

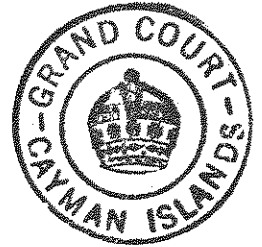
1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **CRIMINAL SIDE**

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5 **INDICTMENT NO: 0075/2013**

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8 **THE QUEEN**

9
10 **V**

11 **LEONARD ANTONIO EBANKS**



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15 **Appearances:**

Mr. Simon Russell Flint Q.C. with Ms. Elisabeth Lees for the Crown

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18 **Mr. Courtenay Griffiths Q.C. instructed by Ms. Amelia Fosuhene of Stenning & Associates for the Defendant**

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22 **Before:**

The Hon. Mr. Justice Charles Quin Q.C.

23 **Submissions heard:**

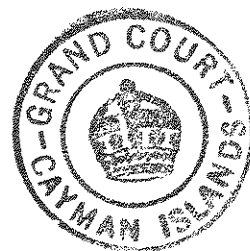
24 **10th December 2014, 19th & 20th January 2015**

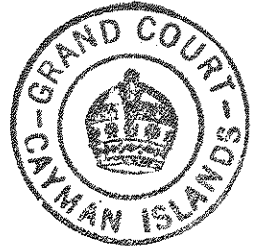
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26 **SENTENCE RULING**
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INTRODUCTION

1. On the 17th October 2013 Chad Anglin and Leonard Antonio Ebanks were each charged with jointly having murdered Frederic Rene Bise on the 8th February 2008.
2. On the 7th April 2014 the Court ordered that the two defendants should be tried separately.
3. On the 20th May 2014 Chad Anglin was convicted by jury of the murder of Frederic Bise and sentenced to life imprisonment.
4. On the 8th December 2014, Leonard Antonio Ebanks was acquitted by the jury of the charge of murder and convicted by the jury of being an Accessory after the Fact to Murder.





1 *SUMMARY OF FACTS*

2 *THE BODY*

3 5. Frederic Bise's body was discovered in the boot of his burning car in the driveway
4 of his place of residence – 2 Avoca Lane, Mount Pleasant, West Bay, at around 7
5 a.m. on the 8th February 2008.

6 6. When the deceased's body was found his trousers were unzipped and found around
7 his thighs and his shoes and socks had been removed. His dead body had been
8 covered with a blanket that had been taken from his bedroom.

9 7. The postmortem findings concluded the following:

10 i. The body had extensive 2nd and 3rd degree burns;

11 ii. The infliction of recent blunt trauma to his head, neck and chest were the cause
12 of death;

13 iii. There were multiple bruises to the skin over his forehead, his left face and
14 beneath his chin;

15 iv. There were contusions on both his upper and lower lips;

16 v. There was a small laceration or tear on his left upper eyelid with bruising
17 around the eyes;

18 vi. There were cuts or contusions in many areas over his scalp;

19 vii. Probably the most significant injuries which led to the death of Mr. Bise were
20 the fractures to:

- 1 (a) The bones in the face;
- 2 (b) The right part of the skull;
- 3 (c) The base of the skull;
- 4 (d) The sternum/breastbone;
- 5 (e) The third rib on the right side;



6 viii. There was bleeding on the surfaces under the brain;

7 ix. There was bruising to the muscles of the hyoid bone;

8 x. The anal sphincter was moderately dilated, consistent with having recently
9 engaged in anal intercourse.

10 8. Dr. Heidingsfelder said it was extremely unlikely, if not impossible, for the
11 deceased's body to have been lifted into the trunk of the car by one man and
12 accordingly; it was his view that two or more persons would have been needed to
13 lift the deceased's dead body into the boot of the car. The Court again notes that the
14 body had been covered with a blanket that had been taken from his bedroom. The
15 evidence before the jury suggests that the deceased's body had been carried by
16 Chad Anglin and the defendant into the boot of the deceased's car.

17 9. The car containing the body was set alight by means of an accelerant. The seat of
18 fire appears to have been the front passenger seat area, but one could also smell
19 accelerant on Mr. Bise's body and clothes – with actual spots of accelerant found
20 on the deceased's stomach.

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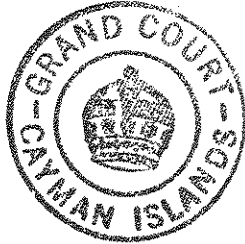
DEFENDANT'S POSSESSIONS

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10. The deceased had been stripped of his personal possessions – his watch, rings, bracelet and neck chain. His CNB bank card was missing. There were no shoes or socks found with or near the body.

11. From inside the house the following items had been removed, which according to one Crown witness, Ms. Juliet Facey (“Ms. Facey”), were later seen in the possession of the Defendant:

- i. a laptop computer and pouch;
- ii. the pouch for the computer; and
- iii. a mobile telephone.



CROWN'S SUBMISSIONS – FACTUAL BASIS OF VERDICTS

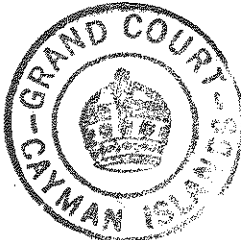
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12. It is not controversial that Chad Anglin murdered Frederic Bise by the infliction of extensive injuries upon him. The Crown submits that the jury must conclude that that the Defendant, Leonard Ebanks, at some time, attended the scene and assisted Chad Anglin not to kill, but to lift and place Mr. Bise's body in the boot of the Mitsubishi; to then participate in setting fire to the Mitsubishi in order to attempt to burn the body of Mr. Bise; and to smash and destroy the weapon that was employed by Chad Anglin to inflict the head injuries to Mr. Bise.

13. The Crown submits that there was evidence that Chad Anglin and the deceased spent some time at 2 Avoca Lane prior to the deceased's death. The cigarette butts on the driveway and underneath the patio, on which DNA profiles matching Anglin were found, prove that Chad Anglin was at the deceased's home in the early hours of the 8th February 2008.

14. The Crown also submits that there is no evidence that the deceased was murdered at his home address as there was no blood or other indication of a violent assault found at the Avoca Lane address and, the Crown also submits, there was no indication, either inside or outside 2 Avoca Lane, that the severe attack which caused the death of the deceased took place at that location.

15. Accordingly, the Crown submits that the killing occurred away from 2 Avoca Lane, and that Mr. Bise must have been dead before his body was returned to the address. The Crown submits that this is supported by the fact that his car was parked in a very unusual position and not where Mr. Bise would have parked it.

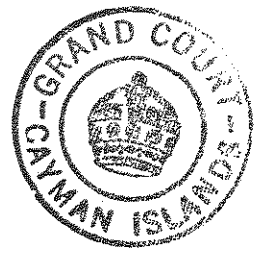


1 16. Furthermore, the Crown submits that the debris found on Mr. Bise's body – the
2 fragments of sticks, vegetation and grass-like material – in addition to the obvious
3 concrete cinder block-like material found in the body bag, all lend support to the
4 fact that the killing took place elsewhere.

5 17. The Crown submits that the evidence of the pathologist, allied to the fact that the
6 shoes and socks had been removed from the deceased, and that he was in a state of
7 undress, support the fact that he was killed after sex, and did not have the
8 opportunity to put his shoes and socks back on.

9 18. The Crown submits that sometime during the early hours of the 8th February 2008
10 the deceased's possessions were removed from his body/from his residence and at
11 some time after the killing, a blanket was removed from his residence in order to
12 cover and hide the body from view.

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DEFENCE CASE

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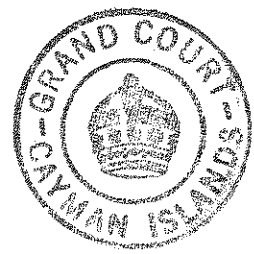
19. The Defence submits that the Crown did not open the case on the basis that the Defendant could also be convicted as an Accessory After the Fact, rather, the Crown's position was that the Defendant was a principal offender on a joint enterprise basis.

20. The Defence submits that the trial proceeded on the basis that the sole issue for the jury was whether the Defendant, Leonard Ebanks, was a murderer, and that is how they directed their cross examination.

21. It was only late in the proceedings that the defendant was aware that the Crown would seek his conviction as an accessory after the fact. Accordingly, this late step meant that the Defendant was effectively denied an opportunity to plead guilty to this offence and was thus deprived of any reduction in sentence consequent upon entering a guilty plea. It is also submitted that the defendant was denied the opportunity to raise an issue as to whether his trial for being an Accessory After the Fact would amount to an Abuse of Process of the Court.

22. The Defence submits that the Crown in its sentencing note said the case was based upon the evidence of Ms. Facey – that the Defendant assisted the principal to:

- i. Destroy the weapon which was used to kill the victim and/or;
- ii. Place the body of the deceased in the car and/or;
- iii. Burn the clothes of Chad Anglin after the murder took place and/or;
- iv. Set fire to the car after the event.



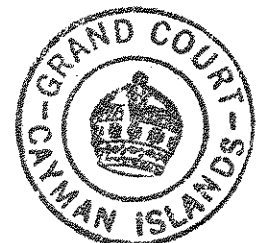
1 23. The Defence submits Ms. Facey's evidence was a moveable feast as, at various
2 times she said 4 men were involved, then 3 men were involved, then 2 men were
3 involved.

4 24. The Defence submits that Ms. Facey eventually conceded that her first account to
5 the police of the 25th April 2008 became her evidence that she saw the Defendant at
6 the house in the morning and as such submits that it is unlikely that this Defendant
7 could have been the person who set fire to the deceased's body.

8 25. Defence counsel also highlights that there was a conflict as to whether Leonard
9 Ebanks went out with one of his brethren or whether he received a call from Chad
10 Anglin to go to the Dykes. Accordingly, defence counsel submits that there were a
11 number of factual inconsistencies which were not resolved during the normal trial
12 process and, therefore, it is difficult, if not impossible, for the judge to look behind
13 the jury's decision. In other words, defence counsel states: How does the Court
14 select which fact the jury relied upon and what is the factual basis upon which the
15 Defendant is to be sentenced. Accordingly, the Defence submits that if there are
16 two possible versions of facts, the court should accept the version which is more
17 favourable to the Defendant.

18 26. The defence concedes that there are two aggravating features, namely, the severity
19 of the attack on the deceased and the attempts to dispose of the body.

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1 27. However, in mitigation, the defence makes the following submissions:

2 (a) There can be no suggestion of a significant degree of planning or
3 premeditation;

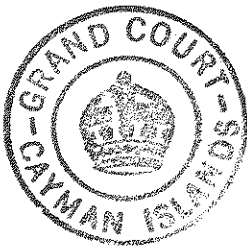
4 (b) The victim was not vulnerable: The victim had increasingly frequented
5 Kelly's Bar area after initial trepidation and, as time progressed, he
6 appears to have visited this location to, *inter alia*, pick up sexual
7 partners. The Defence relies upon the fact that there is evidence that the
8 deceased engaged in sexual activity with individuals who he knew had
9 criminal records and individuals about whom Patricia Amante had
10 warned him.

11 (c) The Defendant had faced for over a year the dread of being sentenced
12 to a second mandatory life sentence, which would have effectively
13 sealed his fate.

14 (d) There is no suggestion that the Defendant was involved in setting fire
15 to the car.

16 (e) The Defendant was 37 years of age at the time of the offence and is
17 now 44.

18 (f) It is accepted by the defence that the Defendant has a substantial
19 criminal record but submit that most of the convictions on his record
20 were as a direct result of his efforts to feed his drug habit.



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1 *ANALYSIS AND CONCLUSION*

2 *Version of the Facts*

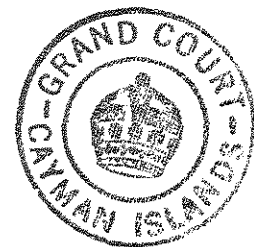
3 28. For good reason the practice has arisen that the jury is not asked for the factual
4 basis on which they have reached their decision. The learned editors of the 2015
5 edition of *Archbold Criminal Pleadings Evidence and Practice* state at paragraph
6 5-86:

7 *“Problems of interpreting the verdict of the jury for the purpose of sentence*
8 *most commonly arise when the jury have found the defendant not guilty on one*
9 *count but guilty on another often (as in this case) lesser included offence.”*

10
11 The learned editors continue at paragraph 5-86:

12 *“If the verdict can be explained only on one view of the facts, that view of the*
13 *facts must be adopted as the basis for sentence, but if more than one view of the*
14 *facts would be consistent with the verdict the sentence may form his own view*
15 *and pass sentence on that basis.”*

16 See *R v. Boyer*¹, *R v. Solomon & Triumph*², CA authorities reviewed including
17 *Stosiek*³.



¹ 3 Cr. App. R. (S) 35

² 6 Cr. App. R. (S) 120

³ 4 Cr App. R. (S) 205

1 *Accessory*

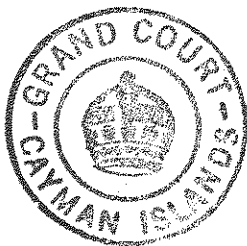
2 29. During an exchange between counsel and the Court on the 2nd December 2014 on
3 an invitation by the Judge to discuss the necessary directions to the jury, the Court
4 raised the issue that it was open to the jury to find that the Defendant was guilty or
5 not guilty of Accessory after the Fact to both counsel. The Court stated:

6 *“But you do say it is open if they accept that account.... There are a number of*
7 *different accounts, but if they accept that account, if they accept that the*
8 *Defendant did tell Ms. Facey about it but in fact the version they believed is*
9 *that Mr. Bise was killed before he arrived and they believe that he [Defendant,*
10 *Leonard Ebanks] assisted in removing the body, then it is open to them to find*
11 *him guilty of being an accessory.”*

12
13 Mr. Griffiths Q.C. stated that he did not understand that to be the law in the
14 Cayman Islands.

15 30. Leading counsel on behalf of the Crown referred Mr. Griffiths Q.C. to s.59 of the
16 Criminal Procedure Code – relating to Alternative Convictions – which reads:

17 *“59. (1) On an indictment for murder a person found not guilty of murder may*
18 *be found guilty of-*



- 19 (a) *manslaughter, or causing grievous bodily harm;*
20 (b) *being an accessory after the fact;*
21 (c) *an attempt to commit murder;*
22 (d) *infanticide;*
23 (e) *killing an unborn child; or*
24 (f) *concealing the birth of a child (where the murder charged is*
25 *that of a child),*

26 *but may not be found guilty of any offence not included above.*

27 (2) *Where, on the trial of a person on indictment for any offence except*
28 *treason or murder, the court finds him not guilty of the offence*
29 *specifically preferred but the allegations in the indictment amount to or*
30 *include (expressly or by implication) an allegation of another offence*
31 *falling within the jurisdiction of the court, the court may find him guilty*
32 *of that other offence or of an offence of which he could be found guilty,*
33 *on the facts found to be proved, on an indictment specifically preferring*
34 *that other offence.*

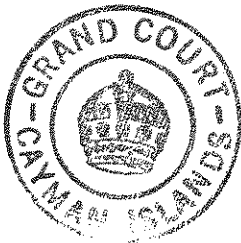
1 (3) For the purposes of subsection (2), any allegation of an offence shall
2 be taken as including an allegation of attempting to commit that
3 offence; and where a person is charged with attempting to commit an
4 offence or with any assault or other act preliminary to an offence, but
5 not with the complete offence, then (subject to the discretion of the
6 court to discharge the jury with a view to the preferment of an
7 indictment for the complete offence) he may be convicted of the offence
8 charged notwithstanding that he is shown to be guilty of the completed
9 offence.”
10

11 31. During the discussions on directions to the jury, it was agreed with both leading
12 counsel for the Crown and for the defence that I would give the following direction:

13 **“ACCESSORY AFTER THE FACT**

14 *An accessory after the fact is a person who, with the full knowledge of the*
15 *crime, assisted the principal. If you find that the Defendant is not guilty of*
16 *murder, go on to consider whether he is guilty of being an accessory after*
17 *the fact by you being sure that one of the following occurred.*

- 18 (a) *The Defendant assisted Chad Anglin in lifting the deceased’s body and*
19 *putting it in the boot of the Mitsubishi Outlander;*
20 (b) *The Defendant assisted Chad Anglin in setting fire to the Mitsubishi*
21 *Outlander in an attempt to burn the body of the deceased;*
22 (c) *The Defendant smashed the cinder block which was used to kill*
23 *Frederic Bise in order to destroy the evidence.*



24 *If you find from your review of all the evidence before you that you are sure*
25 *that the Defendant took all or any one of the above steps then he would be*
26 *guilty of being an accessory after the fact. If however you are not sure that he*
27 *performed any of the above acts then you would find him NOT GUILTY of*
28 *being an accessory after the fact.”*
29

30 32. I also gave the following direction to the jury:

31 *“Under s.59(1) of the Criminal Procedure Code, if you find the Defendant NOT*
32 *GUILTY of murder, you must then examine the evidence to find out whether you*
33 *find him guilty or not guilty of being an ACCESSORY AFTER THE FACT to*
34 *murder. Section 195 of the Penal Code states a person who becomes an*
35 *accessory after the fact to murder commits an offence.”*

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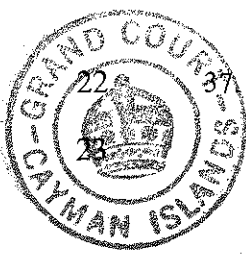
33. At the time the defence raised no objection to the jury being invited to consider the alternative of being an accessory, and, in fact, the wording of my direction to the jury was agreed by all counsel.

34. The Court finds that not only was Leonard Ebanks pleading not guilty to murder, he also, in his sworn evidence before the jury, denied any involvement with the murder at all – either at the time or afterwards. This Defendant’s case is that he did not kill the deceased nor did he take any part in the events of the 8th February 2008. If, as has been argued, the defendant was not aware during his trial of the possible alternative verdict of being an accessory, I cannot see how his leading counsel’s cross examination of Crown witnesses and his own evidence under oath could have been any different.

35. Furthermore, the Defendant’s case is that both Ms. Facey and Ms. White were liars who fabricated the alleged confessions that he had made to both of them. The defendant clearly gave his instructions on that basis and his leading counsel conducted his cross examination of Ms. Facey and Ms. White based on the Defendant’s instructions.

36. The jury’s verdict shows that it has accepted, in part, the evidence of Ms. Facey and Ms White, in that, based on the Defendant’s separate confessions of his assistance to the killer, Chad Anglin, the Defendant was guilty of being an accessory after the fact.

The evidence from the pathologist is compelling when he submits that the body of the deceased could only have been carried into the car by two or more persons.

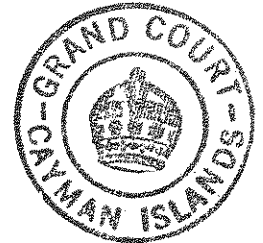


1 38. It is my view that the jury accepted the Crown's evidence that the Defendant
2 assisted Chad Anglin in lifting the body of the deceased and placing it in the boot of
3 the Mitsubishi Outlander. It is clear that this must have happened before the
4 Mitsubishi Outlander and the deceased's body were set on fire. Since the
5 Defendant assisted in lifting the deceased's body into the boot of his Mitsibushi it is
6 quite open for the jury to find that the Defendant assisted Chad Anglin, in setting
7 fire to the vehicle, in an attempt to burn the body of the deceased.

8 39. Furthermore, it was open for the jury to find that the Defendant smashed the
9 cinderblock or destroyed such other weapon which was used to kill Frederic Bise in
10 order to destroy the evidence.

11 40. In *Regina v. James Yates*⁴ the English Court of Appeal considered the question of
12 the appropriate sentence for assisting an offender. The President, the Lord Chief
13 Justice, Lord Judge, stated at paragraph 34:

14 *"We do not intend to give detailed guidance on the sentences which would be*
15 *appropriate for assisting an offender who has committed an offence. When*
16 *addressing the sentence in such cases, the first question to be addressed is the*
17 *nature and extent of the criminality of the offender to whom assistance was*
18 *provided. Here, the killer had shot dead a young boy. The second is the nature*
19 *and extent of the assistance actually provided. Here it was everything that the*
20 *offender could do, to the extent of assisting in the washing down of the killer in*
21 *petrol to remove all traces of evidence. The third is the extent to which the*
22 *efforts at assisting the killer damaged the interests of justice."*



⁴ [2010] 2 Cr. App. R. (S) 11

1 41. Accordingly, this Court must consider:

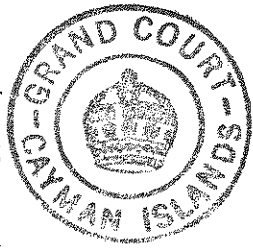
2 (a) The nature and extent of the criminality of Chad Anglin to whom
3 assistance was provided by the defendant;

4 (b) The nature and extent of the assistance actually provided by the
5 defendant to Chad Anglin;

6 (c) The extent to which the defendant's efforts in assisting Mr. Bise's killer
7 damaged the interests of justice.

8 42. Regrettably, the Cayman Islands have seen a dramatic increase in murders and this
9 murder is as callous and brutal a killing as one can imagine. Mr. Bise's death was
10 caused by an attack on his body of such ferocity and violence that he received
11 multiple injuries and fractures to his face, head and throat. The reason for the
12 killing was, apparently, a debt owed by the deceased to his killer, Chad Anglin. The
13 evidence suggests that Mr Bise's death followed shortly after sexual intercourse had
14 been perpetrated on him. The deceased was a vulnerable victim who apparently was
15 unable to and did not put up any fight. In addition, the deceased was robbed of his
16 possessions.

17 43. The defendant has been convicted with full knowledge of the crime of assisting
18 Chad Anglin. The Crown's case, which has been accepted by the jury, is that this
19 Defendant assisted by destroying the weapon in order to conceal any connection
20 between the killing and Chad Anglin, assisted with lifting the dead body into the car
21 and assisted with concealing the body with a blanket taken from the Defendant's
22 house. It is clear that the burning of the car and the attempted burning of the body
23 took place after the lifting of the body into the boot of the car. The Defendant was



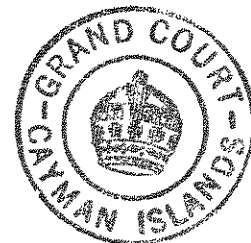
1 present when Chad Anglin attempted to burn the body. There was also evidence
2 adduced by the Crown that the defendant assisted Chad Anglin in burning Chad
3 Anglin's clothes. This was a further attempt to destroy any forensic links and
4 evidence which might exist between the deceased, the killer and the Defendant.

5 44. The former wife of the deceased has provided the Court with a statement which
6 confirms that she and the children of the deceased have suffered considerable
7 uncertainty and a prolonged time of grief since the murder. The former wife and
8 children have had to reside in a small community knowing their husband's killer
9 and his accessory had remained at large. The consequential uncertainty and fear for
10 her and the children must have been enormous. Mrs. Bise said:

11 *"At the time of Frederic's death the two daughters were 7 and 12. Both girls*
12 *were very close to their father. It has had an absolutely devastating effect on*
13 *our two daughters*

14
15 Speaking of her younger daughter Mrs. Bise added:

16 *"No person should have to go through this but for such a young person as*
17 *....to have to go through has been absolutely heartbreaking for us as a family*
18 *and I do not believe I will ever be able to forgive Mr. Ebanks for his*
19 *involvement in the death of Frederic. He has shown no remorse or told the*
20 *truth at any stage and, as result he has prolonged my daughter's agony.*
21 *Hopefully now she will get some closure."*



1 45. I agree with leading Crown counsel that but for the destruction of evidence by this
2 defendant an admittedly “forensically aware” individual, the likelihood of the
3 obtaining of the necessary evidence linking Chad Anglin to the murder would have
4 been greatly enhanced. This could have led, following his arrest on the 14th
5 February 2008, to a successful investigation and prosecution some seven years
6 earlier. It is not an overstatement to say that the damage to justice has been extreme.

7 46. S.195 of the Penal Code reads:

8 *“A person who becomes an accessory after the fact to murder commits an*
9 *offence and is liable to imprisonment for life.”*

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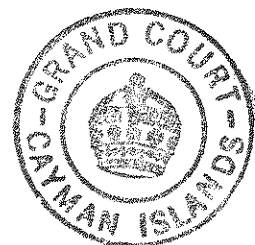
11 47. There is some guidance on the penalties for assisting criminal offenders in the
12 Criminal Law Act 1967 in England and Wales. The editors of *Archbold* state at
13 paragraph 18.37:

14 *“The policy of the Act (the Criminal Law Act) is that those who assist offenders*
15 *do so at their peril, the punishment being directly related to the principal*
16 *offence and not to the knowledge of the defendant.”*

17

18 48. On the evidence before me the defendant assisted the killer to destroy material
19 evidence so that the killer and the Defendant would avoid detection. For man to kill
20 man is the most serious criminal offence and it is inappropriate to make any
21 comparisons in relation to the crime of murder. However, this principal offence was
22 a particularly brutal, gruesome and evil murder. Those who assist murderers to
23 avoid detection and apprehension will be met with appropriately harsh sentences.

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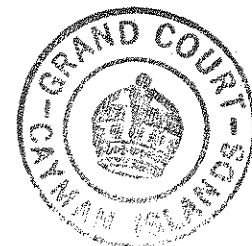


1 49. The Defendant is a 44 year old man with 52 previous criminal convictions. Aside
2 from his many drug convictions the Defendant has convictions for resisting arrest,
3 failing to surrender to custody, handling stolen goods, four offences of burglary,
4 four for carrying an offensive weapon, four for assault and two for robbery and one
5 for murder.

6 50. I find that the nature and circumstances of this murder are of the utmost seriousness
7 and gravity. The jury has now found him guilty of being an accessory to murder. In
8 light of the facts and circumstances surrounding this murder and the Defendant's
9 previous convictions I impose a sentence of 20 years imprisonment.

10 51. As this offence is a totally separate and distinct offence from the Defendant's
11 previous conviction for life for murder, I was minded to order that the sentence of
12 20 years run consecutive to the term of imprisonment the defendant serves for the
13 murder of Tyrone Burrell.

14 52. However, I take into account the agreed submissions of counsel in relation to the
15 Conditional Release Law (Law 18 of 2014), which, though not yet in force, was
16 passed by the Legislative Assembly on the 30th October 2014, received the Assent
17 of Her Excellency the Governor on the 20th November 2014, was Gazetted on the
18 15th December 2014 and is due to come into effect later this year. The relevant
19 sections state:



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"7. (1) Prisoners shall be eligible for conditional release as follows –

(a) prisoners sentenced to imprisonment for life shall be eligible to be considered for conditional release on licence after serving the minimum period of incarceration imposed under section 14(1);

(b) ...; and
(c)

(2) Where a prisoner who is serving a sentence is convicted of another offence and a consecutive sentence is imposed for the additional offence, the sentences shall, for purposes of subsection (1), be treated as one sentence and the conditional release date shall be adjusted accordingly.

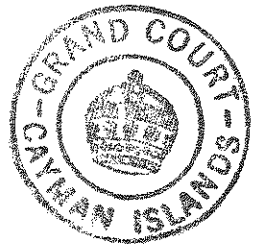
(3) ..."

17 53. Accordingly, as matters stand, I order the 20 years' imprisonment to run concurrent
18 to the Defendant's sentence of life imprisonment.

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20 Dated this the 6th day of February 2015

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A handwritten signature in black ink, appearing to be "Charles Quin", written over a horizontal line.

23 Honourable Mr. Justice Charles Quin Q.C.
24 Judge of the Grand Court