
8 prosecution is: -

9
10 “Court advised the Defendant of his right to give evidence, or to choose not to.

11 Defendant: - I want to remain silent.”

12
13 8. In the Verdict Judgment the Magistrate adverted to the burden and standard of proof and
14 provided a detailed and careful assessment of the evidence. The conclusion was that the
15 totality of the circumstantial evidence, in particular the cumulative effect of the
16 photographs and video evidence found on the phone, show that in August of 2023 ganja
17 was present, being parceled and being openly discussed. There was also a GPS unit and
18 a boat before the date of arrival in the Cayman Islands. There were also messages
19 evidencing the intention to travel and to bring drugs.

20
21 9. There were conversations on the 22nd September 2023 with another person about
22 bringing a scale and the purchase of bags. The Magistrate found that there was an overall
23 sufficiency of evidence upon which to find that the prosecution had discharged the
24 burden upon it in respect of both offences.



25
26 **POWERS OF THE COURT ON APPEAL**

27
28 10. The Court’s powers on an appeal from a decision of the Summary Court are set out in
29 s.181 of the *Criminal Procedure Code* (2021 Revision): -

30
31 “181. The court may adjourn the hearing of the appeal, and may, upon the
32 hearing thereof confirm, reverse, vary or modify the decision of the
33 Summary Court, including the passing of some other sentence (whether
34 more or less severe) or remit the matter to the Summary Court for retrial, or

1 may make such other order in the matter as it may think just, and may, by
2 such order, exercise any power which the Summary Court might have
3 exercised, and such order shall have the same effect and may be enforced in
4 the same manner as if it had been made by the Summary Court: Provided
5 that the court may, notwithstanding that it is of the opinion that the point
6 raised in the appeal might be decided in favour of the Appellant, dismiss the
7 appeal if the court considers that no substantial miscarriage of justice has
8 actually occurred.”



9
10 **THE APPEAL**

11
12 11. The Appellant raises seven grounds of appeal as follows.

13
14 **GROUND 1 – CONDUCT OF TRIAL COUNSEL**

15
16 12. Counsel for the Appellant submits that in the instant case there was a material irregularity
17 because the Appellant wanted to give evidence but was advised that he could/should not
18 do so, which was against his wishes. Counsel submits that the Appellant has a right to
19 give evidence both at the police station and at trial but asserts that he was denied that
20 right.

21
22 13. In support of this submission, Counsel asked the Court to note that there is no
23 endorsement from the Appellant’s attorney at the time, despite requests for copies to be
24 provided to confirm that the Appellant received the appropriate advice at the close of the
25 Crown’s case and that he signed an endorsement. There is no proof of evidence to
26 confirm the Appellant’s instructions.

27
28 14. Reliance is placed on the case of *Ebanks v The Queen*¹.

29
30 15. Counsel for the Respondent in response referred the Court to the contents of the Affidavit
31 of Mr. Brady.

32

¹ [2006] UKPC 16
250606 Benjamin Isaiah Carrington v R: SCA 8 of 2025. Coram: Richards J, KC – Judgment



1 **THE AFFIDAVIT EVIDENCE**

2
3 16. In an affidavit dated the 20th of February 2025, the Appellant states that his defence is
4 that he did not have knowledge or possession of the drugs. He said that he told his
5 attorney that he wanted to explain what happened and to speak and that his attorney told
6 him that he would do it. He said that Mr. Brady never told him that he could give
7 evidence, that this was his right, or that the Judge could hold his silence against him.

8
9 17. He stated that he was advised to stay silent in interview as well, so he wanted to say his
10 piece at Court: -

11
12 “ 3.At trial, my defense was that, that I did not have knowledge or possession of the
13 drugs. I did not live in the house, I was simply visiting a friend. None of my
14 belongings were there. I had never been in that room where the drugs were found.
15 There was no forensics.

16
17 4.During the trial I told Crista that I wanted to explain what happened, I wanted to
18 speak. He told me that he would do it. He told me to relax. He said not to speak as
19 that was his job. Mr. Brady never informed me that I could give evidence or that it
20 was my right. He did not tell me that the Judge can hold my silence against me.

21
22 5.He advised me to stay silent in interview as well, so I wanted to say my piece at
23 Court. But he said he would do it.

24
25 6.The only paper that Crista asked me to sign was to confirm that I was pleading not
26 guilty. I did not sign anything which confirmed that I did not want to give evidence
27 or what the possible consequences was of not doing so,

28
29 7.The Judge also did not give me any warning, I don't recall the Judge talking to me
30 directly. But I was never informed about any adverse inference.

31
32 8.I was also not given time or opportunity to speak in my sentence. There was no
33 probation report either.



1 9. It was my right to speak at my trial and I was denied that right.”

2
3 18. Mr. Brady provided an affidavit dated 13th March 2025. He states therein that the
4 defendant was initially advised that if he elected to go to trial, he could choose not to
5 give evidence in his defence but that he could not be compelled to do so and that an
6 adverse inference could be drawn if he failed. He said that the defendant later signed a
7 document which he had prepared, acknowledging that the defendant understood the legal
8 position. In the course of the trial he sought a break at half time and reminded the
9 defendant of the earlier advice and that the time had come for him to give evidence. The
10 defendant indicated to the Court that he did not wish to give evidence. Mr. Brady states:

11 -

12 “ 3. That following meetings with the Appellant, instructions were taken by me. He
13 entered guilty pleas to Illegally Landing at a relatively early stage. The evidence on
14 which the prosecution was relying against him in relation to the other charges was
15 discussed and advice as to their weight, the potential sentence if he was found guilty,
16 and the court’s discretion where discounts for guilty pleas entered early are
17 concerned were also discussed. He was advised that if he elected to go to trial, he
18 could choose to give evidence in his defence but could not be compelled to do so,
19 but that the court could draw adverse inferences if he failed or refused to do so. He
20 later signed a document I prepared acknowledging that he understood his legal
21 position and the risks as I had explained them but still wished to have the matter
22 tried. When arraigned on the remaining charges, he pleaded Not Guilty.

23
24 4. In due course, on or about the 31st January 2024, a trial was embarked upon before
25 Her Hon Magistrate Vannesa Allard. After the Crown closed its case following
26 evidence being given by Crown witnesses and those witnesses being cross-
27 examined, the learned magistrate determined that there was a case to be answered. I
28 requested and was granted a brief break to take instructions. I again reminded the
29 defendant of earlier advice and that the time had come for him to give evidence if
30 he wanted to, but that he could not be compelled to do so against his wish. When
31 the court resumed, Her Honor Magistrate Vanessa Allard explained to the defendant
32 that having found that there was a case to be answered, it was his choice as to
33 whether or not he wished to give evidence. She explained in similar terms the
34 position in the proceedings had reached, as had been explained to him earlier by me.



1 He indicated to the court that he did not wish to give evidence. My recollection is
2 that the Learned Magistrate then proceeded to give directions on the timelines for
3 closing submissions where were later done. He was later found guilty by Her Honor
4 Magistrate Allard and sentenced to 4 years imprisonment I believe following
5 submissions on sentencing from the Crown and myself.”
6

7 19. In the case of *Ebanks v The Queen*, the grounds of appeal before the Judicial Committee
8 of the Privy Council included that the failure to call the appellant to testify in *voire dire*
9 proceedings “was a failure of judgment so fundamental in nature that the appellant was
10 deprived of due process of law and did not receive a fair trial”. A further ground was
11 that the conduct of Counsel discouraged the appellant from testifying resulting in a
12 material irregularity in the course of the trial”. There was affidavit evidence from
13 defence Counsel who represented the appellant at trial which asserted that his
14 instructions were that he would not give evidence at any stage of the trial.
15

16 20. The Appellate Court discussed the importance of a defendant’s decision not to give
17 evidence and the duties attendant upon defence counsel. The Court said that the decision
18 not to give evidence is one of such potential importance that it has long been recognised
19 that it should be recorded in writing. The Court stated: -
20

21 “ More recently, in *R v Chatroodi* [2001] EWCA Crim 585, at paras 39 – 40,
22 Pitchford J repeated the warning:
23

24 “39. As long ago as 1993 Watkins LJ, giving the judgment of this Court in *R v*
25 *Bevan* 98 Cr App R 354 said that it should be the invariable practice of counsel to
26 record any decision of a defendant not to give evidence, signed by the defendant
27 himself, indicating, clearly, that the decision has been made of his own free will,
28 and that in reaching that decision he has borne in mind advice tendered by counsel.
29 We are bound to express some dismay at the knowledge that comparatively senior
30 counsel, advising a client not to give evidence, notwithstanding the provisions of
31 section 35 of the Criminal Justice and Public Order Act 1994, was unaware of this
32 obligation.
33

1 40. While we would not expect counsel to record every detail of every conference
2 between himself and his client, we would expect some written record of a
3 conversation relevant to the important question whether it was in the defendant’s
4 interests to give evidence at his trial. This court suffers the disadvantage, in the
5 absence of such a record, of being required to evaluate the recollections of counsel,
6 on the one hand, and the appellant on the other.”

7
8 The reasons which make the practice desirable apply with equal force in the
9 Caribbean jurisdictions, as the Board made clear in *Bethel v The State* (1998) 55
10 WIR 394, 398.”



11
12 21. The Court also noted that: -

13
14 “An appeal court must always bear in mind the distinct possibility that such a
15 complaint may be fabricated – indeed that is precisely why there should be a
16 contemporaneous written record of the decision that the defendant is not to give
17 evidence.”

18
19 22. The Court did not accept the submission of Counsel for the appellant that in the absence
20 of a written record, the appellant should be given the benefit of the doubt and that an
21 appeal court should proceed on the basis of his version of events. The Court’s view was
22 that in the absence of a record a court should consider the respective accounts and
23 evaluate them in light of the other relevant circumstances. In carrying out this exercise,
24 the appellate court may find it desirable to hear evidence on the matter but there may be
25 cases where the court feels able to resolve the matter without hearing evidence. It was
26 said:

27
28 “The question is whether, without hearing such evidence, the appeal court
29 can be satisfied that the verdict is safe.”

30
31 23. In considering the circumstances of the case before the Court, it was noted that the
32 allegation was that the appellant had been forced against his will not to go into the
33 witness box but that: -

- i. There was nothing to show that the appellant made any protest about this during the trial.
- ii. There was nothing to show that the appellant made any protest about this shortly after the trial to any fellow prisoner, court official or prison officer.
- iii. The complaint emerged some nine months after the trial ended. Delay did not make the complaint unsound but was a factor to be taken into account.
- iv. The allegation that Counsel overrode the defendants’ instructions was inconsistent with Counsel’s behaviour during the trial which included requesting multiple breaks during the trial to take the defendants’ instructions.

24. The Court said: -

“25. These passages in the record suggest that, so far from being uncaring or cavalier about Mr Ebanks’ views, instructions and interests, Mr St John Stevens was careful to consult his client whenever appropriate. It would make absolutely no sense to suppose that when he had taken care in these relatively minor matters, he had simultaneously been riding roughshod over Mr Ebanks’ views as to whether he should give evidence. Moreover, it is extremely difficult to see why counsel would have deliberately flouted a desire on Mr Ebanks’ part to give evidence when the lack of any evidence from him was likely to cause potential difficulties, especially in the voir dire.”

25. The Court was satisfied that against the background of these circumstances, the evidence of the two defence Counsel could be accepted that they were following the instructions of the defendant in not calling him to give evidence.

26. In the instant case the Appellant says that he does not recall the Magistrate talking to him directly. In my view, it is inconceivable that there was no pause after the end of the prosecution case and no inquiry as to whether the defendant was going to give evidence or not.



- 1 27. It is noteworthy that: -
2 i. There is nothing to show that the Appellant in this case made any protest
3 about wanting to give evidence to the Magistrate at any stage during the
4 trial.
5 ii. There is nothing to show that the Appellant made any protest about this
6 shortly after the trial to anyone.
7 iii. The complaint emerged some many months after the trial ended. Delay is a
8 factor to be taken into account.
9 iv. There does not appear to be anything said about this in the filed Notice of
10 Appeal.
11

12 28. It is of much significance that the Appellant's affidavit given almost a year after the trial
13 had ended comes in the face of a recorded negative assertion by him to the Magistrate
14 that he wanted to remain silent. The Magistrate appears to have recorded his verbatim
15 words. It is in quotation marks. The Appellant did not say that he wanted to give evidence
16 but was advised against it. He did not indicate that he wanted to give evidence.
17

18 29. In the face of the recorded negative assertion on his part, coupled with the other
19 circumstances, this Court is satisfied that the evidence of Mr. Brady can be accepted that
20 the defendants' position at the time was that he did not want to give evidence.
21

22 **GROUND 2 – ADVERSE INFERENCE WARNING**
23



24 30. Counsel's second ground is that the Magistrate does not seem to have given the
25 Appellant the appropriate warning at the close of the Crown's case. He was advised by
26 the Magistrate that he could give evidence, but there is no adverse inference warning as
27 required by the *Police Act* (2021 Revision) (s.149 (2)). Counsel submits that in the case
28 of *Tamasa and Others v R*² it was concluded by the Cayman Islands Court of Appeal
29 that a failure to give this warning was an irregularity. Counsel said that this becomes
30 material in circumstances where the Applicant has asserted that he wished to give an
31 account.
32

² CACR023/2013 David Tamasa, Rennie Cole, Mignot and Burton v. R. Unreported Judgment dated 27th May 2015
250606 Benjamin Isaiah Carrington v R: SCA 8 of 2025. Coram: Richards J, KC – Judgment



1 31. Counsel for the Respondent submits that even if no direction or warning was given to
2 the defendant by the Magistrate, there was no impact upon him. The position would have
3 been different had an adverse inference been drawn.

4
5 32. Section 149 of the *Police Act* provides for a mandatory warning before an adverse
6 inference can be drawn against a defendant who does not give evidence: -

7
8 “149. (1) At the trial of any person for an offence subsections (2) and (3) apply

9 unless —

10 (a) the accused’s guilt is not in issue; or

11 (b) it appears to the court that the physical or mental condition of the accused
12 makes it undesirable for the accused to give evidence,

13 but subsection (2) does not apply if, at the conclusion of the evidence for
14 the prosecution, the accused’s attorney-at-law informs the court that the
15 accused will give evidence or, where the accused is unrepresented, the court
16 ascertains from the accused that that accused will give evidence.

17
18 (2) Where this subsection applies, the court shall, at the conclusion of the
19 evidence for the prosecution, satisfy itself (in the case of proceedings on
20 indictment a jury, in the presence of the jury) that the accused is aware that
21 the stage has been reached at which evidence can be given for the defence
22 and that the accused can, if that accused wishes, give evidence and that, if
23 that accused chooses not to give evidence, or having been sworn, without
24 good cause refuses to answer any question, it will be permissible for the
25 court or jury to draw such inferences as appear proper from the accused’s
26 failure to give evidence or the accused’s refusal, without good cause, to
27 answer any question.

28
29 (3) Where this subsection applies, the court or jury, in determining whether
30 the accused is guilty of the offence charged, may draw such inferences as
31 appear proper from the failure of the accused to give evidence or the
32 accused’s refusal, without good cause, to answer any question.”

33

1 33. In the case of *Tamassa and Others*, the convictions were quashed on the basis that the
2 Court could not be confident that the jury had not taken into account the failure of the
3 defendants to give evidence as the trial judge had advised them that they could and thus
4 there was no confidence that their verdicts would have been the same had they not done
5 so.

6
7 34. In the instant case no adverse inference was drawn against the appellant for his failure
8 to give evidence. In paragraph 34 of the Verdict Judgment the Magistrate listed eight
9 factual circumstances which led to the conclusion of guilt on the charge of Importation.
10 None of these involved drawing an adverse inference. At paragraph 39 the Magistrate
11 listed six factual circumstances as the basis for a conclusion of guilt on the charge of
12 Possession with Intent to Supply. None of these involved drawing an adverse inference.
13

14 35. In each case, the Magistrate referred to the cumulative effect of the circumstantial
15 evidence as listed.

16
17 36. At paragraph 44 the Magistrate said this: -



18
19 “The Tribunal is able to say that having considered all the evidence presented by the
20 Prosecution that it is satisfied so that it is sure that Carrington is also guilty of the
21 offence of possession with intent to supply of the amount of approximately 150
22 pounds of ganja.”
23

24 37. Indeed, at paragraph 47, the Magistrate referred not to the defendant’s failure to give
25 evidence but to his assertions in the prepared statement given in interview with the
26 police.
27

28 38. This Court concludes that on the basis of the Verdict Judgment, there is confidence that
29 the Magistrate did not take account of the defendant’s failure to give evidence and did
30 not draw an adverse inference from his failure to do so.
31

32 39. The failure to give the warning as to an adverse inference does not in this case amount
33 to an irregularity such that it affects the safety of the convictions.
34



1 **GROUND 3 - DNA REPORT**

2
3 40. Counsel for the Appellant submits that there was a failure to obtain the results of the
4 DNA report and that it may have been that the report undermines the prosecution's case
5 and supported that of the Defence. The report should have been served, or at least the
6 trial adjourned in order for the results to become available.

7
8 41. Counsel for the Respondent in reply submits that in the trial notes the prosecution
9 confirmed that there was no DNA or fingerprint report. DC Lauder testified that an
10 application was made but no results had been received and that he did not know whether
11 testing had actually been done.

12
13 42. The Magistrate dealt with the matter by noting the absence of such evidence but said that
14 a determination had to be made on the basis of the evidence presented as to whether the
15 prosecution had discharged its burden of proof.

16
17 43. There is no application for fresh evidence to be adduced on this appeal. There is nothing
18 to suggest that there is some report in existence which could or would have been material
19 to the case.

20
21 **GROUND 4 – EVIDENCE OF PC ANDRE ISAACS**

22
23 44. It is submitted by Counsel for the Appellant that PC Andre Isaacs was accepted as an
24 expert in the field of digital forensics but that he gave evidence outside the realms of his
25 expertise, in that he gave evidence of voice recognition. It is also submitted that he gave
26 evidence as to the interpretation of patois and of facial recognition/identification. None
27 of these areas fall within the remit of his expertise, and accordingly this evidence should
28 not have been admitted.

29
30 45. Counsel for the Respondent submits in reply that at trial the witness accepted that he was
31 not a voice expert but said that in his experience the voice was distinctly similar. Counsel
32 submits that the Magistrate was extremely discerning in the way the telephone evidence
33 was considered and there was care to distinguish between certain interpretations of the
34 language used in the clips.

1 46. This Court notes that the witness testified that he is a Jamaican national and knows and
2 understands patois very well. His evidence was that he associated the person that
3 recorded his face and who was recording the videos as the user of the phone and the
4 user's voice.

5
6 47. It seems clear from the nature of his evidence that he was not purporting to make an
7 identification of the defendant or to recognise the defendant's voice. There is nothing
8 impermissible in saying that the voice appeared to be similar to the voice heard at other
9 times on the same phone. Neither is it impermissible for a person who has informal
10 experience to give evidence in that regard.



11
12 **GROUND 5 – EVIDENCE OF PRESENCE ON BOAT**

13
14 48. Counsel for the Appellant submits that there was Closed Circuit Television (“CCTV”)
15 footage of a boat coming into the Cayman Islands and that the prosecution invited the
16 Court to find that it was the Appellant who was on the boat. There was no identification
17 of the Appellant as being the person on the boat and accordingly this finding should not
18 have been made.

19
20 49. Counsel for the Respondent submitted in reply that there were no videos which featured
21 the facial characteristics of any person but that the Magistrate was entitled to weigh the
22 evidence.

23
24 50. This Court notes that this was a case of circumstantial evidence. The prosecution was
25 entitled to rely on such evidence to prove identification. The Magistrate at paragraph 34
26 of the Verdict Judgment, specifically adverted to the fact that no person was identified
27 on the video footage of the boat and that only a person's foot could be seen. The
28 Magistrate was entitled to conclude that identification had been made out from all of the
29 surrounding circumstances.

30
31 **GROUND 6 – TRIBUNAL'S USE OF GOOGLE**

32
33 51. Counsel for the Appellant submits that the Magistrate at paragraph 14 of the Verdict
34 Judgment confirms that Google was used to confirm the area code of Guyana to

1 determine where the Appellant was calling. Counsel submitted that the finder of fact is
2 strictly prohibited from conducting internet searches or to seek out evidence which did
3 not exist in the case. Counsel said that this finding was used to bolster the final verdict,
4 and accordingly it is unsafe.

5
6 52. The response of the Respondent is that this was of limited importance.

7
8 53. This Court accepts the first aspect of the Appellants' submission. It is plainly wrong in
9 these circumstances for the tribunal of fact to conduct its own research. However, the
10 fact of the area code being to Guyana is of limited import where the Western Union
11 Transfer receipt tendered in evidence is of sending currency in Guyanese dollars. The
12 point made by the Appellants' Counsel does not appear to be a material error such that
13 it would affect the safety of the convictions.



14
15 **GROUND 7 – HEARSAY EVIDENCE**

16
17 54. Counsel for the Appellant submits that the Magistrate appears to have relied on hearsay
18 evidence, namely that DC Lauder said that he had seen a video on the Appellant's phone,
19 which showed his face and showed him discussing ganja. Counsel said that no such
20 video was produced and therefore no weight should have been placed on this evidence.

21
22 55. There is no evidence in the Verdict Judgment that the Magistrate relied on hearsay
23 evidence. The assessment of the evidence refers to clear pictures of the defendant's face
24 in various positions and circumstances. There is no reference to photographs or videos
25 of him while he was discussing ganja. There is no evidence that any weight was placed
26 on the evidence of DC Lauder as to videos seen.

27
28 **CONCLUSION**

29
30 56. Having considered all the circumstances and submissions, this Court finds no merit in
31 the grounds of appeal such as would make the convictions unsafe. The record of the
32 Magistrate was made at a time well before the Appellant gave his affidavit. It provides
33 strong evidence that the appellant exercised his free choice in not giving evidence. There
34 does not appear to be anything material in the grounds. From the evidence recorded,

1 there was evidence upon which a reasonable tribunal properly directed could find the
2 Appellant guilty as charged. The Magistrate gave the appropriate directions and there is
3 no apparent error of law or other error that is identified which would make the
4 convictions unsafe and unsatisfactory. Consequently, the appeal is dismissed, and the
5 convictions are affirmed.

6

7 57. No submissions were made on sentence. The sentences are also affirmed.

8

9 **Dated this the 6th day of June 2025**



10

11 **Honourable Justice Cheryll Richards K.C.**
12 **Judge of the Grand Court**