



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

3 **INDICTMENT NO: 43 of 2024**

4  
5  
6 **R**

7  
8 **V.**

9  
10  
11 **DAYNE KAREEM WILSON**

12  
13  
14  
15 **Appearances:** **Mr. Kenneth Ferguson, Crown Counsel, Office of the Director of**  
16 **Public Prosecutions for the Prosecution**

17  
18 **Mr. Crister Brady of Brady Law for the Defence**

19  
20 **Before:** **Justice Cheryll Richards KC**

21 **Submissions Heard:** **25<sup>th</sup> to 27<sup>th</sup> September 2024**

22 **Verdict Judgment:** **17<sup>th</sup> December 2024**

23  
24  
25 ***Criminal Law - Section 15 (1) and (5) of the Firearms Act (2008) Revision, Possession of Firearm and***  
26 ***Ammunition, Trial by Judge Alone***



## VERDICT JUDGMENT

- 1  
2  
3  
4 1. The defendant, Dayne Kareem Wilson is charged on Indictment with two offences contrary to  
5 s.15 (1) and (5) of the *Firearms Act* (2008 Revision). Count One charges him with Possession  
6 of an Unlicensed Firearm. The particulars are that he together with David Garry Akiame  
7 Hurlston on the 5<sup>th</sup> day of May 2024 within the jurisdiction of the Cayman Islands had in their  
8 possession a firearm, namely a 9mm Luger Calibre SCCY Industries Model CPX-2 pistol  
9 otherwise than in accordance with the terms of a Firearm Users (Restricted) License.  
10
- 11 2. Count Two charges them jointly with the offence of Possession of an Unlicensed Firearm  
12 (Ammunition). The particulars are that they on the same date within the jurisdiction of the  
13 Cayman Islands had in their possession seven rounds of 9mm ammunition, otherwise than in  
14 accordance with the terms of a Firearm Users (Restricted) Licence.  
15
- 16 3. The defendant was arraigned on the 21<sup>st</sup> June 2024 and pleaded not guilty to both counts. On  
17 the 16<sup>th</sup> September 2024, the defendant elected trial by judge alone in accordance with s.129 of  
18 the *Criminal Procedure Code* (2021 Revision). The trial took place over three days between the  
19 25<sup>th</sup> and 27<sup>th</sup> September 2024.  
20
- 21 4. The Court is mindful of the applicable principles with respect to Judge Alone trials as set out by  
22 the Cayman Islands Court of Appeal in the cases of *K. Richards v R*<sup>1</sup> and *R v Dave Kennedy*  
23 *Whittaker*<sup>2</sup>. The task is to reach conclusions, give reasons to support the Court's view and to  
24 take note of any difficult or unusual points of law in order that it may be clearly seen how the  
25 view of the law informed the approach to the facts.  
26

### 27 SUMMARY OF THE CASE

- 28  
29 5. The prosecution's case in summary is that during the evening into the night of the 5<sup>th</sup> day of  
30 May 2024, the defendant and Mr. Hurlston attended the Batabano Carnival street dance and  
31 party celebrations in the center of George Town. Both men were seen together by several police  
32 Officers. The party ended at about 11:45 pm. Shortly after midnight, a black Honda motor car

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<sup>1</sup> [2001] CILR 496, paragraph 32

<sup>2</sup> [2010] (1) CILR 29

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1 owned by Mr. Hurlston was seen in the vicinity of the Globe Bar. When asked, Mr. Hurlston  
2 indicated that he had a small amount of ganja in the car. The car was searched and a firearm  
3 which had seven rounds of ammunition in it was found in a compartment in the center console.  
4 Swabs were taken of the textured areas of the firearm which were examined by DNA Analyst  
5 Mr. Christian Taylor. He found two DNA mixtures from which the defendant and Mr. Hurlston  
6 could not be excluded. A third mixture was identified on the ammunition from which Mr.  
7 Hurlston could not be excluded. Mr. Hurlston has pleaded guilty to both offences and awaits  
8 sentence.

- 9
- 10 6. The defence case is that after the party, the defendant Wilson sought a ride to the Globe Bar. It  
11 is that he does not know anything about the firearm and ammunition and was not in possession  
12 of them. Any DNA found on the firearm from which he could not be excluded must have been  
13 deposited by way of secondary transfer as distinct from direct deposit by him.

14

15 **THE ELEMENTS OF THE OFFENCES**

- 16
- 17 7. The Court is mindful of the burden and standard of proof. The prosecution brings this case, and  
18 it is for the prosecution to prove the case so that the Court is sure. There is no burden on the  
19 defendant to prove his innocence. The prosecution must prove to the required standard that: -

- 20
- 21 1. The defendant was in possession of an item.  
22 2. That the item is a firearm within the meaning of the law.  
23 3. The possession of it was not under and in accordance with a Firearm Users Restricted  
24 License.

- 25
- 26 8. In order to prove possession, proof is required that the defendant had physical custody or control  
27 of an item and that he knew that he had that item in his custody or control. Possession is not the  
28 same thing as ownership. Two persons may be in possession of an item even though only one  
29 has physical custody of it. A person may be in possession of an item even though the item is not  
30 in the physical custody of that person. Where that item is in fact a firearm and the person or  
31 persons had no license for it the offence is proven.



1 9. There is also a helpful definition in the *Penal Code* (2024 Revision). Possession is defined in  
2 the following way: -

3  
4 “possession” includes not only having in one’s own personal possession, but knowingly  
5 having anything in the actual possession or custody of any other person, or having anything  
6 in any place (whether belonging to or occupied by oneself or not) for the use or benefit of  
7 oneself or any other person, and if there are two or more persons and any one of them or  
8 more of them with the knowledge and consent of the rest has or have anything in that  
9 person’s or their custody or possession, it shall be deemed and taken to be in the custody  
10 and possession of each and all of them.”

11  
12 10. A firearm is defined in the *Firearms Act* as any lethal barreled weapon from which any shot,  
13 bullet, or other missile can be discharged.



14  
15 **THE AGREED EVIDENCE**

16  
17 11. There is no dispute in this trial that the firearm was found in the black Honda motor car and that  
18 it is a lethal barreled weapon within the definition in the *Act*. It is not challenged that two DNA  
19 mixtures were found on various areas of the firearm. The issue is whether the Court can be sure  
20 in all the circumstances that this defendant was in possession of the firearm and ammunition.

21  
22 ***Evidence of Leesa Mullings***

23  
24 12. The statement of Leesa Mullings dated 6<sup>th</sup> May 2024 was read by agreement. Ms. Mullings is  
25 an Integrated Ballistic Identification System Technician and a Firearm Examiner in the Police  
26 Service. She has over twelve years’ experience in this field and is a gazetted Ballistics Expert  
27 /Firearms Examiner. She holds a Bachelor of Science degree in Biotechnology and Chemistry  
28 from the University of the West Indies. She has also received and completed training in Forensic  
29 Firearm Identification from various institutions including the Association of Firearm and  
30 Toolmark Examiners in the United States.

31  
32 13. On the 5<sup>th</sup> May 2024, she examined SH-1, the 9mm Luger pistol and SH1-A seven rounds of  
33 ammunition. The pistol was test fired and found to be in good working condition and capable

1 of discharging deadly bullets from its barrel. Both the pistol and the ammunition were found to  
2 be operable in accordance with the *Firearms Act*.

3  
4 14. There are agreed Admissions pursuant to s.34 of the *Evidence Act* (2021 Revision) as follows:

5 -

- 6  
7 i) On Sunday 5<sup>th</sup> May 2024, Police Sergeant Dave Howell collected a buccal swab  
8 from David Hurlston and labeled it DH/RB# 1.  
9 ii) On the said day at about 12:04 pm Detective Inspector Kevin Ricketts collected a  
10 buccal swab from Dayne Wilson and labeled it KR/DW1. That same day he  
11 formally charged Mr. Wilson with the offences for which he is before the Court.  
12 iii) Scenes of Crime Officer Lewis Reid submitted KR/DW 1 to the Forensic Science  
13 Laboratory for DNA analysis to be conducted.  
14 iv) The defendant Wilson is not registered as the owner of a Firearm Users permit in  
15 the Cayman Islands.  
16 v) The defendant Wilson has no previous relevant convictions recorded against him.  
17

18  
19 **THE EVIDENCE ON THE PROSECUTION'S CASE**



20  
21 ***Evidence of PC Jerome Garwood***

22 15. PC Jerome Garwood testified that on Saturday 4<sup>th</sup> May 2024, he was on duty at around midnight  
23 in a marked Firearm Response Unit vehicle together with PC 429 Carlton Dixon. They  
24 responded to a radio call by going to the area of Mary Street in the vicinity of the Globe Bar.  
25 On arrival he saw and spoke with PC Ferguson and PC Taylor who were standing in the roadway  
26 just across from the Globe Bar. They walked across to the parking lot of the Bar. PC Garwood  
27 saw the defendant Dayne Wilson whom he knew before. The defendant was in the parking area  
28 at the time.

29  
30 16. PC Garwood spoke to him and asked him by what means he got to the Globe Bar. The defendant  
31 said that he got a ride from a Spaniard in a white BMW. PC Garwood searched him but found  
32 nothing of interest on him. PC Garwood also saw other persons and vehicles parked in the  
33 parking lot. Two of the vehicles which he saw were a white Mercedes Benz Registration no 198  
34 374 and a black Honda Accord registration no 134 490. He saw a male sitting behind the driver's

1 seat of the black Honda Accord. The driver of the Black Honda Accord attempted to leave the  
2 parking lot in the car but was stopped by other police. He exited the car and was identified as  
3 David Hurlston. PC Garwood said that he had seen Mr. Hurlston before but had not known him  
4 by name. PC Garwood said he was in close proximity when the black Honda Accord was  
5 searched and he observed that Mr. Hurlston was arrested. PC Garwood was thirty to thirty five  
6 feet away and the defendant was about forty feet from Mr. Hurlston.

- 7  
8 17. PC Garwood said that he enquired of the defendant more than once how he got there and the  
9 response was by a Spaniard in a white vehicle.



10  
11 ***Evidence of PC Khadane Hall***

- 12  
13 18. PC Khadane Hall testified that on the said day he was a member of the police team which was  
14 on high visibility foot patrol duty in plain clothes for the Batabano street dance that was taking  
15 place. While he was on foot patrol, he observed the defendant and David Hurlston. He knew  
16 both men before. He saw them at the last lap event in George Town in the vicinity of the cruise  
17 terminal.

- 18  
19 19. PC Halls' patrol in George Town started around 7:45pm and he saw them throughout the night.  
20 They were together and appeared to be socialising. The street dance finished around 11:45pm.  
21 After that, sometime after midnight he observed Wilson and Hurlston leaving the event by  
22 walking away on foot.

- 23  
24 20. Sometime after 12 midnight he heard a radio communication and received certain information  
25 which led him to proceed to Barnes Plaza on Mary Street. He drove an unmarked police vehicle  
26 with his front seat passenger PC Samuels.

- 27  
28 21. When PC Hall arrived, he parked the vehicle in front of a 24-hour convenience store that is  
29 downstairs to the Roof Top Bar. This is fifty feet away from Barnes Plaza and on the opposite  
30 side of the road from that Plaza. He parked the vehicle, and they proceeded to the Plaza.

- 31  
32 22. Upon arrival he saw Sgt. Howell, Officers Morgan, Garwood, Caswell Ferguson and other  
33 Officers from the armed police unit, the FRU. He was given some instructions by Sgt. Howell.  
34 As a result, he searched a black Honda Accord registration number 134 490 under the ***Misuse***

1 *of Drugs Act*. It was parked in front of the plaza underneath a streetlight. He inquired who was  
2 the owner and a male, Mr. Hurlston identified himself as the owner. PC Hall asked him whether  
3 there was anything illegal in vehicle and Mr. Hurlston said yes, there was ganja in the vehicle.  
4 The defendant Wilson was close by at that time.

5  
6 23. PC Hall and PC Samuels proceeded to search the vehicle. PC Hall searched the driver's side of  
7 the vehicle, checking under the seat as much as he could. PC Samuels searched the rear section  
8 behind the driver's seat.

9  
10 24. PC Hall did not find anything under the seat. As a result, he asked Mr. Hurlston to come to the  
11 car. Mr. Hurlston came to the front passenger seat of the car. PC Hall asked him to point out  
12 where the ganja was. Mr. Hurlston pointed to the ash tray. No ganja was in the ash tray. PC Hall  
13 continued to search behind the gear lever. He did not find anything. He proceeded to where the  
14 radio is on the console where there is usually a button that can open a container. He realised that  
15 there was no container there and became suspicious and started searching more. That is when  
16 he saw the black handle of a firearm. He shouted gun to PC Samuels who was in the back. He  
17 indicated to her that the search was over and the search was concluded at that point.

18  
19 25. PC Hall informed Sgt. Howell of what he had found. Mr. Hurlston was arrested and cautioned  
20 by Sgt. Howell. Mr. Hurlston said *"gun nah mine, I got it from a guy named Nichols from East*  
21 *End, he supposed to collect it from me tomorrow. You gonna find my prints on it because I*  
22 *checked it if it was loaded."*

23  
24 26. PC Hall said he was present when the Scenes of Crime Officer recovered the firearm after which  
25 he sealed the car before it was moved to the George Town Police Station.

26  
27 27. In cross examination, PC Hall explained that when he said he observed the two men socialising  
28 they were partying and drinking.

29  
30 28. He said that visibility patrols began at 7:45pm and the party ended at 11:45pm. During that time  
31 Mr. Wilson and Mr. Hurlston would have been within his view. He observed them leaving  
32 together around the same time.





1 ***Evidence of PC Andre Morgan***  
2

3 29. PC Andre Morgan testified that he was on proactive patrols that Saturday evening into the night.  
4 He was instructed by Sgt. Howell to go to the vicinity of the Globe Bar on Mary Street. PC  
5 Morgan was a passenger in the police vehicle which went to Mary Street in the area by Grescott  
6 Lane. He said that he was stationed there to stop any vehicle from going towards the Globe Bar.  
7 While he was there, two vehicles stopped in the parking lot of Globe Bar. Once a search began  
8 of these vehicles, he made his way to the entrance of the parking lot where a Police Firearm  
9 Response vehicle was positioned. A firearm was found in the Black Honda Accord. Once this  
10 was found, he was instructed to arrest the defendant Dayne Wilson. The defendant was to his  
11 left at that time. He arrested and cautioned the defendant who said, "*is beg I beg a ride here*".  
12 He searched the defendants' pockets and found a cell phone which the defendant said was  
13 unlocked. That was PC Morgan's only contact with the defendant that night.  
14

15 ***Evidence of PS Dave Howell***  
16

17 30. Police Sergeant Dave Howell testified that he has been a member of the Police Service for  
18 eighteen years. In May of this year, he was attached to the Serious Crime Proactive Team  
19 stationed at the Coast Guard Base and working together with the Crime Task Force.  
20

21 31. On Saturday the 4<sup>th</sup> May 2024, he was assigned with other Officers to the Batabano street  
22 carnival which was taking place on Seafarers Way in George Town. There was a combination  
23 of Officers on mobile and foot patrol. While at the carnival, he saw several people including  
24 the defendant and Mr. Hurlston who he knew before. They were in an area to the left of the stage  
25 by a jewelry store on Seafarers Way. They seemed to be just drinking and enjoying themselves.  
26

27 32. PS Howell was present when it was finished at about 11:45pm or so. The music stopped and it  
28 came to an end. He left the area on foot with other Officers, and they commenced mobile patrol  
29 in an unmarked police vehicle driven by PC Khadane Hall. While he was in the vehicle, he heard  
30 a radio transmission and went to Mary Street in the car park of the Globe Bar.  
31

32 33. On foot from Seafarers way to the Bar, it is about fifteen to twenty minutes walking time. By  
33 vehicle it is about two minutes' drive depending on the traffic.  
34  
35

1 34. On arrival he observed two vehicles, a dark coloured blue Honda and the other a white Mercedes  
2 Benz. Both vehicles were parked in the car park of Globe Bar. The Benz was parked near to the  
3 Globe Bar while the Honda was nearer to the entrance. They were about four or five parking  
4 spaces apart.

5  
6 35. He saw several persons there including the defendant and Mr. Hurlston. PS Howell searched the  
7 Benz and nothing of evidential value was found in it. The driver of that vehicle was identified  
8 to him by PC Ferguson to be Joshua Ebanks. At the time PS Howell did not know the driver of  
9 the second vehicle. He asked who was in charge of the vehicle and Mr. Hurlston presented  
10 himself and asked for a “bly”. Mr. Hurlston said that it was his birthday recently and he had a  
11 draw of weed in the vehicle.

12  
13 36. After that PS Howell instructed PC Hall and PC Samuels to search the vehicle. While they were  
14 searching, he heard PC Hall say “*bangle him, gun.*”

15  
16 37. He instructed that the search stop, arrested and cautioned Mr. Hurlston and gave instructions for  
17 the arrest of the defendant Wilson. PS Howell made some calls including a call for a Scenes of  
18 Crime Officer. SOCO Sarah Hough arrived. She retrieved the firearm, made it safe, sealed it  
19 and kept it in her possession. She took photographs of the vehicle both at the scene and on the  
20 following day after the vehicle had been moved to the George Town Police Station.

21  
22 38. PS Howell interviewed the defendant the following day. He produced the recording of that  
23 interview and a transcript of it. These were received in evidence as Exhibits 1 and 2. A prepared  
24 statement given by the defendant was received as Exhibit 3.

25  
26 39. During the interview, PS Howell showed the defendant seven photographs of the vehicle,  
27 firearm, and magazine. These were produced as Exhibit 4.

28  
29 ***Evidence of Sarah Hough***



30  
31 40. Sarah Hough testified that she is a Crime Scene Investigator with the Police Service. She has  
32 worked for a little over twelve years in this role and prior to this for six years in the Michigan  
33 State Police in the United States. She has a degree in Forensic Biology and Biochemistry from  
34 the University of Portsmouth in the United Kingdom. She detailed the courses taken in  
35 photography, collection of evidence and different forensic topics. She has had on the job training

1 from experienced officers and continuing education courses and has previously given testimony  
2 as an expert in crime scene investigation. Defence Counsel raised no objection to her experience  
3 and competence.  
4

5 41. Ms. Hough stated that on the 5<sup>th</sup> May this year she was called to 34 Mary Street in the early  
6 hours of the morning. On arrival the black Honda Accord 134 490 which was in the parking lot  
7 was drawn to her attention. She took photographs of it including of the compartment where the  
8 firearm had been located. Then using clean gloves, she collected the firearm from the vicinity  
9 of the dash in the vehicle. The firearm had a magazine which had ammunition in it. She removed  
10 the magazine with ammunition and placed it in a brown paper bag which she labeled SH/1A.  
11 She placed the firearm in a box which she labeled SH 1. She took the items back to the police  
12 station and secured them in a safe overnight.  
13

14 42. In the morning around 8:30am she collected the items from the safe and took them to the  
15 examination room where she took photographs of them and processed them for both fingerprints  
16 and DNA. She explained in detail the steps in the processing of the firearm to include wearing  
17 a mask and gloves while processing, ensuring that the workspace was clean, and placing on the  
18 examination surface, clean examination paper. The wearing of masks and gloves was to prevent  
19 contamination from her own DNA. She then took photographs of the firearm before swabbing  
20 the textured areas of it. She demonstrated on a photograph that this was the front sight, rear  
21 sight and the grip on both sides of the firearm. After doing this she placed the firearm in the  
22 fuming chamber to be processed with super glue for prints. This is processing with a substance  
23 called Cyano Acrylate (“CA”).  
24

25 43. She then cleaned the workspace for a second time and changed her gloves and mask for the  
26 processing of the magazine. The magazine was photographed and the ammunition was removed  
27 from it. It was then placed on clean paper in the fuming chamber. The ammunition was also  
28 placed in the chamber.  
29

30 44. The magazine and ammunition were swabbed after removal from the fuming chamber. The  
31 firearm was swabbed a second time after removal from the chamber.  
32  
33



1 45. She sealed all the swabs which she had taken during the processing (SH1 Swab, SH1 Swab CA,  
2 SH 1A Swab and SH 1A Swab 2). She delivered all the sealed packages to the Cayman Islands  
3 Forensic Laboratory together with a buccal swab from Mr. Hurlston.

4  
5 46. She produced a CD of photographs which was received as Exhibit 5 and a booklet of twenty-  
6 five printed photographs which was received as Exhibit 6. The photographs show the Honda  
7 vehicle, compartment in the centre of the dash, firearm, magazine, ammunition and steps in the  
8 processing. One of the photographs of the firearm, photograph 17 shows the markings  
9 CCCY/SCP X 2 located on the left side of the frame.

10  
11 47. In cross-examination, Ms. Hough said that she wore a mask because of not wanting there to be  
12 any contamination for DNA purposes. She agreed that spit coming from the mouth could contain  
13 DNA in the form of skin cells from the inside of the mouth.

14  
15 48. She said that there were fingerprint impressions after the super glue chamber, but it is for the  
16 fingerprint expert to speak about these.



17  
18 ***Evidence of Christian Taylor***

19  
20 49. Christian Taylor is a Forensic Scientist employed at the Health Services Authority (“H.S.A.”)  
21 since February 2020. He is a specialist in DNA and body fluid analysis. He described part of his  
22 responsibilities as examining evidential samples received from the Royal Cayman Islands Police  
23 Service and Customs and Border Control for DNA analysis. This includes examination of  
24 substances such as blood, semen and saliva and anything which may have been handled to try  
25 to obtain DNA profiles and compare them to the DNA profiles of known individuals.

26  
27 50. He detailed his experience in the field. Before coming to the Health Services Authority, he  
28 worked as a Forensic Scientist at the Center of Forensic Science in Toronto, Canada from May  
29 2010 to January 2020. He has an undergraduate degree from McGill University in Montreal in  
30 Microbiology and Immunology. He has a Masters’ degree from Kings College in London,  
31 England in Forensic Science. He has taught Forensic Science at the University of Toronto. Last  
32 year he published a paper concerning the transfer of DNA on various items.

1 51. He undertakes continuing education courses annually and participates in conferences in DNA  
2 and body fluid analysis. He has presented various Forensic DNA papers at conferences. He is a  
3 member of the Canadian Society of Forensic Sciences and of the Cayman Islands Professional  
4 Association.

5  
6 52. He said that the H. S. A. Laboratory adheres to accreditation standards and is assessed by an  
7 outside body. At the Laboratory they use the industry standard methodology of Short Tandem  
8 Repeat or STR analysis. This methodology generates DNA profiles which are used by forensic  
9 laboratories worldwide. He has done about five hundred examinations using the STR  
10 methodology. He has testified on fourteen or fifteen occasions in Court in the Cayman Islands.

11  
12 53. There was no challenge to Mr. Taylor's expertise. He was received as an expert in DNA and  
13 body fluid analysis.

14  
15 54. Mr. Taylor provided general information about the science of DNA. He testified that DNA is  
16 the basic building block and blueprint for all life on earth. Fifty percent of our DNA comes  
17 from our mothers and the other half from our fathers. Ninety nine percent of the DNA that we  
18 have is the same in all humans. This is why we each have the same functioning organs. It is in  
19 the remaining one percent that there is tremendous variation. It is within that one percent that  
20 scientists look when conducting DNA analysis. The examination method is a nuclear one as  
21 distinct from mitochondrial. Nuclear refers to the DNA found in the nucleus of almost every  
22 cell in the body. This is what provides codes for most things that make up the body.

23  
24 55. The basic machinery used is called polymerase chain reaction which involves the replication of  
25 DNA. If a DNA profile is obtained from an unknown sample using nuclear analysis, it is labeled  
26 as Unknown Profile 1. If it is a mixture it is labeled as DNA Mixture 1. This is then compared  
27 to the DNA profile of the known individual. If the known individual is excluded it means that  
28 the person cannot be the source or contributor to the DNA mixture. If a person cannot be  
29 excluded that means they might be a contributor to a mixture or be the source of the profile. In  
30 that case they provide a statistic to relate what is the significance of this. This will indicate how  
31 much more likely it is to observe this profile in the population. He applied this technique to the  
32 processing of the several items received in relation to the instant case.



1 56. As to the specific examination and findings, Mr. Taylor testified that he received a number of  
2 swabs of the firearm and ammunition as well as two comparison samples from individuals  
3 named David Hurlston DH/RB1 and Dayne Wilson KR/DW1. The buccal swab for the  
4 defendant Wilson was received from SOCO Lewis Reid.

5  
6 57. The laboratory received from SOCO Sarah Hough: -



- 7  
8 - SH-1 swab, which is a swab of the textured areas of the firearm.  
9 - SH-1 swab CA, a swab of the firearm after CA processing.  
10 - SH 1A swab, swab of magazine after CA processing.  
11 - SH-1A swab two, which is a swab of ammunition after CA processing.

12  
13 58. Mr. Christian testified that he took the four swabs of the firearm, ammunition and magazine and  
14 was able to generate profiles suitable for comparison from three of the items. Later he processed  
15 the comparison samples of Mr. Hurlston and Mr. Wilson to see if they could be contributors to  
16 the DNA mixtures that were successfully generated from the three items.

17  
18 59. He said that the first item was SH-1 swab which is the swab of the textured areas of the firearm  
19 SH1. That generated a DNA mixture coming from at least three people, including at least one  
20 male. He labeled this mixture DNA Mixture 1.

21  
22 60. The second item was SH-1 swab CA, which was the swab of the firearm after CA processing.  
23 That similarly generated a DNA mixture from at least three people, including at least one male;  
24 and he termed this DNA Mixture 2.

25  
26 61. The third successful one was SH-1 A swab two, which was the swab of ammunition after CA  
27 processing. That generated a DNA mixture from at least two people, including at least one male,  
28 and he termed this DNA Mixture 3.

29  
30 62. The last item, SH1A swab, which was the swab of the magazine after CA processing, generated  
31 a DNA mixture from at least three people, including at least one male; however, the quality and  
32 quantity of the DNA present in that mixture made it so that he termed it not suitable for  
33 comparison.



1 63. Similarly, for both David Hurlston and Dayne Wilson, he generated complete single source  
2 DNA profiles, meaning unsurprisingly DNA coming from one individual. These were both  
3 suitable for comparison, which he would expect, from reference samples. He compared both of  
4 their reference samples to DNA Mixtures 1, 2 and 3.

5  
6 64. He found that Mr. Hurlston could not be excluded as a contributor to all three mixtures; DNA  
7 Mixture 1, DNA Mixture 2 and DNA Mixture 3. He then provided a statistic, to relate what is  
8 the significance of that for each of the DNA mixtures. For DNA Mixture 1, the swab of the  
9 textured areas of the firearm, the DNA results observed in that mixture are estimated to be 150  
10 million times more likely if they originate from David Hurlston and two other unknown people  
11 than if they originate from three unknown people unrelated to him.

12  
13 65. In the case of DNA Mixture 2, which is a swab of the firearm after CA processing, the DNA  
14 results observed are estimated to be 3.1 million times more likely if they originate from David  
15 Hurlston and two unknown people than if they originate from three unknown people unrelated  
16 to him.

17  
18 66. With regard to DNA Mixture 3, the swab of the ammunition after CA processing the DNA  
19 results observed are estimated to be 130 trillion times more likely if they originate from David  
20 Hurlston and one unknown person than if they originate from two unknown persons unrelated  
21 to him.

22  
23 67. In relation to Dayne Wilson, Mr. Taylor found that he was excluded from DNA Mixture 3, the  
24 swab of the ammunition after CA processing, so he cannot be a contributor to that DNA mixture.  
25 However, he could not be excluded as a contributor to DNA Mixture 1 and DNA Mixture 2.

26  
27 68. With respect to DNA Mixture 1, the DNA results observed are estimated to be 5.8 billion times  
28 more likely if they originate from Dayne Wilson and two unknown people than if they originate  
29 from three unknown people unrelated to him.

30  
31 69. For DNA Mixture 2, the DNA results observed are estimated to be 7 billion times more likely  
32 if they originate from Dayne Wilson and two unknown people than if they originate from three  
33 unknown people unrelated to him.



1       70. Mr. Taylor was asked whether he could proffer any explanation as to the reason that the match  
2       probability ratio was higher for Mr. Wilson than Mr. Hurlston. In response Mr. Taylor said that  
3       in his opinion, looking at the numbers, they are statistically actually really not that different.  
4       150 million and 5.8 billion are within a factor of ten times or twenty times, which is not a huge  
5       deal for them. He said that this has to do with the rarity of the DNA markers that they each  
6       have. It simply means that some of the DNA markers that Mr. Wilson has are less common than  
7       some of the DNA markers that Mr. Hurlston has.

8  
9       71. He said that looking at their two DNA profiles, he found that if you accept that both men are  
10       part of these mixtures, they would represent about eighty to ninety percent of the DNA there,  
11       and then there is an additional ten percent from some unknown third person.

12  
13       72. He said that the same observation is made of the match probability in respect of DNA Mixture  
14       2, that is, he notes that the match probability of Dayne Wilson is higher than that of the match  
15       probability of David Hurlston. The same response applies, which is that the DNA markers for  
16       Mr. Wilson, statistically speaking, are slightly less common than they are for Mr. Hurlston. But  
17       also, if you accept that Mr. Wilson is a true contributor in this DNA mixture, his contribution to  
18       that mixture would be about seventy percent, and Mr. Hurlston's would be a bit less than that,  
19       something around twenty to thirty percent. And then there is some unknown other contributor  
20       representing five to ten percent.

21  
22       73. Mr. Taylor was asked to explain the concepts of primary and secondary transfer as it relates to  
23       DNA. He said that primary transfer simply refers to the direct transfer of a substance containing  
24       DNA from a person onto an object.

25  
26       74. He gave an example of shaking a hand which hand then handles a coffee cup. The coffee cup  
27       may have his DNA on it although he did not handle it directly. This would be from secondary  
28       transfer.

29  
30       75. Mr. Taylor was given the following factual scenario by Counsel:  
31               1. David Hurlston pled guilty to the possession of the unlicensed firearm in  
32               this case.  
33               2. The evidence is that the defendant was seen in Mr. Hurlston's company  
34               about four hours or so before both of them were intercepted at a location



1 in which the firearm was found in a car.

2 3. Both of them drove in the car. Mr. Hurlston being the driver;  
3 Mr. Wilson being the passenger.

4 4. The firearm was found in a hidden compartment on the dash of this  
5 vehicle.

6 5. Mr. Wilson, the defendant before the Court, said that he had gotten a  
7 ride from Mr. Hurlston from the street dance on Seafarers Way to the  
8 location where the vehicle was intercepted with them, and this is about  
9 two minutes' drive from Seafarers Way to the location where the car  
10 with the firearm was found.

11  
12 76. Mr. Taylor was asked whether given those facts, could there be any form of secondary transfer  
13 of Mr. Wilson's DNA profile from Mr. Hurlston to the firearm that was found in the hidden  
14 compartment?  
15

16 77. Mr. Taylor replied that secondary transfer is always a possibility. He would have to know an  
17 example of what the cause of it would be. He gave an example of what increases the likelihood  
18 of secondary transfer as being the cause of observing someone's profiles. He said that the easiest  
19 way to think of it is, that it's like dealing with a wall of red paint. If the wall has been freshly  
20 painted, and it is still wet paint, he can touch the wall of red paint and if he rubs his hands  
21 vigorously all over it, he would expect to get red paint on his hands. If he then touches the  
22 banister, his pages, and his clothing, he would then get that red paint on pretty much everything;  
23 and though that wall has never touched any of these items, some of it has been transferred to it  
24 via him because it is wet and he has rubbed his hand vigorously and has applied friction and  
25 force. All of these help to encourage the possibility of transfer.  
26

27 78. He said that it depends on what the environment of the compartment was. If it was Mr. Wilson's  
28 vehicle, and he was using that compartment regularly.  
29

30 79. It would also depend on the firearm, assuming the other individual, Mr. Hurlston if he says it  
31 was his gun, he cannot rule out that Mr. Hurlston could have transferred Mr. Wilson's DNA onto  
32 the gun through some unknown mechanism that he does not know. He said that as he was  
33 explaining earlier about the wall of red paint, if it is a dry wall and the paint had been there for  
34 years, and he just lightly touched it, he would not expect to transfer any paint.



1       80. Mr. Taylor was then asked this: -

2               “Q But, Mr. Taylor, given the duration of the ride from Seafarers Way,  
3               where Wilson said that he got the ride, and two minutes afterwards --

4               A So just from being in the compartment?

5               Q Yes.

6               A I would not expect there to be that level of transfer onto the firearm.

7               Q Why did you just say that? Why did you say that?

8               A Because the compartment I'm assuming would be a locked area, dry. The  
9               firearm would be just loose inside it. There would have to be a source within  
10              the compartment for Mr. Wilson's DNA to get onto the firearm. And if you  
11              are saying that he has never had access to that compartment, I don't know  
12              where that source would be from. So, I absolutely wouldn't expect it to arrive  
13              just from the compartment itself.”

14  
15       81. In cross-examination Mr. Taylor said that in his example it is correct that if his hand touched a  
16       not-yet-dry wall with red paint, then he might expect that because it is not fully dry, then it  
17       would be transferred to somewhere else.

18  
19       82. Mr. Taylor said that it is absolutely possible that if Mr. Wilson and Mr. Hurlston were partying  
20       together for four hours, or so, one might expect them to develop a sweat. He was asked whether  
21       the presence, for example, of sweaty palms, and the shaking of arms, or the exchange of drinks,  
22       would that increase the possibility of secondary transfer from Mr. Wilson to Mr. Hurlston to the  
23       firearm? Mr. Taylor's answer was that sweat itself is not a particularly rich source of DNA. He  
24       said that certainly the fact that if they are in close contact over a prolonged period of time, they  
25       are sweaty and if they are shaking hands, hugging, something of that nature, then, yes, you could  
26       transfer DNA by that method. It could increase the likelihood of observing transfer.

27  
28       83. Mr. Taylor said that if the suggestion of Counsel is that if it is accepted that it is Mr. Hurlston's  
29       vehicle and Mr. Hurlston's firearm, that at some point over the course of the evening,  
30       Mr. Hurlston and Mr. Wilson are partying, shake hands, hug, and assuming they are sweaty, it  
31       is a possibility that some of Mr. Wilson's DNA gets transferred, like the coffee cup, onto the  
32       firearm because Mr. Hurlston handled the firearm, not Mr. Wilson.

33



1 84. Mr. Taylor said that generally, when they observe DNA mixtures, the major profile, the largest  
2 contributor, is either the owner of the object or the last handler of the object. When they observe  
3 that someone is a major contributor or larger contributor of which, particularly for DNA Mixture  
4 2 as Mr. Wilson was, they are typically the last person to handle the object, or it is their  
5 ownership.

6  
7 85. Mr. Taylor gave an example. He said that if someone handled his wallet, he would fully expect  
8 that persons' DNA to get on there, but his DNA would still be on there too, so they would see a  
9 mixture of both of their DNAs. But he cannot absolutely rule out that secondary transfer could  
10 have caused this scenario in the manner he just described.

11  
12 86. In answer to Counsel, he said that the small amounts of who is going to be sweatier or less  
13 sweaty would not make a difference because it will depend on who is transferring more DNA,  
14 and all of that is really hard to measure, if not impossible, for most people. He said that he  
15 cannot really provide more direction that way, but he can simply say that if you are sweaty, you  
16 are going to increase the likelihood of transfer as a possibility.

17  
18 87. In re-examination by Counsel for the prosecution Mr. Taylor said that in the scenario put to him  
19 by the defence, Mr. Hurlston would have had to handle the firearm after he came into contact  
20 with Mr. Wilson.

21  
22 88. He said that in DNA Mixture 1, if it is accepted that both of their DNA was on it, they represent a  
23 relatively even amount of DNA about 80 to 90 percent of the DNA there is coming from these  
24 two individuals, and there is an unknown third party.

25  
26 89. For DNA Mixture 2, Mr. Wilson is seen as being the major contributor representing roughly 70  
27 percent of the DNA there, Mr. Hurlston is present after that, 20 to 25 percent, and an additional  
28 5 to 10 percent of some unknown third party. He said that when you look at the major contributor  
29 to a DNA mixture, it is most often the owner of an item, the usual handler, or the last handler of  
30 an item.

31  
32 90. In answer to a question from the Court Mr. Taylor said that this is because of what has been  
33 seen in multiple studies involving many different items, over and over they see the same results  
34 that it is the usual handler, the owner of the item, or the last person that handled it.



1  
2 91. He said that there is always the outside example, if you did run the study a hundred times, on  
3 the hundredth time, you see someone else as a major contributor. It is from secondary transfer,  
4 and you would trace that down to, either the intimate partner of someone that was involved in  
5 the study or someone else who used the vehicle last week, something of that nature. So, we can  
6 never rule it out because we know it does happen, but typically, it is the last handler or the  
7 regular handler.

8  
9 ***Interview of Defendant***

10  
11 92. The defendant was interviewed under caution in the presence of his Attorney on the 5<sup>th</sup> May  
12 2024. He provided a prepared statement in which he said that: -

13  
14 “I’ve been given an opportunity to take legal advice and I have done so, I Dayne Wilson  
15 wish to say that I do not know anything about any firearm in the Black Honda Accord that  
16 I am told was found there on the 4<sup>th</sup> May 2024 sometime after 12am. I only asked for a  
17 ride from David Hurlston who I knew before. This was after the Batabano celebrations. I  
18 do not know anything else or have anything else to say.”

19  
20 93. In response to a question from the police, he said that he had got to the Carnival with “a next  
21 friend” but exercised his legal right and declined to answer any other questions.

22  
23 **THE DEFENCE CASE**

24  
25 94. The defendant elected not to give evidence.

26  
27 **THE SUBMISSIONS**

28  
29 ***Closing Submissions of the Prosecution***

30 95. The prosecution submitted that there is circumstantial evidence, being the DNA evidence in  
31 conjunction with other evidence in the case which points to the defendant being in joint  
32 possession of the firearm and ammunition together with his co-defendant Hurlston.

1 96. Counsel said that the defendant was not truthful when he told PC Garwood that he had traveled  
2 there in a white Mercedes Benz when he had not. The question is whether he knew that the  
3 firearm was in the Honda Accord.

4  
5 97. Counsel refers to the evidence of Mr. Taylor that the defendant was a major contributor to DNA  
6 Mixture 2 and that based on studies, the major contributor to a mixture is either the usual handler  
7 or the person that last handled the firearm.

8  
9 98. Counsel said that the evidence of PC Hall is that he had to press a lid for the firearm to be  
10 revealed. The lid is shown on photograph 12 which is exhibited. Counsel submitted that for Mr.  
11 Wilson's DNA to have been transferred from Mr. Hurlston to the firearm, Mr. Hurlston would  
12 have had to handle the firearm within that two-minute drive. In the defendant's prepared  
13 statement, the defendant stated that he only asked for a ride. Counsel submitted that the  
14 defendant was a passenger in the car for such a short duration and was a mere occupant for a  
15 very short period of time. There is no evidence that he owned the car. If he was the owner of the  
16 car, one would expect his DNA to be on the items in the car.

17  
18 99. Counsel submitted that the strength of the DNA profiles on the firearm, particularly DNA  
19 Mixture 2 is such that the defendant must have handled the firearm either as owner or be the  
20 person who last handled it.

21  
22 100. Counsel also asked that an adverse inference be drawn from the defendant's failure to give  
23 evidence and submitted that the Court should find that he ought to have given an account to  
24 explain away that evidence.

25  
26 ***Closing Submissions of the Defence***



27  
28 101. Counsel for the defence submitted that the defendant was observed partying with the co-  
29 defendant Hurlston and others at the Batabano dance along Seafarers Way in the evening of 4<sup>th</sup>  
30 May this year between 7:45 pm and 11:45 pm. Counsel said that while these are the hours  
31 during which the defendant was observed with the co-accused, it is likely possible that they had  
32 been together even before they were observed. They were partying under observation for at  
33 least four hours.

1 102. Counsel said this places this defendant in likely more than ordinary physical company with  
2 Hurlston for at least four hours. There was :-

- 3
- 4 - Dancing
- 5 - Physical contact
- 6 - Greeting
- 7 - Purchasing and sharing of drinks
- 8 - Companionship of food
- 9



10 103. Counsel said that the likelihood is that there would be significant sweating. There is no dispute  
11 that after the event they left the party together. They travelled in a black Honda Accord from  
12 where it was parked to Barnes Plaza where it was searched. Counsel said that the exact actions  
13 of Mr. Hurlston between the time he left the party, and the time that the police stopped them is  
14 not known. It is not known whether the firearm was left in the vehicle while at the party or  
15 whether Mr. Hurlston handled, collected or took possession of the firearm immediately after he  
16 left the party. Counsel said it is a question whether Mr. Hurlston had it on his person at the party  
17 or was it always in the car while he was at the party and he simply handled it to ensure that it  
18 was still there before he drove away. There is no evidence to confirm this or when or how the  
19 DNA came to be on the firearm.

20

21 104. Counsel submitted that it might be more than enough for Mr. Hurlston to have handled the  
22 firearm having been in physical contact with the defendant. Counsel said that the telling part of  
23 the evidence is that the possibility of transfer cannot be ruled out. There is the possibility of  
24 exchange of stickiness and sweat, palms, skin cells after four hours of prolonged contact and  
25 travelling in the same vehicle. There is the very real possibility of secondary transfer. The  
26 prosecution relies on DNA evidence, not fingerprint evidence which would have been more  
27 probative. Counsel said that on the only probative evidence before the Court, the Court cannot  
28 be sure and that any conviction on this evidence would be unsafe and unfair.

29

30 105. Counsel said that the defendant was not the owner, or the driver and the item was concealed.  
31 Mr. Hurlston has confessed to its possession.

32

1 106. Counsel referred to the judgment of the Grand Court in *R v Michal Lopez Watler*<sup>3</sup> in which  
2 Carter J. concluded that where the defendant does not give or call evidence at trial and does not  
3 advance a positive case but merely puts the prosecution to proof, a court cannot for the purposes  
4 of s.148 of the *Police Act* draw any inferences from this failure. Where the defendant did not  
5 give evidence himself, the Court said that there is no fact that the defendant failed to mention in  
6 his interview upon which he then sought to rely in his defence which could lead the Court to  
7 draw an inference adverse to the defendant from such failure.

8  
9 107. I make it plain in the instant case that no inference is drawn from the defendant Wilson's failure  
10 to answer questions in interview.

11  
12 **ANALYSIS**



13  
14 108. I am mindful of the burden and standard of proof. There is no burden on the defendant to prove  
15 his innocence. That burden is and remains on the prosecution throughout the case. The essential  
16 question in this case is whether the prosecution has discharged its burden such that I am sure  
17 that this defendant was in possession of the firearm and ammunition found.

18  
19 109. I give myself the appropriate directions from the *Crown Court Compendium* as are relevant to  
20 the facts. The defendant has no cautions or convictions for any criminal offence. He is a man of  
21 previous good character. This does not mean that he could not have committed the offences with  
22 which he is charged but his good character is something that I take into account in his favour in  
23 two ways.

24  
25 110. First, although the defendant did not give evidence, the defendant did give an account to the  
26 police when he was interviewed, and the defendant relies on that account in this case. I take his  
27 good character into account when I am deciding whether I accept what he said in that interview.

28  
29 111. Secondly, the fact that the defendant has not committed any previous offence may mean that it  
30 is less likely that the defendant would have committed the offences with which he is charged.

31  
32 112. The evidence relied on by the prosecution is expert evidence. The Court does not have specialist  
33 knowledge on DNA Analysis. I do not have to accept the evidence of the expert, Mr. Taylor.

---

<sup>3</sup> Ind, 75/2021 – Unreported Judgment dated 24<sup>th</sup> March 2022, paragraph 46  
241217 R v Dayne Kareem Wilson: Ind. 43 of 2024. Coram: Richards, J KC – Verdict Judgment



1 An expert's view is no more than an opinion. Being an expert witness does not mean that he  
2 must be correct.

3  
4 113. Importantly Mr. Taylor's findings are in themselves only evidence of the probability of contact  
5 between the defendant and the location from which the DNA sample was taken. This evidence  
6 does not in itself prove that the defendant committed the offences on the Indictment.  
7 Additionally, there are limitations in that the expert cannot say how and when the DNA material  
8 was deposited on to the items. Expert witnesses are only able to give evidence about one element  
9 in this case because DNA analysis is in their field of expertise. This means the expert's evidence  
10 is only part of the evidence in this case. All of the evidence must be considered.

11  
12 114. In this case the defendant does not challenge the findings of Mr. Talyor. The defence position  
13 is that the Court cannot be sure of possession because the DNA of the defendant could have  
14 been deposited on the firearm because of indirect transfer.

15  
16 115. The defendant has made statements in his interview. I consider the whole of what he said in that  
17 interview. However, those statements were not given under oath or affirmation and were not  
18 tested in cross-examination.

19  
20 116. The defendant accepts in his statement that he traveled in the car in which the gun was found.  
21 On his own account, this must have been after the party and shortly before the gun was found.  
22 He said that he got a ride to the party from another friend. There is no evidence that the defendant  
23 was the owner of the car. Again, on his account, he was no more than a passenger who had  
24 sought a short ride.

25  
26 117. Before he admitted to the police that he had been a passenger in the car, he attempted to distance  
27 himself from it. I take note that when he was first approached by the police at Mary Street he  
28 repeatedly denied travelling in that car. He said that he had been given a ride by a Spaniard in a  
29 white car.

30  
31 118. I bear in mind that a defendant who tells a lie is not necessarily guilty. Sometimes a defendant  
32 who is not guilty will tell a lie for some other reason.

33  
34 119. The defendant has not given a reason or explanation, but the circumstances are such that he may  
35 have simply panicked on the approach of the police. I would have to be sure that there is no such



1 innocent reason before I could hold the lie against him and use it as evidence which supports  
2 the prosecution's case. I also remind myself that the defendant is not to be convicted either  
3 wholly or mainly on the basis that he lied.

4  
5 120. In my view the timing of this lie is significant. This was before the firearm was found in the  
6 black car. Other than the firearm, no other illegal item was found in it. There was no ganja in it.  
7 The white car was searched, and nothing was found in it. Why would the defendant say that he  
8 had traveled in the white car which had nothing and deny travelling in the black car before the  
9 police found the firearm in it. On any view, the inference is inescapable that this goes to his state  
10 of mind and points to his knowledge that there was something illegal in that car.

11  
12 121. The defence accept that the defendant was a contributor to the DNA mixture found on the sights  
13 and grip of the firearm before and after fuming. However, the possibility of secondary transfer  
14 of the defendants' DNA from Mr. Hurlston to the firearm is raised. Counsel submits in effect  
15 that given the nature of the activity, dancing and partying over the four or more hours that the  
16 two men were together earlier that night, secondary transfer is a realistic possibility which is  
17 consistent with the innocence of the defendant in this case. It is a co-existing circumstance which  
18 would weaken or destroy the inference of guilt for which the prosecution contends.

19  
20 122. In light of this submission, I have reviewed the evidence of Mr. Taylor with respect to the  
21 possibility of secondary transfer with some care. In DNA Mixture 1, both men represent a  
22 relatively even amount of DNA of about 80 to 90 percent and there is an unknown third party  
23 for the remainder. The defendant was the major contributor to DNA Mixture 2 representing  
24 about 70 percent of the DNA there, Mr. Hurlston is present after that, 20 to 25 percent, and an  
25 additional 5 to 10 percent of some unknown third party.

26  
27 123. The evidence of Mr. Taylor is that when you look at the major contributor to a DNA mixture, it  
28 is most often the owner, the usual handler, or the last handler of an item. He explained that this  
29 is the conclusion from several studies and said that when they observe that someone is a major  
30 contributor or larger contributor of which, particularly for DNA Mixture 2 as Mr. Wilson was,  
31 they are typically the last person to handle the object, or they are the owner.

32  
33 124. Mr Taylor's evidence as to the circumstance of a departure from the major contributor being the  
34 usual handler or owner was significant. He said that the tenth time where it is found to be

1 secondary transfer, this is traced back to either the intimate partner of someone that was involved  
2 in the study or someone else who used the vehicle last week, something of that nature.

3  
4 125. In this case there is no suggestion of intimate partnership. Neither is there a suggestion of use  
5 of either the vehicle or the firearm. This was socialising in full view of the public and a short  
6 two-minute drive to the Globe Bar. The firearm was found in a closed compartment within the  
7 vehicle and not in an area where a passenger may have unwittingly come into contact with it.

8  
9 126. The defendant has chosen not to give evidence. He has a right to do so. There is no burden on  
10 him. I give myself the appropriate direction on this. The fact that he has not given evidence has  
11 the consequence that he has not given evidence in the trial to contradict or undermine the  
12 evidence on the prosecution's case that he is included in the DNA mixture found on the firearm  
13 because he was either the usual or last handler of it.

14  
15 127. His Attorney confirmed in open Court that the defendant understood that if he failed to give  
16 evidence, I would be entitled to draw inferences from that failure; in other words that I would  
17 be entitled to conclude that the defendant did not feel that he had an answer to the prosecution  
18 case that would stand up to cross-examination.

19  
20 128. In my view, on the combination of the circumstances, the prosecutions' case is strong such that  
21 it called for an answer.

22  
23 129. I am sure that the true reason for not giving evidence is that the defendant did not have an answer  
24 that he believed would stand up to questioning.

25  
26 130. Having considered all the circumstances, I make the following findings of fact: -

- 27  
28 1. The defendant lied to the police about how he had traveled to the Globe Bar.  
29  
30 2. This lie was not for an innocent reason and supports the prosecution's case.  
31  
32 3. The lie was an attempt to distance himself from travel in the black Honda Accord.




- 1 4. In seeking to distance himself from the black Honda Accord the reasonable and  
2 inescapable inference is that the defendant knew of the presence of something illegal  
3 in it.  
4
- 5 5. The only thing illegal found in it was the firearm.  
6
- 7 6. The reasonable and inescapable inference is that the defendant knew of the presence  
8 of the firearm in the vehicle.  
9
- 10 7. Not only was the defendant a contributor to the DNA mixtures found on the firearm,  
11 but he was a major contributor of about 70% to DNA Mixture 2.  
12
- 13 8. The fact that he was a major contributor to the mixture is of significance. It serves to  
14 exclude the possibility that his DNA was on the firearm because of secondary transfer  
15 from Mr. Hurlston with whom he had been in contact earlier in the evening and night.  
16
- 17 9. It serves to exclude this possibility because studies have shown that the major  
18 contributor is typically the usual or last handler of the item.  
19
- 20 10. In the non-typical case, where secondary transfer is a factor, the explanation from the  
21 circumstances such as intimate partner or driver of the vehicle last week do not arise  
22 in the instant case.  
23
- 24 11. The firearm was not found in an open area of the vehicle where a passenger may have  
25 had casual contact but in a closed compartment.  
26
- 27 12. The defendant chose not to give evidence as was his right, but the evidence of the  
28 prosecution called for an answer. The fact of his failure to give evidence is supportive  
29 of the case for the prosecution. I bear in mind that the defendant cannot be convicted  
30 wholly or mainly because of that failure.  
31
- 32 13. The fact that the two men were in each other's constant company for more than four  
33 hours, partying together evidences a level of association between them which is more  
34 than a passing one.  
35



1 131. I conclude from all the circumstances taken together that the defendant was in knowing physical  
2 custody or control of the firearm. He was either the usual or last handler of it. I have considered  
3 whether the fact that the defendant's DNA was not found on the ammunition is a factor which  
4 destroys or weakens the inferences to be drawn. I have concluded that it does not. The  
5 ammunition was found inside the firearm. Possession is not the same thing as ownership.  
6 Everything points in this case to the firearm and ammunition being in the joint possession of  
7 both men who had been together for some four hours.

8  
9 132. I am therefore satisfied so that I am sure that the defendant is guilty as charged of Counts 1 and  
10 2 of the Indictment.

11  
12 **Dated this the 17<sup>th</sup> December 2024**

A handwritten signature in blue ink, appearing to be 'Cheryll Richards', written in a cursive style.

13  
14 **The Hon. Justice Cheryll Richards KC**  
15 **Judge of the Grand Court**