

**JUDGMENT RELEASED UNDER EMBARGO
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1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **CRIMINAL SIDE**

3
4 **INDICTMENT NO: 0038/2021**

5
6 **THE QUEEN**

7
8 **v.**

9
10 **ROGER DAVARD BUSH**

11
12
13
14 **Appearances:** **Mr. Andrew Radcliffe K.C. with Ms. Sarah**
15 **Lewis, for the Crown**

16
17 **Mr. Oliver Blunt K.C. instructed by Mrs. Lee**
18 **Halliday-Davis of Brady Attorneys for the**
19 **Defendant**

20 **Before:** **Justice Marlene I. Carter (Actg.)**

21 **Judge Alone Trial Heard:** **10th – 27th June 2022**

22
23 **Final Submissions Received:** **27th July 2022**

24
25 **Delivery of Verdict Judgment:** **27th September 2022**
26

27
28 **HEADNOTE**

29 *Criminal Law – Trial by Judge Alone - Murder – Circumstantial Evidence*

30
31 *The names of certain Crown witnesses in this case, “NE”, and “COE” as well as*
32 *other persons referred to, “CL”, “JE” and “CT” have been anonymized*
33 *throughout this judgment.*

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36 **VERDICT JUDGMENT**
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1 **INDICTMENT**

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1. The Defendant is before the Court having been charged on an Indictment dated the 22nd day of June 2021. That indictment was amended, only in respect of the spelling of the Defendant’s middle name and dated the 9th day of September 2021.

2. The indictment charges the Defendant as follows:
 - i. Count 1: Murder, contrary to s.181 of the **Penal Code** (2019 Revision) - the Particulars of the offence being that the Defendant, on the 12th day of November 2019, in the vicinity of 89 Miss Daisy Lane (“MDL”), West Bay, Grand Cayman, Cayman Islands, murdered Shaquille Demario Bush.

 - ii. Count 2: Possession of an Unlicensed Firearm, contrary to s.15(1) and 15(5) of the **Firearms Act** (2008 Revision) - the Particulars of the offence being that the Defendant, on the 12th day of November 2019, in the vicinity of 89 Miss Daisy Lane, West Bay, Grand Cayman, Cayman Islands, had in his possession a Remington Arms 9mm Luger firearm, which was not under and in accordance with the terms of a Firearm User’s (Restricted) Licence.

3. The Defendant pleaded Not Guilty to both counts on the Indictment.

4. Pursuant to s.129 of **the Criminal Procedure Code** the Defendant elected trial by Judge Alone, signing the required form on the 26th of May 2022.

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1 **THE LAW ON JUDGE ALONE TRIALS**

2 5. The Cayman Islands Court of Appeal (CICA) has given some guidance on the
3 duties of a Judge in a Judge Alone trial. In *K. Richards v R*¹ Rowe JA, stated:

4 *“When a trial judge sitting alone has advised himself to the applicable*
5 *principles of law, and given himself any necessary warning, he must*
6 *indicate clearly in his judgment his reasons for acting as he did in order*
7 *to demonstrate that he has acted with the requisite degree of caution in*
8 *mind and has therefore heeded his own warning. No specific form of*
9 *words is necessary for this demonstration, what is necessary is that the*
10 *Judge’s mind upon the matter should be clearly revealed.”*

11
12 6. In *Randy Martin v R*², Mottley JA stated as follows:

13 *“A judge sitting in a criminal case without a jury, in rendering his*
14 *decision and giving his reasons for so concluding is not required to*
15 *review every fact and to detail each argument on which the prosecution*
16 *and defence rely as if he were summing up to a jury. The judge must set*
17 *out the conclusion reached and make clear the reasons for arriving at*
18 *that conclusion. He is required to have regard to any difficult or unusual*
19 *points of law and to show how those points of law has in any way*
20 *impacted the conclusion that he has reached.”*

21
22 7. In the case of *Dioncicio Salazar v The Queen*³ the Caribbean Court of Justice (CCJ) quoted
23 with approval from the judgment of the Court of Appeal in Northern Ireland in *R v*
24 *Thompson*⁴ in which it was said of the duty of a judge sitting alone in a bench trial:

25 *“He has no jury to charge and therefore will not err if he does not state*
26 *every relevant legal proposition and review every fact and argument on*
27 *either side. His duty is not as in a jury trial to instruct laymen as to every*
28 *relevant legal aspect of the law or to give (perhaps at the end of a long trial)*
29 *a full and balanced picture of the facts for decision by others. His task is to*
30 *reach conclusions and give reasons to support his view and, preferably, to*
31 *notice any difficult or unusual points of law in order that if there is an appeal*
32 *it can be seen how his view of the law informs his approach to the law.”*

33
34 8. The CCJ continued:

¹ 2001 CILR 496

² CICA Crim. Appeal No. 2/2010 (Ind. 27/2009)

³ [2019] CCJ 15

⁴ [1977] NI 74

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1 *“Equally, a judge sitting alone and without a jury is under no duty to*
2 *“instruct”, “direct” or “remind” him or herself concerning every legal*
3 *principle or the handling of evidence. This is in fact language that belongs*
4 *to a jury trial (with lay jurors) and not to a bench trial before a professional*
5 *judge where the procedural dynamics are quite different (although certainly*
6 *not similar to those of an inquisitorial or continental bench trial).”*
7

8 9. As in all criminal trials the burden is on the Crown to prove beyond a reasonable doubt that the
9 Defendant committed the offences for which he is on trial.

10
11 10. There is no burden on the Defendant to prove that he is innocent. There is no onus on the
12 Defendant to prove anything at all. The Defendant has no obligation to prove that he is not guilty,
13 or to explain the evidence offered by the Prosecution.

14
15 11. As in all criminal trials the burden is on the Crown to prove beyond a reasonable doubt that the
16 Defendant is guilty of the offence for which he is charged on the Indictment. There is no burden
17 on a Defendant to prove that he is innocent. The Defendant has no obligation to prove that he is
18 not guilty, or to explain the evidence offered by the Prosecution.

19
20 12. I will not review every single detail of the evidence, but I will address my mind to the important
21 or prominent aspects of the evidence in deciding the critical issues in this case. I will not decide
22 every single point that has been raised – only such matters that will enable me to determine
23 whether the charges on the indictment have been proved.

24
25 13. I will have regard to the whole of the evidence that has been presented at trial and form my own
26 judgment about that evidence. The questions of fact at issue on this trial are for me to determine.

27
28 14. I will consider all of the evidence in this case against this defendant and, if after having done so,
29 I have any reasonable doubt as to whether the Defendant is guilty or not, I must resolve that doubt
30 in favour of the Defendant and find him not guilty of the offence for which he is charged.

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1 15. On the other hand, if having considered the evidence I am satisfied so that there is no reasonable
2 doubt in my mind, and I am sure of the guilt of the Defendant, then it will be equally my duty to
3 find him guilty as charged.

4
5
6 **ELEMENTS OF THE OFFENCE OF MURDER**

7
8 16. A person commits the offence of murder if, being of sound memory (mind) and discretion, he
9 unlawfully kills another person and, at the time, he intended, either expressly or impliedly, to kill
10 or to cause that other person grievous bodily harm.

11
12 17. In order to find the defendant guilty of the offence of murder, the onus is on the Prosecution to
13 make me sure of each of the following:

- 14
15 i. That the defendant is of sound memory(mind) and discretion;
16 ii. That the deceased is dead;
17 iii. That he (the deceased) died of injuries inflicted by the defendant;
18 iv. That when the defendant inflicted the injuries he did so with the intention to kill
19 the deceased or cause him grievous bodily harm; and
20 v. That when the defendant inflicted the injuries on the deceased, he did so without
21 lawful justification.

22
23 18. It is not in issue between the Prosecution and the Defence that the defendant is of sound memory
24 (mind) and discretion. Further, it is not in issue that the deceased, Shaquille, is dead, and that he
25 died on the 12th day of November 2019.

26
27 19. In order to make me sure of the third ingredient, that is, that the deceased died of injuries inflicted
28 by the defendant, the Prosecution must first make me sure that the defendant was the assailant.
29

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1 20. To prove the identity of the attacker as being the Defendant, the Prosecution relies on the direct
2 evidence of NE and COE and, on circumstantial evidence.

3
4 21. If the Prosecution makes me sure that the defendant told NE and COE of his involvement and
5 responsibility for the shooting of the deceased, and also makes me sure on the circumstantial
6 evidence that this (the defendant's guilt) is the irresistible inference that must be drawn from that
7 evidence, then the Prosecution would have satisfied this part which relates to the identity of the
8 defendant as the murderer.

9
10 22. If I am sure that the defendant shot the deceased, the Prosecution must then make me sure that the
11 injuries inflicted by the defendant caused his death. In this regard, the Prosecution relies on the
12 evidence of Dr Rouse who noted that the cause of death was gunshot injuries. There is no issue
13 between the Prosecution and Defence on this issue. Both accept the cause of the deceased's death.

14
15 23. In order to make me sure of the fourth ingredient, that is, the intention of the defendant when he
16 shot the deceased, the Prosecution relies on the number of the gunshot wounds and the evidence
17 of the pathologist as to the manner of death. Dr Rouse described that two of the deceased's injuries
18 – one to the back of his head passing through the occipital bone (the bone at the back of the skull)
19 and right occipital lobe, and the other to his left chest, which was also backwards (ie from behind)
20 and penetrated the deceased's left chest cavity, left lung, heart, spine and ended up fracturing his
21 right shoulder blade – were each individually fatal in their own right and each was likely to cause
22 immediate collapse and/or death. With regard to these two wounds Dr Rouse's opinion is further
23 accepted, that, as set out in the prosecution's closing submissions:

24
25 *“...those two most serious wounds described by Dr Rouse tell their own story;*
26 *first, having passed through the left lung and aorta, Wound 2 struck Shaquille's*
27 *spine and would have resulted in the loss of the use of his legs and his*

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1 *immobilisation and collapse. He would not have moved from where he was when*
2 *he received that injury. Secondly, as to Wound 1, the head wound to the back of*
3 *the head, this was angled downwards, suggesting, in Dr Rouse’s expert opinion*
4 *that Shaquille was collapsing at the time or had already collapsed. From this, Dr*
5 *Rouse states it might be inferred to represent a coup de grace.”*

6
7 24. The Prosecution also rely on the evidence from the scene of the shooting from which they ask the
8 Court to infer that the deceased was pursued by his attacker who was firing shots at him during
9 this pursuit. If I am sure that the defendant was the shooter and inflicted these injuries on the
10 deceased – injuries which caused his death – I can infer from these actions of the shooter (i.e.
11 firing shots at Shaquille Bush whilst in pursuit of him) and the evidence of the manner of death,
12 that the defendant had the intention to kill or cause grievous bodily harm to the deceased.

13
14 25. To prove the fifth element of murder, I must be sure, that if the defendant killed the deceased, he
15 did so without lawful justification.

16
17 26. I note that this case does not involve self-defence or any other circumstance which would make
18 the killing lawful.

19
20 27. In order to find a verdict of guilty, the Prosecution must make me sure of each of the elements of
21 murder as stated above.

22
23 28. The defence has indicated to the court that the defendant takes no issue with the chronology set
24 out by the Crown in the closing remarks of counsel for the prosecution regarding how the deceased
25 met his death. As a result, I have utilized sections of the closing remarks of the Prosecution that
26 are agreed as to the cause and manner of the deceased’s death as I set out the elements of the
27 offence of murder above.

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1 29. The result of this agreement between prosecution and defence as to how, on the evidence, the
2 circumstances of the murder progressed at MDL resulting in the death of Shaquille Bush, means
3 that there is no issue that certain of the elements of murder that need to be satisfied have been
4 satisfied on the prosecution's case; as well as

5
6 30. I say therefore that I am satisfied and feel sure of two of elements of the offence:

7
8 (a) That the Defendant is of sound memory (mind) and discretion; and

9 (b) That the deceased is dead.

10
11 31. It is agreed that the remaining issue for this Court's determination is whether this Court is satisfied
12 that it was the defendant who murdered Shaquille Bush. For the prosecution to succeed it must
13 satisfy this court beyond a reasonable doubt that it was the defendant who inflicted the injuries to
14 the deceased which caused his death. If the Court so finds, it is open for the Court to find, as
15 stated above, that the when the injuries were inflicted on the deceased that they were inflicted with
16 the intention to kill the deceased and also that there is no lawful justification for the infliction of
17 such injuries.

18
19 **COMMON GROUND**

20
21 32. The Prosecution states⁵ that how the deceased was murdered is not in dispute – as the totality of
22 the evidence makes clear:

23 i. This was a callous, brutal and cowardly murder.

24 ii. 15 spent 9mm cartridge casings were recovered from the scene by SOCO Reid
25 (shown in the scene photographs (Tab 6) and Reid's hand drawn plan, LR1S (Tab
26

⁵ Paragraphs 32-34 are taken from the closing submissions of the Crown

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1 opinion, that Shaquille was collapsing at the time or had already collapsed. From
2 this, Dr Rouse states it might be inferred to represent a *coup de grace*.

3
4 34. The Crown would suggest that there is no sensible interpretation of this evidence other than to
5 conclude that Shaquille, unarmed and defenceless, was executed by his assailant. Having been
6 chased around this relatively small area, he was gunned down in the middle of the yard and, as he
7 fell or having fallen, he was finished off with a bullet to the back of his head.”

8
9
10 **THE OFFENCE OF POSSESSION OF AN UNLICENCED FIREARM**

11
12 35. What is also common ground between the prosecution and defence is that the prosecution’s case
13 as presented does not allow room for different verdicts in respect of each count of the indictment.
14 If this Court finds that the defendant is guilty of the offence of murder the first count on the
15 indictment, it must follow that he is also guilty of the second count of unlawful possession of a
16 firearm. Similarly, if the defendant is not guilty of murder he must also be not guilty of possession
17 of an unlicensed firearm.

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1 42. Pursuant to s.34(1) of the *Evidence Act* a document entitled “Agreed Facts VI” was introduced
2 into evidence by the prosecution as part of the prosecution’s case.

3
4 43. These agreed facts are lengthy. However, it is necessary to set them out in their entirety here.

5
6 **THE AGREED FACTS**

7 44. These are:

8 **1. Exhibits**

9 *The provenance, production, continuity and admissibility of all exhibits*
10 *produced by witnesses whose written statements have been served as*
11 *evidence by the Prosecution are admitted.*

12
13 **2. Maps, plans and photographs**

14 *The maps, plans and photographs in the Trial Bundle are agreed.*

15
16 **3. Telephone and movement schedules**

17 *The schedules, JD/IA/1b – JD/IA/17, inclusive, produced by Joanne*
18 *Delaney, Intelligence Analyst employed by [the Royal Cayman Islands*
19 *Police Service] (RCIPS), are agreed and accurately represent the facts and*
20 *matters stated therein. [this is intended to cover all data production from*
21 *FLOW and Digicel, work done by others inc Boxwell st 135 and ANPR from*
22 *Webb st 149-151]*

23
24 *Attribution of users telephone numbers, all with Cayman Islands area codes*
25 *(+1345) are agreed as follows:*

26 *(a) Roger Davard Bush (the Defendant): 9220595*

27 *(b) [NE]: 9287439*

28 *(c) [NE]/Bella Bush: 9285666*

29 *(d) Shaquille Demario Bush: 9170451*

30 *(e) [COE]: 3215858*

31 *(f) Marlene Ebanks: 9256173*

32 *(g) Wayne McLean: 9391041*

33 *(h) Moises Bush: 9174895*

34 *(i) Sherlene Mothen: 9395933*

35 *(j) Phoenix Health Services Ltd: 9438150*

36
37 **4. Names, DOBs**

38 *The following dates of birth are agreed:*

39 *(a) Roger Davard Bush (the Defendant), dob 4th January 1975*

40 *(b) [NE], dob 2nd December 1988*

41 *(c) Shaquille Demario Bush, dob 24th February 1995*

42 *(d) Bella Bush, dob 19th October 2012*

43 *(e) Destiny Bush, dob 17th January 2001*

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1 (f) Britney Bush, dob 21st January 2003

2 (g) [COE], dob 7th November 1985

3 **5. Arrest 08.11.19 [circumstances of arrest charge and plea]**

4 At 0308hrs on 8th November 2019, the Defendant was arrested at 5,
5 Carnegie Way on suspicion of an alleged domestic assault on NE on 14th
6 October 2019 He was bailed on that matter.

7 He was subsequently charged and, on 2 June 2021, pleaded guilty to an
8 offence of common assault. He awaits sentence.

9
10
11 **6. CCTV**

12 (a) In the course of the investigation, RCIPS obtained CCTV material
13 (moving footage) from a number of different sources, in particular from

14 (i) Cash Wiz Cayman, business premises at 144, North Church St,
15 George Town, from three requested cameras (two covering the
16 parking lot and the third from behind the front counter facing
17 the main entrance) covering the period on 12th November 2019
18 from 1500hrs (3pm) to 1700hrs (5pm). [Durrant st 126, 248,
19 Ex DD/1]

20 The Cash Wiz CCTV footage [Ex DD/1] is 8mins 59secs fast or
21 ahead of 'real time'.

22 (ii) Government roadside cameras monitored by the National
23 CCTV system.

24 Footage from selected Government cameras was sought and
25 obtained on 13th November 2019 [unused #18] covering the
26 period on 12th November 2019 between 1630 hrs (4.30pm) and
27 1800hrs (6.30pm) and a more comprehensive request was made
28 and complied with on 24th December 2019 providing CCTV
29 footage from relevant cameras for the period on 12th November
30 2019 between about 1630hrs (4.30pm) and 1940hrs (7.40pm)
31 [Morgan st 221, Ex AM1A, unused #79]

32 The times shown on the Government cameras closely
33 approximate to, but will not completely synchronise with, 'real
34 time'.

35
36 (b) Thereafter, DC Russell These of RCIPS compiled a series of
37 storyboards using still photograph frames taken from the CCTV footage
38 and relating to the events at Cash Wiz and the movements of three
39 different motor vehicles, namely:-

- 40 • A Black Honda Accord, licence plate no. 190-006
- 41 • A gray Kia Sorento, licence plate no. 161-888
- 42 • A beige (visually gold coloured) Toyota Camry, licence
43 plate no.146-647
- 44 •

45 DC These finally edited these into a single storyboard as his exhibit
46 RT/CCTV/1 [These st 246, Ex 386 – 516]

47
48 (c) From the CCTV material (moving footage), and having been assisted
49 by another or other specialist police officers [Reed st 138] on 17th
50 September 2021 DC These [These st 257] created two composite,

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1 *edited videos using a video editing programme, Open Shot Video*
2 *Editor, as*

- 3 ○ *RT/CASHWIZ/COMP*
- 4 ○ *RT/GOVT/COMP*

5 (d) *Finally, on 30th May 2022, DC These placed 4 seconds long inserts*
6 *before each video clip describing the respective video clip's time,*
7 *duration, camera name and location and the associated storyboard*
8 *Photo Still from his exhibit RT/CCTV/1. He produces the video with*
9 *inserts as RT/GOVT/COMP2.*
10 *[These st 257]*

11
12 **7. Cash Wiz records** *[Jordae Scott st 125]*

13 *Cash Wiz sold only one cell phone on 12th November 2019.*
14 *That single sale was of a Microsoft RM-1041 model that Cash Wiz had*
15 *previously purchased from Consuelo Cheryll-Jane Miller for \$35 on 30th*
16 *August 2019.*
17 *The Cash Wiz sale receipt, JS/1 (x529) describes that cell phone as having*
18 *been sold on 12th November 2019 at 4.29pm for \$90 to a person giving the*
19 *name 'David Parchment'*

20
21 **8. 911 call**

22 *A 911 call (Ref: 2019-030032) was made to the Department of Public Safety*
23 *Communications, by a male giving his name as 'Michael Bush' reporting*
24 *his cousin, Shaquille Bush, as having been shot at 89, Miss Daisy Lane,*
25 *Logwoods.*
26 *It is recorded on RCIPS Computer Aided Despatch system as having been*
27 *made at 17:27:29 [JD/IA/9b, Call 124]*

28
29 **9. Police and Emergency Services**

30 *The 911 call is recorded on the RCIPS CAD system as having been received*
31 *at 17:27:29hrs (Trial Bundle Tab 3 JD/IA/9b Entry 124).*
32 *A Firearms Response Unit vehicle manned by APS Peter Muragh and PC*
33 *Craig Hunter was the first to attend the crime scene at Miss Daisy Lane.*
34 *Those two officers observed the motionless body of Shaquille Bush lying on*
35 *the ground and what appeared to be a number of spent 9mm cartridge*
36 *casings close to the body.*
37 *Other police officers were rapidly on the scene. PC Georgina White and PC*
38 *Bush arrived at approximately 1733hrs, by which time two uniform officers*
39 *from West Bay Police Station had already joined APS Muragh and PC*
40 *Hunter.*
41 *Within 5-10 minutes of her arrival, PC White had placed a police cordon*
42 *around the area and had begun a crime scene log recording all those who*
43 *entered and left the crime scene. A number of other RCIPS officers attended*
44 *in due course.'*

45
46 **10. Pathology**

47 (i) *On 18th November 2019, a post mortem examination of the body of*
48 *Shaquille Demario Bush, dob 24th February 1995, was carried out*
49 *by Dr Michael Steckbauer, his findings being described in his*

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Autopsy report, dated 20th November 2019, at x355-362, and body maps, date stamped '11/18/2019' at x363-369.

- (ii) Dr Steckbauer's findings were subsequently reviewed by Dr David A Rouse [st Rouse 183, 197].

11. Toxicology

Specimens collected by Dr Steckbauer during his post-mortem examination of the body of Shaquille Bush were the subject of a toxicological analysis by or under the supervision of Alan Glasgow, a forensic scientist [st 87 Alan Glasgow]. Two positive findings were made:

- (i) Alcohol – an ethanol concentration of 12mg per 100ml of blood was detected. This concentration is low and is not considered forensically significant (reference, the legal limit for driving in the Cayman Islands is 100mg per 100ml).
- (ii) The urine sample taken had a positive 9-Carboxy-THC result at a concentration of greater than 1000ng/ml. This presence of 9-Carboxy-THC in Shaquille Bush's urine shows that he had consumed cannabis on an occasion or occasions during a period of up to approximately 4 weeks and, since the analysis is in urine, no interpretation is possible of potential impairment at the time of his death.

12. Ballistics

The following items were submitted to Maurice L Cooper, an expert firearm examiner, for examination and analysis [st 91, 93, 213 Cooper].

- (i) 15 x 9mm Luger cartridge cases (LR2, 4-9, 11-12, 17-22) recovered from the scene in Miss Daisy Lane by SOCO Lewis Reid on the night of 12th November 2019. These were physically examined and microscopically compared. Mr Cooper found they each had sufficient Individual Characteristics to determine that they were all fired in the same firearm.
- (ii) 3 x fired copper jacketed bullets typical of 9mm, LR3 (which was badly damaged), LR 24 and LR30 were also recovered from the scene by SOCO Reid on the night of 12th November 2019 save in the case of LR30 which he recovered the following morning.
- (iii) Three further fired copper jacketed bullets, being LR40 and LR42 (both typical of 9mm) plus LR41 which comprised two fragments typical of bullet fragments were taken from Shaquille Bush's body during the post mortem examination on 18th November 2019. In relation to these five fired bullets (LR3, 24, 30, 40 and 42) and the fragments comprising LR41, Mr Cooper's conclusions are these:
- LR24, 30, 40 and 42 had sufficient Individual Characteristics to determine that they were fired from the same firearm
 - LR3 was badly damaged and had insufficient Individual Characteristics to determine that it was fired from the same firearm but similar Class Characteristics indicate

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14. DVDL records

(a) *Wayne Eron McLean, of 131 Watler's Road, George Town was registered as the current owner of a silver Honda Accord motor car, registration plate 182-138, with effect from 9th February 2019 and paid the CI\$25 change of owner fee on 24th October 2019 [st 254 Cacho, ELEC 7].*

(b) *At all material times in November 2019, Marlene Rose Ebanks, the mother of NE, was the registered owner of a grey Kia Sorento motor car, registration plate 161-888 [x623]*

15. Immigration records

Records contained in the Cayman Islands' Immigration Support System Database include details of all arrivals departures from and arrivals into the Islands [x635-6].

The Travel History relating to NE, dob 2nd December 1988 includes the following departures (on British Airways flight BA252, the flight from Grand Cayman to London Heathrow, via Nassau) and arrivals (on British Airways flight BA253, the corresponding flight from London Heathrow to Grand Cayman, via Nassau)

<u>Departure</u>	<u>Arrival</u>
06.03.12 [on BA 2252]	20.11.12
12.01.13	24.08.15
04.09.15	22.08.16
04.09.16	10.07.17

On 16.12.19 she left Grand Cayman for London Heathrow, returning from there to Grand Cayman on 09.01.20.

16. Defendant at Prisoners' Detention Center (13th – 17th November 2019)

(a) *Having been arrested at 1505hrs, the custody record refers to the Defendant being 'in what appeared to be good physical condition' at the time of the hand over at 1900hrs that day.*

(b) *Audio video interviews under caution of the Defendant were conducted by DS Andrew Graham [st 112-3] and DC Richard Sherwin [st 114, 176] on three occasions whilst he was in custody at this time, the discs being exhibited as by the former as Ex AG/RB1a, AG/RB2 and AG/RB3 respectively. Transcripts of each interview were subsequently produced as exhibits by DC Sillitoe, she having listened to the content and proof read transcripts provided by administrative staff.*

17. ABE interviews

(i) NE

NE was interviewed on tape as a significant witness on:-

(a) *11th September 2020 by Acting Chief Inspector Joseph Wright and PS Ava-Marie Parkinson, between 1338hrs and 1445hrs.*

A transcript was produced [x31-50] from which NE's witness statement, dated 8th October 2020 [st 1-17], was prepared and signed

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1 (b) 19th January 2021 by Acting Chief Inspector Joseph
2 Wright and DC Russell These, between 1040hrs and
3 1320hrs.

4 A transcript was produced [x51-190] from which NE's
5 witness statement, dated 11th May 2021 [st 18-30] was
6 prepared and signed.

7
8 (ii) COE

9 (iii) COE was interviewed as a significant witness on:-

10 (a) 17th September 2020 by Acting Chief Inspector Joseph
11 Wright and PS Ava-Marie Parkinson, between 1432hrs and
12 1615hrs.

13 A transcript was produced [x191-215] from which COE's
14 witness statement, dated 13th October 2020 [st 32-40] was
15 prepared and signed

16 (b) 9th February 2021 by DC Samantha Sillitoe and DC Russell
17 These, between 1410hrs and 1547hrs.

18 A transcript was produced [x216-302] from which COE's
19 witness statement, dated 13th August 2021 [st 41-48] was
20 prepared and signed.

21
22
23 **18. Identification of CL⁶ by NE**

24 On Wednesday 27 January 2021 Inspector Lavine showed NE a photo
25 spread containing 12 photos. She was asked to point out the male that she
26 said verbally threatened her whilst at the RCIPS Detention Centre on 17
27 November 2019. NE positively identified CL".

28
29
30 **READ INTO EVIDENCE**

31 45. In addition to the Agreed Facts the evidence of a number of witnesses was read into evidence
32 pursuant to s 33(4) of the *Evidence Act*. The salient aspects of the evidence of those
33 witnesses are as follows.

34
35 **FITZROY SMITH**

36 46. He was a tenant of Mike Bush, one of the owners of premises at MDL. At the time of the
37 murder, he had been living at the premises for approximately 5 months. He knew the
38 deceased because he would usually see him come around the yard from time to time. He
39

⁶ On application by the Crown, the Court ordered that there be no reporting of this officer's name, the officer is the subject in another yet untried matter.

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1 related that he knew Mike Bush, Moises Bush and Shaquille Bush only since he lived at
2 MDL. Fitzroy Smith lived there with his spouse. He related that on the 12/11/2019 he
3 arrived home from work at approx. 4:30 pm. He went outside after about 20 minutes to get
4 some cool breeze as inside the apt was hot. Suddenly he heard the voice of the deceased
5 saying “all Jamaicans should leave the yard in 10 minutes”. He saw the deceased and Mike
6 Bush at that time. Mike Bush asked the deceased why his tenants should leave and deceased
7 sated he don’t care about any tenants and that “*all Jamaicans should left from ya*”. Smith
8 related that he went back inside his room and spoke to his spouse. They left the room and
9 immediately vacated the premises leaving everything behind.

10
11 47. He described that they walked from MDL unto hell road and as they did so he heard “multiple
12 loud explosions sounding like gunshots at the premises.” He stated that just as he and his
13 spouse exited MDL he saw Moises Bush entering MDL. He was in the company of his
14 girlfriend. He related that he and his spouse walked out in the direction of WBPS and
15 stopped at a shop where his brother worked.

16
17 48. His evidence was that “*after the incident I heard people saying that Shaq died. I do not know*
18 *what happened because I left before the incident. To the best of my knowledge, the shots*
19 *were fired around the period of 5 pm when I heard them. I am not sure how many shots were*
20 *fired but I know that I heard multiple explosions.*”

21
22 49. He was not aware of Shaquille and anyone of his family members in any dispute. He did
23 not see anyone else around the yard when he left MDL that evening. He left Mike Bush and
24 Shaquille Bush in the yard and could say that Moises and girlfriend entered the lane in the
25 gold colour sedan type Camry car.

26

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1 50. **Fitzroy Smith was not available for cross examination by the defence. This is a matter**
2 **that the Court must consider as it assesses this evidence. Fitzroy Smith’s evidence is**
3 **part of the prosecution’s evidence to establish the time at which the deceased was shot.**
4 **The time stamp from CCTV still as Moises Bush entered the yard at MDL that evening**
5 **was 5:18 pm.**

6
7 **YADELA RAMIREZ CISNERO**

8
9 51. This witness is a nurse who at the relevant time lived in an area to the back of the premises
10 at MDL. She described that on the 12th of November 2019 she let work and went to pick up
11 her sister before heading home. She received a telephone call from her boss during her drive
12 home and told him she would call him back as she was driving. She arrived at home at 5:00
13 pm. She described that when she arrived home *“my sister and I got out of the car when I*
14 *heard loud male voices as if people were quarrelling and cursing coming from the premises*
15 *behind my house.”* This was not unusual. There was a board fence dividing her house from
16 these premises. Ms. Cisnero stated that she was outside her house speaking to her boss from
17 about 5:08 pm for about 10 -15 mins. During the call she sheard 4-5 loud explosions which
18 sounded like gunshots coming from the back of her house where she had heard the
19 quarrelling earlier. A few seconds later she heard another two explosions coming from the
20 same direction. She ran into her house and she believes she continued her conversation for
21 another 5 minutes. Ms. Cisneros turned over a copy of a screen shot of her phone on the
22 relevant date showing that her call to her boss came in at 5:08 pm and ended 20 mins and 42
23 seconds later.

24
25 52. **The prosecution’s case is that this further establishes the time of the shooting of the**
26 **deceased, between 5:18 and 5:23 according to the estimate from Ms. Cisneros.**

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1 **TEDDY L ROBINSON**

2
3 53. This witness lived close to MDL. He stated that he was usually quite specific about his
4 timings and routines. He stated that on the 12th Nov 2019, he was at home when at about
5 5:20 pm he went into his kitchen. As he stood in the kitchen area of his home, he heard a
6 series of explosions. He estimated that there were 5 separate explosions. A few seconds
7 later he heard 3 more explosions. He left his home at 17:30. When he did so, he could see
8 police cars coming in the opposite direction.

9
10 54. **The prosecution’s case is that this further his evidence confirms the timeline of the**
11 **shooting of the deceased.**

12
13 **JASON WEEKS**

14
15 55. Mr. Weeks is communications supervisor at the Department of Public Safety
16 Communications. He received a request from an officer in the case for any 911 phone calls
17 or audio transmissions on the date of the murder. Retrieved the audio clip from of 911 phone
18 calls and radio transmission between the hours of from 5:25 pm and 9:30pm on the 12th
19 October 2019. The audio clip transferred unto 2 compact discs, the radio 911/phone calls
20 and audio transmission were tendered into evidence and the transcript read to the court.

21
22 56. **The transcript shows that the 911 call was first received at approximately 5:27 from**
23 **someone who identified himself as Michael Bush giving the location as Miss Daisy Land**
24 **and the name of the person shot as Shaquille Bush**

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1 **KYSTAL ARCH**

2 57. This witness is a paramedic who first saw body of the deceased at the scene, unresponsive
3 not breathing and pulseless at 5:31 pm. Her evidence was that the deceased was attached to
4 a Cardiac Monitor to ascertain if a pulse was present or if any cardiac electrical activity was
5 present.

6 58. **EMS Concluded that the deceased injuries were not compatible with life and that the**
7 **patient was dead.**

8

9 **PC JEROME GARLAND**

10

11 59. PC Garland was an authorized firearms officer at scene. His evidence was that he first heard
12 a radio transmission of the shooting incident at MDL at about 5:30 pm on 12th November
13 2019. He immediately engaged emergency lights and made his way to the location. On
14 arrival he saw the body of SB lying on the ground in a pool of blood. He observed what
15 appeared to be a number of 9mm spent casings on the ground in close proximity to the body.
16 A search of the premises at MDL was conducted for possible suspects but none were located.
17 He noted the positions of other spent casings on the ground in a garage and also at the rear
18 of the garage.

19

20 60. **His evidence was that a cordon was established by unarmed officers who attended at**
21 **the location soon after he arrived at the premises.**

22

23 **DI DAVE MORRISON**

24

25 61. DI Morrison dispatched SOCO Reid to scene. Gave orders for various matters to be attended
26 to at the scene. **DI Morrison observed what appeared to be ganja clutched in the right**
27 **hand of the deceased as his body lay on the ground. d**

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1 **DC LEXINE WELCOME**

2
3 62. DC Welcome detailed to locate Roger Bush by DI Morrison to inform him of death of his
4 son on the 12th of November. Her efforts were unsuccessful. On the 13th of November she
5 first noted the presence of a black Honda registration no 190-006 at the premises parked
6 approx. 50m from house and the area where the deceased's body was found.

7
8 63. **The black Honda was Parked within the police cordon which had been established on**
9 **the evening of 12th of November. She Noted that his was a vehicle said to be associated**
10 **with the defendant.**

11
12 **DR JHOTI**

13
14 64. Dr. Jhoti is a pathologist attached to the Cayman Islands Health Services Authority (HSA).
15 **He attended the scene and declared the death of SB at 9:30 pm on 12th November. He**
16 observed what appeared to be gunshot wounds on body.

17
18 **DC SHELDON REYNOLDS**

19
20 65. DC Reynolds is attached to the Crime Task Force who assisted in investigation. His
21 evidence was that he on 13 November at approx. 1:19 pm he was at MDL when he witnessed
22 the arrival of the def. He observed the defendant who was drinking from a rum bottle flask
23 size and smoking.

24 66. **This witness' further evidence at trial was to the effect that he spoke to the witness**
25 **Teddy Robinson on 13 November 2019. Terry Robinson confirmed to him that when**
26 **he heard the shots and drove off in his vehicle that two Jamaicans had jumped into the**
27 **back of his car.**

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1 **ISHMAEL LESLIE**

2
3 67. Officer Leslie attended at MDL on the 13 November 2019. At that he was informed that the
4 defendant was a person of interest in the investigation.

5
6 68. **This officer assisted DS Anderson to place the defendant under arrest. At the time the**
7 **defendant was sitting with a group of men. This witness accompanied Inspector**
8 **Anderson to transport the defendant to the Cayman Islands Detention Centre. He**
9 **witnessed the Defendant kick out a window of the police car during the journey to the**
10 **Detention Centre.**

11
12 **VIVA VOCE EVIDENCE**

13
14 69. Apart from this evidence the prosecution also called Witnesses to give evidence in court.

15
16 **EVIDENCE OF NE**

17
18 70. NE gave her evidence by video link following on an application by the Crown. She testified
19 that her relationship with the defendant began in 2005 when she was 16 and ended in May
20 2020. The deceased was one of the defendant's children from a previous relationship. "*Shaq*
21 *when I first knew him he was around 12 or 13 I got on pretty well with him.*"

22
23 71. She related that when she found out she was pregnant with their child Bella who was born
24 in October she and the defendant moved to reside in England where they remained together
25 from 2012 to 2017. The defendant's other two children Destiny and Betthany went to live
26 with them there in 2013.

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1 72. NE came back to Cayman on 10th July 2017. NE described she the defendant and the
2 children returned to Cayman on the same flight and that she went to MDL with the children.
3 The defendant had gone on ahead of them. When they arrived she described a confrontation
4 bet the defendant and Shaquille. She related that she witnessed Shaquille fighting with the
5 Defendant and that when Shaquille saw her he went in the bushes and took out sawed off
6 shot gun and put it in her face. She stated that she believed that the argument was pertaining
7 to finances.

8
9 73. She stated that although the defendant had her and his daughters go to Police headquarters
10 to make statements pertaining to the incident, nothing came of that incident because as far
11 as she was aware, the defendant “*went back and took back the statements.*”

12
13 74. NE stated: “*After that incident, the relationship between Shaq and his father, it looked as if*
14 *that issue in 2017 [had] subsided.*”

15
16 75. She described that the two could get along “very good at times” and then could have really
17 bad fallings out. “*When good it was great but when it was bad it was horrid.*”

18
19 76. NE related to the court that there was an incident between herself and the defendant in
20 October 2019, just about a month before the shooting of Shaquille Bush in which the police
21 became involved⁷. The defendant admits that he assaulted her on the 14th of October 2019.

22
23 77. She related that after the def had assaulted her “*he told me I must go and tell my man what*
24 *he did and let him come and defend me.*” NE says that she did not know what or who he was
25 referring to. Following that incident NE got a restraining order against the defendant.
26

⁷ *Details of the outcome of this incident are part of the Agreed Facts in this case at paragraph 5.*

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1 78. NE reconciled with the defendant sometime in early November 2019. She related at during
2 the time that they were separated she heard rumours, “*something circulating about the*
3 *paternity of Bella and hearing that Bella looks too much like Shaq*”. She said the rumours
4 going around were that Bella was for Shaq instead of the Defendant. She stated that there was
5 no truth to these rumours and she could not say where they were coming from.

6
7 79. On the 11th of November 2019, the day before Shaquille Bush was murdered, NE saw the
8 defendant at Carnegie Way in Northward. She went out with him that night and they spent
9 the night together. She related that “*At that stage I was so scared to be with him but he would*
10 *not leave me alone.*”

11
12 80. NE related that they went out Everglo Bar in Bodden Town in the defendant’s black Honda
13 motor vehicle.

14
15 81. As they drove in she heard someone whistling and the def stopped the vehicle to see who it
16 was. It was Shaquille Bush. She said further:

17
18 *“He spoke to us. He spoke to Roger. Having spoken to Roger, me and Roger,*
19 *then I tried to speak to Shaq but Roger just drove off. I Wanted to speak to*
20 *him to tell him about rumours, talk to him about rumours because I noticed*
21 *Roger was very uneasy about the rumours going around. By speaking to*
22 *Shaq I hoped that there be bring some sort of clarity to Roger that Shaq*
23 *could never be Bella’s Dad because Roger was.”*

24 82. She related that after that encounter with Shaquille Bush, the defendant carried her to a
25 secluded beach in Bodden Town, got out of car, told her to get out and asked her for her
26 phone. He asked her for Shaquille Bush’s number and he then called him. She said further:

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1 *“He said that I must come close to him because he was holding the phone*
2 *and I must ask Shaq what he think about the rumours about Bella.”*

3
4 83. She continued

5 *“Shaq answered the call saying “Who the f is this?” I replied and said this*
6 *is NE. I did not say why I was calling and I said have you heard the rumours*
7 *about Bella. I not spell it out. He said he doesn’t care about that and hang*
8 *up the phone. I did not say what the rumours were. He just swore and hang*
9 *up. He said he did not care.”*

10
11 84. NE related that when they went home that evening the defendant was *“sobbing*
12 *uncontrollably on my chest”* and that she tried to reassure him again that Shaquille Bush
13 being Bella’s Dad was not in issue.

14
15 85. On the morning of the 12th of November 2019, which was the morning of Shaquille Bush’s
16 murder, NE and the defendant went to Foster’s airport and picked up breakfast. They went
17 to the airport park to eat it. She said the defendant *“was upset like the night before”* and the
18 subject of Bella’s paternity was raised again that morning. The defendant asked her to look
19 up DNA centers in Cayman. As a result she called Phoenix Health Services in the presence
20 of the defendant. She said she called them on speaker on her phone but when a Jamaican
21 national answered the phone the defendant said *“... it is Jamaican national and they could*
22 *take bribe”* from her not to tell the truth of the paternity test. Nothing came of that call.

23
24 86. NE related that she spent the rest of the morning *“with Roger.”* She said the defendant
25 carried her to get her hair done and he got his done as well. She went back to Northward to
26 get some clothing and then the defendant received some phone calls so they went to MDL
27 in West Bay. She saw and spoke to ‘COE’ there. NE said COE had an issue with her phone

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1 and the defendant said he would purchase a phone for COE. They picked up Bella after
2 school and eventually went to Cash Wiz to purchase a phone. NE confirmed with the aid of
3 photographs that, at this point, she, NE, was wearing a pair of pink jeans pants and a black
4 and white top. The top had white piping around the collar, but most of it was black. The
5 defendant was wearing khaki shorts and a black and white Bob Marley round-necked t-shirt.

6
7 87. After the phone was purchased NE and Bella got into the Kia and the Defendant was in the
8 black Honda. They were going to MDL. Along the way she made 3 stops. The first was to
9 *Chicken! Chicken!* The second stop was at *Burger King* and the third at *Pop-A-Top* in West
10 bay. Her evidence is that *“At this stage I was still heading to MDL, that was still the plan.”*

11
12 88. NE described leaving *Pop-A-Top* and, having gone into the roundabout in the area of Rev
13 Blackman Road and Powell Smith Drive, she turned back to where she had just driven from
14 *“because I received a phone call from Roger”*. It was 5:01:55.

15
16 89. She stated that the defendant said during the call *“...I must not come down there, I must go
17 by my cousin yard for a while. He did not say why.”* NE continued *“I understood he was
18 saying I should go to Candice. At the time she lived at Mt. Pleasant. I did what he said.”*

19
20 90. She related getting to COE’s address in Mt Pleasant. She said she did not stay there for very
21 long. NE said:

22 *“I left because Roger phoned me back. When he called me back, he wanted
23 me to go to Double O Road [‘OO Road’].”*

24 *“When he rang me, because of how his tone of voice was I know he was
25 angry or agitated so I left right away because I did not know what the issue
26 was.”*

27
28
29 91. NE continued:

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1 *“When he summoned me he said where he want me to collect him and ‘where*
2 *I am now’ ‘are you coming to get me’, he mentioned something about beach*
3 *that if I wanted to go to carry the baby to the beach. This was all the same*
4 *phone call when he was telling me to come and pick him up. [On] the call*
5 *he was very aggressive with me.”*

6
7 92. NE was familiar with OO Road and had met the defendant there on occasions before this.
8 She related that when she arrived there:

9 *“I drove in and turned around. Having turned around I was a couple feet*
10 *from Hell Road, right up to Hell Road. I went in and turned around the car*
11 *because I did not see Roger when driving down OO Road. So I turned*
12 *around vehicle.”*

13
14 93. NE continued:

15 *“As I saw him approach OO Drive I drove down to meet him. I saw him*
16 *coming from the bushes from across the road. MDL Road is a made up*
17 *Road. He was coming out of the bushes.”*

18
19 *“At the time he was wearing the same clothes he had on prior that day but*
20 *the Bob Marley shirt was wrapped around his head, he had a black marina*
21 *on top part and same kind of khaki grey shorts.”*

22
23 *“When I first saw him he was very frantic and aggressive and frantic. He*
24 *was not calm. Far from calm. He said you want to carry the baby to the*
25 *beach lets go to the fucking beach. Bella was in the back seat and Roger in*
26 *the front. The Kia is a left-hand drive. He got in right side at the front.”*

27
28 *“I said [he was] frantic. He was very sweaty. This did not seem normal to*
29 *me. What was not normal I can’t say ... ”*

30
31 94. NE said that they did not go to the beach as the defendant had told her to go towards the
32 Turtle Farm Road. However they did not reach the Turtle Farm as the defendant *“made me*
33 *turn off to a dirt road on the left.”*

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1
2 95. She said she drove into the road and when she stopped the car, the defendant:

3
4 *“...got out and he ran to the iron shore and took off all of his clothing and*
5 *threw it in the water. He threw it in the ocean. He did not explain why he*
6 *was doing it. I could not speak to him. He ran all the way out there to the*
7 *iron shore. I was in the car with the baby at that time.”*

8
9 *“...he did not explain he just said I must not ask him any questions. I asked*
10 *him why did just do what he did for ... I pressed him as to why. He said*
11 *“don’t ask me any questions”. He say “let’s go to beach, you say you want*
12 *to go to the beach, let’s go to the he beach with the baby”.”*

13
14
15 96. She said she went with the defendant and Bella to the beach in the area of Alfresco
16 [Restaurant]. The defendant got out of the car naked and put on one of NE’s trousers that
17 she had in the vehicle.

18
19 97. The defendant, NE and Bella went into the ocean. NE related that while in the ocean she
20 could hear sirens. And she asked the defendant *“what happen, do you know what happen”*.

21
22 98. NE said the defendant did not reply to that question and, instead, told her that they were
23 going back to her mother’s place in Northward. She related:

24
25 *“That was not the plan. That is what I told him too because I was a bit*
26 *confused, still trying to wrap my head around all of his actions. He did not*
27 *say about going to my mother’s before this rather than to MDL.”*

28
29
30 99. NE described that after leaving the beach, on the way to Northward she received three phone
31 calls about Shaquille Bush’s shooting. She stated that at the time she was holding the phone
32 to her ear and therefore she could not tell if the defendant could hear what was being said.

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1 NE said one caller stated that it was “*JE that shot Shaq.*” The next call was that Jamaicans
2 had run through Logwoods and shot at Shaquille. The third call said that they heard that it
3 was the defendant that shot Shaquille.

4
5 100. NE stated that when she received the third call she did not say anything to the defendant.
6 However, she felt that he had heard the conversation. She said the defendant had had no
7 reaction until last call when the person stated they heard it was Roger that shot Shaq. She
8 described his reaction:

9
10 *“He started to grab on the car door handle trying to open it up. The car ...*
11 *was moving we were slightly moving. We were in traffic. He told me to stop*
12 *the car. But for me to open door I had to turn car off. I did that and he ran*
13 *across the road. When he got out he was running.”*

14
15
16 101. She explained that after he ran off she tried to locate him for some 30 minutes but she could
17 not find him.

18
19 102. NE said she drove to her mother’s home in Northward. Sometime later that evening she
20 called COE to come to meet with her. COE did come to Northward and the two were driving
21 in the Red Bay area. It was at this point that she received a telephone call from the defendant.
22 She told him where she was and the defendant told her to meet him at Royal Bank of Canada
23 - the Red Bay location.

24
25 103. NE said the defendant then called again and said that there was “*too much police on the road*
26 *- must meet him by Hurley’s Pharmacy.*”

27
28 104. COE drove to the pharmacy. NE said that when she saw the defendant he was exiting a
29 silver Honda Accord. At this point the defendant was not wearing the same clothes she had

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1 last seen him in. She saw that the defendant had what looked like a handgun, “...*like a silver*
2 *chrome handgun.*” She said she saw the handle of the gun which was in his waist. She said
3 the defendant got into COE’s vehicle and lay down on the back seat.

4
5 105. NE said further, that the defendant directed COE to go to Prospect Point. He got out of the
6 vehicle when they got there, telling NE to come out of the vehicle too and to stay by the
7 hood of COE’s vehicle where he could see her. He went into the water for a couple of
8 minutes, then rushed back to the vehicle and directed and them to drive along South Sound.

9
10 106. NE said the defendant directed COE to stop at the Chrissie Tomlinson Hospital parking lot.
11 COE parked the vehicle and then COE exited the vehicle and went to the gas station leaving
12 NE and the defendant in the car.

13
14 107. NE stated that the defendant questioned her about what she had heard on the streets
15 concerning Shaquille Bush’s death. NE then said:

16
17 *“I told him that what I heard basically that Jamaicans, JE and himself.”*

18
19 108. NE said:

20 *“He did not take it calmly. He was kind of hysterical and crying and that is*
21 *all I can recall.”*

22
23 109. When COE came back to the car, he directed her to drive him to her house on Mt. Pleasant
24 Road in West Bay. NE noticed:

25 *“He was still on his back and he occasionally peeked, [that is] he*
26 *occasionally got up and look and then he went back to lying flat on his*
27 *back.”*

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1 110. When they got to COE's home in West Bay, the defendant took away both her and COE's
2 phones and turned them off without explanation. She and the defendant went to one of the
3 bedrooms and it was while they were alone together there that the def spoke to her.

4
5 111. NE's evidence was:

6 *"He basically said that he had to teach Shaquille a lesson."*

7
8 *He was not calm at this stage. He was not friendly towards me. He was*
9 *very aggressive. I started to cry and he asked me why I crying for my man*
10 *for. I interpreted that as being a reference to Shaquille – a reference to*
11 *Shaq being my man. He said that when he reach down to MDL that*
12 *Shaquille had licked him in his head with a piece of metal pipe.*

13 *... he did not say what it was he had to teach him or what lesson it was. He*
14 *just said he had to teach Shaq a lesson and that Shaq was begging for his*
15 *life and Mike Bush was begging for his life as well.*

16
17 *He said that as he reached into MDL that Shaq approached him and licked*
18 *him in his head with a piece of metal pipe. He said that he went to his house*
19 *and Shaq followed him. He said that Shaq was at every door and he tried*
20 *to exit from different doors and every door that he tried to exit Shaq was at*
21 *that specific door. He said that Shaq had a gun on him and he had to do*
22 *what he had to do.*

23
24 *When I said that I was referring to Shaq – that Roger had to do what he had*
25 *to do.*

26
27 *He said he was struck in the head with metal pipe as soon as he reached*
28 *MDL. He did not say about different times about being struck with anything*
29 *else.*

30
31 *He told me another time, sometime after, that he was struck with a ratchet*
32 *that it was a ratchet that he [SB] had not had a gun.*
33

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1 *gun on him as well. What I found out I am referring to was that he had*
2 *killed Shaq.”*
3

4 115. NE testified that she was arrested on 16th of November 2019 on suspicion of conspiracy to
5 the murder of Shaquille Bush and taken to the Detention Center. She was aware that the
6 defendant had been arrested on 13 November, however, she did not know where he was
7 incarcerated at that time.

8
9 116. She was to be interviewed on the next day. She stated that before being interviewed two
10 prison officers came into her cell. One of them went to deal with an inmate in a separate cell
11 and the other officer whom she now knows came into her cell and threatened her.

12
13 117. NE’s evidence in relation to CL:

14 *“He said the boss man say you must say nothing and hold it down that is the*
15 *first thing he said.” When she asked what he had said he “got more*
16 *aggressive with me and said the boss man say you must say no comment to*
17 *everything” NE stated: “I understand the boss man he was referring to as*
18 *Deward [Roger, the defendant].”*
19

20
21 118. She stated that she was shocked that a person “... *being a professional in such a department*
22 *of such high rank had threatened me on behalf of Roger.”*

23
24 119. When she went to the interview she had “*lost all trust in the police force*” and when
25 questioned “*I didn’t make any comment about the questions about the allegations being*
26 *made.”*

27
28 120. NE stated:

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1 *“I made no comment because of intimidation. I did not trust no one in the*
2 *police force and because of what CL’s threat was to me. I had intended to*
3 *answer the police questions before I got approached by [CL]. I had*
4 *intentions of telling them everything from A to Z but when I found out what*
5 *he threatened me I had a change of heart.”*
6

7 121. NE testified that she was subsequently released on bail. She did not have any communication
8 with the defendant who was also released on bail. However, his daughter Destiny, contacted
9 her and arranged for her, NE, to go to her home. When she got there the defendant was
10 present. NE states that the defendant threatened her again. He told her that she must make
11 sure to keep her mouth shut. NE said:

12 *“He told me what would happen, he would take out me and my mom. I*
13 *believed him.”*

14
15 122. NE testified that on the 9th of December 2019 she went to COE’s house. The defendant was
16 there. He took her to a liquor store in George Town. Once there she observed a Silver
17 BMW. The defendant pulled in behind this vehicle and stopped. The defendant then got out
18 of the vehicle and went to speak to the driver of the silver BMW. NE testified that the driver
19 was CL. The defendant spoke to him for approximately 5-10 mins. When he returned to the
20 vehicle the defendant said to her:

21 *“That man want me to take you out because he feel like you going talk. I*
22 *said “talk about what I don’t know what you talking about” and he said*
23 *let’s keep it like that. He said to me that you imagine he wants my phone*
24 *number but I gave him my momma’s phone number. From what Roger said*
25 *to me about the conversation with the man in the BMW, I asked him if you*
26 *trust him more than you trust me, and he said yes.”*
27

28
29
30 123. NE stated that on 13 December 2019, the night before Shaquille Bush’s funeral, she went to
31 the Grand Caymanian Hotel with the defendant. She related that she was awakened by the

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1 defendant, early in the morning at around 3am. She related that he grabbed her by her face
2 and accused her and someone named Screehie, Carlos Russell, of killing his son Shaquille
3 Bush. NE stated:

4 *“I ask him what he mean. I was in so much fear I feel like I could jump off*
5 *the patio”*

6
7
8 124. She stated that the defendant forced her and COE to attend Shaquille Bush’s funeral although
9 she did not want to go. He forced her by threatening her. NE described that the defendant
10 said something to her about Candice, that he was getting suspicious of COE and that he
11 wanted to take her out because she was acting funny. NE stated that she understood that to
12 mean he wanted to kill COE.

13
14 125. NE testified that on the day after Shaquille Bush’s funeral she purchased tickets for herself
15 and her daughter to go to the UK on the 16th of December. She hid it from the defendant.
16 While she was at the airport waiting to board her flight the defendant came to the airport.
17 She described the defendant trying to get her to go into a car with him. She did eventually
18 leave the Cayman Islands for England.

19
20 126. NE returned from England on 9th of January 2020. She stated that she returned because of
21 finances. She could not find a place to live in England. She did not contact the defendant
22 when she returned and kept her daughter out of school so that the def would not know she
23 was back.

24
25 127. NE stated that the defendant did learn that she had returned because he came to her mother’s
26 house in Northward. Her evidence was:

27

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1 “...he told me because I left and I make him look like a murderer in front of
2 society but now I am back I have to make him look good and I must pack my
3 stuff.”
4

5 128. She testified that at the time he had a gun and so she went with him to MDL. NE stated that
6 she felt she had no other choice. She did not think the police could help her or help her in
7 time. From that time, she lived at MDL.

8
9 129. NE testified that while at MDL she saw guns there. She related on one occasion when she
10 was searching for the defendant at the compound she saw the defendant and two other
11 residents at MDL with “a table full of handguns and machine guns.” As a result she related,
12 the defendant threatened her. She said:

13 “The treats got worse. He threatened me my mom and my family members,
14 my cousin. He threatened me when making threats that I must not say
15 anything about what I saw or what happened. I must keep my mouth shut”.
16

17
18
19 130. She stated that the threats were that she was not to speak about what she saw, the guns on
20 the table. She stated further that “He [the def] did not mention Shaq Not again at any stage”

21
22 131. She confirmed having spoken to police later in 2020 and also in Jan 2021

23
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1 **CROSS EXAMINATION OF NE**

2
3 132. NE was cross examined by counsel for the defendant.

4
5 133. She confirmed that Shaquille Bush would have been just 16 at the time that Bella was
6 conceived and that any suggestion that Shaquille Bush is Bella’s father was absolute rubbish.

7
8 134. She agreed that the defendant made his living selling ganja, that he was growing ganja at the
9 MDL. She acknowledged that she knew that while in England he had learnt to use
10 Hydroponic equipment to increase his ganja production. She denied that her mother knew
11 that the defendant sold ganja, that the defendant made a living as a drug dealer.

12
13
14 **THE DEFENDANT AND SHAQUILLE BUSH’S RELATIONSHIP**

15
16 135. NE was questioned about the incident that occurred on 10 July 2017 the date the family
17 returned from the UK. When asked whether she knew that it was more than just an argument
18 about finances, she denied this. However, when it was suggested to her that after Shaquille
19 Bush pointed the shotgun at her that the defendant had sent his mother Shirley off to an ATM
20 to withdraw cash for Shaquille from Roger’s account and that that money was given to Shaq,
21 NE accepted that this did occur.

22
23 136. She agreed that witness statements were given to the police regarding the incident but were
24 all withdrawn 4 days later. It was suggested to her:

25
26 Q: *The bottom line is that Roger did not want Shaq to get into trouble*
27 *with police so that is why witness statements withdrawn?*

28
29 A: *Not sure, possibly*

30

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1 137. NE agreed that the relationship between the defendant and Shaquille seemed to have returned
2 to a “perfectly harmonious level” after this incident. She also said was unaware of any issues
3 between them before this incident.

4
5 138. Asked directly:

6
7 Q: *After that incident, there were no issues bet Roger and Shaq?*

8 A: *None that I was aware of.*

9
10

11 **SHAQUILLE BUSH AND HIS RELATIONSHIP WITH OTHERS AT MDL**

12
13 139. NE testified that she believed that Shaq did have problems with other people at MDL. She
14 agreed that she knew of incidents where Shaquille was involved in exchange of gunfire with
15 people connected with MDL and she was told of an incident wherein he and Mike Bush
16 exchanged gunfire and even of Shaquille being “barred from MDL for a period.”

17
18

18 **SHAQUILLE AND HIS RELATIONSHIP WITH “JE”**

19
20 140. NE was questioned about her knowledge of a number of violent incidents involving
21 Shaquille Bush and person known as JE. She stated she did not have any actual knowledge
22 of this but she had heard rumours. She did not know factually of any friction between them
23 in relation to a woman but agreed that this could be what caused problems between Shaquille
24 Bush and JE.

25

26 141. NE said she was aware of incident bet JE and Shaquille when JE pulled a gun and Shaq tried
27 to stab JE. She had heard of this latter incident on the 12th November 2019, from Roger (the

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1 defendant) when she went with the defendant to MDL and saw COE. Roger received a phone
2 call and that was what was told of the conversation.

3
4 142. NE stated that she was aware that Kerry Bush, Shaq’s baby mother, was in a relationship
5 with JE but NE said that she may not have known that in 2019.

6
7 **THE PATERNITY ISSUE**

8
9 143. With respect to the paternity issue it was suggested to NE that she knew that the defendant
10 did not give any credence to the rumors, and that he knew they were rubbish. She denied
11 this. NE’s response was: “*False. What you are saying is false.*”

12
13 144. It was suggested that the defendant had no reason to require NE to have a paternity test and
14 that, as he knew the rumour was a lie, “*why would he ask you to call up for paternity test.*”
15 NE responded that she was trying to obtain clear evidence to show to all gossip mongers that
16 Shaq was not the father. It was suggested that it was NE who was keen to demonstrate that
17 Bella was Roger’s child. She denied this saying that she already knew it as a fact and that it
18 was the defendant who told her to look up DNA centers.

19
20 145. NE agreed that the defendant had never asked her directly if there was any truth to the rumour
21 that she had been to bed with SB. She stated that the rumours began during the period after
22 the incident with the defendant in October 2019 for which he was eventually arrested.

23
24 146. When asked whether she agreed that there were a number of occasions when the defendant
25 could have spoken directly to Shaquille at MDL, that there was nothing to stop him speaking
26 directly to Shaq about the rumour, she responded that she was not sure.

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1 147. It was suggested that “*this evidence of these rumours was all part of a fictitious narrative*
2 *where you and those supporting you are seeking to suggest that it is all because of rumour*
3 *why Shaq got shot, although you and he knew it was rubbish.*”

4
5 148. NE’s response was “I would hope he knew it was rubbish that it is not the truth.”

6
7 149. NE was cross-examined further:

8
9 Q: *None of that happened in the way you described because there was*
10 *nothing in rumour. You are making this up to suggest motive. This*
11 *did not happen. There was no sexual jealousy.*

12
13 A: *I am not sure if there was sexual jealousy.*

14
15
16 150. NE stated that she did not recall telling the police that the defendant was responsible for
17 these rumours.

18
19 **INCIDENT ON 14TH OF OCTOBER**

20
21 151. NE was questioned about her feelings towards the defendant after this incident. She was
22 shown extracts of WhatsApp messages between herself and a friend after the date of the
23 incident⁸.

24
25 152. She admitted that in the conversation she told her friend that she was looking for a new
26 boyfriend and that the defendant was a waste of space. NE explained that she wanted to
27 move on with her life, the defendant had abused her in front of their daughter and that as far
28 as she was aware he had also been unfaithful to her.

29
30
31

⁸ See pages 648 and 649 of the exhibit bundle

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COE AND SELLING DRUGS FOR THE DEFENDANT

1
2
3 153. NE testified that she was unaware that her cousin COE sold drugs for the defendant. She
4 stated that she believed that the reason that the def bought a new phone for COE on the 12th
5 of November was because she COE had helped to get them back together and it had nothing
6 to do with the drug trade.

7
8 154. She acknowledged there was a period when she and COE were not talking to each other.

9
10 155. It was suggested to her that this was as a result of an incident where a vehicle which she had
11 sold was used in a shootout which resulted in COE's partner and the father of her child being
12 shot.

13
14 156. NE responded that she did not know if this was the cause of the years of silence between
15 herself and COE before she went to the UK

16
17 **11TH NOVEMBER 2019**

18
19 157. NE was questioned about the meeting with Shaquille Bush at Everglo Bar on the night of the
20 11th November 2019. She agreed that there was a conversation between the defendant and
21 Shaquille Bush and that Shaquille asked the defendant for a draw of weed which the
22 defendant gave to him. It was suggested to her that this was an indication that they were on
23 good terms that evening. NE's reply was that she was not sure.

24
25 158. It was further suggested to her that her evidence of the defendant grabbing her phone and
26 using it to call Shaquille Bush after they had seen him at Everglo Bar never happened. NE
27 insisted that it did happen.

28
29 159. It was further suggested as follows:

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Q: There was nothing to stop Roger ringing Shaq anytime about rumours or speaking to him directly at MDL

A: No sir but he phoned off of my phone.

Q: You have built the story about spending night at Carnegie Way and Roger ends up sobbing on your chest uncontrollably.

A: I said I was in disbelief.

Q: None of this happened.

A: I wish that was the case

THE DATE OF THE SHOOTING

160. NE was questioned about her evidence about her movements on the 12th of November. She agreed that after the defendant, herself and Bella left *Cash Wiz* the defendant went in front of her to MDL. It was suggested to her that she knew that the defendant had drug business to do at MDL. NE did not confirm this.

161. It was further suggested to NE that when the defendant called her after she left *Pop-A-Top* and told her not to come to MDL that she did not ask him why because she knew he had drug business to conduct. She denied this.

162. It was suggested to NE that while the defendant directed her to go in the direction of the Turtle Farm after she picked him up at OO Road, he never got out of the car, stripped off his clothes, and threw them into the sea.

163. NE insisted that he did and that and when he returned to the car naked he put on a pair of her pink trousers which she had in the car.

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1 164. It was suggested that when they went to the Road off North West Point Road that they went
2 there for the defendant to collect a stash of drugs. In response NE said:

3 *“He said that but there was no draw of weed. I know what it looks like and*
4 *there was no draw of weed.”*

5 165. NE stated that she first learnt that Shaquille Bush had been shot while on the bypass on the
6 way to her mother’s house when she received some phone calls. She stated in cross
7 examination:

8 *“Roger could hear calls coming in and various different [people and]*
9 *suggestions being made, JE, Jamaicans and then Roger Bush”*

10

11

12

166. She said she could not recall who said it was “Deward” [the defendant] that shot Shaq.

13

14

167. It was suggested that no one said that the defendant was responsible for Shaq, but of
15 Jamaicans shooting Shaq and, that it was then that the defendant asked her to stop the car so
16 he could get out. That was when he jumped out of car and he left behind his phone and
17 wallet. NE stated that she could not recall him leaving his phone and wallet. She also did
18 not recall handing in his wallet to the police.

19

20

THE EVENING OF THE 12TH NOVEMBER 2019

21

22

168. NE in cross examination stated that the defendant had what looked like a sliver chrome
23 handgun in his waist, and that he had come to the yard with it in the past. She described it:
24 *“The end of it is black the trigger is silver. And the handle is black.”* It was suggested to her
25 that this never happened, him having a handgun. She insisted that it did.

26

27

169. She maintained that on the way to Chrissie Tomlinson Hospital, and while in the carpark
28 there, the defendant was lying on his back and occasionally peeking out. She also maintained

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1 that the defendant did go into the water at Prospect Point although she could not say whether
2 he took his clothes off then or if he had the handgun when he returned.

3
4 170. It was suggested to her that the defendant never threatened her or gave the account as she
5 stated relating to the death of Shaquille Bush. It was suggested to her:

6
7 Q: *On your account Roger Bush took the risk of speaking twice to two*
8 *different people implicating himself and then spent the next few*
9 *days constantly threatening anybody if they breathe a word of it to*
10 *the police?*

11 A: *Yes.*

12 Q: *It is nonsense [that] he told you anything about the way Shaq met*
13 *his end, it is all invented and over and above that you are to tell us*
14 *before the funeral of Shaq, in Holiday Inn, [Grand Caymanian*
15 *Hotel] he woke you up and said to you he knew that Screechie and*
16 *you had killed his son?*

17 A: *Those were his words*

18 Q: *[there was] no reason for him to be saying that you and Screechie*
19 *killed Shaq if he had said he was involved. It did not make sense.*

20 A: *It did not make no sense to me either.*

21 Q: *Only reason it makes sense, about you and Screechie, is because he*
22 *never said he was involved in killing.*

23 A: *Of course he did, twice.*

24 171. NE was questioned about an account she gave to the police after she was arrested on the 16th
25 of November, which informed the disclosure document provided to herself and her attorney
26 at the time of interview on the 17th of November 2019.

27
28 172. Counsel for the defendant went through the record of interview of NE on the 17th of
29 November suggesting to her that the questions that were being asked of her by the

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1 interviewing officer Sgt Southern were based on the indications she had given him on the
2 13th and 14th of November.

3

4 173. When confronted about her responses she stated, in relation to questions about the note of
5 the officer:

6 *“This is not what I told the police. Not everything there is correct.*
7 *.....*
8 *That is what I told Southern these notes in order for him to track back. I did*
9 *not give the full account of what happened.*
10 *.....*
11 *The information on the disclosure form is the information I gave the pol on*
12 *13th and 14th of November.*
13 *.....*
14 *I gave them this information to assist with the murder of Shaq.*
15 *.....*
16 *Certain things on the disclosure form are not correct. It is what I said but*
17 *not everything.”*

18

19 174. It was suggested to NE that at crucial points the officers suggested that the CCTV did not
20 back up her version of events and that they did not effectively believe her when she said
21 Roger Bush not involved.

22

23 175. NE stated that she was unable to remember saying things to the officers even when it was
24 suggested to her that the matters which she denied telling them could not have been known
25 to the officers unless she had given them this information beforehand.

26

27 *“Q: What you were saying to police in November 2019. They were*
28 *saying you were a liar and RB was guilty. The effect of the*
29 *interview was they were repeatedly saying you are a liar and we*
30 *believe that RB was guilty.*

31

A: All my answers were no comment.

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1
2 176. She stated further regarding her answers during the interview:

3 *“I had just got threatened. I could not remember. I am traumatized by this*
4 *experience.*

5

6 *I can recall certain things but I can't recall everything. After being*
7 *traumatized I have a problem with my memory”*

8
9
10 177. It was suggested to NE that all of her accounts of threats to her by the defendant after he had
11 told her of his involvement in Shaquille’s death were not true. Counsel questioned why he
12 would tell her of his involvement and then spend the next few days threatening her, and that
13 this was ridiculous. NE insisted that her account of the threats was true.

14
15 178. It was suggested to NE that although she had testified that she left Cayman because the
16 defendant had threatened her, that in her communications with the defendant after she left
17 Cayman she never once accused him of being responsible for the death of Shaquille Bush.

18
19 *Q: Nowhere in here do you say, anything to him about leaving Cayman*
20 *because he had killed his son.*

21
22 179. NE accepted that she did not accuse the defendant of having killed his son. However she
23 insisted that the defendant was referencing Shaquille Bush when he said: *“No beat man,*
24 *don't have time for that they come out their crib, they pass their place, they go to their grave”*

25
26 180. NE said *“What he says is in reference to his son. That this what he said there [is] in reference*
27 *to what he did to his own son.”*

28
29 181. She agreed that on the morning of the 13th of November she did not ask the defendant about
30 Shaquille Bush and refer to his being killed by him.

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- 1
2 182. NE was questioned about her relationship with CT and whether it was CT who had caused
3 her to contact ACI Wright and agree to give a witness statement since Wright had assisted
4 Thomas when he was a prosecution witness. She denied this or that she had spoken to CT
5 about giving a witness statement.
- 6
7 183. NE testified that she met with DI Oremule in July 2020. However she stated that this
8 happened on only one occasion. She denied that she met him in the parking lot of
9 *Windjammer* complex on Walkers Road, that she drove to South Sound dock with him in the
10 car and asked him what the organisation [police] can do for her if she assisted in Shaquille's
11 murder case.
- 12
13 184. She did recall meeting him at Plantation Village with COE. She could not recall saying to
14 him that she needed police protection or that she gave DI Oremule a piece of paper with a
15 list of personal requests.
- 16
17 185. It was suggested to NE that when she said she saw a table full of handguns and machine guns
18 in May 2020 at MDL in the presence of the defendant and Mike Bush that she was making
19 that up. She denied this.
- 20
21 186. It was put to her that she said to DI Oremule that she saw a handgun and high powered rifles.
22 It was suggested to her that her account of seeing guns was inconsistent because she was
23 lying. She insisted that she was telling the truth.
- 24
25 187. Counsel for the defendant questioned NE about pictures of two young women Felicia and
26 Angelica Brown which had been taken from her phone. She did not accept that they were
27 pictures taken from her phone and when confronted with the fact that they had been provided
28 by the prosecution she stated that she could not then remember if she had pictures of them

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1 on her device even when confronted with the fact that she had mentioned the two to the
2 police as being persons that the defendant was fooling around with.

3
4 188. NE was questioned about the support she received through the justice protection programme.
5 She denied that this was part of the incentive on her part for fabricating the accounts against
6 the defendant. She denied this saying that there was no real financial gain to her for testifying
7 against the defendant.

8
9 189. Finally she denied that her accounts in 2020 and 2021 of conversations with the defendant
10 in which he confessed were complete and utter lies.

11
12 **NIKKIETA EBANKS IN RE-EXAMINATION**

13
14 190. NE clarified that after she left OO Road and went to the Iron Shore off North West Point
15 Road, that neither she nor Bella nor the defendant went into the water there. She re-iterated
16 that the defendant stripped off all of his clothes and threw it in the water. It was at *Alfresco*
17 in West Bay, that she the defendant, and Bella went into the water.

18
19 **CONVERSATIONS WITH JS ON 13TH AND 14TH NOVEMBER**

20
21 191. NE explained that on the 13th of November a number of threats were made to her by the
22 defendant. Because of these treats she stated that she did not feel able to speak fully and
23 openly to JS as she did later and as she did in court.

24
25 *“By saying what I did, what I hoped to achieve I wanted him to get CCTV*
26 *so he could arrest Roger so I would not have to be in this situation.”*

27
28 192. She explained that she only gave JS a partial account.

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1 *“I told him some things but not everything. I did not tell him the full account*
2 *that I gave to wright did not tell john everything because I did not know who*
3 *to trust. I just basically told him where locations were at so he could get*
4 *the CCTV footage.”*

5
6

7 193. NE was unable to remember the details of what she had said to the officer on the 16th of
8 November.

9

10 194. NE stated that in the Witness Protection Prog she got 1750 per month. *“In Cayman I earned*
11 *25 per hour or 70,000 per annum. I was better off in Cayman working.”*

12
13

14 **EVIDENCE OF (“COE”)**

15 195. This witness gave evidence from behind a screen following a Special Measures direction
16 given by this Court.

17

18 196. COE related that NE is her cousin. She knew the deceased Shaquille Bush from the time he
19 was a young boy about age 12. She knew him well and regarded him as a friend. She knew
20 that he lived in MDL. She testified that she also knew the defendant. She knew him as
21 “Deward.” He was related to the father of her child, Robert Bush. She at one point lived in
22 MDL with Robert Bush.

23

24 197. COE described that she played a role in NE’s and the defendant’s relationship. She said it
25 was she who first introduced the two. She described her relationship with NE that from
26 sometime in 2015 and for a period of three - four years, they did not really have any
27 communication with each other, that is, generally during the period NE and the defendant
28 were in England.

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1 198. Her evidence was that around the time of the murder in November 2019 she lived in Mount
2 Pleasant with her boyfriend. Leading up to that period she had not had any communication
3 with NE for some time and she was also not on speaking terms with the defendant.
4

5 199. She testified that in early November 2019 the defendant and David Parchment came to her
6 home. David Parchment told her that the defendant wanted to speak to her however she was
7 not in the mood to speak to him and she asked for him to come back on another night. She
8 described that David Parchment and the defendant did come back. The defendant asked her
9 to speak to NE, to persuade NE to allow the defendant to speak to her.
10

11 200. COE related that shortly after speaking to the defendant she received a phone call from NE.
12 It was the day after the defendant had approached her. She stated that this was a coincidence.
13 NE came to her home in Mt Pleasant to speak to her. She was aware that after she spoke to
14 NE, NE and the defendant were back in contact with each other.
15

16 201. COE testified that on the day of the murder the 12th of November 2019 she tried to contact
17 NE and the defendant. When she could not reach them she went to MDL. The defendant
18 and NE arrived together while she was at MDL.
19

20 202. She stated that it appeared to her that they had both of them had been to the hairdresser.
21 There was a discussion about it being her birthday and NE and the defendant wanted to get
22 her a phone – and an upgrade.
23

24 203. She described that she saw NE again that day at her boyfriend's home at Mount Pleasant.
25 NE and her baby daughter came there at some time after 5:00 o'clock on the afternoon of the

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1 12th of November. When NE arrived, she was just heading out to the pharmacy. She had
2 not been expecting her to visit. A little while after NE arrived, she received a telephone call.

3
4 204. COE stated: “*I did not know who it was at first but she turned and looked at me with a state*
5 *of worriation.*”

6 205. COE stated that after the phone call was finished NE appeared extremely nervous and
7 confused and NE left soon thereafter.

8
9 206. COE’s evidence was that after NE left she went to the pharmacy. While she was at the
10 pharmacy, she got a phone call from one of her girlfriends who told her then that she had
11 heard that Shaquille had been shot. She made her way to MDL. When she got there, she
12 noticed that the police had already had yellow tape across the yard.

13
14 207. COE did not remain there long. She headed back to her boyfriend’s apartment at Mount
15 Pleasant. She related that she was not there for more than 20 minutes to half an hour when
16 she got a phone call from NE who wanted her to come and see her as she did not know what
17 was going on. COE agreed to do that and went to meet NE at her mother’s home in
18 Northward.

19
20 208. Having arrived there NE wanted to go some to get cigarettes from the store and she did not
21 want to speak around her daughter Bella. They drove out in COE’s car and parked in an area
22 next to a Burger King. While parked there NE received a phone call. It was the defendant.
23 After the phone call COE drove to an area next to the pharmacy at Grand Harbour. When
24 she parked the car, COE described as follows:

25
26 *“Another vehicle joined not too long after we pulled up and parked. My car*
27 *was facing out towards the main road and the silver Honda Accord pulled*
28 *up. It was one just like Deward’s [the defendant’s] black one but this one*

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1 *was silver and the windows were tinted. I could not see who was inside the*
2 *car. Deward got out. ...he had on a white shirt and a knee length jeans*
3 *pants, denim. The white shirt was a regular white shirt.”*
4

5 209. COE stated that when the defendant got out of the car she noticed he had a little bath rag in
6 his hands and that he had something in his waist and a towel was being held in front of it.
7 She testified:

8 *“I assumed it was a gun. I can't remember if I saw the gun in the car or right*
9 *before coming in the car. I had suspicions of what it was.”*
10

11 210. COE continued that after leaving the pharmacy the defendant directed her to a road to the
12 left of Grand Harbour. She stated that at the time her mind was fluttering with thoughts and
13 she was trying to keep an eye on what the defendant was doing. When they got there, the
14 defendant got out of the car. They were not there for too long. NE also got out of the car
15 but she stayed in the car. She related that the defendant got out he went straight in towards
16 the seaside by the water. It was very dark and at that point she could not see what the
17 defendant was doing.

18
19 211. The defendant eventually got back into the car and the defendant directed. She drove and
20 they eventually stopped by Chrissie Tomlinson hospital, in the parking lot. Her evidence
21 was:

22 *“We stopped and I did not feel comfortable with this. I did not want to hear*
23 *what he had to say to her. I made my way out of the vehicle so they could*
24 *have some time to speak to each other. I decided to go, I figured the less I*
25 *hear the better for me. I went across the street to get something to drink and*
26 *came back and I was sitting on the wall in the parking lot area for a time.*
27 *Then I got back in the car.”*
28

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1 212. COE said when she got back in the car, she noticed that the defendant had a handgun with
2 him in the back seat. She described:

3 *“...he [the defendant] was kind of all over the place. He was kind of lying*
4 *down like leaning over in the back kind of slouching.”*

5
6 213. COE’s evidence was that the defendant then told her to drive to her boyfriend's house. When
7 she arrived at her boyfriend’s house they all got out of the car. She told her boyfriend to stay
8 in his room and don't come out. The defendant wanted the phones from herself and NE. He
9 did not say why.

10
11 214. She left the house to go to the store leaving NE and the defendant and her boyfriend there.
12 When she returned the defendant and NE were in the living room. They eventually went to
13 a back bedroom and NE and the defendant spoke to each other for a brief moment. Eric
14 stayed in his room and NE stayed in the back bedroom

15
16 215. COE described that she was in the living room with the defendant. She related that the
17 defendant *“he looked like I don't know if he was scared or true sadness but I know he was*
18 *crying I just start to talk to him about God.”*

19
20 216. COE said:

21 *“He did not go into detail with me at first. The topic he was basically telling*
22 *me, the first story, was he did not mean to do it. Tthe topic was you know*
23 *him basically trying to tell me that his life was in jeopardy because Shaquille*
24 *was licking him over the head. We were talking about Shaquille. It was*
25 *many stories - never the same story that night from him. [The] first story*
26 *was that Shaquille was threatening Bella and then he told me that Shaquille*
27 *was trying to shoot after him and then he said that he had a pocket knife,*
28 *that Shaquille had a pocket knife. One minute he was trying to shoot him*

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1 *and the next minute Shaquille had a pocket knife. But I think the first thing*
2 *I had asked him is if you would want to make his way with Janet to speak to*
3 *her because they'd shared a child he kept saying no he can't do that he*
4 *doesn't want to do that and I said why and he said because Janet knows me.”*
5

6 217. COE’s evidence regarding Shaquille was:

7 *“He said first ...that Shaquille hit him on the head with a piece of pipe then*
8 *he said he did that as soon as he came out of the car and then the story*
9 *switch to, well, Shaquille had a gun, and then the story switch to, well, no,*
10 *he had a pocket knife and then the last story ... was that Shaquille was*
11 *threatening to kill Bella.”*
12

13 218. COE stated that she did not know what to make of it. She stated that the defendant told her
14 that he had made his way inside the house to be able to finally get free from Shaquille. COE
15 said Roger Bush continued:

16 *“I went from door to door and he was at the front door and I go to the back*
17 *and he at the back and I go back to the front and he's at the front I could not*
18 *get away from him.”*
19

20 219. She related that the defendant also said to her that he had to *“teach him a lesson because he*
21 *could not hear, he just could not listen.”*
22

23 220. COE stated:

24 *“He [the defendant] make it seem like when he came out of his house that*
25 *Shaquille started firing shots at him. He said he fired at Shaquille and I*
26 *asked him then well was it quick he said as quick as it could be he said it*
27 *was quick it was fast and then I said do you think he suffered and he paused*
28 *and stop and look at me and said no, no, he did not. He said that Mikey,*
29 *Mike Bush was begging for his life. Shaquille he did not say Shaquille said*
30 *anything. He said that Mike Bush was there and one or two tenants were*
31 *there but they left out right before the incident happened.”*

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1 221. COE's evidence was that the defendant remained at 166 Mt. Pleasant the rest of the evening.

2 She described that during the night the defendant

3 *"...just kept on back and forth looking out the windows, keeping check on*
4 *me making sure that NE was in the room and making sure that Eric was*
5 *there. He kept telling me that if anyone came don't let them in."*

6
7 222. COE stated that the next morning the defendant made a phone call to someone using her
8 phone. She could hear the defendant's side of the conversation. COE said:

9 *"I guess he was asking if everything was clear at Logwoods, [if there was*
10 *a] commotion down there, if Mike had dealt with the thing, something in*
11 *that manner."*

12
13 223. She said she then drove the defendant to MDL. The defendant got out of the car and she left
14 him and went home. She was aware that NE went to England. She stated that during this
15 time the defendant would *"pop up randomly sometimes twice a day. He was completely upset*
16 *and when he came to the house was just in a rage."*

17
18 **CROSS EXAMINATION OF CANDICE ORRETT-EBANKS (COE)**

19 224. COE was cross-examined by counsel for the defendant. He questioned her about whether
20 she was aware of a shooting at MDL in which the father of her child was shot, that a car
21 connected with NE was used to bring the shooter to that address. COE stated that she did
22 not know anything about that.

23
24 225. She agreed that there was a breakdown in the relationship with NE and that she had been
25 warned by the police regarding indecent images which had been sent to her phone by NE.
26 She accepted that she had pleaded guilty and appeared in court for ganja consumption and
27 possession.

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1 226. She agreed that up to the time that NE called her in early November 2019, she had not spoken
2 to NE from the time that she had returned to the island in 2017, that this was a call out of the
3 blue, and that the phone call from NE soon after the defendant had come to see her was
4 entirely coincidental.

5

6 227. It was suggested to COE that her relationship with the defendant was a little more
7 commercial. It was suggested to her that she sold drugs for him. She denied this. She
8 accepted that she bought drugs from him but she did not sell ganja for him.

9

10 228. She knew that this was a kind of business for the defendant and that he dealt in ganja. She
11 knew that he had hydroponic equipment on MDL to grow ganja.

12

13 229. COE confirmed that she had heard that Shaquille and Patchie were “*bucking heads*” because
14 they were having relations with each other’s girlfriends.

15

16 230. She confirmed that NE had told her that she NE had been told by someone on the telephone
17 that it was the defendant who had shot the deceased. She could not recall if NE had at the
18 same time mentioned being also told that it may have been Jamaicans or JE.

19

20 231. It was suggested to her that she was incorrect to say that the defendant has a gun with him
21 when she saw him later that evening of the 12th of November. She stated that she saw it on
22 several occasions. She stated that the defendant told her to be quick and not to bring anyone
23 back with her.

24

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1 232. COE also agreed with counsel for the defendant that the defendant was pacing around during
2 the night, looking out through windows, and seemed to be worried about people turning up
3 at that address. The defendant told her: *“if anybody come don’t let them in.”*

4
5 233. She agreed with counsel’s suggestion that the defendant was worried that he might be set up
6 to be shot by Jamaicans. COE stated: *“As far as what I was told, and I observed he was*
7 *paranoid about Jamaicans.”*

8
9 234. It was suggested to COE that she was making up the account of what the defendant confessed
10 to her about his involvement in the death of the deceased. She denied that she had made up
11 the account. She stated that the defendant was giving all sorts of jumbled up stories.

12
13 235. When it was suggested to her that she had never before said that the defendant had stated to
14 her that the deceased had threatened Bella she insisted that she had mentioned that to the
15 police before.

16
17 236. COE insisted that she could not forget the important parts of what had been told to her by
18 the defendant, that she could always remember the truth. She insisted that those things were
19 not told to her by NE.

20
21
22
23
24
25

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1 **EVIDENCE OF DC SAMANTHA SILLITOE**

2 237. Samantha Sillitoe is a Detective Constable attached to Major Incident Room of the RCIPS.
3 She was tendered for cross examination. In cross-examination she related that she was aware
4 of a report that COE was sending dirty photos of NE around. She met with COE and found
5 similar photos in the possession of COE on her phone. She caused her to delete the stored
6 images from the phone and warned her about committing further offences.

7
8 238. She stated she knew JE. She was able to say that images on NE's phone appeared to be of
9 that JE.

10

11 239. She confirmed that the police were in possession of information, intelligence information
12 about JE. This intelligence information sought to link JE to various incidents between
13 himself and the deceased, Shaquille Bush. The officer was clear that what was related was
14 intelligence information only, information received or made available to the police but she
15 was unable to comment on the truth or otherwise of that information.

16

17 240. The officer went on to relate nine (9) instances on various dates between the 25th August
18 2019 and the 13th November 2019, the day after the murder. These were all instances in
19 which the police had intelligence information regarding the nature of the relationship
20 between JE and Shaquille Bush, the use or threatened use of firearms or possession of
21 firearms on the part of each and friction between them over a woman/women. Intelligence
22 reports received on 13/11/19 suggested that:

23

24

25

- i. JE and three (3) Jamaicans planned to do the shooting;
- ii. Suggested that 3 Jamaicans came in on a boat from Jamaica; and

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1 244. Inspector Oremule could not confirm that CT was to be an intermediary between the
2 investigation team and NE. He was aware that DCI Wright dealt with the case of CT but
3 stated he did not know the details of that case.

4
5 245. Inspector Oremule confirmed that he had two meetings with NE. During the first NE asked
6 him to get into her car because she did not trust police. DI Oremule said NE:

7
8 *“... drove me around to South Sound dock and parked and inquired of me*
9 *what the organisation can do for her if she assists with the Shaq murder*
10 *case.”*

11
12 246. DI Oremule also met NE on the 17th July at Plantation Village where her mother worked.
13 He recalled that COE also attended that meeting and that they presented him with a piece of
14 paper with a list of requests.

15
16 247. Among those requests were to be able to stay on island in a gated community, financial
17 assistance, immunity, anonymity. He confirmed that one of the entries appeared to be related
18 to the need for a contract, “before statement”

19
20 248. Inspector Oremule stated that he saw NE again in July 2020. He related that NE told him
21 that Roger Bush never admitted the shooting, referring to the shooting of Shaquille Bush and
22 that the reference to NE and seeing guns as recorded in his notes of his discussion with her
23 was not to her seeing guns on the day of the incident but on the day she left Roger Bush
24 sometime in May 2020.

25
26 249. Inspector Oremule noted that NE had said to him that Roger Bush, on that occasion, was
27 upset when he realized what she had seen.

28
29 250. Oremule related that NE stated that she saw:

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1 “...a Handgun and high-powered rifles around the 28th May 2020 at MDL.
2 He [the defendant] did not want her to see them. She did not know they
3 were there. She came outside and saw them.”
4

5 251. In re-examination Officer Oremule confirmed that it was correct that before NE was admitted
6 to the Justice Protection Programme she was interviewed on tape by ACI Wright on the 11th
7 September 2020 and for a second time on tape as a significant witness on the 19th January
8 2021.
9

10 **EVIDENCE OF DI ANDERSON TAYLOR**

11
12 252. Anderson Taylor is a Detective Inspector who took part in the investigation in November
13 2019. On the 13th November 2019 he arrested the defendant at MDL. Upon cautioning him
14 the defendant replied “*for my own son, look how unnu going antagonize man.*” Taylor stated
15 that he took that to mean, Look how you all going to antagonize me.
16

17 253. The defendant was handcuffed to be taken to the Cayman Islands Detention Centre. He was
18 transported in a caged unit, a salon car equipped in that way. Whilst being transported he
19 was in chain link handcuffs that were fixed in front of the body
20

21 254. The defendant started to behave in a disorderly manner in the back seat of the vehicle. He
22 kicked the right window continuously. His actions caused the officer to stop the vehicle. The
23 defendant was spoken to however as the journey continued the defendant kicked the right
24 rear window out of place and he attempted to get out through the window feet first. The
25 escort unit assisted in placing the defendant in rigid handcuffs for the rest of the journey to
26 the Detention Center.
27

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1 **CROSS EXAMINATION OF DI ANDERSON TAYLOR**

2 255. Officer Taylor agreed that the defendant appeared to be distressed that he was being arrested
3 in relation to his own son’s murder.

4
5 **EVIDENCE OF DS ANDREW GRAHAM**

6 256. Andrew Graham is a Detective Sergeant who became involved in the investigation in
7 November 2019. He interviewed the defendant on the 14th and twice 16th November.

8
9 257. The defendant refused to be photographed for any injuries he may have had on his body after
10 arrest. The three interviews were “No Comment” interviews.

11
12 258. The officer related that interviews were normally conducted in interview rooms at the
13 Detention Centre but the defendant refused to come out of his cell. A portable interview
14 machine was utilized to give the defendant the opportunity to speak. Attempts were made
15 to engage with the defendant, but the defendant did not respond during the interview on the
16 14th of November.

17
18 259. The defendant was offered free legal advice on the 14th of November, but he did not take
19 advantage of that offer.

20
21 260. The officer detailed that the defendant declined to respond to questions such as:

- 22 i. Questions surrounding his recent relationship with Shaquille;
23 ii. Where he went and what he did on the 12th November;
24 iii. Did he have an altercation with Shaquille;
25 iv. Did he shoot Shaquille;

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1 v. Questions about his mobile phone, wallet and clothing;

2 vi. His whereabouts during shooting.

3

4 261. The defendant remained silent throughout the interview until it was terminated.

5

6 262. On 16 November the officer conducted two further audio-video interviews with the
7 defendant on the same topics relating to the death of Shaquille Bush.

8

9 263. By this stage he was legally represented by legal counsel. On this occasion the defendant
10 provided his full name. He stated that he wished to uphold his rights in relation to all
11 questions asked of him.

12

13 264. The questions asked of the defendant included:

14 i. Who lived in MDL area;

15 ii. What was his and NE's relationship with Shaquille like;

16 iii. What was his relationship with NE;

17 iv. What were his movements on the 12th November;

18 v. Who was at MDL that day;

19 vi. Where he went after he left MDL and who with;

20 vii. The whereabouts of his Mobile phone, wallet, and clothing from that day;

21 viii. Had he ever used a firearm;

22 ix. Any explanation for death or Shaquille Bush.

23

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1 265. Later the same day, he was interviewed for a third time with legal counsel present. During
2 this third interview the defendant gave his name and date of birth. He was cautioned said he
3 understood it. In relation to all questions asked he stated: “*I wish to uphold rights*”.

4

5 266. The Defendant was asked questions about his cell phone. Among the questions asked of
6 the defendant were the following:

- 7 i. Did he own telephone 9220589;
- 8 ii. He was asked about NE’s phone;
- 9 iii. Access to black Honda Accord 190 006;
- 10 iv. Was he in the Honda or the Kia on the 12th November;
- 11 v. Did he use his Driver’s Permit to buy a mobile phone from cash wiz;
- 12 vi. Did he drive to MDL separate from NE stopping at Pop-A-Top;
- 13 vii. Did he have an altercation with the deceased before shooting him;
- 14 viii. Did he leave MDL on foot and then run across Hell Road to OO Road;
- 15 ix. Did he leave MDL because he knew there was shooting;
- 16 x. He was asked about the black Honda left at the premises;
- 17 xi. What had transpired that led to the shooting of his son.

18

19 **Evidence of DC Richard Sherwin**

20 267. Officer Sherwin became involved in the investigation of the murder on 12th November. He
21 was present at the interviews of the defendant on three occasions - on the 14th and at the two
22 interviews on the 16th of November with Sergeant Graham.

23

24 268. He confirmed the circumstances surrounding the officers going to the defendant’s cell to
25 conduct/record the interviews on those dates.

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1 269. On the 17th of June 2021 he and other officers went to MDL. The aim of the operation was
2 to arrest the defendant on suspicion of the murder of Shaquille Bush and he did so.

3

4 270. Upon arrest, the defendant made no reply. The defendant was also cautioned. He made no
5 reply to caution.

6

7 **CROSS EXAMINATION**

8 271. Regarding the interview of NE conducted by Detective Constable Southern, Officer Sherwin
9 confirmed that he was present during this interview which took place on the 17th of
10 November 2019. During that interview, DC Southern asked NE about things she had told
11 him a couple of days before. NE made no comment to the questions asked of her during the
12 interview.

13

14 272. At the time of the defendant's arrest on the 17th of June 2021, no firearms were recovered
15 from MDL. The officer's evidence was that he later became aware that items relating to
16 ganja including sachets, mason jars, packages of ganja, glass jars and rolling papers were
17 found at the property.

18

19 **EVIDENCE OF DEPUTY COMMISSIONER KURT WALTON**

20

21 273. As part of his responsibilities, Deputy Commissioner related that he is charge of and
22 responsible for the Justice Protection Programme in the Cayman Islands. NE was admitted
23 to the Programme in May 2021. He confirmed the payments and allowances made for her
24 and her for daughter.

25

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1 274. He confirmed that COE was also admitted to the witness support scheme. COE opted for a
2 lesser level of protection. He stated that there was no personal gain for her. He related that
3 COE does not receive a monthly allowance and she funds her own basic living necessities.
4 His evidence was that COE could have applied for a monthly allowance and there are
5 chances that she would have been granted it but she chose not to ask for it.

6

7 275. He was questioned about a person in the programme being able to claim a reward for
8 providing information relating to the murder of Shaquille Bush. He stated that he was not
9 aware of anyone who had provided information to be entitled to a reward. He agreed that
10 such an application may have to be made after a conviction.

11

12 **EVIDENCE OF CHIEF INSPECTOR WRIGHT**

13

14 276. Officer Wright's evidence in chief centered on the custody records of the defendant and NE
15 during November 2019. Chief Inspector Wright's evidence was that the defendant was in
16 the presence of CL and another officer during the period of his detention. From the custody
17 records Chief Inspector Wright was able to say that CL was one of the officers who took
18 custody of the defendant when he went on smoke breaks and to shower. On the 17th of
19 November the defendant was taken for a smoke/stress break by CL. This break lasted for
20 some 13 minutes from 8:46 am until the defendant was returned to his cell at 8:59 a.m.

21

22 277. NE was also detained during the same period. Chief Inspector Wright's evidence was that
23 her custody records show that a notation was made on the 16th of November 2019, that
24 Officer Southern had provided information and the record updated to state that contact had

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1 been made with NE's attorney in respect of an interview scheduled for 11:00 am on the 17
2 November 2019.

3
4 278. Chief Inspector Wright's evidence regarding that entry was that any officer dealing with NE
5 would have access to it and could read the custody record. CL took over duties relating to
6 NE from 7:00 am on 17 November. At 9:12 am CL and AC Red took NE out of her cell for
7 a smoke break. She was returned to her cell at 9:20 am.

8
9 **CROSS EXAMINATION**

10 279. CI Wright was cross examined. He confirmed that he was the officer investigating the
11 allegation against CL by NE. He confirmed that CL had since provided a statement in that
12 investigation wherein he stated that he did not have a conversation with NE in which he
13 instructed her to answer no comment during her interview as alleged and had denied all
14 allegations. Chief Inspector Wright testified that CL' statement was to the effect that he did
15 not have a meeting with Roger Bush in November 2019 or any other occasion and that he
16 did not drive a silver BMW that month or on any other occasion.

17
18 280. Officer Wright also confirmed that he has since spoken to AC Red, the other officer who
19 dealt with NE on the morning of the 17th of November at the Detention Center and that the
20 effect of what AC Red told him was that he did not witness any contact with NE or hear
21 anything untoward when she was taken for the smoke break between 9:12 and 9:20 am on
22 the 17th of November.

23
24 **EVIDENCE OF SCENES OF CRIME OFFICER LEWIS REID**

25 281. Lewis Reid, the Crime scene investigator attended the scene at MDL on 12 Nov 2019.

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1 282. Much of his evidence centered on the reconstructing the manner in which Shaquille Bush
2 would have met his death. The evidence is part of the common ground as to the cause and
3 manner of the deceased's death that is not at issue in this case. I accept his evidence of those
4 matters gleaned from the positioning of recovered spent shells and casings, his 450
5 photographs of the scene and his observations that ground his re-construction of the crime
6 scene.

7
8 283. On the 15th of November, Officer Reid processed the KIA Sorento motor car driven by NE.
9 He examined it for potential GSR as well as blood spatters. Upon examination he noted that
10 the vehicle appeared to have been wiped down either prior to the incident or before police
11 had recovered it. He confirmed that he had checked all areas in the vehicle including the
12 front passenger area, the inner side of passenger door, the lower section of front passenger
13 seat, upper section of front passenger seat, above the glove compartment, inner handle of
14 front passenger door and outer handle of the front passenger's door. Neither GSR nor blood
15 were noted in the vehicle.

16
17 **Cross examination of Officer Lewis Reid**

18 284. Officer Reid was unaware of the results of the testing of DNA from exhibits recovered from
19 the crime scene showed that a moderate stringency association had been found between 4
20 bullet casings found at the scene and a partial multiple source DNA received from a revolver
21 involved in an incident in 2015. The revolver was thrown from a vehicle which police
22 officers were attempting to stop along east-west arterial bypass.

23
24 285. Officer Reid confirmed that he was asked to focus on the front passenger seat of the KIA
25 Sorento, to examine the vehicle for GSR. He checked the entire vehicle with light source.

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1 Neither the GSR examination nor the light source examination revealed the presence of GSR
2 residue or of blood in the interior of that vehicle.

3
4 286. This Officer also stated:

5 *“In my statement [I said that] I observed that there were signs of apparent clean up.*
6 *I noticed that in the front passenger side, nowhere else in vehicle. The only place I*
7 *saw that in the vehicle.”*

8 287. However, the Officer could not say if there had been wiping down in that area when that
9 wiping down would have been done.

10
11 **EVIDENCE OF THE PATHOLOGIST DR DAVID ANDREW ROUSE**

12
13 288. David Andrew Rouse is an experienced pathologist though not the original pathologist in
14 this case. His evidence was that it was relatively common for a pathologist to give expert
15 opinion without seeing a body. In this case, having not examined the body himself, he was
16 provided with the prosecution case summary, the original pathologist’s postmortem first
17 report of 18/11/2019 and his subsequent report of January 2020 as well as body maps,
18 witness statements, the Scenes of Crime report, the statement of the SOCO Lewis Reid
19 together with scene and postmortem photos. Dr. Rouse was also in possession of the
20 deceased’s medical reports and radiology from 18 November 2019.

21
22 289. The pathologist’s evidence as to the cause of death is not challenged. I accept Dr. Rouse’s
23 evidence as to his observations and conclusions on the cause of death of Shaquille Bush. I
24 accept his evidence as set out above at paragraph 23 above.

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DETECTIVE SERGEANT RUSSELL THESE

290. Det Sergeant Russell These was part of the major incident team and dealt with the CCTV footage in this case. The provenance and continuity of that footage are accepted and there has been no challenge to the sequence as detailed in the story boards produced as exhibits in this case compiled by this officer. These complied individual story boards were compiled from frames taken from moving footage of each of 3 vehicles in this case: the Black Honda driven by the defendant, the KIA Sorento driven by NE and the beige or gold colored Camry driven by Moises Bush on the date of the incident.

291. Officer These's evidence in cross-examination was that he was able to obtain footage of vehicles leaving the area of MDL around the time of the shooting which was approximately 5:18 pm on 12 November 2019. He testified that there was a total of 6 vehicles that left MDL after 5:18 pm that evening. He made attempts to track and trace the identity of the owners of those vehicles. He was unable to trace and identify most of those vehicles and their owners because by the time the request had been made of him the Government CCTV retention period had passed. He was able to identify three of the vehicles, however three of the vehicles recorded leaving from the area of MDL remain unidentified.

292. Apart from his duties compiling the CCTV evidence Officer These was also present during the interview of NE on 17 November 2019. He was questioned about the course of that interview. He denied that he had made any suggestions to NE about why she was involved with the defendant. He denied that the interview was hostile or that NE was being accused of covering up for the Defendant during the interview.

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1 **EVIDENCE OF JOANNE DELANEY**

2 293. Joanne Delaney is an intelligent analyst employed by the RCIPS. She analyzed a number of
3 cell phones in this case. There is no issue as to attribution of phones and users in this case.
4 Ms. Delaney was not challenged regarding the results of her analysis of cell phone data
5 which form the basis of the exhibits tendered in this case.

6
7 294. She was clear in her evidence how she was able to use cell phone data to plot the movements
8 of persons of interest relevant to the investigation of the murder.

9
10 295. Ms. Delaney related that the last cell network activity for the deceased was made at 4:49 pm
11 on the 12 November 2019. She was able to state that the deceased phone registered at the
12 same location from the time of that last use, that it remained active and receiving at the same
13 cell site until 5:49 pm that evening.

14
15 296. The defendant's cell phone was last used at 5:37 on 12 November. This was a call received
16 from NE's cell phone and answered at that time. This was 10 minutes after the call was
17 made to 911 about the deceased being shot.

18
19 297. Ms. Delaney testified that she compared cell site locations of the Defendant's phone to
20 CCTV evidence of the movements of the defendant's black Honda motor vehicle and found
21 that they correlated and were not different. She stated that for the calls to and from the
22 defendant's phone for the period of half an hour before the 911 call was made and the period
23 after the call up to the final communication at 5:37, the pole utilized was the North West
24 Point mast sector 1. She testified that this was the same cell mast and cell sector as was
25 being used by the deceased cell phone at that time.

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1 298. The defendant’s handset and the sim card used by that handset at the relevant time have
2 never been recovered.

3
4 299. Ms. Delaney testified that she analysed toll data from the telephone of CL for the period 1
5 November to 18 December 2019. She made the request for this data in March 2021.

6
7 300. She had the telephone number for the defendant’s mother. She analysed the data for any
8 contact between the CL phone and the number for the defendant’s mother. She stated that
9 there was no contact between the CL phone and that of the defendant during that period.

10
11 301. There was contact between CL and the defendant’s mother’s number. The first was on 17
12 November, the date that the defendant was released from the Detention Centre, the second
13 on the same date. There were no other calls identified between those two numbers.

14
15 302. There were two text messages exchanged between the two numbers. The first was on the 29
16 November 2019 from CL to the defendant’s mother’s number asking: “yow fam you good”.
17 The second was also received on the same date saying: “bless up ennu”

18
19 303. The defendant’s mother’s number was stored on the cell phone seized from CL. It was stored
20 as “Bushy”.

21
22 **CROSS EXAMINATION**

23 304. In Cross Examination Ms. Delaney agreed that her evidence of the defendant’s phone and
24 its usage based on the cell site and mast, that this evidence cannot specifically locate
25 somebody at a particular spot only the general area that that telephone is in.

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1 305. Ms. Delaney gave evidence of police ballistic system identification statistics and, in
2 particular, of 8 incidents linked ballistically to the firearm used to shoot the deceased on 12
3 November 2019. She detailed those instances and the persons involved. Ms. Delaney stated
4 that since the murder of the deceased to her knowledge the weapon has not been linked to
5 any other matter in the system.

6
7 306. That was the extent of the evidence on the prosecution case.

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1 **THE CASE FOR THE DEFENCE**

2

3 307. The defendant has nothing to prove. There is no burden on the Defendant to prove that he
4 is innocent. There is no onus on the Defendant to prove anything at all. The Defendant has
5 no obligation to prove that he is not guilty, or to explain the evidence offered by the
6 Prosecution. At the close of the prosecution case the defendant elected not to give evidence.
7 The defence did not call any witnesses at trial.

8

9 308. As highlighted in the cross examination of the main prosecution witnesses, the defence case
10 is that this defendant did not murder his son, SB. The defence case is that while there may
11 have been some undercurrent of sexual distrust between the defendant and NE, that NE has
12 exaggerated the scale of this distrust in order to provide a motive for the defendant's actions,
13 on her evidence, his involvement in the murder of the deceased.

14

15 309. The defence raised the evidence before the court of reports of incidents of violence
16 concerning the deceased and JE before and close to the date of the murder. The evidence of
17 Officer Stillitoe was referenced. The officer related 9 instances on various dates between 25
18 August 2015 and 13 November 2019, the day after the murder, in which the police had
19 intelligence information regarding the nature of the relationship between JE and the
20 deceased, the use or threatened use of firearms or possession of firearms on the part of each
21 and friction between them over a woman or women.

22

23 310. The defence also raised the history of firearm. Forensic evidence of DNA recovered from a
24 shell casing at the scene was matched to a gun that had been used in various shootings on
25 the island. The defence submitted that the incidents logged all seemed to be associated with

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1 persons in the Birch Tree Hill gang and not anyone from Logwoods, to which the was
2 allegedly associated. The defence asked the court to consider that JE, who had a history with
3 the deceased was allegedly part of the Birch Tree Hill gang and that he was not in custody
4 at the time that the deceased was shot.

5
6 311. Regarding the evidence of Fitzroy Smith, it was pointed out that Smith never said in his
7 statement read into evidence that he saw the defendant at the premises at the relevant time
8 before Smith left the premises and before he heard gunshots. The defence ask the court to
9 consider that when the shooting started that it may not be surprising that anyone, including
10 the defendant, may have been alarmed and petrified and fled for their safety. That this may
11 have been the reason that the defendant fled to the area across from MDL to OO Road where
12 he was eventually picked up by NE.

13
14 312. The defence asked the court to consider the evidence of Officer These of vehicles leaving
15 around MDL close to the relevant time on the day of the murder, just after 5:18 pm. Further,
16 the evidence of the witness Terry Robinson was that two Jamaicans jumped in his car as he
17 left, that there were three vehicles which remain unidentified which left the vicinity of MDL
18 at approximately 5:21pm, 5:27pm and 5:37pm on the date in question.

19
20 313. The Court was asked to consider the lack of forensic evidence linking this defendant with
21 the crime. Although the defendant was in NE's car shortly after the incident no GSR residue
22 was found in the car, in the passenger seat or anywhere else in the vehicle. That there was
23 also no trace of blood found in that vehicle.

24
25 314. The defence asked the court to consider the defendant's actions in light of his concerns about
26 Jamaicans and security whether this could this explain his actions on the evening of the 12th.

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1 315. I have considered all these matters raised by the defence. I am careful not to speculate about
2 matters for which there is no evidence before the court. I must consider whether these
3 matters highlighted by the defence raise reasonable doubt, whether individually or
4 collectively they cause me to doubt the evidence presented by the prosecution.

5

6 316. Even if this evidence does not cause me to doubt the prosecution evidence, I must be careful
7 to consider the prosecution case, for it is only on that evidence if I am sure that all of the
8 elements of the offence had been made out that I can convict the defendant. If I am not sure
9 I must acquit.

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1 **EXPERT EVIDENCE**

2 317. In this case, there are various pieces of expert evidence and or testimony. The Agreed Facts
3 show that there is agreement between prosecution and defence as to admission of the expert
4 evidence regarding toxicology, GSR, ballistics, CCTV, Telephone attribution and
5 downloads/analysis of various relevant phone evidence. There is no issue with regard to the
6 evidence of the pathologist Dr Rouse. Although there was no objection by the Defence to
7 these items of evidence however, I still remind myself that I can accept or reject any part or
8 all of the expert evidence contained in these items.

9

10 318. After assessing the expert evidence outlined above, I am sure of and accept all of the
11 evidence and findings of the experts, from Dr Rouse as to the cause of Death, the accuracy
12 of the telephone and the CCTV records and that of the Scenes of Crime Officer Lewis Reid.

13

14 **SPECIAL MEASURES**

15 319. NE gave evidence by Video link and COE from behind a screen. I will assess their evidence
16 in the same manner as I would the evidence of any other witness in the case regardless of
17 how it is given. The fact that these witnesses gave evidence in this way is no reflection on
18 either the defendant or the witness and I am mindful of this. This fact will not affect my
19 judgment of these witnesses' evidence.

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1 **Court's Conclusions**

2 320. The Crown relies on the evidence of NE to prove its case against this defendant to provide
3 evidence going to the motive means and opportunity that it says should satisfy the court that
4 it was this defendant that inflicted the injuries, in this case the gunshot wounds that caused
5 SB's death.

6

7 321. **Motive:** NE's evidence is of the defendant's jealousy. Her evidence of his actions is
8 supported by the evidence of COE who stated that the defendant was constantly checking
9 her phone to see any communication between herself and NE while she was in England to
10 see if there was any conversation between them about a man. NE related instances in which
11 she describes the defendant making comments about her and 'her man'.

12

13 322. Her evidence was that the defendant was concerned about the rumours of the paternity of
14 Bella. When counsel for the defendant sought to question her about why the defendant did
15 not confront the deceased directly about this, she answered that he could have, and she did
16 not know why he didn't. I have considered the questions directed at NE in cross examination
17 as to the nature of the relationship between the defendant and the deceased and her responses.

18

19 323. NE's evidence of the defendant's reactions on the morning of the murder. It was suggested
20 that this was further evidence of the defendant's feelings about this issue of the paternity of
21 Bella and his feelings towards the deceased. It was suggested to her that she had made up
22 the story the defendant having asked her to call the clinic to speak about getting a DNA test.
23 However, the evidence of Joanne Delaney shows that NE did call the clinic on the date and
24 at the time as she stated in her evidence. The telephone evidence supports NE's evidence of
25 a phone call made to the deceased on the night of the 11th of November 2019 when NE says

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1 that the defendant used her telephone to call the deceased so that NE could inquire what he
2 had to say about the rumours of Bella’s paternity.

3
4 324. The Prosecution is not required to prove motive. The Prosecution has evidence of motive,
5 and is free to present it in this case for my consideration. Motive is not an element or
6 ingredient of the crime of Murder. However I accept that it may, if established, be evidence
7 of a malicious mind.

8
9 325. **Means** – the evidence of NE as to the defendant’s means, did he have access to a firearm, a
10 firearm being the weapon that killed the deceased. NE’s evidence is of seeing the defendant
11 with a firearm on the date of the incident when she met him near to the Pharmacy in Grand
12 Harbour. She described the firearm in detail in her evidence. She also gave evidence of
13 having seen the deceased and others at MDL with handguns and machine guns when she
14 lived there with the deceased sometime in May 2020.

15
16 326. On the evidence there was an inconsistency in her account of having seen these guns,
17 between her account in her evidence in chief and evidence of another prosecution witness
18 DI Oremule. DI Oremule’s evidence was that NE had stated to him that she saw handguns
19 and high-powered rifles on the occasion at MDL. In her evidence NE stated that she saw “*a*
20 *table full of handguns and machine guns.*” She was confronted with this inconsistency
21 during cross examination by counsel for the defendant. She insisted that it was not as a result
22 of her lying about what she had seen. She testified that the defendant had threatened her not
23 to say anything about what she had seen, the guns.

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1 327. The inconsistency is on a major issue. It is one of the planks of the prosecution case.
2 However, this inconsistency does not cause me to doubt her account. Her evidence is
3 consistent that she saw guns. I accept that, as she described, she saw the defendant with a
4 gun at Grand Harbour on the evening following the murder, I accept that she saw the
5 defendant in the presence of guns at MDL.

6
7 328. I accept the evidence of COE that the defendant had a gun with him when she saw him at
8 Grand Harbour on the evening following the murder.

9
10 329. With regard to guns at MDL, on the issue of means, there is also NE's evidence when
11 questioned by counsel for the defendant that the deceased had put a shotgun to her head on
12 the 10 July 2017; that he had retrieved a sawed-off shotgun from the bushes at MDL. While
13 this is not evidence of the defendant being in possession of a firearm, it is evidence of there
14 being such at MDL. I bear in mind that the premises at MDL were raided in 2021 at the
15 point of the defendant's arrest and no firearms were found at the premises.

16
17 330. **Opportunity:** The prosecution also sought to use the evidence of NE coupled with other
18 prosecution evidence to establish that the defendant had the opportunity to commit the
19 murder on the 12 Nov 2019. Her evidence was that she and the defendant had made plans
20 to go to MDL with Bella on that evening. She related that after they left Cash Wiz that this
21 was the plan. Her evidence was that the defendant went ahead of her and that as she
22 proceeded to MDL after going into Pop a Top in West Bay, the defendant called her and told
23 her not to come to MDL but to go to her cousin's home at Mt Pleasant. NE's evidence was
24 that the defendant called her thereafter and told her to come and pick him up at OO Road
25 which it has been established is across the road from MDL or in close proximity to where

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1 the murder occurred. This she did. She did so at approximately 5:35pm. The prosecution's
2 case is that the murder occurred at between 5:15- 5:18 pm. This clearly puts the defendant
3 at or near the scene of the murder at the relevant time.

4
5 331. There is the CCTV evidence which also supports the fact of the defendant being at or near
6 the scene at the relevant time. The evidence of Officer These, with the aid of the CCTV
7 evidence, was that the Black Honda driven by the Defendant was last seen within 10 metres
8 of MDS at approximately 4:49 pm on the 12 of November. That vehicle was not seen again
9 on any camera on that road that evening but was found inside the police Cordon at the crime
10 scene at MDL. The evidence of Officer Lexine Welcome, was of the black Honda
11 registration no 190-006 being at the premises parked approx. 50 m from house and the area
12 where the deceased's body was found.

13
14 332. With respect to the police cordon and timing the evidence of Officer Garland was that he
15 first heard the report of the shooting at approx. 5:30 pm and engaged his emergency lights
16 and drove directly to the premises. His evidence was that a cordon was established by
17 unarmed officers who attended at the location soon after he arrived at the premises.

18
19 333. Officer These's evidence was of seeing what appeared to be a person crossing from the area
20 close to MDL going towards OO Road shortly after NE's car is seen entering OO Road that
21 evening is also relevant. NE's car is seen leaving OO Road shortly thereafter. This again
22 is in close proximity to the time that the police vehicles were seen entering MDL.

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Confession

1
2 334. NE's evidence amounts to a confession on the part of the defendant on in the night of the 12
3 November. He told her various things: He did what he had to do; He had to teach Shaquille
4 a lesson; Shaquille was begging for his life and Mike Bush was begging for Shaquille's life,
5 too.

6
7 335. The defendant sought to explain his actions by stating to her that when he reached Miss
8 Daisy Lane the deceased struck him on the head with a piece of metal pipe. He told NE that
9 he went inside his house but that at every exit he would find Shaquille waiting and Shaquille
10 had a gun – hence he did what he had to do. A few days later, the defendant told NE that
11 that Shaquille had a ratchet.

12
13 336. It was suggested to NE that she had fabricated this account. She insisted that this was what
14 the defendant told her in Candice's house at Mount Pleasant. The Crown suggests that the
15 account to NE shows the defendant's involvement in the crime and that independent
16 evidence shows that he was lying about the circumstances surrounding the crime, since there
17 was no evidence of a second firearm at the scene, all casings were found by the firearms
18 officer to have come from the same gun as were the bullets recovered from the body of the
19 deceased. Also, no ratchet was found at the scene, there was no forensic evidence of same
20 or that the deceased had such a weapon at the scene

21
22 337. NE also said that the defendant spoke of having told Moises Bush to get rid of "the thing".
23 The prosecution case is that this court should believe her account because there is
24 independent evidence of which NE was unaware at the time that she gave her statement and
25 from which it can be inferred supports her account. COE also gave evidence that she heard

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1 the defendant speaking on the telephone on the morning of the 13 November 2019. He was
2 using her cell phone. Her evidence was that she could hear the defendant’s side of the
3 conversation. *“I guess he was asking if everything was clear at Logwoods, ... if Moises had*
4 *dealt with the thing, something in that manner.”*

5
6 338. The Crown case is that what both NE and COE could not have known was that the Toyota
7 Camry, driven by Moises Bush had been seen at these times and doing the following:

- 8
9 - At 5:04:30 on the 12 November, leaving Miss Daisy Lane, turning right in the
10 direction of Watercourse Rd.
11 - At 5:10:44 it parks at Public Beach.
12 - At 5:15:50 leaves Public Beach and drives back to Miss Daisy Lane.
13 - At 5:18:44 It turns back into Miss Daisy Lane. The evidence of Fitzroy Smith
14 is that this is very soon after the sound of gunfire has been heard. He confirms
15 that Moises Bush was driving the Camry at this point.
16 - At 5:27:15, the Camry again leaves Miss Daisy Lane travelling away from the
17 crime scene.

18 339. This evidence raises a strong suspicion as to what Moises Bush was doing on the Crown’s
19 submission. While this evidence has not been advanced as being entirely probative it is
20 independent evidence tending to support the fact that Moises Bush would have seen the body
21 of the deceased but left the yard soon thereafter. The court notes that the Camry left MDL
22 after the shooting and before the defendant is picked up by NE at OO Road.

23
24 **Areas of inconsistency or implausibility in NE’s evidence**

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1 340. Apart from the inconsistency relating to guns related above, there were other areas of
2 inconsistency in NE's testimony. Her evidence contradicted that of DI Oremule about the
3 number of times that she met with him and also as to what was discussed, what she sought
4 to secure from the police if she gave evidence against the defendant. When confronted with
5 this contradiction NE denied that she had met with Oremule on an occasion before meeting
6 with him at plantation village. She denied that she had handed him a list of demands.

7
8 341. I have considered her evidence on these matters. I have also heard the evidence of DI
9 Oremule who testified that he made notes of these matters in his police notebook and was
10 able to produce copies of those notes from which he refreshed his memory as well as a copy
11 of the note handed to him by NE. I prefer the evidence of DI Oremule.

12
13 342. As the trier of fact, I must examine the testimony of the various witnesses. I know that I am
14 free to accept all of a witness' evidence or reject all of a witness' evidence. I may accept part
15 of a witness' evidence and reject part of the evidence of that same witness. I may accept the
16 evidence of one witness called by one side, and reject the evidence of another witness called
17 by the same side.

18
19 343. I reject this bit of NE's evidence. I prefer the evidence of Officer Oreumule as to the time
20 and content of meetings with this witness.

21
22 344. When NE was questioned about her actions upon being interviewed by Officer Southern on
23 the 17th of November, she explained that she had been threatened prior to the interview by
24 CL. She explained that this is why she gave, as far as she was concerned, a no comment
25 interview as she had been directed by the Defendant through CL. The defence submit that

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1 her account of being threatened did not happen, that it is another instance of her lying to
2 police officers.

3
4 345. In relation to NE evidence of the threat delivered to her by CL at the Detention centre, I find
5 that the evidence presented by the prosecution shows that there was the opportunity for the
6 defendant to interact with CL and for CL to interact with NE after seeing the defendant on
7 the morning of the interview.

8
9 346. CL had access to records that NE was to be interviewed on 17 November 2019. At 8:46 am
10 on that morning, CL and another officer took RDB from his cell for a smoke break, returning
11 him 13 minutes later at 8:59 am. Just 13 minutes later, CL and Red went to NE's cell, at
12 9:12 am. She was taken for a smoke break and placed back in her cell 8 minutes later.

13
14 347. Her evidence is also supported by the evidence of Joanne Delaney. The records for CL's
15 cell phone were not sought until March 2021, well after NE had given her statement detailing
16 the threat to her by CL and her reasons for not responding to the questions put to her by
17 Officer Southern. On the Crown's case, NE's evidence was that the defendant told her he
18 was asked by CL for his cell phone number and that he provided his mother, Sherlene's,
19 number. They both apparently lived in the same house at Miss Daisy Lane.

20
21 348. It is difficult to see how NE could have known that the Defendant had given Sherlene's cell
22 phone number to CL unless the defendant had told her so. The telephone records show that
23 there were 4 calls by CL to this number in the 12 days following the defendant's release from
24 custody after his initial arrest in November 2019. This is independent evidence which seems

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1 to confirm that the defendant and CL were in communication immediately after the
2 defendant's release from custody at the end of 2019.

3
4 349. I agree with the prosecution submission that this telephone evidence, obtained so much later
5 than the time that NE gave her statement implicating the defendant in the murder, provides
6 quite independent confirmation of a link and connection between the Defendant and CL and
7 is evidence about which NE could have had no idea when she made her allegations. This
8 evidence also goes to support her explanation for any inconsistency surrounding the
9 interview with Officer Southern.

10
11 350. I have considered the defence submissions surrounding NE's account of what happened at
12 the Holiday Inn on the night before the deceased funeral. There is no dispute that the
13 allegation against her and Screechie was made by the defendant. The defence contend that
14 the defendant would have never said this if he had admitted to killing his son. Also, that the
15 court should consider NE's reaction to this allegation. She did not confront the defendant
16 then about the fact that he had already admitted to her that he had killed Shaquille. The
17 defence questioned if this was plausible. Also was it plausible that after the funeral when
18 NE was in the UK that she and the defendant would not have discussed what the defendant
19 had done, that the WhatsApp messages between them do not show evidence of this.

20
21 351. NE's response to these suggestions when they were put to her was that she could not account
22 for the defendant accusing her and Screechie of killing Shaquille and that in fact there was a
23 reference to the killing in the WhatsApp messages, in the form of the quotation from a song
24 sent by the defendant: "no beat man, don't have time for that they come out their Crib, they
25 pass their place, they go to their grave"

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1 352. Regarding phone calls received by NE while in the KIA with the defendant on the Esterly
2 Tibbetts Bypass on the evening after the murder. The defence asked the court to consider
3 that there were not three calls from different persons, but the phone records suggests that the
4 calls were from the same individual. I am not satisfied that the evidence of NE is clear that
5 the defendant was in a position to hear that an accusation had been made against him in one
6 of the calls of him being responsible for the shooting of the deceased.

7
8 353. I believe her evidence that he jumped out of the vehicle and went off in the area of Lantern
9 Point. The CCTV evidence shows NE turning off the Bypass and heading unto Eastern
10 Avenue as she testified. I believe her evidence that she went there looking for the defendant.

11
12 354. The main issues in this case involve the credibility of the witnesses who gave evidence of
13 the defendant's involvement and responsibility for the murder of the deceased. The
14 prosecution put its case to the court in this way: that the defendant had the motive, the means,
15 and the opportunity to murder the deceased and that the evidence proves beyond any doubt
16 that he did so. The Crown's case on each of these aspects is dependent on the reliability
17 and credibility of the evidence of the witness NE. If this court does not believe her evidence,
18 on the material particulars going to the elements of the offence, the prosecution would not
19 have proved its case.

20
21 355. Counsel for the defendant has suggested through his questions of NE that she was fabricating
22 this evidence to get back at the defendant, that as she said in her messages with her friend on
23 Whatsapp, she hated him, that he was a pussyhole woman beater, that as far as she was
24 concerned he was a waste man and that she wanted to have relationships with other men,
25 that she was going to breed for a next man. Counsel suggested that she was suspicious of

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1 the defendant having relationships with other women and asked the court to note her actions
2 in confronting Angelina Brown.

3
4 356. I have considered NE's motives for fabricating this testimony against the defendant. NE
5 admitted in evidence that she was angry with the defendant for having abused her in front of
6 her daughter. She felt that he had been unfaithful to her. I observed the witness when she
7 was confronted with these suggestions. She was not inconsistent in her evidence except as
8 has been highlighted above. She gave her evidence in chief in a very straightforward manner.
9 Her evidence held up under cross examination. I find that NE is a reliable and truthful
10 witness. I accept her evidence.

11
12 357. I found COE to be a credible witness. I believe her evidence that the defendant did confess
13 his involvement and responsibility for the death of the deceased. She was a forthright
14 witness who admitted that she sometimes had issues with her memory.

15
16 358. COE's evidence was consistent with her earlier account. It was not suggested that she had
17 given another version of her evidence. It is unusual that the witness stated that she never
18 discussed what the defendant had confessed to her with NE on the morning of the 13th of
19 November 2019, nor the defendant's actions at Grand Harbour or the carpark at CTH or
20 indeed when they got back to her apartment at 166 Mount Pleasant, given the nature of the
21 information that had been told to her and the fact that she was well acquainted not only with
22 the defendant but also the deceased.

23
24 359. I do not believe that much turns on this fact. The witness has not been accused of collusion.
25 She has been accused of fabrication of this evidence and she has denied this. Her evidence

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1 is strikingly similar to that of NE. It was not suggested to her that she had anything to gain
2 from fabricating this evidence against the defendant. Her account that she had had no
3 involvement with either the accused or NE before the defendant came to her to ask her to
4 speak to NE on his behalf was not challenged. Her evidence that she had not spoken to NE
5 for approximately two years before NE came to see her in October 2019 was not challenged.
6 The evidence of Kurt Walton was that COE had not sought the full package as a protected
7 witness that was available to her. I find her evidence to be reliable.

8
9 360. I find her evidence consistent with the account given by NE of the defendant's actions on
10 the night of the 12th of November 2019 at Grand Harbour, at the CTH carpark and later at
11 Mt Pleasant.

12
13 **Circumstantial evidence**

14 361. Some of the evidence on which the prosecution relies is direct evidence. The main direct
15 evidence implicating the defendant is that of NE and of COE. NE provides evidence from
16 which motive, means and opportunity may be inferred well as evidence of the defendant's
17 confession to her of his involvement in the murder of the deceased. COE provides evidence
18 of the defendant's actions subsequent to the murder and also of his confession to her separate
19 and apart from his conversation and confession to NE of his involvement in the murder of
20 the deceased.

21
22 362. The prosecution also relies circumstantial evidence, different strands of evidence none of
23 which proves that the defendant is guilty but which, the prosecution say, when taken together
24 with other evidence prove the case against this defendant.

25

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1 363. The first bit of circumstantial evidence is that the defendant was at the scene or in the vicinity
2 of the murder at the relevant time. This is the evidence of the CCTV as well as the route and
3 eventual position of the Defendant’s vehicle at MDL on the day of the murder. The
4 Defendant called NE to get him from MDL. He had driven to MDL in the black Honda
5 motor car. However, that vehicle remained at the scene. He left in NE’s vehicle shortly after
6 the murder

7
8 364. Evidence of the Defendant’s appearance and demeanour after he was picked up by NE at
9 OO Road at approximately 5:35 pm on the day of the murder is another bit of relevant
10 evidence in this regard. NE’s description of the defendant at that time:

11
12 *“When I first saw him, he was very frantic and aggressive and frantic. He was not*
13 *calm. Far from calm. He said you want to carry the baby to the beach lets go to the*
14 *fucking beach. Bella was in the back seat and Roger in the front. The kia is a left-*
15 *hand drive. He got in right side at the front”.*

16 *“I said [he was] frantic. He was very sweaty”.*

17 *“This did not seem normal to me. What was not normal I can’t say.”*

18
19 365. The defendant’s actions at North West Point Road. NE described that when she stopped the
20 vehicle as directed by the defendant, the defendant *“got out and he ran to the iron shore and*
21 *took off all of his clothing and threw it in the water. He threw it in the ocean. He did not*
22 *explain why he was doing it. I could not speak to him he ran all the way out there to the iron*
23 *shore. I was in the car with the baby at that time.*

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1 366. NE evidence of what the defendant stated when he called her on 12 November while she was
2 in COE's car in the vicinity of Burger King. Her evidence was that the defendant called to
3 arrange to meet her. He then called again and said that there was "*too much police on the*
4 *road - must meet him by Hurley's Pharmacy.*" It is of note that the defendant was aware
5 and concerned about the police and no mention was made of awareness and concern about
6 Jamaicans.

7
8 367. The defendant's actions when he directed NE and COE to go to Prospect Point on the
9 evening of 12 November after getting into COE's vehicle at Grand Harbour. He directed
10 COE to go to Prospect Point and when they got there, he got out of the vehicle, telling NE
11 to come out of the vehicle too and to stay by the hood of COE's vehicle where he could see
12 her. He went into the water for a couple of minutes, then rushed back to the vehicle directed
13 and them to drive to South Sound.

14
15 368. His actions while in COE's car. When COE came back to the car at Chrissie Tomlinson
16 Hospital car park, he directed her to drive him to her house on Mt. Pleasant in West Bay.
17 NE described his actions while in the back seat of the car: "He was still on his back and he
18 occasionally peeked, he occasionally got up and look and then he went back to lying flat on
19 his back."

20
21 369. I know that each of these pieces of evidence cannot individually be used wholly or mainly
22 to convict the defendant. However, this Court is sure that the pieces of evidence are reliable.
23 I am satisfied that these pieces of evidence which I find reliable and accept as facts in this
24 case are such that I can draw an inference that supports and is consistent with the other
25 evidence presented of the defendant's guilt.

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1 **Adverse inference.**

2 370. The defendant chose not to give evidence at trial. That is his right. He also failed to give an
3 account when he was interviewed while at the Detention Centre. I accept that he was
4 cautioned on each occasion was offered legal advice or representation on the first occasion
5 which he declined and had legal representation on the other two occasions that he was
6 interviewed.

7

8 371. The defendant has nothing to prove the burden being on the prosecution to prove its case
9 beyond a doubt from the beginning to the end of this trial. However, he has not given an
10 account either previous to or evidence in the trial to contradict or undermine the evidence of
11 the prosecution witnesses.

12

13 372. Bearing in mind and applying s.149 of the *Act* (2021 Revision) as I am entitled to do in
14 appropriate circumstances, in addition to the totality of the evidence against the Defendant,
15 the inference I draw from his failure to give evidence at trial is that in the face of compelling
16 direct and circumstantial evidence against him the Defendant is unable or unwilling to give
17 any evidence on his own behalf which would stand up to any proper scrutiny.

18

19 **Conclusion**

20 373. Apart from matters of inconsistency or implausibility concerning the accounts of the main
21 witnesses, the defence case was that there was evidence that other persons could have had a
22 motive for killing the deceased, that other persons were in the area of MDL and so could
23 have had the opportunity to kill the deceased and that the murder weapon in this case was
24 one that had an association with a gang that was not known to be from the area of MDL the
25 implication being that the defendant was less likely to be associated with such a firearm. I

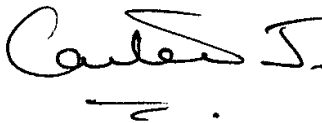
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1 have considered all of this evidence and the submissions surrounding this evidence. These
2 do not cause me to doubt the prosecution evidence. After rejection of these as being
3 sufficient to raise reasonable doubt, I have considered whether the prosecution have proved
4 its case against this defendant.

5
6 374. In order to find the defendant guilty of the offence of murder, the onus is on the Prosecution
7 to make me sure of each of the following-(a)that the defendant is of sound memory(mind)
8 and discretion; (b) that the deceased is dead and (c) that he died of injuries inflicted by the
9 defendant (d) that when the defendant inflicted the injuries he did so with the intention to
10 kill the deceased or cause him grievous bodily harm, and (e) that when the defendant inflicted
11 the injuries on the deceased, he did so without lawful justification. I am satisfied so that I
12 am sure that all of these elements have been proved.

13
14 375. The verdict of this court is that the defendant is guilty on the two counts of the indictment.

15
16 **Dated this 27th day of September 2022.**

17 

18 **Madam Justice Marlene I. Carter**

19 **Judge of the Grand Court (Acting)**