

30/9/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

19
20

21

22
23
24
25

26
27
28
29

30
31
32

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CRIMINAL SIDE

INDICTMENT NO: 84/10

THE QUEEN

V

LEONARD ANTONIO EBANKS



Appearances:

Mr. Trevor Ward and Ms. Marilyn Brandt for the Crown

Mr. Martin Heslop Q.C. instructed by Ms. Lucy Organ of Samson and McGrath for the Defendant

Before:

The Hon. Mr. Justice Charles Quin

Heard:

5th -22nd September 2011

RULING

Introduction

1. At some time after 7:30 p.m., but before 8:00 p.m. on Wednesday the 8th September 2010, Tyrone Burrell was shot and killed at a house at 177 Birch Tree Hill Road, West Bay. Mr. Burrell died from one fatal gunshot wound to the back of the head.
2. At 8:05 p.m. on the same evening Tishara Webster and Arlene White, accompanied by a young boy, visited West Bay Police Station and reported the shooting to Sgt. Leighton Groves.

1 8. Ms. White said that she first met the deceased, Tyrone Burrell, at 177 three
2 Sundays before his death. She then saw him on the Wednesday after meeting
3 him.

4 9. Ms. White recalled the 8th September 2010 when she was sitting at the back
5 of the premises underneath the mango tree with Ms. Webster's baby. Ms.
6 White said Tyrone Burrell arrived at the premises at around 11 a.m. or 11:30
7 a.m. He arrived at the back of the house and he was dressed in a white pair of
8 sneakers, a pair of blue jeans, an inside-white T-shirt and a Polo shirt over
9 the T-shirt.

10 10. Ms. White said that she spoke to Tyrone Burrell and they were together for
11 approximately 15 minutes.

12 11. Ms. White said that after that, she went back inside the house and left Tyrone
13 Burrell outside, and she did not know whether Tyrone Burrell left the
14 premises or what he did.

15 12. Ms. White said there were usually a lot of guys coming to and going from the
16 premises.

17 13. Ms. White recalled that the Defendant, whom she called "Tonio", was also
18 at 177 on that day.

19 14. In her evidence in chief Ms. White said that she had known the Defendant
20 since June 2010 and had met him at 177. She said that the Defendant
21 virtually lived at 177, because he was there late at night and early in the
22 morning, he had breakfast there and he was just like a family member.

1 15. Ms. White said that her relationship with the Defendant was very good, and
2 they had a very good rapport.

3 16. Ms. White recalled that on the 8th September 2010 the Defendant came to
4 177 in the morning, he was there almost all day, and then he went away and
5 returned to 177. She recalls that he left 177 at around 4 p.m., and at that time
6 he was wearing a short jeans pants and a white merino.

7 17. Ms. White recalled that she saw Tyrone Burrell at around 5 p.m. She said she
8 was in the kitchen making burgers and fries and Tyrone Burrell came into the
9 kitchen. Tyrone Burrell asked Travis if he could have a burger and she, Ms.
10 White said yes, and asked Tyrone Burrell for \$4.50.

11 18. Ms. White said she prepared the burger and at some time between 6 p.m. and
12 6:30 p.m. she went outside and called Tyrone Burrell. Ms. White handed him
13 the burger and said to him that he should leave the premises now because
14 “*dark is coming down.*”

15 19. Asked why she told Tyrone Burrell to leave the premises, she said that every
16 time she sees Tyrone Burrell she could “see trouble for him.” In effect, Ms.
17 White said that she had a premonition that something bad was going to
18 happen to Tyrone Burrell. She said that when she told Tyrone Burrell to
19 leave he said:

20 “*Yes mummy, me leaving now.*”

21 Ms. White said that Tyrone Burrell then went outside and turned in the
22 area of the mango tree, towards the right side of the house.

1 20. Ms. White said that, at around 7 p.m., she heard something drop outside. She
2 stopped what she was doing and she headed outside to see what was going
3 on. Ms. White said that on her way through the door, to outside, she saw the
4 Defendant pass swiftly, and then she saw that he had left his bicycle on the
5 ground outside. Ms. White said she knew it was the Defendant's bicycle
6 because he rode it "*all the while.*" Ms. White said that the bicycle was
7 dropped right beside the living room window.

8 21. Ms. White said that the Defendant had passed the kitchen door at the front of
9 the house, swiftly. She said he was dressed in a black baseball hat, a black
10 "tall sleeve shirt", short black pants, and Ms. White also noticed that the
11 Defendant had a handkerchief wrapped around his hand. She said the
12 handkerchief was black and white in colour, with less white and more black.
13 She said there was nothing impeding her view of the Defendant as he headed
14 towards the mango tree and she said that she was approximately 2 to 3 feet
15 away from the Defendant when he passed her by the kitchen door.

16 22. Ms. White said that after she saw the Defendant she stepped back inside the
17 kitchen and continued doing what she was doing. She said that she next
18 heard a "bow" or a sound like a gunshot. She said it was one sound and she
19 said she heard it approximately 5 seconds after seeing the Defendant pass
20 swiftly towards the mango tree. Crown counsel asked Ms. White to repeat
21 her answer and she said, "*five seconds, around five seconds.*"

22 23. Ms. White said that she did nothing when she heard the shot.

1 24. Ms. White said that Ms. Webster came to where she, Ms. White was, and
2 they both went outside where they found Tyrone Burrell lying beside the
3 boat, which is to the left side at the front of the premises.

4 25. Ms. White said she patted the body of the deceased on the back three times
5 and said, *“You wouldn't listen. You come in here and kill off yourself.”*

6 26. Ms. White was asked if when she went outside and saw the body of the
7 deceased, she saw anybody else, and she said there was no one there.

8 27. Between 10 to 15 minutes after finding Tyrone Burrell's body Ms. White,
9 Ms. Webster and a baby went to West Bay Police Station. Ms. White said
10 Ms. Webster drove the van and Travis remained inside his room back at 177.
11 Ms. White said Ms. Webster made the report to the police about the shooting
12 of Tyrone Burrell at the premises.

13 28. Ms. White said she did not see the Defendant again on the 8th September.

14 29. In the evening of the 9th September 2010 Ms. White said she was driving
15 with Ms. Webster, Travis and the two kids as they were going to Ms.
16 Webster's father's house. Whilst driving along on the road on which there is
17 a Jehovah Witness Church, they saw the Defendant standing on the road. She
18 said Ms. Webster pulled up beside the Defendant. Ms. White said they spoke
19 with the Defendant for less than 5 seconds – they just said hi and bye.

20 30. The next time Ms. White saw the Defendant was on the 10th September 2010
21 at around 10 a.m. Ms. White said that the Defendant came to the premises
22 and came inside and went to Travis' room. Ms. White said Travis and the
23 Defendant had a chat and then they left the room and went outside.

1 31. Ms. White said that after they went outside she went inside Travis's room to
2 start tidying it up. She said that whilst she was tidying the room the
3 Defendant came and knocked on the door. Ms. White said the Defendant
4 asked her:

5 *"What's happening?"*

6 And she said she told him:

7 *"I am here on repentance ground."*

8 Asked to explain what she meant by her statement she said:

9 *"When you are trying to be a Christian and trying to live for the Lord*
10 *you normally use that word."*

11 32. Ms. White said that the Defendant next said to her:

12 *"Do you know who killed the little boy?"*

13 Ms. White said she said to the Defendant that she did not know. Ms.
14 White said that the Defendant then said that

15 *"Him kill the pussyhole."*

16 33. Ms. White said she said to the Defendant:

17 *"The blood of Jesus against you, why you kill the youth?"*

18 Ms. White said that the Defendant replied and said:

1 *“Tyrone shoot up the old lady’s house up the road which he said was*
2 *Devon’s mother’s house.”*

3 Ms. White said the Defendant also said that Tyrone was a spy, because:

4 *“He goes from Logwood to Birch Tree Hill carrying news back and*
5 *forth.”*

6 Ms White explained that there was *“violence between the Logwood gang*
7 *and the Birch Tree Hill gang,”* and that the Defendant was saying that
8 Tyrone Burrell was a spy.

9 34. Ms. White said that the Defendant continued to come in everyday after that,
10 the same way he always did. She recalled the 21st September 2010 when she
11 asked the Defendant to get her a bottle of bleach. Ms. White said the
12 Defendant said he could go but she would have to wait. Ms. White said she
13 asked the Defendant:

14 *“Wait upon what, man?”*

15 Ms White said that the Defendant then lifted his shirt and showed her
16 that he had a gun. She said that the gun was *“in the front part”* and she
17 indicated the area of the waist.

18 Ms. White said she said to the Defendant:

19 *“‘Tonio why can’t you just put it down?’”*

20 Ms. White said that this was not the first time that she had seen the gun.
21 She said she had seen the Defendant with the gun before Tyrone Burrell

1 died. Ms. White described the gun as a little .38 handgun with a spin
2 barrel, chrome mouth and an antique handle. She said it was

3 *“...a little .38 gun.”*

4 35. Asked by Crown counsel how she was able to say that it was a .38, she said
5 she had worked at the Spanish Town Police Station in Jamaica for several
6 years so she knew a little about guns. Ms. White said the Defendant had also
7 told her that he had the gun because:

8 *“...they wanted to kill him so he has to walk with it to protect himself.”*

9 36. Ms. White said that some days later the Defendant came back to her and

10 *“Said his alibi is good because him and his wife was having a shower*
11 *together and Juliette saw him that same evening and told him not to*
12 *come by the house because Tyrone got shot over there and died.”*

13 37. In her examination in chief Ms. White said that she attended the police
14 station on the 26th September and identified the Defendant from the set of
15 photographs that were put in front of her.

16 38. Ms. White said that she continued to live at 177 until the 3rd of October 2010.
17 She said that the last time that she saw the Defendant was on the 2nd October
18 2010, again at 177. Ms. White said that she and the Defendant still had a
19 good rapport. She said that the Defendant asked her for her contact details in
20 Jamaica but she did not give them to him.

1 “*need to know*” or curiosity that made her ask the police officers about the
2 types of guns that they had in their possession.

3 42. Ms. White explained that she first worked in the Cayman Islands in 1998 and
4 then she got another work permit in August 2000. She said that on the 6th
5 August 2008 she went back home to Jamaica due to the Cayman Islands
6 Government’s Term Limit “Rollover” policy.

7 43. Ms. White said that when she started working with Ms. Webster at 177 she
8 was earning \$300.00 per week with boarding and lodging.

9 44. In response to leading counsel Ms. White admitted that Travis sold drugs
10 from 177. Ms. White said other people came to sell drugs at the premises. In
11 response to counsel Ms. White said the drugs were sold almost every day and
12 it was mainly cocaine.

13 45. Ms. White did not agree with Mr. Heslop that there were large numbers of
14 people selling drugs at the premises and further, she said she did not count
15 the guys that came into the yard. However, Ms. White admitted that a
16 number of persons came in to buy and sell drugs at the premises.

17 46. Ms. White said that as one looked at the photographs of the front of the
18 house, the mango tree was to the left. The boat and the truck where the
19 deceased was found are to the right in the photo.

20 47. Ms. White said that she had never been to Mr. Archie’s house nor did she
21 know that he had a sister. She said she “*had no dealings with those people.*”

1 48. She said she did not know where the Defendant lived and she had never been
2 to his house and she could not identify it.

3 49. Asked about first meeting Tyrone Burrell Ms. White explained that she was
4 reading her Bible and she saw an image of a young man who appeared to her
5 to be in trouble. She explained that she had similar experiences of seeing
6 images before, for example, when people are sick. She said she had also
7 dreamt about things like this. Mr. Heslop described it as a presentiment or a
8 vision from God and Ms. White said,

9 *“Yes. It was like God helping me to show a man what is going to happen*
10 *to him.”*

11 50. Ms. White said she explained this to Ms. Webster and Juliette and Ms.
12 Webster said the image she described was very similar to the guy outside,
13 and that is when Ms. White said she first saw Tyrone Burrell. Ms. White said
14 that she told Tyrone Burrell that there was something wrong and she
15 continued reading her Bible and praying for him.

16 51. Ms. White told Mr. Heslop that she did not just imagine this. She said to Mr.
17 Heslop:

18 *“When you are a Christian you don’t imagine. When you are blessed*
19 *from God you can’t play tricks with your head, or you are not a true*
20 *Christian.”*

21 52. Ms. White said that she had known the Defendant since June 2010. She said
22 she recalled that it was June because she was on vacation in May and she did

1 not know him then. She said it was early in June when she returned from her
2 vacation and that was when she first met the Defendant.

3 53. It was put to Ms. White that in her witness statement dated the 22nd
4 September 2010 she said that she knew the Defendant since March 2010. Ms.
5 White explained that when she gave that statement she was “*shooked [sic]*
6 *up*” and it was only some time after that statement that she recalled that she
7 did not know the Defendant in March, April or May 2010.

8 54. Under various periods of intense cross examination about this discrepancy,
9 she was asked by Mr. Heslop: “Well, what made you say March?”

10 She said, “*I just didn't remember that it wasn't March.*”

11 Under further cross examination Ms. White was reminded by Mr. Heslop
12 that in her statement she said she

13 “*start [sic] seeing Antonio since March when he come from prison.*”

14 In reply to counsel Ms. White said:

15 “*I am not telling a lie on ‘Tonio. I did not remember that clearly, but I do*
16 *know it was June.*”

17 Ms. White again said she was “*shooked up*” at the time of that statement
18 and she told counsel that that was the second murder at 177. She said to
19 counsel:

20 “*After two murders in the yard you don't expect me to be shaken up?*”

1 She also acknowledged that though she was living at 177 at the time
2 when Damien Ming was murdered, she was not actually present at house
3 at the time of the murder.

4 55. Pressed on the issue of when she met the Defendant Ms. White
5 acknowledged that she made a mistake in saying March and not June. She
6 explained that there are times:

7 “...when you have forgotten things” and she said further that she:

8 “... is human... not all the time you remember exact.”

9 Mr. Heslop insisted to Ms. White: “This is an example of you telling the
10 police something which you believe to be true, but which turns out be
11 completely false.”

12 Ms. White replied:

13 “No, I don’t tell them nothing that is wrong, I only make a mistake with
14 the time I met him.”

15 56. Ms. White said that the Defendant was treated as a member of the family. He
16 would go into the fridge and help himself, and he would stay over on many
17 occasions.

18 57. Ms. White accepted that she heard there were two gangs – one called Birch
19 Tree Hill and the other Logwood – and she also said that she had learned that
20 these gangs were “in war.”

1 58. It was suggested to Ms. White that Tyrone Burrell was mixing with both
2 gangs and that people talked about that. In reply Ms. White said that the only
3 person who told her that was the Defendant. She emphasised:

4 *“Only one person said that to me.”*

5 59. Ms. White said that she was not present at the premises when Damien Ming
6 was killed on the 25th of March 2010. She did she did not know that Tyrone
7 Burrell was a friend of Damien Ming because she had only met Tyrone
8 Burrell after Damien Ming had died. She again said that the only person who
9 told her that Tyrone Burrell was a spy was the Defendant.

10 60. Asked further about activities at the premises Ms. White said,

11 *“It is not a pretty home I am staying. It’s a drug place.”*

12 Ms. White again agreed with Mr. Heslop that 177 was a drug yard and said:

13 *“When you are asked a question it is better you leave it alone because this*
14 *yard is not a pretty yard.”*

15 61. Ms. White accepted that on the 8th September 2010 there was a party during
16 the day at 177. She said people were outside drinking, including Travis,
17 Sonia, Tyrone and others. Ms. White said there were about 8 people in the
18 yard and they were playing music while she was making burgers. She
19 acknowledged to Defence counsel that “gangster style music” was being
20 played, but she said the music was turned down around 6 p.m.

1 62. Ms. White said that it was some time shortly after that that, whilst she was in
2 the kitchen making a burger for Ms. Webster, Tyrone Burrell came into the
3 kitchen and asked for a burger.

4 Defence counsel put it to Ms. White that Tyrone Burrell came into the
5 kitchen to collect the burger when it was ready, but Ms. White said she had
6 come out of the kitchen to call Tyrone to get the burger when it was ready.
7 Ms. White said Tyrone Burrell did not come into the kitchen to collect the
8 burger.

9 63. Ms. White told Mr. Heslop about her hearing the noise of the bicycle
10 dropping on the ground and that she stepped outside and saw the Defendant.
11 She said the Defendant hastily passed the kitchen door. She said she went to
12 the doorway and he was right in front of her – moving from her left, that is
13 from the direction of the boat, over to her right, which is towards the mango
14 tree.

15 64. Ms. White said the Defendant was moving swiftly and it was very strange
16 and unusual for him not to stop, no matter what was going on, to come in and
17 say hello. She said it was unusual because:

18 “... normally when he come there he would come right in the kitchen”

19 Mr. Heslop asked Ms. White if ‘Tonio as someone who would
20 sometimes move swiftly and Ms. White said:

21 “*I never saw ‘Tonio come to that house, no matter what is on ...or*
22 *anything, would pass me and not even say what’s going on.*”

1 Mr. Heslop persisted and said there was nothing unusual, because that is
2 the way the Defendant moved and Ms. White replied:

3 *"I don't know 'Tonio move swiftly that he never stop and talk to me yet."*

4 Continuing under cross examination Ms. White said:

5 *"What I said to you, 'Tonio would come and go swiftly but he never come*
6 *into that yard and never come in the house. So it was strange to me at*
7 *that time."*

8 Ms. White continued and said that even when 'Tonio moved fast or
9 hastily he would come and pick up what he wanted and then say:

10 *"...Me soon come back, me go up the road. So it was strange to me that*
11 *he didn't stop and the kitchen door wide open."*

12 Ms. White continued that it was strange that the Defendant did not stop
13 and say hi because *"he is like that, he is very friendly.*

14 Ms White said the Defendant was moving hastily in the direction of the
15 mango tree and she was sure it was *"'Tonio."*

16 65. Mr. Heslop suggested that it could be less than five seconds between the time
17 that she saw the Defendant moving towards the mango tree and then heard
18 the gunshot.

19 Mr. Heslop said he would "suggest 2 to 3 seconds", and asked Ms. White
20 "would you agree or disagree."

21 Ms. White replied *"I wouldn't disagree. I just estimate it at five seconds."*

1 66. Ms. White said she was sure that she heard a gunshot, and she agreed that she
2 did not see the shooting. She agreed that she was at the stove and the gunshot
3 came from the corner of the house where the boat is.

4 67. She said the lighting was good in the kitchen and there were lights on the
5 eaves on the corners of the house. Ms. White said the lighting was very clear.
6 Ms. White said the lighting from the kitchen was very good and also the
7 lights on the eaves at the two corners were on.

8 68. Ms. White said that when she saw the Defendant just before hearing the
9 gunshot he was wearing a “*tall sleeve black shirt*”, a baseball cap and short
10 black pants, with a handkerchief wrapped around his hand.

11 69. Asked why she used the word “jacket” in her statement she said she did not
12 use the word jacket. She said she had always said it was a “*black tall sleeve*
13 *shirt*” and she said it must have been the officer who wrote down “jacket.”

14 70. It was put to her that the word “jacket” in her statement was another failure
15 of her recollection, and she said, “*No.*”

16 Ms. White said that when she gave the statement she made sure she told the
17 police it was a black baseball hat, a “*tall sleeve black shirt*” and short black
18 pants. She said writing the word jacket was a mistake on the part of the
19 police and she had no explanation for how it reached in the statement
20 because she was sure she did not say “black jacket,” but she did say “*tall*
21 *sleeve black shirt.*”

22 71. Ms. White agreed that when she went to the police with Ms. Webster. It was
23 Ms. Webster who made the report and that she did not talk to the police on

1 that occasion. Ms. White said she did not make a deliberate decision not to
2 tell the police what she knew. She said she was outside the station with the
3 children.

4 72. Ms. White said that when the police first visited the premises after the
5 shooting she did not speak to them because she was “*shooked up*.” She said
6 to Defence counsel:

7 *“I was shooked up. I did not spoke with them because I was not in a*
8 *frame of mind.”*

9 Ms. White said she was frightened because this had been the second
10 shooting at the premises.

11 Asked by Defence counsel: “Did you connect what you had seen with the
12 shooting?”

13 Ms. White replied, “...*I did not think ‘Tonio would really shoot that*
14 *guy.’*”

15 73. Ms. White was asked about the 10th September. She told Mr. Heslop that the
16 Defendant had told her that he had killed the boy. She also told Mr. Heslop
17 that the Defendant had told her that Tyrone Burrell was a spy and that he had
18 been shot because he had attacked the property of the grandmother of
19 someone called “Devon.” Defence counsel put it to Ms. White that the
20 Defendant never told her that he had shot Tyrone Burrell and he never
21 showed her a gun, to which she replied, “*Yes he did.*”

1 74. Mr. Heslop highlighted the fact that Ms. White had told the police that she
2 had a conversation with the Defendant about the shooting before he went into
3 Travis' room while she was tidying the room. In response Ms. White said
4 that the Defendant had come into the house and said,

5 *"What's happening?"*

6 And she replied, *"I am right here on repentance ground."*

7 She said she was in Travis' room when the Defendant knocked on the
8 door. She said she repeated to the Defendant:

9 *"I am right here on repentance ground."*

10 Mr. Heslop said that that was not in the statement, and she said that was
11 only because they did not write *"the repentance ground two times."*

12 75. She told the Court that the Defendant asked her if she knew who killed the
13 boy and she said, *"no,"* to which the Defendant said:

14 *"Me kill him. Me kill the pussyhole boy."*

15 Defence counsel asked Ms. White why she had not told the police that
16 the Defendant had used the word *"pussyhole"* – had she made a mistake,
17 or had she forgotten?

18 Ms. White said:

19 *"I told them that he told me he killed the P O boy, and they said call out*
20 *the word and I call it out – P O boy – because I did not want to use it like*
21 *he use it."*

1 Ms. White said what she was saying was the truth and that she was not
2 telling any lies.

3 She said after he, the Defendant, told her about killing Tyrone, she was
4 *“sick for the rest of the day”* and said to herself *“no this can't be real.”*

5 76. Mr. Heslop said there was no reason for the Defendant to have told her about
6 the killing and he asked Ms. White: “Did you ask him why are you telling
7 me...?”

8 Ms. White replied: *“I just tell myself God send him to confess to me.”*

9 Defence counsel asked: “So you say God told Mr. Ebanks to confess to
10 you?”

11 And Ms White replied: *“God have a reason for every truth to come out.”*

12 77. Mr. Heslop in further cross examination asked Ms. White if that was her
13 clear recollection and she replied yes.

14 Mr. Heslop asked: “Is there any chance you have got it wrong?” and she
15 replied *“No. No, sir.”*

16 78. Returning to the day of the shooting Mr. Heslop asked Ms. White why was it
17 that at first she pretended not to have heard the gunshot.

18 Ms. White said it was because *“in that yard you expect anything,*
19 *anytime, any moment.”*

20 Asked again why she pretended not to hear the shot, she said, *“As I said*
21 *before, Sir, I expect anything, anytime in that particular yard. I just*

1 *pretend I didn't hear it at the time but I said to myself what the hell is*
2 *going on..."*

3 Asked again why she pretended not to hear the shot she replied:

4 *"I would say because it is a troubled yard, so I know that anything could*
5 *go on at any moment."*

6 Mr. Heslop asked why did she not stop Ms. Webster from going outside
7 to check on the shot and he put it to Ms. White: "Tishara is your
8 employer, weren't you worried about her going outside?"

9 Ms. White said, *"Well it's her yard if she wants to go she can go I can't*
10 *stop her."*

11 Again Ms. White was asked why did she not ask Ms. Webster to be
12 careful and her response was:

13 *"You see, because she is known round there, nobody would be troubling*
14 *her, so I didn't really want to stop her."*

15 79. Asked again about the confession the Defendant had made to her that he
16 killed Tyrone Burrell, and asked why would the Defendant confess to her
17 when "everybody knew that you had worked at a police station in Jamaica."

18 Ms. White said, *"Yes. I did not hide where I worked."*

19 Mr. Heslop said "Leonard knew you worked at a police station so why
20 would he confide in you?"

1 Ms. White replied: *“He confide in me. He has a lot of confidence in me.*
2 *He tell me a lot of things.”*

3 Mr. Heslop vigorously questioned Ms. White – asking “what things” the
4 Defendant had told her and Ms. White said:

5 *“Like what? ...We are talking about Mr. Burrell's death.”*

6 Asked repeatedly and for some time about what things she had been told
7 by the Defendant Ms. White asked:

8 *“Did he tell you the things he tell me?”*

9 Asked again about what things the Defendant had told her about and
10 whether the Defendant had confessed other matters to her Ms. White said
11 the Defendant told her about:

12 *“...a white man who died in West Bay and how he dropped a block in his*
13 *head and put him in the back of his own car and drove him and burned*
14 *him.”*

15 About the Defendant confiding things in her Ms. White said:

16 *“After he came out of prison he confide in me everything he did.”*

17 Asked why she had not gone to the police when she heard about the
18 killing of the white man, she said she did not go to the police and she
19 was not thinking of going to them because she did not take the first
20 confession seriously.

1 Mr. Heslop, asking about the first confession asked Ms. White: "Did you
2 ask him why are you telling me these things?"

3 Ms. White replied, "*No I did not. The only thing I asked him is why he*
4 *have to be doing this?*"

5 Asked again whether she went to the police as soon as the Defendant had
6 confessed about killing the white man, Ms. White said:

7 "*I told the police on the 3rd.*"

8 Asked by Defence counsel: "Why didn't you go to the police as soon as
9 he told you or within a day?"

10 Ms. White replied: "*I was shooked up. I didn't know this little island had*
11 *someone like that.*"

12 Asked why she did not go to the police about the killing of the man with
13 the concrete block she said,

14 "*I did not take him to be so dangerous.*"

15 80. Mr. Heslop continued with his cross examination on the confession and said,
16 "Ms. White that's nonsense, isn't it? He never confessed to you on any
17 occasion about killing anybody."

18 Ms. White replied: "*It's not nonsense. It's true.*"

19 81. Mr. Heslop asked Ms. White if the Defendant had told her that he shot
20 Tyrone Burrell with a gun and she replied:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

"Yes sir."

82. Mr. Heslop submitted to Ms. White that the Defendant never showed her the gun and she said he had showed her the gun. She said the first time she saw it was in the yard, and the only gun she saw was the one *"Tonio showed me."*

83. She said she did not count the number of times the Defendant showed her the gun, because on a daily basis he had the gun. Ms. White said the Defendant said he had to walk with the gun because:

"...they want to kill him and that's his protection."

She said she did not count the times he showed her the gun but he had it with him on a daily basis. She said:

"I know he have it all the time because I watch him...he show me the gun all the while."

Referring to her deposition where she told the police that she had seen the Defendant with the gun about four (4) times and asked if it was more than four times that she saw the gun, Ms. White said, *"Yes sir."*

84. Ms. White agreed that she would let the Defendant play with the children even when she suspected he had the gun with him and she explained:

"I cannot stop him from playing with the kids...I would be in trouble if I stopped him from playing with the children."

85. Ms. White told the Court that on the 21st September 2010 she had asked the Defendant to get some bleach but he would not go to get the bleach because

1 the shop was near the police station so he went to get rid of his gun before
2 going to the shop near to the police station. Mr. Heslop asked why didn't you
3 tell him to take his gun in case someone attacked him and Ms. White said,
4 "*No. Why should I ask him that?*"

5 86. Ms. White said that on the 2nd October 2010 everybody knew that she was
6 leaving the following day and the Defendant came and asked her for her
7 telephone numbers and address, but she did not give the information to him.

8 87. Under cross examination Ms. White said that on the 15th October 2010 the
9 Defendant called her in Jamaica and he asked her to pray for him because he
10 was now in trouble over the Tyrone Burrell murder.

11 88. Ms. White was asked whether she had told the police that Ms. Webster's
12 brother had given the Defendant her telephone number in Jamaica and she
13 said she knew Ms. Webster's brother was in prison and that would be the
14 only way the Defendant would get her telephone number. Ms. White could
15 not recall whether she just assumed that or whether she had asked the
16 Defendant where he had got her telephone number and he told her that.
17 Under cross examination Ms. White was asked if she had asked the
18 Defendant where he got her number and she said:

19 "*I did ask him.*"

20 Asked by counsel: "Why did you tell the Court below [the Summary
21 Court] that you didn't ask him?"

22 Ms. White replied: "*I didn't see it as necessary.*"

1 91. Mr. Ward, referring to her cross-examination by Mr. Heslop, said to Ms.
2 White: “You were also asked where you were when you first saw ‘Tonio on
3 the 8th.”

4 Ms. White explained to Ms. Ward that she was making food at the time in the
5 kitchen and she saw the Defendant pass swiftly. She said she left the kitchen
6 and went on to the walkway and saw the Defendant heading towards the
7 mango tree. Asked by Mr. Ward: “So you saw him twice?”

8 Ms. White replied: “*Yes Sir.*”

9 Ms. White, in response to Mr. Ward, said one could proceed right round the
10 house and get back to the area where the boat was.

11 92. Ms. White said that she noticed that the black and white handkerchief was
12 wrapped around the Defendant’s hand, although she said she could not
13 recollect whether it was the right or left hand. Ms. White confirmed that the
14 hand was covered by the handkerchief but she could see the tips of the
15 Defendant’s fingers, which she demonstrated to the Court and counsel by
16 covering her right hand and fingers with her left hand as the imaginary
17 handkerchief.

18 93. Ms. White said she did not see anyone else in the yard after she saw the
19 Defendant and before she went back into the kitchen to carry on cooking.

20
21
22

1 2nd Witness: Nora Ebanks ("Ms. Ebanks")

2 94. Ms. Ebanks said that she lived on Canary Lane in West Bay. She said that a
3 number of family members lived on the property in different homes. She said
4 Canary Lane was to the back of the property and Swallow Lane was to the
5 front. She said one would come off Birch Tree Hill Road on to Swallow Lane
6 and then on to Canary Lane.

7 She said Jewel Bodden "*she is my family*" and her house was 177 Birch Tree
8 Hill Road.

9 Ms. Ebanks described where her brother's, Archie's, house was in relation to
10 177. She said:

11 "*Archie's house is in front and Jewel's house is in back.*"

12 Asked if a person could walk from Jewel Bodden's house to Archie's
13 house, Ms. Ebanks said: "*Yes. There is a little road path.*"

14 Ms. Ebanks said the path would lead to the back of Archie's house.

15 95. Asked by the Crown: "Who lived at Ms. Jewel's house before September
16 2010," Ms. Ebanks said Travis Bodden lived at Jewel Bodden's house at that
17 time but she did not know the names of the other people there.

18 96. She recalled that on the 8th September 2010 she was outside talking to her
19 brother, Archie Ebanks, by the cesspit and she pointed out the cesspit on the
20 aerial map. Ms. Ebanks said it was some time after 7:30 p.m. because she
21 knows that her mother goes to church at 7:30 p.m. and her mother had

1 already left. She said she was with her brother as he was outside getting
2 water from the hose.

3 97. Ms. Ebanks said that while she and her brother were speaking she heard a
4 noise. She said she was not sure what the noise was, whether it was a
5 firework or a gunshot. She said she only heard one noise. She said the noise
6 was to the back of her. Her back was turned to the noise.

7 98. She said that about 10 seconds after hearing the noise, the Defendant came
8 up behind her. She said she turned around and saw the Defendant and he was
9 on top of the cesspool where she was. She said that when she turned around
10 she was face to face with the Defendant. She said:

11 *"I were frightened when I saw him. He looked frightened too."*

12 Ms. Ebanks said she said to the Defendant, *"You frightened me."*

13 She said after she said that to the Defendant she left to go down to the
14 naseberry tree.

15 99. Ms. Ebanks said she could not recall what the Defendant was wearing
16 because she was so frightened, but she did notice that his cap was red.

17 100. On the 9th September 2010 Ms. Ebanks recalled that she saw the Defendant
18 at around midday. She said she was again by the naseberry tree. She said the
19 Defendant came over and said to her:

20 *"It was good and bad what she done."*

21 She said he said, *"Thanks for what you have done for me."*

1 She said he then said, *"You lucky you did not get your brains blown out*
2 *too."*

3 She said that when he said that she felt frightened and felt bad about
4 what the Defendant had said. Ms. Ebanks said she felt he was threatening
5 her. She said he left her on that occasion on foot.

6 101. Ms. Ebanks said she saw the Defendant again later that day when it was after
7 dark. She said she was sitting down by an apartment talking to one of her
8 friends. She said the Defendant came over to her and told her she should not
9 have got into it:

10 *"...because it don't concern your son Andrew or daughter Marcia."*

11 Ms. Ebanks said that on that occasion he again said:

12 *"You lucky you didn't get your brains blown out too."*

13 She said that on that occasion he left her on bicycle and went up the road.

14 102. Ms. Ebanks said that on the 8th September 2010 she did see the police
15 officers shortly after hearing the shot. She said it was *"not too long after"* she
16 heard the shot that the police officers appeared on the property. She said it
17 was about 15 minutes after hearing the shot that she saw the officers.

18 103. Asked how long she had known the Defendant, Ms. Ebanks said:

19 *"From he was a baby."*

20 104. On the evening of the 9th September 2010 when she said the Defendant came
21 up to her on a bicycle while she was at an apartment. Asked if the Defendant

1 said anything else to her that occasion Ms. Ebanks said the Defendant said
2 she was:

3 *“...trying to sink him.”*

4 *Cross examination*

5 105. Nora Ebanks confirmed that there was a path that went from the back of
6 Jewel Bodden’s house, that is, #177 where Travis lived, to her brother,
7 Archie Ebanks’s house, and to the cesspool on which she stood on the 8th
8 September 2010.

9 106. Ms. Ebanks said she had known the Defendant all her life and she sees him
10 every day. She said that he sometimes worked for her brother, Archie, and
11 Archie would pay him. She said sometimes he would come to Archie’s house
12 for a couple of dollars and Archie would give it to him. She agreed that the
13 Defendant would beg money from Archie. About the Defendant she said:

14 *“He comes to my yard to see my brother. He work for Archie from time
15 to time. Sometimes he would come to Archie for a couple of dollars.”*

16 107. Ms. Ebanks said she did not know the man who was shot on the 8th
17 September 2010 at 177, nor had she seen him in Jewel Bodden’s yard. She
18 said that one day, *“I see him at court when I came for maintenance.”*

19 108. Ms. Ebanks said she never heard any talk about the deceased, Tyrone Burrell
20 being a spy for a gang.

21 109. She said she knew Travis Bodden very well. She said:

1 “I used to babysit Travis.”

2 Asked if she knew that Travis sold drugs she said, “I think so.”

3 Asked if there were always a lot of people coming to buy and sell drugs

4 Ms. Ebanks said:

5 *“They come, but I don’t know why they come.”*

6 110. Asked if on the day of the shooting there were a lot of people at 177 and she
7 said:

8 *“Yes. About 10 people.”*

9 Asked if there was loud music on the premises on that day and she said,

10 *“Yes.”*

11 Asked if gangster rap music had been playing and she said, “I think so.”

12 111. Asked about the period just before she heard the gunshot and she said she
13 was talking to Archie at the cesspool for about 10 minutes when she heard “a
14 noise.”

15 She agreed that at first she did not know what the noise was. Asked if it
16 could have been a bang from the music Ms. Ebanks said:

17 *“No, sir.”*

18 Ms. Ebanks however agreed that she did not “say immediately” it was a
19 gunshot.

1 Defence counsel asked: "It was only later when you heard the emergency
2 vehicles and saw the policemen in the yard that you said to yourself it must
3 have been a gunshot?" and Ms. Ebanks replied:

4 *"Yes sir."*

5 112. She said that after she saw the Defendant on the cesspool after the hearing
6 the gunshot she went down to the naseberry tree away from the cesspool and
7 she left the Defendant and her brother there. She said it took her about 2
8 minutes to reach to the naseberry tree.

9 113. It was suggested to her that she heard another bang and Ms. Ebanks said:

10 *"No. I only heard one bang."*

11 Defence counsel also suggested to her that she saw the Defendant before
12 she heard the 'bang' and Ms. Ebanks replied:

13 *"No. I heard the bang before I saw him."*

14 It was suggested to Ms. Ebanks by the Defence that the Defendant had
15 already left the cesspool area when she heard the bang and she replied:

16 *"No. I saw him a couple of seconds after the bang."*

17 114. Asked by Defence counsel if the Defendant had been wearing a red cap with
18 the peak at the front when she saw him she said she did not remember his
19 clothing. She said:

20 *"I don't notice clothes."*

1 However, Ms. Ebanks said the Defendant's clothes were "*dark clothes.*"

2 Further, Ms. Ebanks said:

3 "*He told me he had a jacket on. He told me [this] on the Thursday night.*
4 *He just told us. He told me. That's what he told me but I only took notice*
5 *of the cap.*"

6 Asked by Defence counsel if the Defendant had told her anything else
7 about his clothing and she replied:

8 "*He told me about the black jacket.*"

9 Asked why had she not put that in her statement, Ms. Ebanks replied:

10 "*I never put it in because I never seen the jacket.*"

11 She said she did not understand why the Defendant came to tell her on
12 the following day that he had had a jacket on. It was put to her that the
13 Defendant had never said anything about the jacket and she said:

14 "*Sure. He told me about that. That came out of his mouth.*"

15 115. Ms. Ebanks said the Defendant also told her that:

16 "*..she was lucky she did not get her brains blown out too.*"

17 116. Ms. Ebanks said that the Defendant had come to her and said that she was his
18 alibi too and that his wife also gave him an alibi. Ms. Ebanks said he told her
19 that he had gone home to take a bath with his wife.

1 117. Defence counsel put it to Ms. Ebanks that the Defendant had never used the
2 word “*alibi*” and Ms. Ebanks replied:

3 *“But he told me...he used the word alibi, because he told me that I gave*
4 *him an alibi too. So he said he had two alibis that night.”*

5 118. Ms. Ebanks told Defence counsel that she had left the Defendant and her
6 brother at the cesspool after the shooting. Asked if she was sure that she and
7 Archie did not go off to feed Archie’s cats, Ms. Ebanks said, “*No.*”

8 119. Asked if she saw the Defendant with a gun when she saw him at the cesspool
9 on the 8th September and Ms. Ebanks said, “*No.*”

10 120. Asked about the gunshot, she said she had heard something like a gunshot,
11 but was not sure what it was. Asked: “Did you turn around?”

12 Ms. Ebanks said: “*When I turned around he was right up in my face. He*
13 *surprised me. I was frightened.*”

14 She also said she noticed that his cap was on.

15 Asked why she was frightened of somebody she had known all her life,
16 she said:

17 *“What surprised me was because I heard the noise and didn't know what*
18 *it was, whether it was a firework or a gun. That's what frightened me.”*

19 She repeated that she was frightened and she said the Defendant looked
20 frightened. It was put to her that he looked startled and not frightened
21 and Ms. Ebanks said he looked startled.

1 Asked if she had seen the Defendant running and if he had been out of
2 breath and Ms. Ebanks said: “*No.*”

3 121. Ms. Ebanks said that she saw the Defendant on the 9th September 2010 at the
4 apartment at Swallow Road. But she said she also saw the Defendant at 12
5 noon on that day.

6 Ms. Ebanks said at that time “*the lady and I were there.*”

7 Asked the lady’s name Ms. Ebanks said: “*I don’t remember her name. She*
8 *stays in a room my mother rents. She lives in the area by the naseberry tree.*”

9 She said at that 12 noon meeting on the 9th September the Defendant said to
10 her:

11 “*Thanks for what you’ve done to me because you saw me before anything*
12 *happened.*”

13 122. It was put to Ms. Ebanks that she did see the Defendant before anything
14 happened and she repeated that she saw the Defendant after she heard the
15 shot.

16 123. Referring to the conversation when the Defendant said, “you are lucky you
17 didn’t get your brains blown out” Ms Ebanks said that the woman who was
18 with her at the time said:

19 “*That’s a threat,*”

20 and I said, “*Sure it’s a threat.*”

1 124. She was again asked whether she saw the Defendant before or after hearing
2 the gunshot and she said that she saw him after she heard the bang.

3 125. Asked how did he leave her after the evening conversation at the apartment
4 Ms. Ebanks said:

5 *“It was in the night he borrow Imodene bicycle to go up the road.”*

6 Ms. Ebanks said: *“He left walking at 12 noon.”*

7 126. Asked: “Did you tell the police you wanted \$100 before making your
8 statement?”

9 Ms. Ebanks said yes and added, *“I had no food in my fridge because the
10 government cheque was not ready.”*

11 She said the police did not give her money.

12 Asked: *“Did they say they would see what they could do”* Ms. Ebanks
13 said, *“yes sir.”*

14 127. The Defence asked Ms. Ebanks: “Do you receive US\$600 per month?” Ms.
15 Ebanks said: “Yes.”

16 Asked: “When did you start to receive that money?” and Ms. Ebanks
17 said it started on the 6th November.

18 Asked if she knew how long she would continue to receive that money
19 she said she did not know.

1 Asked if she thought it would end when this case is over and Ms. Ebanks
2 said, "Yes."

3 Asked to confirm whether she had received a total of \$6,500.00 since
4 November 2010, Ms. Ebanks said she had not kept a check of it.

5 128. Ms. Ebanks was asked by Defence counsel: "You said you had no problems
6 with 'Tonio but that's not true is it? You would like to see him go to jail?"
7 Ms. Ebanks said:

8 *"No. 'Tonio is a close friend. I love him. He's my family I didn't have no*
9 *bad feelings for him."*

10 Defence counsel asked her if it were not true that she believed the
11 Defendant wounded her brother Archie in the face, sexually assaulted her
12 nephew, and threatened her boyfriend with a knife, to which Ms. Ebanks
13 replied:

14 *"I don't hate him for what he done wrong."*

15 Defence counsel put it to her that in her witness statement she said she
16 would like to see the Defendant go to jail and that there was "bad blood
17 between you and 'Tonio" to which Ms. Ebanks responded:

18 *"No. I have no grudge."*

19 Ms. Ebanks said, *"I would like justice to be served whoever killed that*
20 *little boy"* and she added, *"I think he should go to jail if he commit the*
21 *crime."*

1 It was put to her that this had nothing to do with the shooting, she just
2 wanted to see the Defendant go to jail and she said:

3 *“Tonio was a close friend of mine he is family to me. I love ‘Tonio but I*
4 *don’t love what happened. I have no bad feelings, my heart is clear I*
5 *don’t have nothing wrong against ‘Tonio.”*

6 **3rd Witness: Police Constable Emmanuel Brown (“PC Brown”)**

7 129. He is a Police Constable attached to the Drug Task Force. He arrived at the
8 premises at 177 at approximately 9 p.m. on the 8th September 2010. He saw
9 the deceased lying on his stomach wearing dark long pants, white sneakers,
10 white T-shirt and there was a piece of material under his head.

11 130. He said he spoke to the Defendant at the yard of #209 Birch Tree Hill Road
12 at 10 p.m. He said the Defendant was dressed in beige-brown boots, long
13 dark pants, no shirt and white boxers. He said the Defendant was wearing a
14 black baseball cap with white “NYC” writing. He said that was the only time
15 he spoke with the Defendant on that evening.

16 131. On Saturday the 10th September 2010 PC Brown went to the Defendant to get
17 a statement. He said he was just off Birch Tree Hill Road on a side road at
18 Swallow Lane. He said the Defendant refused to give a statement but he did
19 speak to PC Brown. The Defendant took PC Brown to the cesspool off
20 Swallow Lane, just behind #177. The Defendant pointed out to PC Brown
21 the area where he said he came through from #177 on the night of the 8th
22 September 2010.

1 141. The Defendant said he then left them and went to check his wife and have a
2 shower. It was whilst having the shower he heard the pop.

3 142. PC Brown confirmed that the Defendant was present at his house on the 11th
4 September when the police did a search. PC Brown said they did not find a
5 gun. They found a black jacket, a baseball cap and some items of clothing.
6 PC Brown said the Defendant cooperated with the police.

7 143. PC Brown said that on the 21st September 2010 the Defendant came up and
8 talked to him.

9 144. PC Brown said that on the 3rd October 2010 he went to arrest the Defendant
10 and again the premises were searched but no gun was found. A number of
11 items were taken including a bicycle, a telephone, some pants, a belt, and a
12 short sleeved shirt.

13 145. On the way to the police station the Defendant pointed out a fat lady about 5'
14 4" tall with clear skin who he said was Nora. PC Brown did not know the
15 lady and the Defendant said that she was the one who "*has got the timing all*
16 *wrong, she is that crazy woman.*"

17 146. On the 4th October 2010 PC Brown recalls the Defendant crying and saying
18 that he did not kill Tyrone Burrell. He said that it was only Nora that has the
19 timeframe messed up. He said he did not kill Tyrone Burrell.

20 147. PC Brown said that the Defendant said that Jamaicans had a hit out for
21 Tyrone Burrell because he worked for Damien Ming who had stolen some
22 cocaine, and they probably killed Tyrone Burrell for that.

Cross Examination

1

2 153. The shirt belonging to the deceased was the subject of further cross
3 examination and it became clear that the edge of the holes in the shirt had
4 powder burns. PC Mitchell said that the firearm was in close proximity to the
5 shirt when it was fired.

6 154. PC Mitchell said the blood splatter marks on the wall were caused by a
7 blowback or blood splatter on the wall behind the location where the
8 deceased was shot. Accordingly, PC Mitchell said that the deceased may
9 have been standing close to the wall when he was shot between the red truck
10 and the wall.

11 155. In response to the Court PC Mitchell said that the holes in the shirt were both
12 in the front and the back of the shirt, or alternatively expressed, on the inside
13 and the outside of the shirt. PC Mitchell said that probably the deceased had
14 the shirt over his head when the shot was fired, or the shooter held the shirt
15 as a muzzle and then fired the shot. The shirt was close to the firearm when
16 discharged. PC Mitchell said there were gunpowder flakes on the shirt.

17 *5th Witness: Police Constable Orville Grant – (“PC Grant”)*

18 156. On the 8th September 2010 at approximately 9:24 p.m., PC Grant attended
19 the crime scene at #177. He said the police made an extensive search of the
20 grounds but nothing of significance was found.

21 157. PC Grant confirmed that he and Sgt. Wright collected Ms. White on the 22nd
22 September from her church. He confirmed that the appointment was made
23 before she got to church. PC Grant said the same arrangement was made

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

when Ms. White attended the photo identification procedure on the 26th September 2010.

6th Witness: Sgt. Joseph Wright – (“Sgt. Wright”)

158. Sgt. Wright attended all three interviews with the Defendant on the 5th October 2010, the 7th October 2010 and the 10th October 2010 and he formally charged the Defendant with murder on the 11th October 2010.

159. Sgt Wright said he did not record everything that Ms. White said when he spoke to her on the 22nd September 2010 and on the 3rd October 2010. Sgt. Wright said he tried to record material facts and not unduly prejudicial material.

160. In response to counsel for the Defence, Sgt. Wright accepted that on the 11th October 2010 the Defendant said in strong terms that he had not killed anybody.

7th Witness: Detective Inspector Burton – (“DI Burton”)

161. DI Burton was not at the scene on the 8th September 2010, but he said that from witness statements, information and forensics, including anonymous information, he gathered that there were 10 or 20 people at 177 at the time of the incident.

1 had been told to stay out of West Bay, but on the night before the shooting
2 he, Burrell, had stayed in Travis's yard.

3 *ADMISSIONS*

4 166. On the 11th September 2010 an autopsy was performed by Dr. Marc
5 Schuman on the body of Tyrone Burrell. This confirmed that the deceased
6 died of a gunshot wound to the head. One projectile was recovered from the
7 head of the deceased. An entrance-type gunshot wound was 6.2 cm below the
8 top of the head in the midline of the posterior scalp. Skin from the entrance
9 wound was submitted for histology. The direction of the path of the wound is
10 back to front and upwards.

11 167. The projectile recovered from the head of the deceased was a .38 calibre-
12 class jacketed hollow-point bullet. This type of bullet is normally loaded in
13 either a .38 special or .357 magnum cartridge. Based on the class
14 characteristics of rifling observed in this projectile, the possible firearms
15 which could have discharged it are revolvers in either a .38 special revolver
16 or .357 magnum calibre manufactured by Ruger, Smith & Wesson,
17 Sportsarms_or Taurus.

18 168. Clothing and other items were taken from the Defendant on the 11th
19 September 2010. The clothing and the bicycle were submitted for forensic
20 examination. No blood or DNA evidence of evidential significance were
21 found on any of the items. No fingerprint evidence of evidential significance
22 was discovered at the scene. No gunshot residue evidence of evidential
23 significance was discovered on any of the items.

DEFENCE CASE

1

2 169. The Defendant has pleaded not guilty and relies on the fact that he has
3 consistently told the police that he had absolutely nothing to do with the
4 shooting of Tyrone Burrell. He gave answers in three (3) interviews on the
5 5th , 7th , and the 10th October 2010 and they were exhibited as Exhibit 4A,
6 4B and 4C.

7 170. On the 5th October 2010 the Defendant agreed to be interviewed by Det. Sgt.
8 Wright and Det. Constable Grant at 11 a.m. without an attorney. The
9 Defendant told the detectives that he had nothing to do with the unfortunate
10 death of Mr. Burrell, nor did he cause his death.

11 171. The Defendant said he did not know of or suspect anyone who could have
12 caused Mr. Burrell's death, nor did he know anybody who could do anything
13 like that to Tyrone Burrell.

14 172. Asked: How do you feel this investigation will turn out on you, the
15 Defendant said:

16 *"It will exonerate me because I have done nothing wrong."*

17 173. The Defendant said he knew Tyrone Burrell. He said they were not friends,
18 but the Defendant said he had no animosity or ill will towards him, because:

19 *"...he had never done anything to me and nothing in my whole entire life*
20 *that I have known him."*

21 The Defendant said: *"He never did nothing good for me and never did*
22 *nothing bad for me. I have no ill will towards the young man."*

1 174. The Defendant said:

2 *“It is quite unfortunate that something like this would happen while I was*
3 *anywhere near the vicinity, and it has caused me so much heartache and*
4 *hardship now, even when I have spoken and given a slight questionnaire*
5 *that I have answered, stating my presence and my whereabouts. I had my*
6 *wife also give a written statement of my whereabouts in [sic] most of the*
7 *day when Mr. Burrell was murdered. How I was at home, taking a bath,*
8 *me and her on the side of my house. I have did everything I can in my*
9 *power to assist the officers in this case in this investigation and as at this*
10 *time, here and now speaking, just that I have no further questions to*
11 *answer in this matter, so I will be giving pure no comments as of now*
12 *Mr. Detective Joseph.”*

13 175. The Defendant said he lived at 209 Birch Tree Hill Road, which is 100 yards
14 or less from 177. He said he did not own a bicycle, but he would normally
15 ride a bicycle in and around West Bay.

16 176. The Defendant was asked: At the time that Mr. Burrell was murdered, and
17 you were at home bathing with your wife, what time was this? The
18 Defendant said he had no watch and no set telephone with a face that is
19 workable. He said:

20 *“I can't say times or anything but my wife did tell Officer Brown that it*
21 *was like after 7:55 p.m. when I came to get her to go and bath. So you*
22 *can start estimating time from there. She have to get ready to go take a*
23 *bath because she wasn't ready, get her things, 'cause both of us went*
24 *and bathed. Two people bathing outside with a hose and then I dressed*

1 and went back to the session, which has all been given an account of. I
2 told you people them from the beginning. I told Officer Grant who is here
3 and Officer Brown from the very first night of the 8th September when
4 they came and spoke to me at my yard. And the Officer who is here who
5 is witnessing this interview can state clearly that this has not changed up
6 until today's present date. Did I not state to you where I was, what I did,
7 even to the part with the cesspool with Ms. Nora Ebanks, that I scared
8 this lady when going to her mother's to her brother's to beg them some
9 money."

10 177. When asked about the situation with Ms. Nora Ebanks the Defendant said:

11 *"When I left 177, Travis' yard, I walked through the back of the yard to*
12 *go next to the adjoining properties in the back of Mr. Archie Ebanks, to*
13 *beg them some funds, some financial help money. Him and his sister*
14 *Nora was there. When I popped up – because it's like a little bush part*
15 *you walk through to get to their cistern, to their cesspool – when I*
16 *popped up on the cesspool I scared her. I can always remember she say*
17 *"Oh you scared me." I waited to see if she was going to leave, because I*
18 *don't like to beg for anything in front of people. She did not leave so I*
19 *proceeded home for my wife for us to take a bath because my*
20 *grandfather was at work and we usually do this thing when he is not at*
21 *home, because we are locked out of the main house and we have to bathe*
22 *on the side of the house.*

23 *I went to my yard, proceeded then to my yard, took a shortcut through*
24 *the adjoining yard of Charlie Ebanks and family and I went home. When*

1 *I went home I told my wife I said let's go bathe, she then turned back and*
2 *gets ready, prepared. She comes out and we goes to the side. We were*
3 *bathing, talking and playing with each other, rowing about the hose – get*
4 *what I mean? After finishing bathing I came back and got dressed and I*
5 *was proceeding back to Travis's yard to the session, the good-vibe*
6 *building we were dealing with.*

7 *Just as I was about to reach 187, the apartments, Juliette Ebanks and her*
8 *boyfriend, Cannon Walton, stopped me and said, "Where are you*
9 *going?" and I said I am going back to the yard. They said, "No, don't go*
10 *there, don't go there". I said, "Why mustn't I go there?" and she said,*
11 *"that boy dead, you know." I said, "What boy," and she said "Tyrone.*
12 *Someone shot him in the back of the head. He is in the front yard dead,*
13 *hole in the back of the head." I said, "What nuh? You talking shit, girl?"*
14 *She said, "No no, tell you don't go there," and she kept forcibly pushing*
15 *me back because I was still about to walk there, cause I thought she was*
16 *lying. From the time I see she got aggressive and was forceful I know*
17 *that she wasn't lying, so I didn't go back to the yard that night at all.*

18 *When I left that yard earlier I bounced Tyrone who was sitting on the*
19 *white Cadillac in the yard and told him seh "later bloods" and I walked*
20 *off and I left. I left Tyrone there with a few other individuals in the yard.*
21 *You people already knows who else was there, true?"*

22 178. The Defendant said Travis was his buddy and Travis is his friend, and that he
23 was at their apartment all day. He said he, the Defendant, was the one who
24 collected the firewood to cook the food. The Defendant said,

1 *“I am the one who does the help round the place, that is where I makes*
2 *my money. Ms. Jewel pays me to keep her yard clean, cause Travis is*
3 *very lazy. Travis in turn pays me for help to do things around the yard.”*

4 179. The Defendant was asked who was there at the time and he said he had *“no*
5 *comment.”*

6 180. The Defendant was asked if he had seen Tyrone at 177 during the time that
7 he, the Defendant, was there, and the Defendant said:

8 *“Yes yes. Tyrone came there like I believe estimating time I would say*
9 *like after 2 [p.m.], after 4, I can't tell which time it is cause I have no*
10 *timepiece. My watch does not work and my phone does not show time,*
11 *and I wasn't really too interested when I went out, and when I came back*
12 *I found Tyrone in the yard sitting down actually to be honest.”*

13 181. Asked what Tyrone was doing there during the daytime when he saw him?
14 The Defendant replied:

15 *“Sitting, eating when I seen him he was sitting down underneath guinep*
16 *underneath the_mango tree eating food. That's when I first encountered*
17 *him.”*

18 182. Asked what was he wearing, and the Defendant said,

19 *“I think he...when I bounced him when I left the premises he had on a*
20 *white shirt and he had something over his head...white piece of cloth... I*
21 *don't know if it was a piece of cloth or a towel or what not.*

1 *“During the day on the 8th September people were there buying food and*
2 *alcohol. It’s a vibe building.*

3 *Gentlemen I know nothing of this young man’s murder, I did not*
4 *participate in nothing in this young man’s murder. I did not assist no one*
5 *to get back into that yard to kill this young man. I did not point this*
6 *young man out to anybody to harm this young man.*

7 *Tyrone Burrell to me was an insignificant individual. He was not on my*
8 *radar because he had nothing to me. I have no ill will towards him and I*
9 *have no happy feelings for him. He was just someone that was there at*
10 *odd occasions, on many occasions.”*

11 183. The Defendant told the police:

12 *“Tyrone Burrell did certain things in the neighbourhood that he got to*
13 *understand were not kosher, that is, by him jumping Miss Adeline’s*
14 *fence, Devon’s grandmother’s yard. Him, Andy Barnes and Ming – this*
15 *is only hearsay that I picked up from in prison before I even came on the*
16 *road. Tyrone squeezed two shots in Miss Adeline’s house.*

17 *After Ms. Adeline’s house ... he’s a fucking idiot. If he know he was part*
18 *of that kind of enterprise to come back in that neighbourhood...*
19 *somebody up there ... or... could be the Jamaicans that the 2 ½ kilos of*
20 *coke that him and Ming steal. Anybody, somebody wrote him off or*
21 *somebody set him up to get wrote off because I know it wasn’t Leonard*
22 *Antonio Ebanks. That’s what I am concerned about. Me. I don’t worry*
23 *about nobody else. That’s why I refuse to tell you anybody else name in it*

1 *because I don't know who is who and who did what – I don't know who*
2 *be smiling in my face today and as I turn my back put a shot in my head*
3 *too. That's what I am scared of. I am scared of me getting shot, I am*
4 *scared of my wife getting shot. I am scared of my kid getting shot.... And*
5 *people trying to point fingers my way, but why they can't point fingers to*
6 *me 'cause my wife make sure that she took away all of that by doing one*
7 *simple thing, telling the truth for me.”*

8 184. Det. Sgt. Wright asked the Defendant if he owned a firearm and the
9 Defendant said:

10 *“If it was ever one time I owned a firearm in my life it was in 1990. I*
11 *don't deal with firearms.”*

12 185. In this interview he said that he had lost his hat. He said,

13 *“I don't want to be with the pipe and my hat so I took my hat off, I put it*
14 *down... I took and got a fright and moved, left there, dark came and I*
15 *pay it no mind, and when I realise that my hat not on my head I said*
16 *fuck. Next day I went back to look for my hat, my hat gone. In my opinion*
17 *some other user found my hat, cleaned it up and kept it for their self or*
18 *clean it up and sold it to some fuckin' dealer.”*

19 Asked to describe the hat he said:

20 *“It's a black hat. It's a red hat it says New York, something similar to the*
21 *red one you guys also have now.”*

1 186. In the interview the Defendant said that while he was bathing with his wife
2 he heard one clap like a firecracker.

3 187. In the interview he said he never threatened Ms. Nora.

4 188. On the 7th October the Defendant agreed to a second interview, but said he
5 would be exercising his right to remain silent. He said that on the 8th
6 September he was at 177 Birch Tree Hill when he met Tyrone. The
7 Defendant said:

8 *“Travis was in the house – him, Ms. Arlene and them were in that*
9 *section. I only seen Tishara by the door where Cannon section is, near*
10 *the music. I walked through the back of Travis's yard and up onto the*
11 *cesspool.”*

12 189. During this interview the Defendant said that:

13 *“Tyrone was Ming's gunbag, Ming's little boy. Ming programmed boy. If*
14 *Ming said “go kill that” Tyrone gone. If Ming said “go sell that” Tyrone*
15 *gone. If Ming said “go rob that” Tyrone gone. Even if after Ming beat*
16 *him almost to death with a gun in his face, these are things oonu might*
17 *know, but these are things that we know, that is things we hear on the*
18 *street.”*

19 190. It was put to the Defendant that Travis's yard at 177 Birch Tree Hill is the
20 Headquarters for a gang. The Defendant said, *“that is a lie.”*

21 191. The Defendant also said he had bumped into Nora:

1 *"She it was...before any shot. But she telling oonu the police it was*
2 *after.... That is just one single individual, you know. Although I come up*
3 *trumps with my wife and with Juliette it's just this woman, yeah her*
4 *timeframe now got everything, so I can understand why they see me just*
5 *looking and laughing and kick, kick, kick. That's why I was glad that she*
6 *spoke it in front of me and in front of Evoline, so I would like for oonu to*
7 *find her please and know oonu do that."*

8 192. The third interview took place on Sunday the 10th October 2010, again with
9 Det. Sgt. Wright and Det. Constable Orville Grant. In this interview the
10 Defendant said he had been at 177 Birch Tree Hill Road. The Defendant said
11 he left his bicycle there. He said he did not return on the 8th, but he went back
12 to retrieve his bicycle the next day.

13 193. During this interview the Defendant was asked about Ms. Arlene (White) and
14 he said:

15 *"Ms. Arlene. Ms. Arlene from the time I have met Ms. Arlene I have*
16 *showed Ms. Arlene one face, that's the face of respect and love. And she*
17 *showed it right back to me and that's just it. Ms. Arlene, she sometimes*
18 *looks at me and she plays. Like she gets in her spirit. She wants to talk*
19 *about God. True she knows my religion is Rastafarian, and I do know*
20 *quite a bit about the Bible. She grabs me up and she bullies me into*
21 *sitting down and read and play with her. That's my little buddy, man.*
22 *Ms. Arlene, she is a very nice lady."*

23 194. The Defendant says that he is not guilty of the murder of Tyrone Burrell on
24 the 8th September 2010 at 177. He left 177 Birch Tree Hill Road before

1 Tyrone Burrell was shot. He accepts that he left his bicycle there. He said
2 when he was leaving 177 he bumped into Ms. Nora and then went back to his
3 house to have a shower, and that was when he heard the gunshot-type noise.
4 The Defendant says that Ms. Nora Ebanks is mistaken about the time or is
5 lying about the time.

6 ***SUMMARY OF THE CROWN'S CASE***

7 195. The Crown submits that there are four critical questions for the Court to
8 answer.

9 *i. Was the Defendant present at 177 Birch Tree Hill Road seconds before*
10 *the shooting occurred?*

11 *ii. Was the Defendant seen seconds after the shooting in very close*
12 *proximity to where the shooting occurred?*

13 *iii. Did the Defendant shoot the deceased?*

14 *iv. Did the Defendant subsequently confess to Arlene White that he had shot*
15 *the deceased?*

16 196. The Crown submits that, based on his answers in his interviews, it does not
17 appear that the Defendant denies being present at the scene some time before
18 the shooting.

19 197. The Crown submits that Ms. White saw the Defendant at 4 p.m. dressed in a
20 white merino and short jeans pants, and there is CCTV footage confirming
21 that at 5:01 p.m. the Defendant was pictured at West Bay Police Station
22 dressed in a white merino, shorts and a red cap.

1 198. The Crown submits that as Ms. White was with Ms. Webster when Ms.
2 Webster reported the shooting some 10 to 15 minutes after the shooting, and
3 that time was recorded as 8:05 p.m., it is more likely that Ms. White saw the
4 Defendant at 177 closer to 8 p.m. than 7 p.m.

5 199. The Crown submits that Ms. White said it was very unusual for the
6 Defendant to come to 177 and not come in to the house to say hello, but
7 rather, on that afternoon, he dropped his bicycle near the door and walked
8 hastily to the mango tree.

9 The Crown submits that Ms. White noted that, at that time, the Defendant
10 was dressed in a black long-sleeved shirt, black cap, with a black and white
11 handkerchief around his hand and, from her demonstration in Court, Ms.
12 White said the tips of the fingers were showing.

13 Having come out on to the walkway outside the house to look at the
14 Defendant when he passed by hurriedly, Ms. White left the walkway and
15 went back inside to return to her task at the stove in the kitchen.

16 200. Ms. White estimated that approximately 5 seconds had elapsed between the
17 time she lost sight of the Defendant and when she heard the gunshot.

18 201. The Crown submits that the CCTV footage at 5:01 p.m. shows the Defendant
19 in a red cap and also Ms. Nora Ebanks later describes the Defendant as
20 wearing a red cap.

21 However, the Crown points to the fact that Ms. White is clear that she saw
22 the Defendant with a black cap and, alongside this, indeed, in the

1 Defendant's answers to the police, he seemed uncertain as to whether it was
2 a black or a red cap that he wore on that day.

3 In any event the Crown submits that this is not a question of identification,
4 as Ms. White and Ms. Ebanks were persons who knew the Defendant, so
5 there was no issue of identification.

6 202. The Crown submits that the Defendant was seen some 10 seconds after the
7 gunshot by the cesspool, at the back of 177, by Ms. Ebanks. Again, Ms.
8 Ebanks knew the Defendant and she identified him. Ms. Ebanks had been
9 with her brother, Archie, for some 10 minutes before she heard the singular
10 sound, which she thought might have been a firework. The Defendant arrived
11 at the cesspool via a path through the bushes between 177 and Archie's
12 property. The Defendant scared Ms. Ebanks and she said the Defendant
13 looked frightened.

14 The Crown makes the point that if the Defendant really had intended to go to
15 Archie to beg for some money, why would he have been frightened or even
16 startled when he sees the very person he went looking for. The Crown posed
17 the question, "How could the Defendant be even embarrassed by seeing Ms.
18 Ebanks, because she was someone he had known all his life and saw almost
19 every day.

20 The inference being made by the Crown is that the Defendant was frightened
21 and startled only because he did not expect to bump into Ms. Ebanks when
22 running away from 177 after shooting Tyrone Burrell in the back of the head.

1 Further, the Crown submits that although Ms. Ebanks left the Defendant with
2 Archie, he never asked Archie for any money on that occasion. The Crown
3 submits that if, as the Defendant claims, he would have been embarrassed to
4 ask for the money with Ms. Nora there, Ms. Nora had left Archie and the
5 Defendant together and had gone some distance away to the naseberry tree;
6 therefore the source of the Defendant's embarrassment would have been
7 removed. Accordingly the Crown submits that the Defendant is lying when
8 he said his reason for taking that route was to beg for money.

9 The Crown further submits that the path through the bushes was the perfect
10 route to leave the scene of the crime, and it was merely seconds after the shot
11 which killed Tyrone Burrell that the Defendant was seen by Ms. Ebanks.

12 203. The Crown refers to the two meetings between Ms. Ebanks and the
13 Defendant on the 9th September 2010. The Crown submits that this was not a
14 visit to apologise to Ms. Ebanks. It was a visit to intimidate her and to
15 threaten her. The Crown submits that that is the only inference that can be
16 drawn from the Defendant's statements such as "*you lucky you didn't get*
17 *your brains blowed out too,*" and, on the second occasion, asking Ms. Ebanks
18 why was she trying to "*sink*" him.

19 The Crown also submits that the Defendant's pointed references to the names
20 of Ms. Ebanks's children on those occasions were further examples of the
21 Defendant's intention to intimidate and threaten Ms. Ebanks. The Crown
22 suggests that the Defendant is saying to Ms. Ebanks that she should not have
23 spoken to the police, that is, she should not "*have got into it,*" and that
24 naming her children was a direct attempt to intimidate her for having spoken

1 with the police about being startled by the Defendant some 10 seconds after
2 hearing the loud noise from 177.

3 204. The Crown points out that the Defendant also saw Ms. Ebanks as a possible
4 alibi, because he tried to link the timing of seeing Ms. Ebanks with the
5 timing he maintains for going to take a shower with his wife and of
6 showering with his wife at the time he heard the shot.

7 205. Despite the allegation of bad blood between the Defendant and Ms. Ebanks,
8 the Crown submits that she is a witness of truth and that she was honest in
9 her answers. Upon re-examination of Ms. Ebanks, upon the conclusion of her
10 cross examination by the Defence, the Crown asked Ms. Ebanks,
11 “Notwithstanding the things he had done, what you told the Court was true?”
12 to which Ms. Ebanks replied “*Yes sir.*”

13 206. In summary, the Crown submits that when the evidence of Ms. White and
14 Ms. Ebanks is accepted, it would mean that the Defendant arrived at 177 in a
15 very strange way, dressed in black, with a handkerchief round his hand,
16 moving swiftly, and, shortly after Ms. White sees him like this, Tyrone
17 Burrell is shot in the back of the head.

18 207. The Crown further submits that from the photographs, and from the view at
19 the locus, there was no physical impediment relating to the terrain, and
20 therefore the Defendant could have moved unimpeded to the back of the
21 house and to where the deceased was shot.

1 208. The Crown submits that the evidence of Ms. White and Ms. Ebanks together,
2 negates the Defendant's alibi that he was at home showering with his wife at
3 the time of the shooting, which the Crown submits was a complete lie.

4 209. Though the Crown concedes that no witness actually saw the Defendant pull
5 the trigger, the Crown relies on the Defendant's confession to Ms. White.
6 The Crown submits that the Defendant clearly made the confession to Ms.
7 White, and, when one looks at the circumstances surrounding the confession,
8 the confession is true.

9 In this regard, the Crown relies upon the fact that the Defendant himself
10 testified to the very good relationship he enjoyed with Ms. White. The
11 Defendant admired Ms. White as a Christian, who looked after Tishara
12 Webster and Travis Bodden's family. The Defendant described Ms. White as
13 a very nice lady, and a woman whom he has always shown a face of respect
14 and love.

15 210. The Crown also submits that Ms. White saw significant illicit activities going
16 on at 177, but she was a person who had gained the trust of her employers
17 and the Defendant.

18 211. The Crown submits that the Defendant was the only person who told Ms.
19 White that the deceased had been a spy.

20 212. The Crown submits that the inconsistencies which the Defence highlights are
21 not serious, nor are they central to the case. The Crown points out, as an
22 example, that although Ms. White had told the police that she first met the
23 Defendant in March, and then later told the police that she met the Defendant

1 in April, and then told the Court that she met the Defendant in June, Ms.
2 White candidly admitted that this was a mistake. Her explanation was that,
3 that at the time of giving her evidence she was shaken, and it was only after
4 she had time to reflect, that she recalled that she first knew the Defendant in
5 June.

6 213. Referring to the discrepancy relating to whether Ms. White saw the
7 Defendant “fling down” his bicycle or whether she stepped out on to the
8 walkway and then saw the bicycle after she heard a noise, the Crown submits
9 that what is salient is that Ms. White saw the Defendant moving hastily
10 towards the mango tree which leads directly to the back of the house.

11 214. The Crown relies on the fact that the Defendant had shown Ms. White his .38
12 revolver, and that the projectile taken from the head of the deceased was a
13 .38 calibre-class jacket hollow point bullet, which could be loaded in a .38
14 special revolver.

15 215. In relation to motive, the Crown submits that the Defendant also told PC
16 Mitchell that the deceased was a spy carrying news between the Birch Tree
17 Hill gang and the Logwood gang and further, that the deceased had “shot up
18 Devon’s grandmother’s house.” The Crown specifically points out that the
19 Defendant told PC Mitchell the occasions when he, the Defendant, had
20 observed the deceased leave Travis Bodden’s yard at 177 to meet up with Fat
21 Patty or Fat Patty’s son in Kelly’s car park. In fact, the Defendant said that
22 on two occasions:

23 *“...me, myself, had observed Tyrone leaving the yard and going and*
24 *sparring with the boys them from Logwood.”*

1 220. Defence submits that there were other persons at 177, and there must be
2 some doubt as to whether the Defendant could have physically been the
3 shooter and seen by the witnesses as described in their locations.

4 221. The Defence does not concede that the witnesses are not lying. In fact, the
5 Defence submits that they are either lying or their evidence is such that it
6 cannot be relied upon and, also, their credibility is very much in question.

7 *Ms White*

8 222. The Defence submits that Ms. White is a fantasist. She admitted seeing a
9 vision of the deceased and, the Defence submits, without meaning any
10 disrespect to her, that she imagines seeing people.

11 223. The Defence submits that Ms. White's evidence cannot be relied upon
12 because for weeks she does nothing about the Defendant's confession to
13 either the killing of the white man with the concrete block, or the killing of
14 Tyrone Burrell.

15 224. The Defence also relies upon the fact that Ms. White never reported to the
16 police the other criminal activity that she saw taking place at 177 on a daily
17 basis. The Defence submits that the fact that she could have an image of
18 Tyrone Burrell being in danger, and in addition not tell the police about the
19 confession to the killing of Tyrone Burrell at an earlier stage, makes her a
20 very dangerous witness.

21

1 wearing a black jacket, and she said the police made a mistake. This,
2 according to Defence counsel, cannot be rationalized by Ms. White's avowal
3 that she had told the police "*black tall-sleeve shirt*" but they wrote down
4 jacket.

5 Additionally, Ms. White said there was nobody else in the yard when she
6 went on to the walkway and saw the Defendant moving swiftly towards the
7 mango tree. In this regard the Defence raises the point, in contrast, that Det.
8 Inspector Burton said that his enquiries revealed that there were "10 to 20
9 people" in the yard around the time of the shooting.

10 The Defence also submits that on the evidence of Ms. White, it would not be
11 possible for the Defendant to get round the house – from the mango tree, to
12 the boat – in a matter of a few seconds. The Defence submits that under cross
13 examination, in response to a question from Mr. Heslop, Ms. White had
14 formed the view that the Defendant could not have shot Tyrone Burrell
15 because he was going in the opposite direction.

16 227. *First visit to the Police Station*

17 Ms. White said she went with both children to the police station when she
18 accompanied Ms. Webster to report the shooting, yet, according to Defence
19 counsel, Admission #6 puts "the matter beyond peradventure" in that, it
20 records that Ms. Webster and Ms. White were accompanied by a young boy
21 to the police station.

22 228. The Defence submits that if Ms. White was actually a God-fearing and law
23 abiding person, why did she fail to tell the police anything about the

1 Defendant's confessions when she met with them on the 8th and 15th of
2 September 2010.

3 229. *Hearing the gunshot*

4 The Defence also submits that the fact that Ms. White pretended to Ms.
5 Webster that she did not hear the gunshot, affects her credibility. In this
6 regard the Defence submits that this act on Ms. White's part was so
7 extraordinary and goes to the heart of the questions being posed by the
8 Defence about Ms. White's credibility and truthfulness.

9 230. *The Confession*

10 The Defence submits, in relation to the confession itself, that Ms. White is
11 unreliable, in that Ms. White says the confession discussion all took place in
12 Travis Bodden's room. However, later, Ms. White says there were two
13 conversations – one in the living room and one in Travis's room. So, again,
14 the Defence submits that Ms. White is changing her story, and providing
15 differing accounts – demonstrating that she is an unreliable witness.

16 The Defence queries whether the second confession relating to the killing of
17 the man with the concrete block ever took place, and if it did, why did Ms.
18 White wait so long to report it – especially since she is not afraid of the
19 Defendant.

20 The Defence submits that, because Ms. White was well known to have
21 worked at Spanish Town police station in Jamaica in previous years – a fact
22 she said she did not hide – she would have been the most unlikely recipient
23 of a confession, and more so, two confessions.

1 The Defence proposes that Ms. White's account of the Defendant saying to
2 her that he used a gun to shoot the man (Tyrone Burrell) is inherently
3 unreliable. The Defence asks, what else would someone use to shoot a
4 person?

5 In relation to the confession, the Defence submits that there is considerable
6 doubt whether the Defendant made the confession, and, even if he did, the
7 Court must ask itself whether it could have been a stupid boast in a
8 misguided attempt to impress.

9 The Defence also submits that there is none of the detail one would expect to
10 support the proposition that a confession is genuine and, accordingly, the
11 Defence says there is nothing that the Court can use to support a conclusion
12 that the confession is true. In this regard, the Defence submits that the
13 confession is highly unlikely and does not accept that it took place and
14 therefore it could not have been a true confession.

15 The Defence submits that Ms. White never used the word "*pussyhole*" in her
16 statement or in her interview. The Defence says that if she had used that
17 word why didn't the police write it down?

18 231. *The gun*

19 The Defence submits that Ms. White's account of the Defendant showing her
20 his gun is unreliable, as nobody else speaks of seeing him with a gun.
21 Relating to having seen the gun Ms. White initially said she saw the gun four
22 times, and then she said she saw the gun more than four times, and then she
23 also said she saw it on a daily basis. Further, the Defence proposes that if the

1 Defendant needed the gun to defend himself why would he be prepared to
2 drop off the gun on the 21st September when he agreed to go out and collect
3 some bleach for her.

4 Also in relation to the gun, the Defence submits that, as the caregiver for the
5 children of Ms. Webster and Mr. Bodden, it is unlikely that Ms. White would
6 have let someone who had a gun on a regular basis play with the children.

7 232. *The telephone call to Jamaica*

8 With respect to the telephone call the Defendant made to Ms. White while
9 she was in Jamaica on the 15th October 2010, the Defence submits that she
10 initially told the police that the Defendant had told her that Ms. Webster's
11 brother had provided him with her telephone number. However Ms. White's
12 evidence in Court was that the Defendant did not tell her that Ms. Webster's
13 brother had provided him with the telephone number. In fact, Ms. White said
14 the Defendant did not tell her on the telephone how he got the telephone
15 number.

16 233. The Defence submits that in light of the inaccuracies, inconsistencies and
17 contradictions in Ms. White's evidence, it must be treated with great caution
18 especially against the background that she had been paid some significant
19 sums of money since agreeing to testify.

20 234. The Defence submits that when all these elements are taken into
21 consideration, the Court must doubt the reliability of the witness, so much so
22 that one cannot be sure that what Ms. White says is exactly what happened.
23 The Defence says Ms. White is a fantasist who "mis-remembers" and who

1 insists that what she imagines is true, when it turns out that it cannot be true.
2 Accordingly, the Defence points out that all these are matters that affect Ms.
3 White's reliability as a witness – particularly having regard to the burden of
4 proof, that her evidence must be safe and reliable.

5 235. The Defence submits that Ms. White is not a reliable witness, and her
6 evidence should be discarded.

7 *Inaccuracies, Inconsistencies and Contradictions relating to Ms. Ebanks's*
8 *evidence*

9 *Ill will*

10 236. In relation to Ms. Ebanks the Defence submits that similar considerations
11 apply to the evidence given by Ms. Ebanks and first states that this witness
12 harbours ill will towards the Defendant because of the Defendant's previous
13 attacks on her brother, her nephew and her boyfriend. The Defence submits
14 that it not possible to accept the evidence of this witness who says, on one
15 hand, that she loved the Defendant, and, on the other hand, she says she
16 would like to see him go to jail.

17 *Request for Payment from the Police*

18 237. Defence submits that this witness asked for \$100.00 before agreeing to make
19 her statement.

20 *Uncertainty relating to sound of the gunshot*

1 238. Defence submits that it is questionable as to whether Ms. Ebanks even heard
2 a gunshot, as she herself was doubtful at first as to what the sound actually
3 was.

4 *Defendant's attire*

5 239. Further, in contrast to Ms. White, Ms. Ebanks said the Defendant was
6 wearing a red cap when she saw him.

7 *Ms. Ebanks's fright at seeing the Defendant*

8 240. The Defence submits that Ms. Ebanks could not have been truthful in her
9 evidence about having been frightened about seeing somebody she knew so
10 well.

11 The Defence relies upon the fact that it is highly unlikely that a killer would
12 immediately rush up and present himself to two people who know him, and
13 this account begs the question of whether Ms. Ebanks is accurate or reliable.

14 *9th September 2010*

15 241. In addition, the Defence points to inaccuracies, inconsistencies and
16 contradictions in the evidence of Ms. Ebanks, such as, in her statement dated
17 the 14th October 2010 she told the police that she saw the Defendant go up
18 the road on the bicycle on the 9th September after his second visit to her at
19 the apartments, whereas, in Court she said she saw him go up on foot.

20 The Defence submits that the Defendant did not try to intimidate the witness,
21 but it is possible that, because he is innocent, he did not want her to give
22 false information to the police. This therefore would provide an explanation

1 for his insistence on having these discussions with her about when she heard
2 the shot.

3 242. The Defence submits that even if the Court believes that the Defendant lied
4 to the police when he said that he and his wife were having a shower when
5 he heard the shot, this lie may well be innocent, because he gave the police
6 this account to demonstrate to the police that he could not have done it,
7 because he knew he had not done it.

8 243. In conclusion, the Defence submits:

9 A. No one saw the shooter, so there is no evidence to identify the
10 Defendant;

11 B. No one saw the Defendant with a gun on that night and his hands
12 were seen;

13 C. No gun connected with the Defendant has ever been found,
14 despite the evidence of Ms. White;

15 D. There is no evidence to link the gun that Ms. White said the
16 Defendant always had with him, with the bullet taken from the
17 head of the deceased as, that bullet could have been fired by a
18 .38 or a .357

19 E. The Defence also relies upon the fact that the Defendant made
20 no attempt to leave the area for fear that he might be arrested.

21 F. There is no forensic evidence or other supporting evidence to
22 suggest that the Defendant was the gunman. There is no relevant

1 blood on any of the clothing of the Defendant. There is no
2 gunshot residue evidence found on the Defendant or on his
3 clothing. There is no DNA evidence of any value against the
4 Defendant. There is no fingerprint evidence. The Defence
5 maintains, therefore, that there is nothing to connect the
6 Defendant to the shooting.

7 The Defence therefore submits that the Crown is left with an
8 alleged confession with no detail, with no supporting evidence
9 and only the evidence of a fantasist – whose reliability is “shot
10 through”, and about whom there must be serious issues relating
11 to credibility and reliability. The Defence says there must be real
12 doubt about whether the Court is able to convict the Defendant
13 on Ms. White’s evidence of an alleged confession, and therefore,
14 the appropriate verdict is not guilty.

15 *The Law*

16 244. The Defendant elected to be tried by a Judge Alone, rather than a Judge and
17 Jury, pursuant to s.129 of the Criminal Procedure Code of the Cayman
18 Islands.

19 245. Our Court of Appeal first dealt with the duties of a Judge in Judge Alone
20 trials in its judgment in *K. Richards v. R* 2001 CILR 496 when Justice Rowe
21 stated:

22 *“When a trial judge sitting alone has advised himself to the applicable*
23 *principles of law, and given himself any necessary warning, he must*
24 *indicate clearly in his judgment his reasons for acting as he did, in order*
25 *to demonstrate that he has acted with the requisite degree of caution in*

1 *mind and has therefore heeded his own warning. No specific form of*
2 *words is necessary for this demonstration, what is necessary is that the*
3 *Judge's mind upon the matter should be clearly revealed."*

4
5 246. In *R. v. Dave Kennedy Whittaker* Cr. App. R. No. 14 of 2006, the Court of
6 Appeal gave some guidelines regarding the duties of a Judge in Judge Alone
7 trials. In the Judgment of Mottley J.A. he adopted the Judgment of the former
8 Lord Chief Justice of Northern Ireland Lord Lowry in *R v. Thompson* [1977]
9 NI 74 in which he stated at page 83:

10 *"While on the subject I might say a word on the duty of the judge when*
11 *giving judgment in a trial under the 1973 Act. He has no jury to charge*
12 *and therefore will not err if he does not state every legal proposition and*
13 *review every fact and argument on either side. His duty is not as in a jury*
14 *trial to instruct laymen as to every relevant aspect of the law or to give a*
15 *full and balanced picture of the facts for decision by others. His task is to*
16 *reach conclusions and to give reasons to support his view and,*
17 *preferably, to notice any difficult or unusual points of law in order that if*
18 *there is an Appeal, it may be seen how his view of the law informed his*
19 *approach to the facts."*

20
21 247. More recently our Court of Appeal in *Randy Martin v. R* Crim. App. R. 2 of
22 2010 delivered their reasons for dismissing the Appeal on the 7th December
23 2010. Mottley J.A. again adopting *R v. Thompson* [1977] NI 24 also adopted
24 *R v. Thain* [1985] NI 457 where Lowry LCJ said at page 478:

25 *"Where the trial is conducted and the factual conclusions are reached by*
26 *the same person, one need not expect every step in the reasoning to be*
27 *spelled out expressly, nor is the reasoning carried out in sealed*
28 *compartments with no inter-communication or overlapping, even if the*
29 *need to arrange a judgment in a logical order may give that impression.*
30 *It can safely be inferred that, when deliberating on a question of fact*
31 *with many aspects, even more certainly than when tackling a series of*
32 *connected legal points, a judge who is himself the tribunal of fact will (a)*
33 *recognize the issues and (b) view in its entirety a case where one issue is*
34 *interwoven with another."*

1 248. Following Lowry LCJ in *R v. Thompson* and *R v. Thain*, Mottley J.A. said
2 in *Randy Martin v. R* at paragraph 31:

3 *“From these cases the following guidance may be discerned. A judge*
4 *sitting in a criminal case without a jury, in rendering his decision and*
5 *giving his reasons for so concluding, is not required to review every fact*
6 *and to detail each argument on which the prosecution and defence rely*
7 *as if he were summing up to a jury. The judge must set out the conclusion*
8 *reached and make clear the reasons for arriving at that conclusion. He is*
9 *required to have regard to any difficult or unusual points of law and to*
10 *show how those points of law have in anyway impacted the conclusion*
11 *that he has reached.”*

12
13 249. The Indictment charges the Defendant with murder, contrary to s.181 of the
14 Penal Code (2007 Revision) and the particulars of the offence are that the
15 Defendant, on the 8th September 2010 at 177 Birch Tree Hill Road, West
16 Bay, Grand Cayman, murdered Tyrone Burrell.

17 250. Section 181 of the Penal Code states:

18 *“Whoever, of malice aforethought express or implied causes the death of*
19 *another person by an unlawful act or omission is guilty of the offence of*
20 *murder.”*

21
22 251. As the Tribunal of Fact I have endeavoured to remind myself of the
23 prominent features of the evidence, both on behalf of the Crown and on
24 behalf of the Defence, because it is my responsibility as the Tribunal of Fact
25 to judge the evidence and decide on the relevant facts of this case.
26 Accordingly, I have reviewed the evidence and I have also taken into account
27 the arguments in the speeches of the Senior Crown Counsel, Mr. Trevor
28 Ward, and leading counsel for the Defence, Mr. Martin Heslop Q.C.

1 252. I remind myself that the burden of proof is always on the prosecution. It is
2 for the prosecution to prove that the defendant is guilty and further it is never
3 for the defendant to have to prove his innocence. I also have to remind
4 myself that the prosecution must prove the defendant's guilt to a high
5 standard of proof, namely, that I must be satisfied that the defendant is guilty
6 of the charge of murder beyond all reasonable doubt or, alternatively, I must
7 be sure that he is guilty. If I find that the prosecution has not made out the
8 case so that I am sure, I must find the defendant not guilty. Accordingly, I
9 must review all the evidence and decide whether the defendant is guilty of
10 unlawfully causing the death of the deceased.

11 253. In this case there are no eye witnesses to the murder, nor is there any forensic
12 evidence such as DNA, GSR, fingerprints or blood, linking the Defendant to
13 the crime. The prosecution relies upon circumstantial evidence in order to
14 prove that the defendant guilty. The prosecution submits that the various
15 circumstances relating to this crime, together with the Defendant's
16 confession to Ms. White, are such that when you take them all together, it
17 leads to the sure conclusion that the defendant committed the act of killing
18 Tyrone Burrell.

19 254. It has often been cited that circumstantial evidence can be powerful evidence.
20 It is important that I examine it with care and consider whether the evidence
21 upon which the prosecution relies in the proof of its case is reliable, and
22 whether it does prove guilt. Furthermore, before convicting the defendant on
23 circumstantial evidence, I must consider whether it reveals any other
24 circumstances which are, or may be, of sufficient reliability and strength to
25 weaken or destroy the prosecution's case. Finally, I have to warn myself to

1 be careful to distinguish between arriving at conclusions, based on reliable
2 circumstantial evidence, and mere speculation.

3 255. In respect of circumstantial evidence I gain considerable assistance from the
4 decision of the Northern Ireland Court of Appeal in *R v. Courtney* [2007]
5 NICA 6, [2007] NI 178 and the judgment of the then Lord Chief Justice,
6 Lord Kerr where he states at paragraph 20:

7 *“Where, as in this case, the prosecution relies on circumstantial evidence*
8 *to establish the Defendant’s guilt, it is well established that a particular*
9 *approach to the evaluation of the evidence is required. This is perhaps*
10 *still best encapsulated in the well known passage from the judgment of*
11 *Pollock CB in R v. Exall [1866] 4 F&F 922 at 928; 176 ER 850 at 853*
12 *and endorsed by the Court of Appeal in Northern Ireland in R v. Meehan*
13 *No. 2 [1991] 6 NIJB 1:-*

14 *“What the jury (the Tribunal of fact) has to consider in each*
15 *case is, what is the fair inference to be drawn from all the*
16 *circumstances before them, and whether they believe the account*
17 *given by the prisoner is, under the circumstances, reasonable*
18 *and probable or otherwise.Thus it is that all the*
19 *circumstances must be considered together. It has been said that*
20 *circumstantial evidence is to be considered as a chain, and each*
21 *piece of evidence as a link in the chain, but that is not so, for*
22 *then, if any one link broke, the chain would fall. It is more likely*
23 *the case of a rope composed of several cords. One strand of the*
24 *cord might be insufficient to sustain the weight, but three*
25 *stranded together may be quite of sufficient strength. Thus it may*
26 *be in circumstantial evidence – there may be a combination of*
27 *circumstances, no one of which would raise a reasonable*
28 *conviction, or more than a mere suspicion; but the whole, taken*
29 *together, may create a strong conclusion of guilt, that is, with as*
30 *much certainty as human affairs can require or admit of.”*

31
32 **Conclusion**

33 256. On the 8th September 2010 there clearly had been some people in the yard at
34 177, in fact Ms. White said there were approximately 8 persons and there

1 was loud music during the day. However, Ms. White said that later on that
2 day, in the evening around 6 p.m., the music was turned down.

3 257. It was around 6 p.m. that Tyrone Burrell paid for his hamburger and Ms.
4 White took the burger outside in the yard to him – telling him that, as it was
5 getting dark, he should go home, because she was worried about his safety.

6 258. The last time Ms. White saw Tyrone Burrell alive he had gone in the
7 direction of the mango tree at 177.

8 259. Around half hour later, and Ms. White said this was around 7 p.m., the
9 Defendant came to 177. He had changed his clothes and was no longer
10 wearing a white merino and the clothes he was wearing at 5:01 p.m. He was
11 now dressed all in black, with a mainly black handkerchief wrapped around
12 his hand.

13 260. I take into account that Ms. White said the Defendant just dropped his
14 bicycle on the ground and walked hastily towards the mango tree, in the
15 same direction as Tyrone Burrell.

16 261. Counsel for the Defence has asked Ms. White whether she was sure it was
17 the Defendant.

18 262. Accordingly, I must examine with some caution the evidence of the witness
19 providing the identification and consider whether the identification is
20 reliable. In order to do this I must review how long, and under what
21 circumstances, the suspect was under observation. At what distance? In what
22 light? Was the observation impeded in any way? Had Ms. White seen the
23 suspect before, and if so, how often and in what circumstances?

1 263. I find that Ms. White was only a short distance from the Defendant – merely
2 a matter of a few feet. I also accept Ms. White’s evidence that there was good
3 light coming out of the kitchen door, and from the two lights under the corner
4 eaves. I find that there was nothing to impede Ms. White’s view of the
5 Defendant, and, in addition, Ms. White knew the Defendant very well.

6 264. I find Ms. White’s evidence of identification to be accurate and reliable, and
7 I have no hesitation in accepting it.

8 265. Ms. White said it was strange and unusual that the Defendant moved hastily
9 past the open kitchen door, because he would always stop and speak with
10 her. However, on the 8th September 2010 he went straight past her moving
11 hastily in the same direction as she saw Tyrone Burrell go.

12 266. After seeing the Defendant Ms. White went back into the kitchen and
13 returned to the stove to continue what she was doing. Some 5 seconds after
14 that she heard a gunshot.

15 267. The Defence submits that the Defendant could not have gone around the
16 house in 5 seconds and shot the deceased. The Defence further submits that,
17 in answer to a question from Mr. Heslop, Ms. White had formed the view
18 that the Defendant could not have carried out the shooting because he was
19 going in the opposite direction.

20 268. I reject both these submissions.

21 269. First, it is clear that Ms. White’s 5-second estimate was only an estimate. She
22 did not refer to the existence of a watch or a kitchen clock. It is quite possible
23 that her estimate could have been more than 5 seconds.

1 270. From my view of the locus, and the photographs, along with Ms. White's
2 evidence, it was clearly possible for the Defendant to get round the house in a
3 matter of seconds. There was nothing to impede the Defendant in his
4 movement and further, from my review of Ms. White's evidence, she did not
5 come to any conclusion, or even suggest, that it was not possible for the
6 Defendant to get round the back of the house and shoot Tyrone Burrell.

7 271. All Ms. White said was that the sound of the gunshot came from a direction
8 opposite from the direction in which she had last seen the Defendant heading
9 before the gunshot. I can find no evidence from Ms. White that she formed
10 the view that the Defendant could not have carried out the shooting because
11 he was going in the opposite direction from where Tyrone Burrell was
12 ultimately shot.

13 272. The Defendant next appears at the cesspit at the back of Archie Ebanks's
14 house, where he clearly surprises Ms. Ebanks. Ms. Ebanks notes that the
15 Defendant looks frightened. The Defendant's appearance at this point is
16 some 10 seconds after the gunshot.

17 273. The Defendant's case is that he was not at the cesspit at the time Ms. Ebanks
18 said she saw him. In his statement to the police he said that he was having a
19 shower with his wife when he actually heard the noise, which he described as
20 "*one clap like a firecracker*", and which he later accepts must have been the
21 shot that killed Tyrone Burrell.

22 274. I first remind myself that there is no burden on the Defendant to prove that he
23 was elsewhere. In fact, the prosecution must disprove the Defendant's alibi.

1 The prosecution must prove its case, which includes the need to prove that
2 the Defendant committed the offence.

3 275. I must remind myself that I should look at this evidence carefully and, even if
4 I reach the conclusion that the Defendant is lying, that does not inevitably
5 mean that he is guilty of the murder. An alibi is sometimes invented to
6 bolster a genuine defence. A false alibi may be put forward by a Defendant
7 who is not guilty, because he may stupidly fabricate an alibi out of fear that
8 his own evidence will not be enough.

9 276. I accept the evidence of Ms. Ebanks who gave her evidence in a forthright
10 and unwavering manner. From my review of the evidence I have no doubt
11 that she heard the shot that killed Tyrone Burrell, and then, approximately 10
12 seconds later, saw the Defendant come up behind her on the cesspool.

13 277. I accept the evidence of Ms. White that she saw the Defendant some 5
14 seconds before she heard the solitary gunshot and I accept the evidence of
15 Ms. Ebanks that she saw the Defendant some 10 seconds after hearing the
16 loud noise. Accordingly, I find that the Defendant's statement to the police
17 that he was having a bath with his wife outside at his residence when he
18 heard the noise, is a lie and I reject it. I also find that the Defendant did not
19 lie for any innocent reason but I find that his lie was deliberate and can
20 therefore be regarded as evidence supporting the case for the prosecution.

21 278. I come now to the confession, on which the Crown relies and submits was
22 made by the Defendant to Ms. White on the 10th September 2010, shortly
23 after 10 a.m.

1 The Defendant denies that he made a confession to Ms. White.
2 Consequently, Ms. White is either lying or she has made what can only be
3 described as a grotesque mistake. Accordingly, I must examine the evidence
4 relating to the confession very carefully. I have to ask myself “Is there
5 anything outside it, to show it was true?” “Is the confession purportedly
6 made by the Defendant to Arlene White a fact, and, so far as I can test it,
7 true?” “Did the Defendant have the opportunity to commit the murder?” “Is
8 the confession consistent with other facts which have been ascertained and
9 proved before me?”

10 279. One must remember that Ms. White was in the Cayman Islands on a work
11 permit. She was hesitant to tell the police what happened and become
12 involved in anything that would negatively affect her employment.

13 She explained that 177 was “not a pretty yard.” Damien Ming had been
14 killed at 177 and Ms. White knew the yard was used for buying and selling
15 cocaine. In addition, Ms. White kept herself to herself, and did not socialize
16 with any of the neighbours around 177.

17 Ms. White was a helper in the household that was headed by Tishara and
18 Travis. She understood her role as their employee, and clearly valued her job.
19 The Defendant told the police that he

20 *“showed Ms. Arlene one face, that’s a face of respect and love, and she*
21 *has showed it right back to me, and that’s just it.”*

1 The Defendant clearly respected Ms. White's Christianity and he told the
2 police that he read the Bible and prayed with her. It is clear to the Court that
3 the Defendant was very fond of Ms. White and trusted her.

4 280. Ms. White was worried about Tyrone Burrell's safety. When she gave him
5 his burger she told him:

6 "you supposed to leave now because dark is coming down."

7 Ms. White last saw Tyrone Burrell alive when he turned towards the mango
8 tree. After the shooting she went outside and patted the deceased three times
9 and said:

10 "You wouldn't listen. You came in here and you killed yourself off."

11 She also told the Court that there was nobody else around at that time.

12 281. On the 10th September 2010 at around 10 a.m. Ms. White was cleaning and
13 tidying Travis' room when the Defendant knocked on the door. The
14 Defendant entered and said "*What's happening.*"

15 282. What I find is that Ms. White anticipated the confession because, having
16 warned Tyrone Burrell on the day he was killed to leave 177 because it was
17 getting dark, and then also having patted Tyrone Burrell's dead body on the
18 back and lamenting the fact that he had not heeded her warning, she, Ms.
19 White, said to the Defendant that she was "*on repentance ground*" when he
20 knocked on the door of Travis's room to come in and speak to her about
21 having shot Tyrone Burrell. Ms. White said that, once in the room, the

1 Defendant asked her if she knew who killed the boy and she said no, to
2 which the Defendant said:

3 *“Me kill him. Me kill the pussyhole.”*

4 283. Ms. White was cross examined extensively by a very experienced leading
5 counsel, but her evidence did not change. She was forthright and consistent.

6 284. Ms. White was criticised by the Defence for not going to the police earlier. I
7 think it is quite reasonable for Ms. White to claim that she was very shaken
8 because this was the second murder that she had known of that had taken
9 place at 177. Ms. White had not taken the first confession that the Defendant
10 had made about the white man being killed with a block of concrete
11 seriously. She had not been anywhere near the scene and she just did not
12 believe it. However, the confession in Travis’s room related to a shooting
13 which she was close to, and actually heard take place. Having seen the
14 Defendant rush past her in a strange and unusual manner, and having heard
15 the shot some five seconds afterwards, it is not surprising that she anticipated
16 the confession, nor is it surprising that she believed it.

17 285. From my review of the evidence it is clear that the Defendant had the
18 opportunity to kill Tyrone Burrell. The Defendant obviously changed his
19 clothing sometime between 5:01 p.m. and 7 p.m. on the 8th of September
20 2010. The evidence of the Defendant rushing towards the mango tree,
21 dressed in black with a mainly black handkerchief around his right hand,
22 allows me to find that his attire was specifically chosen to facilitate the
23 murder of Tyrone Burrell with the use of a handkerchief wrapped around his
24 hand, thereby ensuring that there would be no gunshot residue on that hand.

1 286. I further note that the Defendant had told Ms. White in Travis's room that the
2 deceased was a spy, carrying information between the gangs. The Defendant
3 told Ms. White that the deceased had shot up Devon's grandmother's house
4 and that he was a spy. The Defendant told Ms. White that he had shot Tyrone
5 Burrell on the 8th of September and also why he had shot him.

6 287. I find that the Defendant did have the opportunity to commit the murder and
7 that his confession is consistent with other facts which have been ascertained
8 and proved. In addition, when I examine Ms. White's evidence relating to the
9 confession, and the relationship between the Defendant and Ms. White, I find
10 that the confession did take place and I also find that it is true.

11 288. For the sake of completeness I now return to other circumstantial evidence.
12 Ms. White told the Court that on the 21st September 2010 she had asked the
13 Defendant to collect some bleach from a shop near the police station. The
14 Defendant was unhappy about going to the police station and explained that
15 he had his gun on him. He showed Ms. White his gun. Ms. White described
16 the gun as a .38 revolver with a chrome mouth and an antique handle. The
17 projectile recovered from the head of the deceased was a .38 calibre class
18 bullet, which can be fired by a .38 revolver. I find that the Defendant did
19 possess a .38 revolver which matched the .38 projectile bullet recovered from
20 the head of the deceased.

21 289. Although Detective Inspector Burton said that he had received information
22 from his enquiries, including from anonymous sources, that there were 10 to
23 20 people at the scene at the time of the shooting, I find that the evidence
24 shows that the music had been turned down, it had become dark, and Ms.

1 White clearly saw nobody around 177 when she discovered the deceased. I
2 prefer the unequivocal, direct evidence of Ms. White, to the equivocal
3 hearsay evidence of Detective Inspector Burton who said he received reports
4 of 10 to 20 people.

5 290. In my view, when I examine the inaccuracies, inconsistencies and
6 contradictions of Ms. White's and Ms. Ebanks's evidence, as compared with
7 what they told the police, I cannot find that any of these issues are serious or
8 central to the prosecution case.

9 291. I accept that Ms. White was shaken by the shooting and the confession. Ms.
10 White knew she was in a very difficult position. She valued her job and she
11 knew that she had to inform the police that a man who was seen as part of the
12 family at 177 was guilty of the murder of young Tyrone Burrell. That is why
13 Ms. White told the Court that she had "no space" to tell the police. And, that
14 is why Ms. White contrived to only see the police when she was supposed to
15 be at church, so that, neither the family nor the Defendant would be alerted to
16 her actions. It is quite understandable and conceivable that the inaccuracies
17 and inconsistencies and contradictions that she made did in fact occur.
18 However, none of these discrepancies alter the material evidence that Ms.
19 White saw the Defendant dressed all in black, rushing to the side of the house
20 without speaking to her, and then heard the gunshot some 5 seconds later.
21 Ms. White did not see anybody else in the yard at that time. Ms. White did
22 not see the Defendant again that night, nor did he return to 177 to collect his
23 bicycle.

1 292. I have observed and listened to Ms. White give her evidence over four days.
2 She has been subject to quite proper but extensive cross examination. I have
3 been very impressed by Ms. White as a courageous woman who told the
4 police and the Court the truth about how young Tyrone Burrell was
5 murdered, and about who committed the murder. I found her to be an honest
6 and reliable witness.

7 293. I also find that Ms. Ebanks saw the Defendant some seconds after the
8 shooting and he looked frightened. I reject the claim that the Defendant went
9 to apologise to Ms. Ebanks. In fact, I find his comments – that she was lucky
10 that she did not get her brains blown out too, and the references to her
11 children – were sinister attempts to intimidate her. I accept Ms. Ebanks’s
12 evidence and I also found her to be an honest and reliable witness.

13 294. Accordingly, the inaccuracies, inconsistencies and contradictions, whether
14 taken individually, or cumulatively, do not have any material effect on the
15 case for the prosecution.

16 295. Accordingly I accept the Crown’s submission that the evidence that the
17 Defendant killed the deceased is cogent. The Defendant had motive,
18 opportunity, he was in possession of a firearm of a type that fired the bullet
19 recovered from the head of the deceased, and he confessed the crime to the
20 prosecution witness with whom he clearly had a relationship of mutual love
21 and respect.

22
23

1 296. Based on my review of the evidence presented by the Crown, and for the
2 aforesaid reasons, I am satisfied, beyond all reasonable doubt that Leonard
3 Antonio Ebanks is guilty of the murder of Tyrone Burrell on the 8th
4 September 2010 at 177 Birch Tree Hill Road.

5

6

7 **Dated this the 30th day of September 2011**

8

9

10

11

12 **Honourable Mr. Justice Charles Quin**
13 **Judge of the Grand Court**

