

1 IN THE GRAND COURT OF THE CAYMAN ISLANDS
2 CRIMINAL SIDE
3 HOLDEN AT GEORGE TOWN
4
5

Indictment No: 27/09

6
7 REGINA

8
9 V.

10
11 RANDY MARTIN
12
13



14 **Appearances:**

Crown:

15 Solicitor General, Ms. Cheryll Richards Q.C.,
16 Crown Counsel, Ms. Kirsty Gunn
17

18 **Defence:**

19 Mr. David Evans Q.C. instructed by Mr. Adam King
20 of Samson and McGrath
21
22

23 **Before:**

Hon. Mr. Justice Charles Quin

24 **Heard:**

25 25th November to 11th December 2009, and, the 11th
January to the 15th January 2010
26
27

RULING

28
29 *Discovery of the Deceased*

- 30
31 1. On Monday the 16th of March 2009 Mr. Marvin Frederick (“Mr. Frederick”)
32 was travelling on Farm Road from the John McLay Road end, when he saw a
33 fire coming from “Bottom Road.” This fire caused him concern, as it
34 appeared to have the potential to spread over on to his land, and he recalled
35 how his land was burnt some three years ago. He drove onto his land and saw
36 a white vehicle, Registration Number 133 249. Mr. Frederick had heard the
37 description and licence number of this vehicle on the radio and that it had

1 gone missing. He called 911 and told the police that he seemed to have found
2 the missing vehicle. He stated that the vehicle was hidden off the trail and
3 waited for the police to arrive.
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5 2. On Tuesday the 17th March 2009, Kevin Jennings, (“Mr. Jennings”) brother
6 of the deceased, Sabrina Schirn, who had been reported missing, contacted
7 his friend, Mr. Christopher Eden (“Mr. Eden”) and sought his assistance in
8 the search for his sister, Sabrina Schirn. Mr. Eden had significant local
9 knowledge of the area surrounding the Northward Prison farm, as he had
10 been an inmate for 18 years and was one of the first prisoners to work on the
11 farm. Mr. Eden sought the assistance of another friend, Randy McLean (“Mr.
12 McLean”) who also knew the area very well.
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14 3. By this time the search party, knowing that the missing car had been found,
15 drove to that location and searched around that area. When they came to the
16 boulders (Exhibit 2 Map 2 “A”) they got out of the car to search. Mr. Eden
17 saw the container and noticed a foul smell as he moved closer to the
18 container. Mr. Eden and Mr. Jennings walked further into the bush and saw a
19 disused wooden shed (Exhibit 2 Map 2 “F”). Mr. Eden came upon the body
20 of Sabrina Schirn (at Exhibit 2 Map 2 “D”). Mr. Jennings identified the body
21 as the body of his sister, Sabrina Schirn. Mr. Eden confirmed that the
22 deceased’s body was clothed in a bra and blue panties.
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1 8. Dr. Shuman prepared a sketch map of the deceased's head and body, which
2 was produced as Exhibit 3. Dr. Shuman confirmed that the deceased had
3 received chop wounds, and incised wounds, to the head, which he said would
4 cause her to lose consciousness. There were incised and chop wounds on the
5 head, scalp, face and the back of the head, which can properly be described
6 as multiple chop and incised wounds. Dr. Shuman confirmed that there
7 would have been a serious loss of blood from these injuries and that the
8 deceased would have died in a matter of minutes, and certainly in less than
9 hour. Dr. Shuman said that one single such laceration to the scalp can be
10 fatal.

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12 9. Dr. Shuman confirmed that there were incised wounds to the deceased's left
13 shoulder and there were four multiple wounds – one of 19 centimetres, being
14 horizontal – which were inflicted on the mid-upper back and went through
15 the skeleton muscle to the vertebrae. Dr. Shuman said that these wounds
16 were consistent with the deceased having been struck from behind.

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18 10. Dr. Shuman also confirmed that the deceased received a chop wound on the
19 right hand, which nearly amputated her thumb. Dr. Shuman confirmed that
20 this was what he called a defensive injury, caused when a person is trying to
21 defend himself or herself. There was a chop wound on the right hand and the
22 index finger of the right hand was amputated through the middle bone. Dr.
23 Shuman described this as another defensive injury. There was another chop
24 wound on the left side of the deceased's forearm, which was yet another
25 defensive injury. Dr. Shuman described another chop wound to the

1 deceased's left wrist and hand, measuring 7.5 centimetres. This went through
2 the bones on the left wrist and into the hand, and almost amputated her left
3 hand. Again Dr. Shuman confirmed that this was another defensive injury.

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5 11. In summary, Dr. Shuman said that the deceased had 5 chop wounds – one on
6 the scalp and the skull, two in her right hand, one in her left forearm, and one
7 on her left wrist and hand. There were 8 incised wounds – three in the scalp,
8 two in the face, one on the right shoulder, two on her left shoulder. There
9 were also two wounds comprised of multiple wounds. One had an
10 intersecting chop – an incised wound on the left side of her scalp – and then
11 there was the large complex wound on the mid-upper back, which was
12 comprised of at least four injuries. Dr. Shuman was in no doubt that the
13 cause of death was multiple sharp-force and chop injuries, which would have
14 caused a severe loss of blood. Dr. Shuman said the wounds to her scalp and
15 to her left arm would have bled profusely and the deceased would have died
16 within minutes.

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18 12. Dr. Shuman confirmed that the deceased had been dead for some days, and
19 said that it would have been consistent with death having occurred on the 11th
20 March 2009.

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22 13. None of the above facts have been challenged by the Defence and on the
23 basis of Dr. Shuman's evidence it is quite clear that the deceased was
24 brutally murdered.

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CROWN'S CASE

Juliette Ebanks

14. The Court admitted the statement of Juliette Ebanks dated the 21st April 2009, pursuant to Section 33(1) and (3)(b) of the Evidence Law. Juliette Ebanks was a former girlfriend of the defendant. She recalled being at the Zodiac Bar with the defendant some time in 2006, where they saw Sabrina Schirn. Sabrina Schirn was eating a plate of oxtail. Juliette Ebanks' evidence was that the defendant told her that Sabrina was responsible for, or involved with, the shooting of his brother, Fernando Martin, by Sheldon Brown. Juliette Ebanks recalls the defendant and Sabrina Schirn entering into an argument, and she, Juliette Ebanks, stepped outside for a few seconds. Juliette Ebanks stated that on returning inside the Zodiac she saw the defendant, Randy Martin, holding Sabrina's head and pushing it into the plate of oxtail. Juliette Ebanks recalls Sabrina Schirn needing some help to wash her face, and the defendant left, stating he was going to McField Lane.

Andy Myles

15. Early in 2009, a Northward Prison inmate, Andy Myles ("Mr. Myles"), was moved to Eagle House. Whilst there, Mr. Myles said he was working on construction and maintenance inside the prison. He was also a former boyfriend of the deceased, Sabrina Schirn, but did not keep in touch with her. He said Sabrina Schirn was in love with a new guy and that she used to hang up the phone when he, Mr. Myles, tried to contact her.

1 16. Mr. Myles recalls the defendant, Randy Martin, whom he had known for
2 several years, coming to Eagle House a little before March 2009. He recalls
3 Randy Martin being put in the cell next to him. Mr. Myles' evidence is that
4 he had blue gloves for the construction work. The blue was on the palm of
5 the glove, and was of a rubbery material. The top part of the glove was white.
6 Mr. Myles said he used these gloves "for block work to prevent his hands
7 being mashed up." Mr. Myles kept these gloves inside his cell.

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9 17. One day, in early March 2009, Mr. Myles recalled the defendant coming
10 along and saying, "I want them gloves. I need them gloves. One of the two."
11 Mr. Myles said that they were "just chilling" and there was no other
12 discussion regarding any gloves. The Defendant had simply come along and
13 said that he wanted the gloves and that he was doing a lot of work for which
14 he needed the gloves.

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16 18. On either the 10th or the 11th March, Mr. Myles recalls the defendant coming
17 to him early in the morning and asking for his gloves. He recalled the
18 defendant taking the gloves. Mr. Myles also recalls that he never handed the
19 gloves to the defendant, but that the defendant took them. Mr. Myles recalls
20 the defendant taking both right and the left-hand gloves. Mr. Myles identified
21 the glove in Exhibit 1 Photographs 54 and 55.

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Danielle Ramoon

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19. The Crown called Danielle Ramoon (“Ms. Ramoon”). She was another good friend of the deceased. She gave evidence and said that she would see the deceased, Sabrina Schirn, everyday, and that sometimes they would sleep over at each other’s houses. She said she recalls on or about the 4th March 2009, one week before the 11th March 2009, Sabrina picking her up from Bodden Town, where she, Ms. Ramoon, was staying, and they drove to Sabrina’s workplace. Ms. Ramoon recalled Sabrina Schirn plugging in her phones and receiving some missed calls. Ms. Ramoon recalled that Sabrina received two messages, and that she, Ms. Ramoon, listened to these messages. The first message stated, “Yo, Sabrina, this Randy. When you get this, link me.” Ms. Ramoon asked Sabrina why Randy was calling her. Ms. Ramoon listened to the second message, which said, “Sabrina you ever going to link me or what?” and “I only need you do me a favour. I just need you to pick me up from the farm and drop me to the East End.” Ms. Ramoon recalled Sabrina Schirn trying to call the number, but was unable to get through.

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Telecommunications – Specialists’ Evidence

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20. The Crown called an Information Technology (IT) specialist from Cable & Wireless, and an Information Technology (IT) specialist from Digicel. They produced several analyses and reports regarding telephone and tele-text

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1 messages from the phone of the defendant, Randy Martin, the phones of the
2 deceased, Sabrina Schirn, and from other phones.

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4 21. Their evidence included Exhibits 12, 13, 14, 16, 17, 18 19, 20 and 21. The
5 Defence produced its own telephone schedule, Exhibit 22. From these
6 Exhibits it was apparent that the defendant and the deceased, Sabrina Schirn,
7 had been in telecommunication contact.

8

9 22. On the 4th February 2009 the defendant telephoned Sabrina Schirn on 12
10 occasions – most of which were telephone conversations of varying lengths.
11 One of these conversations lasted 292 seconds, and others were of 42, 23, 37
12 and 36 seconds.

13

14 23. On the 5th February 2009 the defendant telephoned, and or sent text messages
15 to the deceased, and had 5 communications including telephone calls lasting
16 90 seconds and 25 seconds.

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18 24. On the 27th February 2009 the defendant telephoned Sabrina and talked for
19 36 seconds.

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21 25. On the 4th March 2009 both talked for 34 seconds.

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23 26. On the 5th March 2009 the defendant contacted Sabrina Schirn on 12
24 occasions – 9 on her Cable & Wireless telephone and 3 times on her Digicel

1 telephone. Later that day Sabrina contacted the defendant on her Digicel
2 phone on 6 occasions.

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4 27. On the 9th March 2009 Sabrina Schirn contacted the defendant on 3
5 occasions – with one conversation lasting 191 seconds and the defendant
6 contacted the deceased on 1 occasion.

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8 28. On the 10th March 2009 the defendant called Sabrina on her Digicel
9 telephone – 517-7577 at 12:29:06 and spoke for 83 seconds.

10
11 The 11th March 2009

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13 29. On the 11th March 2009 at 9:06 a.m. the defendant calls Sabrina Schirn.
14 From Exhibit 18 it is clear that the defendant's telephone is in the Breakers
15 area at cell site CAY012. The second call on the 11th March is from Sabrina
16 Schirn at 9:30 a.m. from her Digicel telephone, to the defendant. Her
17 telephone, according to Exhibit 18, is at cell site Stadium CAY008 – which is
18 in the South Sound area. The next telephone call is from the defendant at
19 9:43 a.m., and his telephone is again in the Breakers area at cell site
20 CAY012, and Sabrina's telephone is at the Stadium cell site CAY008.

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22 30. At approximately 9:00 a.m. the evidence of Tanya Christian ("Ms.
23 Christian") is that Sabrina called her, because they had agreed to meet for
24 lunch at 1:00 p.m. Ms. Christian recalls Sabrina telling her that she was
25 going to get her co-worker's car. Ms. Christian knew her co-worker was

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Samantha Suberan (“Ms. Suberan”), and Sabrina said she was going to use her car.

31. Some time shortly after 9:00 a.m. Ms. Ramoon, who was staying at her boyfriend’s house in Pease Bay, near Bodden Town, received a telephone call from the deceased. Sabrina told her to wake up as she was going to drop by later that morning. Sabrina told Ms. Ramoon that she was going to pick her up.

32. At 10:00 a.m. Ms. Suberan started her work day at Blockbuster in Grand Harbour, Red Bay. At about 10:15 a.m. Sabrina Schirn came in to Blockbuster and asked Ms. Suberan if she could borrow Ms. Suberan’s car, a white Honda Torneo with Registration Number 133 249. Ms. Suberan told her no, because the car was registered in her father’s name. Ms. Suberan recalls Sabrina saying that she wanted the car to go and pick up her boyfriend from North Side, but again Ms. Suberan told her no. Ms. Suberan recalls leaving Sabrina at the front counter in order to go in the back of the store to return some DVDs to shelves. When she returned to the counter Sabrina was still there, and she recalls the deceased saying that she was gone. Ms. Suberan recalls Sabrina being in the shop for about five minutes.

33. At 9:43 a.m. on the 11th March 2009 the defendant calls Sabrina Schirn on her Digicel phone – 517-7577 – and talks for 56 seconds. His telephone is still at the Breakers cell site and Sabrina’s cell phone is still at the Stadium site.

1 34. At 10:27 a.m. the defendant again calls Sabrina on her Digicel phone. The
2 defendant's phone is now at cell site Old Man Bay – CAY015 – and the
3 deceased's telephone is at the Prospect cell site – CAY018.

4
5 35. Some time after 10:00 a.m. on the 11th March 2009 Sabrina Schirn arrives at
6 Ms. Ramoon's boyfriend's house in Pease Bay. Sabrina Schirn had brought
7 Ms. Ramoon some breakfast but Ms. Ramoon was not ready to leave. Ms.
8 Ramoon recalls that Sabrina was driving a white car. Ms. Ramoon recalls the
9 deceased saying that she would be right back because she, Danielle, was not
10 ready as yet. Ms. Ramoon recalls Sabrina saying that she would return to
11 pick her up and that she was going to drop somebody, by the name of Randy,
12 off at East End. Ms. Ramoon recalled Sabrina saying she was going to drop
13 Randy at East End and come back to pick her up.

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15 36. At 10:52 a.m. on the 11th March 2009 Sabrina calls the defendant and her cell
16 phone is at the Breakers cell site – CAY012 – and the defendant's telephone
17 is at East End cell site CAY013.

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19 37. At 10:56 a.m. the defendant calls Sabrina, and his cell phone is at Breakers,
20 and Sabrina's cell phone is at the East End.

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22 38. At 10:59 Sabrina calls the defendant and her phone is at Old Man Bay and
23 the defendant's telephone is at Collier's cell site, CAY014.

24

1 39. At approximately 10:50 a.m. on the 11th March Ms. Christian went for her
2 cigarette break and called Sabrina Schirn. Ms. Christian asked Sabrina how
3 she was. She said that Sabrina sounded alright. Ms. Christian said that
4 Sabrina Schirn said that she was actually headed into East End, and that she,
5 Sabrina, would meet Ms. Christian at 1:00 p.m.

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7 40. At approximately 11:00 a.m. on the morning of the 11th March 2009 Amelia
8 McTaggart (“Ms. McTaggart”) called Sabrina Schirn and said that she would
9 buy her lunch. Ms. McTaggart said that Sabrina said that she was going “up
10 to East” to deal with some business and that she would be back, and that she
11 would call when she came back.

12
13 *The Prison Farm on the 11th March 2009*

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15 41. Carnel Simpson (“Mr. Simpson”), a supervisor at Northward Prison
16 produced Exhibit 5, which was the gate occurrence list. He confirmed that on
17 the 11th March 2009 the following inmates were taken to the Prison Farm,
18 known as Wilderness Farm. They were Anthony Bryan, Thomas Bush,
19 George Evans, Randy Martin, Jason Smith, Yoandy Swaby and George
20 General – a total of seven prisoners. There were also two officers, namely,
21 Prison Officer Marlon Duhaney (“P.O. Duhaney”) and Prison Officer
22 Gregory Hunter (“P.O. Hunter”).

23
24 42. One of the inmates was George Dexter Evans (“inmate Evans”) who looked
25 after the irrigation system on the farm. His evidence is that around 10:35 a.m.

1 he noticed a white car, which he thought was driven by a female, driving past
2 the Prison Farm, towards the banana shed. He then noticed the same car drive
3 past again in the other direction. He recalled P.O. Duhaney getting ready to
4 cook that day, and, further he recalled seeing P.O. Duhaney outside of the
5 kitchen getting ready to cook. He confirmed that the farm is not fenced in
6 and that prisoners “move around.”

7

8 43. Mr. Gilbert George Hudson (“Mr. Hudson”) works on a farm, owned by Dr.
9 Lookloy, in East End. Mr. Hudson worked near to the road and near to the
10 Prison Farm. He recalls watering plants when he saw a white car. He saw a
11 white car drive up and park. He thought it was some time after 10 o’clock.
12 He continued watering his plants and then he saw a prisoner coming across
13 the farm. He said it was a prisoner because he was wearing prisoner pants
14 and shoes, but he did not have his shirt on. He described the blue prison-issue
15 pants and said that the prisoner had no shirt on. Mr. Hudson did not see the
16 prisoner’s face, but he saw him, and he saw him open the door of the white
17 car and climb in. Mr. Hudson described the car reversing back out and
18 identified the car on Exhibit 2 Map 5. Mr. Hudson recalls seeing the car at
19 the ficus hedge. Mr. Hudson showed the police where the car was parked and
20 where it reversed and then drove off. Mr. Hudson was not sure whether the
21 driver was a man or a woman, but he said it looked like a woman’s hair from
22 where he was standing.

23

24 44. P.O. Duhaney recalled the 11th March 2009. He said that on that day he was
25 doing the cooking, which meant the cooking would only allow him to

1 perform minimum supervision. He therefore did periodic checks on the
2 prisoners. P. O. Duhaney confirmed that the prison farm provided gloves. He
3 said once gloves are issued then “you keep your gloves.” He said every
4 prisoner working on the farm had his own gloves. P.O. Duhaney confirmed
5 that he had a previous “run-in” with the defendant, Randy Martin, in April
6 2008 when he caught him with some contraband – a result of which the
7 defendant lost his privileges and was not allowed to work on the Prison Farm
8 for a couple of months.

9
10 45. P.O. Duhaney recalled that on the 11th March there were 6 prisoners, plus the
11 defendant, working on the Prison Farm. He said Yoandy Swaby, George
12 General and Jason Smith were working to the left of the farm house sowing
13 cucumber seeds. Anthony Bryan and Thomas Bush went to the adjoining
14 property to retrieve banana suckers for the livestock. George Evans was
15 doing the plumbing work and Randy Martin was working in the tomato patch
16 beside the farmhouse. P.O. Duhaney described the cucumber patch being on
17 one side of the farmhouse, with the tomato patch being on the other side.
18 Upon entering into the farm the first patch was the tomato patch. He said
19 P.O. Hunter was supervising the inmates with the planting of the cucumber
20 seeds. P.O. Duhaney recalls the defendant wearing blue prison pants, work
21 boots, a gray merino (undershirt), and also working with a machete. P.O.
22 Duhaney recalls the defendant “pulling weeds out.”

23
24 46. During the morning of the 11th March 2009 P.O. Duhaney recalled the
25 defendant coming to him on two or three occasions, pointing out that he was

1 “working here and not going anywhere else like the other guys.”
2 Furthermore, on two or three occasions he said that the defendant came to
3 him with a toilet roll and said that he was “going down to the bottom to take
4 a dump.” In response to the Solicitor General, P.O. Duhaney said that the
5 defendant would have been away for approximately 45 minutes.

6
7 47. At around 12 or after 12 noon P.O. Duhaney saw most of the inmates but did
8 not see the defendant. He recalls asking P.O. Hunter if he had seen the
9 defendant and he said no, and so it was agreed they should “go and take a
10 walk down to the bottom section.” Upon walking to the bottom section an
11 inmate called out, saying there was somebody at the prison gate. So P.O.
12 Hunter and P.O. Duhaney turned around and went back to the prison farm
13 gate and spoke to the person who was making the enquiry. While talking to
14 the person at the gate he noticed the defendant walk speedily to a mango tree
15 and speak to George General and then walk off. P.O. Duhaney noticed that
16 the defendant walked off speedily, behind the Prison Farm house. P.O.
17 Duhaney was of the view that the defendant was behaving very suspiciously
18 and again spoke to P.O. Hunter about this.

19
20 48. Accordingly, P.O.s Duhaney and Hunter went down towards the Orange
21 Grove to where the animals were. P.O. Duhaney said he then saw the
22 defendant “pop back onto the prison property” holding a black bag and his
23 machete under his arm. According to P.O. Duhaney, he saw the defendant in
24 the orange grove and saw him bending down to go under a fence. P.O.
25 Duhaney said, “Randy, what are you up to?” and then defendant “froze for a

1 couple of seconds.” P.O. Duhaney said that the defendant then went into the
2 bushes and was out of sight for another couple of seconds. He said the
3 defendant came back with an orange in his hand, which he was peeling. P.O.
4 Duhaney noticed that the defendant no longer had the black bag and asked
5 him what was he up to. The defendant’s response was that he had a “ziggy”
6 just \$25 worth. P.O. Duhaney said the defendant said he had a ziggy and two
7 packs of cigarettes, which his cousin had dropped off for him. P.O. Duhaney
8 asked where it was and he said he had already smoked it. P.O. Duhaney
9 ordered the defendant back up to the prison farm, and he and P.O. Hunter
10 searched the area. He told the defendant not to go back down there.

11

12 49. As a result of the defendant’s suspicious behaviour P.O. Duhaney ordered the
13 Prison Farm to be shut down so that they could search the farm.

14

15 50. P.O. Duhaney noticed a pair of prison trousers with the legs cut off, but did
16 not pick them up. He added that the defendant did not have on his shirt. P.O.
17 Duhaney recalled asking the defendant what happened to his shirt and the
18 defendant said that he was lying underneath the guava tree, and the sun was
19 “hot hot” so his shirt became all sweaty, and so he had taken it off.

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21 51. P.O. Duhaney said the defendant sat on the box shown in Photograph 23 of
22 Exhibit 7. He had his head held in his hand and he said to P.O. Duhaney,
23 “where the fuck you come from on me like that” and asked for two Panadol
24 pain-relieving tablets. P.O. Duhaney said the defendant appeared frightened
25 and was not happy.

1 52. P.O. Duhaney recalls, whilst they were leaving the Prison Farm and walking
2 towards the bus, the defendant saying to him “Look at the big pants that they
3 give in the laundry mat” and P.O. Duhaney recalls asking himself why would
4 the Defendant be telling him about this, as he never recalled him saying
5 anything in the morning.

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7 Scene of Crime Evidence

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9 53. On the 16th March 2009, on information received, WPC Zoan Marin
10 examined the missing Honda Torneo car, with Registration Number 133 249,
11 which she measured was 551 feet from the main road. She said the vehicle
12 was positioned in the bush area. All the doors had been locked, and the car
13 was not visible from the main road. Officer Marin stated that you had to walk
14 440 feet from the main road, along the dirt track, before you could get sight
15 of the vehicle.

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17 54. WPC Marin produced as Exhibit 1, seventy-four (74) photographs of the
18 Honda Torneo and its interior. The contents are photographs 1 to 13.

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20 55. On the 17th March 2009 WPC Marin attended a possible murder scene on the
21 High Rock Drive near the quarry. She reached the boulders, which are shown
22 on Exhibit 2 Map 2 and Exhibit 1 photo 14. From there she walked towards
23 the unused wooden shed at “F” on Exhibit 2 Map 2. There she proceeded to
24 take photographs of the unused wooden shed and the deceased’s body, as
25 well as photographs of the deceased’s slippers – photographs 45-48.

1 Photographs 49 and 50 are of the blue blouse and the red container is
2 photograph 20. WPC Marin identified the various parts to Exhibit 2 Map 2:
3 A - the boulders; B - the abandoned van; C - the location of the deceased's
4 cell phone; D - location of deceased's body; E - location of deceased's
5 shoes; F - unused wooden shed; G - trails of blood. WPC Marin secured all
6 the exhibits for further analysis.

7
8 56. WPC Marin later returned to the scene on the 19th March and, using forensic
9 chemicals, found blood stains in the unused shed. From the unused shed, to
10 where the body was found, the officer took samples from the plants that
11 appeared to have blood on them. The Officer also collected the deceased's
12 clothing for further analysis.

13
14 57. On the 23rd March WPC Marin proceeded to where the deceased's white
15 motor vehicle had been hidden, and there took photographs of the keys which
16 had been found, and photographs of the right glove which had been found by
17 Officer Davis Scott ("PC Scott"), hidden in the bush.

18
19 Relevant distances and times

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21 58. WPC Marin said that the Honda Torneo was 551 feet from the road. The
22 glove was 380 feet from the road and hidden into the bush. The keys were
23 found 50 feet from the vehicle. All this was done on the 27th March. Again
24 WPC Marin secured the keys and the glove for further analysis.

1 59. WPC Marin walked from the vehicle to the prison farm. She said from the
2 vehicle to the first roundabout, shown on Exhibit 2 Map 4, and Exhibit 8,
3 took 5 minutes.

4
5 60. WPC Marin walked from the roundabout to the orange grove on the prison
6 farm, again shown on Exhibit 2, Map 4, and Exhibit 8, and this took 2
7 minutes. Walking from the orange grove to the tomatoes took 6 minutes.

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9 61. WPC Marin's evidence was that driving from the murder scene to the
10 entrance to the dirt track where the Honda Torneo was hidden, at 30 miles
11 per hour, took one minute. She added that driving from the end of the dirt
12 track to where the car was hidden, took 3 minutes, due to the very uneven
13 surface on the road. So WPC Marin's evidence was that it would have taken
14 17 minutes to drive and walk from the murder scene to the prison farm
15 house.

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18 DNA

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20 62. The Crown called Kevin Noppinger ("Mr. Noppinger") who is a forensic
21 serologist and forensic scientist, with over 31 years experience in the field of
22 crime laboratory work. He has been studying DNA case work since 1990.

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24 63. Mr. Noppinger examined a number of Exhibits including Exhibits marked
25 LB1 to LB14, which were the clothes of the defendant taken from his cell in
26 Northward Prison.

- 1 64. LB6 was the prison-issue belt of the defendant. Mr. Noppinger's evidence
2 was that there was a little blood on the belt, and when he examined it he
3 confirmed that the DNA profile matched that of the deceased, Sabrina
4 Schirn.
- 5
- 6 65. Mr. Noppinger examined Exhibit WVM2, which was a swab from a
7 Blockbuster key card. He identified blood but confirmed that there was not
8 enough DNA present to obtain a profile. Similarly, Mr. Noppinger found
9 blood on the two branches that Zoan Marin had collected, namely ZM48 and
10 ZM49, but there was either insufficient blood or, more likely, soil and dirt,
11 which inhibited the DNA identification process.
- 12
- 13 66. ZM52 was a swab taken from a door jam in the unused wooden shed –
14 Exhibit 2 Map 2 “F”. No blood was detected on this item, but a DNA profile
15 was obtained, which matched the deceased, Sabrina Schirn. ZM53 was
16 another swab from the door jam of the wooden structure on the unused shed,
17 which again matched the deceased's DNA profile.
- 18
- 19 67. Mr. Noppinger examined ZM76, which became Exhibit 10 – the right hand
20 blue and white glove. Mr. Noppinger took a sample from the wrist area
21 which the Crown presented as Area 1 and obtained a partial DNA profile,
22 which matched that of the deceased.
- 23

- 1 68. Mr. Noppinger took a sample from the interior wrist portion of the glove.
2 There was no blood on that sample. However, a DNA profile was obtained
3 and the major portion of the DNA matched the deceased.
4
- 5 69. Mr. Noppinger examined the interior of the right index finger which was
6 termed Area 4. There was no blood found in that area. However the DNA
7 profile was a mixture of at least two individuals and Mr. Noppinger
8 confirmed that he found the DNA of both the defendant and the deceased in
9 this location.
10
- 11 70. Mr. Noppinger examined the interior of the right middle fingertip area of the
12 glove which was Area 5. Mr. Noppinger found blood on this sample. In
13 addition, the sample that he collected did not have blood. Again, Mr.
14 Noppinger found DNA that matched both the defendant and the deceased.
15
- 16 71. Mr. Noppinger examined a sample from the interior of the wrist area of the
17 glove. This sample did contain blood and the profile matched the deceased,
18 Sabrina Schirn.
- 19 72. Mr. Noppinger also found blood on the interior of the index and middle
20 finger. The DNA matched the deceased.
21
- 22 73. Mr. Noppinger examined ZM90 which were swabs that Zoan Marin had
23 taken from around the ignition area of the white Torneo motor vehicle. Mr.
24 Noppinger found blood on this swab and the blood matched up to the
25 deceased.

DEFENCE CASE

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74. The defendant began his evidence by confirming that he was currently an inmate in Northward Prison, having been convicted on the 13th June 2008 for Aggravated Burglary and possession of an unlicensed firearm, for which he received 7 years and 3 years respectively – making a total of 10 years. The defendant also admitted previous convictions for other offences including wounding, burglary and drug offences.

75. The defendant said he first met the deceased, Sabrina Schirn, in April 2008. He said he had a girlfriend, Juliette Ebanks, and that the deceased would bring Juliette Ebanks to the prison to meet him. The defendant explained that Juliette would visit the farm for them to have sex and to provide him with marijuana. Sabrina Schirn would often come to the prison with Juliette Ebanks.

76. The defendant in examination-in-chief denied that he had ever assaulted the deceased in the manner described by Juliette Ebanks in her statement. He said “nothing like that ever happened.” The defendant said that Juliette Ebanks is just a “typical liar.”

77. The defendant said he was allowed to work at the prison farm as he became a category C prisoner in late 2007. He said people would bring drugs to the farm and women would come to the farm area to provide sexual favours for the inmates.

- 1 78. The defendant said that Juliette Ebanks or anyone else coming to have sex at
2 the prison would go to the banana shed where the bananas were washed. The
3 defendant said that there was also a container there. The defendant said “you
4 could either go through the fence to where the container was, or walk down
5 deep into the farm and double back to the banana shed.” The defendant said
6 Juliette Ebanks and others delivered drugs to him and other inmates whilst he
7 was at the prison farm.
8
- 9 79. The defendant recalled the incident in April 2008 when P.O Duhaney caught
10 him with ganja and a mobile phone. The defendant said he was not happy.
11 He was caught with the ganja and the mobile telephone and consequently his
12 mobile phone was confiscated and he was removed off the prison farm duty.
13 The defendant said P.O. Duhaney was down on him. He said other prisoners
14 might have mobile phones or have drugs but P.O. Duhaney seemed to pick
15 on him.
16
- 17 80. The defendant said that the deceased would bring him, and his nephew,
18 Lance Myles cigarettes. In 2008 when he was caught with the marijuana and
19 the mobile telephone by P.O. Duhaney, the defendant said the ganja had
20 come to him from the deceased and Juliette Ebanks.
21
- 22 81. The defendant said that he had sexual relations with Sabrina Schirn before
23 January 2009 on the farm. He added that the deceased had sexual relations
24 with other prisoners. In fact, it is the defence’s case that the deceased had

1 sexual relations with a number of prisoners, including Shane Connor, Derrick
2 Bush, Kaylant Hunter, Raysial Jeffers, Patrick McField and Matthew Miller.

3

4 82. On the 11th March 2009 the defendant said he went to the prison farm
5 dressed in blue pants and white merino. The defendant accepted that the
6 prison farm provided gloves but did not say he was wearing any glove or
7 gloves on that day.

8

9 83. The defendant explained that the phone traffic between himself and the
10 deceased and Lance Myles was in relation to getting ganja from Lance Myles
11 (outside of prison) and asking him to give it to the deceased to take to the
12 prison farm. The defendant said that the deceased acted as a courier.

13

14 84. The defendant said that the reason for the calls on the 4th and 5th March 2009
15 were because he and the deceased were getting much closer to one another.
16 The defendant said that on the 4th and 5th of March the deceased told him that
17 Lance Myles had visited her “work place” and destroyed her car. The
18 defendant said he and Lance Myles got into an argument because he told
19 Lance to stop harassing the deceased. The defendant said this took place on
20 the 9th March 2009.

21 85. The defendant said that at 12:29 p.m. on the 10th March he had a telephone
22 conversation with the deceased. He said that it was during that call that the
23 defendant arranged for her come and visit him on the 11th March. The
24 defendant asked her to bring him some “weed” and cigarettes.

25

1 86. The defendant said that in the second week in February he asked for the pair
2 of gloves from Mr. Myles. The defendant stated that he (the defendant) had
3 been working with the gloves from the second week of February. He said he
4 was working only with the right hand glove. He said he left the left hand
5 glove in the changing room at the prison farmhouse.

6
7 87. On the 11th March 2009 the defendant said that he and the deceased had a
8 couple of phone calls and that Sabrina Schirn met him at 10:38 a.m. at the
9 banana shed. The defendant said he was dressed in blue prison pants, blue
10 prison shirt, white merino/t-shirt and white sneakers. The defendant said that
11 he was assigned to the tomato patch and the two officers on duty were P.O.
12 Duhaney and P.O. Hunter. The defendant said that he had a machete and a
13 hand fork. The defendant's evidence was that prisoners could obtain a
14 machete at any time and there was very little supervision in relation to the
15 allocation or maintenance of the machetes and the other tools. The defendant
16 had left his mobile phone down by the mango tree in a coffee bottle (Exhibit
17 9).

18
19 88. The defendant said that he had arrived at the prison farm at around 8:45 a.m.
20 on that day, went down to the mango tree, got his phone, and proceeded back
21 up to the farm house. The defendant said he did not tell anybody where he
22 was going. He said he was away for approximately five minutes. The
23 defendant said all the earlier calls – 9:06 a.m., 9:30 a.m. and 9:43 a.m. were
24 really to say where Sabrina Schirn was and where she had reached. The

1 defendant said she went by a gas station and he had asked her to get some
2 cigarettes.

3
4 89. The defendant said that 10:38 a.m. was when the deceased was at the
5 location on the farm. He said when he was working in the tomato patch the
6 deceased drove across and he saw the white car. He then proceeded to meet
7 her. Before he left his location he went to tell one of his fellow inmates that
8 he was going to pick up some weed and if an officer asked for him he should
9 whistle. The defendant said he then went to see P.O. Hunter in the kitchen
10 and told him he was going down to the bushes to take a dump. After doing
11 that the defendant said when he got to Sabrina at the banana shed it was
12 10:38 a.m. The defendant said he was certain about this time because he said
13 he had looked at his watch – a silver Fossil watch.

14
15 90. The defendant said that whilst he was with the deceased they started kissing
16 one another in a sexual manner, which led to intercourse. However, the
17 sexual intercourse was not completed. The defendant said that the deceased
18 had her menstruation and this made them stop. The defendant said he was
19 wearing his prison trousers, which were held up by a belt. The defendant's
20 evidence is that during this time he noticed a bruise on Sabrina Schirn's face
21 and they tried to call a guy in North Side because he was the guy who beat
22 her up. The defendant said the deceased picked up the phone while he was
23 kissing her and she made the call. He said a girl answered the phone. The
24 defendant said that after the phone call was over "me and her continued" and
25 at some stage the deceased picked up the glove and wiped it on her leg. The

1 defendant said he stopped her and took out his bath rag. He then heard the
2 whistle so “we rushed off.” The defendant said he picked up the weed and
3 the cigarettes and went off and the deceased jumped in the car and rushed
4 off. The defendant said he left the glove on the back seat of the car.
5

6 91. On his way back to where he was working the defendant said he was tapping
7 the pack of cigarettes and saw P.O. Duhaney. The defendant said it would
8 take about 3 minutes at the most to get from the banana shed to where he was
9 working. The defendant said he went back to the tomato patch and started
10 working. He also said he had two telephone calls with the deceased – one at
11 10:56 a.m. which lasted 108 seconds and the other at 10:59 a.m. which lasted
12 41 seconds. The defendant’s evidence is that during the first conversation
13 they made the arrangement to meet on the following Wednesday, the 18th
14 March. During the second conversation the defendant said it was the
15 deceased wanting him to hear a song that was on the car radio.
16

17 92. The defendant said that the bag in which the deceased had given him the
18 weed was a very poor bag, so he secured the weed properly in a black plastic
19 bag. The defendant said he was nervous because, clearly, P.O. Duhaney was,
20 “dogging him.” The defendant said he kept his mobile telephone inside his
21 shoes. In his effort to hide the weed he threw it down as soon as he saw P.O.
22 Duhaney.
23

24 93. In his evidence-in-chief the defendant said that he did not hear about Sabrina
25 Schirn going missing until some time on Friday the 13th March. In answer to

1 his counsel he said the reason he did not try to contact the deceased, either on
2 the 12th or the 13th, was because they had made the arrangements to meet the
3 following Wednesday, that is, the 18th March.
4

5 94. Asked by his leading counsel if when he had heard the deceased had gone
6 missing, did he think to telephone her, the defendant said no. The defendant
7 said he called other people when he heard that the deceased had gone
8 missing.
9

10 95. The defendant's statement, Exhibit 28, was put by his leading counsel to him.
11 He said he knew by the time he had made the statement that Sabrina Schirn
12 was dead, and he denied having anything to do with the killing.
13

14 96. The defendant said the plait of hair which was found in his cell wrapped in a
15 piece of paper marked with the name Sabrina Schirn, was his hair, which he
16 had cut on the 3rd February 2008. When asked who wrote the name Sabrina
17 Schirn on the piece of paper the defendant said, "I did." He said the reason
18 for writing her name was because he did not want to forget her name because
19 he wanted to make an application to put her name on his visiting list. The
20 defendant said there was no reason why he wrapped the paper with her name
21 on it around the plait of hair.
22

23 97. In Court when the defendant was shown the piece of paper with the
24 deceased's name on it he said it was not his handwriting. Asked by his
25 leading counsel how the paper came to have Sabrina Schirn's name on it, he

1 said he was in the police station on the 7th April for 12 days, and officers
2 searched his cell whilst he was not there.

3
4 98. The defendant was asked about AP10 – the newspaper clippings which
5 related to Sabrina Schirn. He said the reason he had those clippings was
6 because he saw her on the 11th March and all of a sudden she went missing,
7 so he was following up on what was going on, and that was why he saved the
8 clippings on her. Similarly, he kept the clippings of the attempted murder of
9 his brother, because he was following up on the Appeal.

10
11 Cross Examination of the Defendant

12
13 99. The defendant said he chose the deceased to be the courier for the drugs
14 because she was reliable. He also acknowledged that the deceased used to
15 bring cigarettes to him at the prison. The defendant said anything he asked
16 Sabrina for “she always give it to me, man.” The defendant said, for
17 example, that on the 5th February the deceased took half a pound of ganja
18 from his nephew, Lance Myles, and brought it to the prison farm for him.

19
20 100. The defendant said he had obtained Sabrina Schirn’s telephone number from
21 Derrick Bush, because he was another person for whom Sabrina brought
22 weed to the prison farm.

23
24 101. The defendant said he and Sabrina Schirn had sexual relations twice in 2008.
25

- 1 102. The defendant was asked about the telephone calls on the 4th March 2009,
2 and the message that he left with Sabrina Schirn “when are you going to link
3 me?” and further, “I only need you to pick me up from the farm and drop me
4 at East End.”
5
- 6 103. The defendant said I did not tell her to pick me up from the farm. The
7 defendant denied leaving a message asking her to pick him up at the prison
8 farm and drop him at East End. He said nothing like that happened. He said
9 he only called her to tell her to call him back.
10
- 11 104. The defendant maintained that the arrangement to meet was made at 12:29
12 p.m. on the 10th March. In relation to the other conversations, he said,
13 “Sabrina is a little chick that she love use her phone and thing. Sabrina when
14 she call you on the phone she is going to give you a whole yard of what is
15 taking place.”
16
- 17 105. On the 11th March the defendant said he called her at 9:06 a.m. to see if she
18 was alright. The defendant said that Sabrina called him at 9:30:05 a.m. and
19 then the defendant said he called her at 9:43 a.m. to tell her to get cigarettes
20 and things for him. The defendant said she was at “some gas station, she
21 picked up the cigarettes and things for me.” Asked about the 10:27:34 a.m.
22 call which he made to Sabrina Schirn, the defendant said, “That was to ask
23 her what vehicle she was driving.”
24

- 1 106. The defendant told the Solicitor General that Sabrina arrived at 10:38 a.m.
2 “but only stayed for about 10 or 11 minutes, it was not long.”
3
- 4 107. On the defendant’s evidence, the defendant was with Sabrina Schirn from
5 10:38 a.m. to 10:49 or 10:50 a.m. on the 11th March 2009. Then the
6 defendant’s evidence is that Sabrina Schirn made a call on her phone at
7 10:52:56 to tell the defendant that one of the officers was at the gate.
8
- 9 108. The defendant’s evidence in cross examination was that the deceased visited
10 him and he collected the weed and the cigarettes. She was wearing a jeans
11 skirt and a white blouse. The defendant said Sabrina Schirn got out of the car
12 and they were kissing, that is, French kissing. The defendant first said that
13 his gloves were on the car, with the cigarettes and the weed. Then defendant
14 said the cigarettes were on the back seat. The defendant said he had not used
15 the gloves for work that day, because he had not started working. The
16 defendant said he put the glove on the back seat of the car and then they
17 caressed, then Sabrina Schirn used the glove to wipe herself and they put the
18 glove back on the back seat of the car. The defendant said Sabrina Schirn
19 cleaned herself up with water from a faucet which is at the banana shed.
20 They then heard the whistle. The defendant said, “I just rushed, Ma’am, I did
21 not take it back, I did not take the glove back from her.” The defendant told
22 the Court it takes three minutes at the most to get back to the tomato patch.
23
- 24 109. Asked about the call which he made to her at 10:56:19 a.m. the defendant
25 said he was back in the patch, near the farmhouse. The defendant said he saw

1 P.O. Duhaney talking to somebody by the gate and he, the defendant, had a
2 telephone conversation with Sabrina Schirn for 108 seconds. This call was to
3 make the arrangements for the following week. The second telephone call,
4 after her departure, was when Sabrina called the defendant and that call
5 lasted for 41 seconds. According to the defendant Sabrina called him to make
6 him "listen to music and things like that."
7

8 110. The defendant was shown Exhibits 18 and 22. The defendant was asked
9 about the telephone call that he made at 10:27:54 a.m., where his cell phone
10 was transmitting from Old Man Bay cell site, and the deceased's telephone
11 was transmitting from the Prospect cell site. The defendant was asked how
12 Sabrina Schirn got from Prospect, stopped to give breakfast to Ms. Ramoon
13 in Pease Bay Bodden Town, then got from there to the Prison farm in 11
14 minutes. The defendant was asked whether he was still certain that he and
15 Sabrina Schirn met at 10:38 a.m. and he said, "Yes, that is the time."
16

17 111. The defendant was asked whether he had taken off his shirt and he replied,
18 "That is not true." It was put to the defendant that P.O. Duhaney said that the
19 reason he had taken off his shirt was that he had told P.O. Duhaney that he,
20 the defendant was sweaty. The defendant said, "Nothing like that ever
21 occurred."
22

23 112. The defendant was asked whether he had ever drawn P.O. Duhaney's
24 attention to his baggy pants and the defendant replied, "Nothing like that ever
25 occurred" and he never had baggy pants. The defendant was asked about Mr.

1 Myles saying that he saw the defendant wearing baggy pants after the 11th
2 March, he said, "That's not true."
3
4 113. Asked why he had not called the deceased after the 11th March he said, "No.
5 Because arrangements had been made." Asked why then did he not call her
6 when he knew he would not be able to make the appointment for the 18th,
7 because he had been moved off the prison farm assignment, he said, "I did
8 not know what was taking place at that time."
9
10 114. The defendant acknowledged that he had lied in his voluntary witness
11 statement to the police because the prison painted a picture of him by
12 removing him from the farm work party and removing him out of the general
13 population and placing him in "maximum." The defendant said all that was
14 because he felt that, for the police, he was a suspect. The defendant denied
15 trying to lead the police away from himself, and said, "I simply told them
16 what I feel like to tell them."
17
18 115. The defendant was asked about his notebook – Exhibit AP7. He accepted that
19 his alias was "savage" and that on the notebook he had written "school of
20 killing" and "murder" as the class. Asked why he wrote those things on his
21 notebook the defendant replied, "That's just writing, Ma'am." Asked why he
22 had written down the dates "the 11th March and the 18th March" he said,
23 "Those were just marks and they indicated nothing." The defendant said the
24 fact that the dates were marked on both calendars meant nothing. Asked
25 about the lock of hair which was wrapped in a paper on which he had written

1 the deceased's name, the defendant said he simply wrote her name on a piece
2 of paper and wrapped it round the hair to remind him to make an application
3 to put her name on the visiting list.

4
5 116. It was put to the defendant that the last call at 10:59:29 a.m. was from
6 Sabrina Schirn to the defendant to say she was there at the other meeting
7 place, and that the defendant then went out to meet her. It was put to the
8 defendant that it was between 10:59 and 11:27 a.m. that he was with her, and
9 that was to comply with the arrangement for her to pick him and take him to
10 East End. It was put to him that they met at the disused wooden shed where
11 the blue blouse was found and not at the banana shed where the bananas
12 were washed and where inmates met visitors for sex. The defendant denied
13 that they had met at the disused shed.

14
15 117. The defendant recalled the pink bag in the car. The defendant denied getting
16 the glove to ensure that there were no fingerprints, and, in order to chop and
17 injure the deceased. The defendant denied chopping her and leaving her for
18 dead. The defendant denied making up a story relating to Sabrina Schirn's
19 visit to him on the 11th March 2009 and her death. The defendant denied that
20 he had any involvement in the killing of the deceased.

21
22 118. The Defence submits that there is another possible suspect, namely Lance
23 Myles and, regrettably, the "evidence gatherers", as the leading counsel for
24 the defence terms them, did not follow up on certain lines of enquiry. The
25 defence submits that Lance Myles had originally given a false alibi. The

1 defence relies on the fact that there were threats on the telephone of the
2 deceased from Lance Myles, and Lance Myles' girlfriend, Leeann Lemay
3 Ebanks. The defence also relies on the fact that when Mr. Jennings, brother
4 of the deceased, confronted Lance Myles, Lance Myles "started to stutter and
5 stammer." In addition to the threats and the stuttering the defence submits
6 that there was the period of time between 10:54 a.m. and 12:34 p.m. that
7 Lance Myles' phone was not in use. The defence submits that this provides
8 an opportunity for Lance Myles. In this regard the defence relies on Exhibits
9 23 and 24.

10
11 119. The defence also submits that Juliette Ebanks' statement regarding the
12 supposed motive was not true. Further, if there had been a Sabrina who had
13 anything to do with the attempted murder of the defendant's brother, it was a
14 Sabrina Powell, and not Sabrina Schirn. The defence relies on the further
15 admissions admitted into evidence. The defence submits that there are very
16 serious shortcomings in the police investigation, which led to the case not
17 being properly investigated. In summary, the defendant pleads not guilty.

18
19 **THE LAW**

20
21 120. At the outset of this case on the 24th November 2009, I acceded to an
22 application by the Defence, pursuant to Section 129 of the Criminal
23 Procedure Code whereby the defendant elected to be tried by a judge alone.

24

1 121. Our Court of Appeal first dealt with the duties of a judge in judge alone trials
2 in its judgment in *K. Richards v. R* [2001] C.I.L.R. 496 where Rowe JA
3 stated:

4 *“When a trial judge sitting alone has advised himself of the applicable*
5 *principles of law, and given himself any necessary warning, he must indicate*
6 *clearly in his judgment his reasons for acting as he did, in order to*
7 *demonstrate that he has acted with the requisite degree of caution in mind*
8 *and has therefore heeded his own warning. No specific form of words is*
9 *necessary for this demonstration, what is necessary is that the judge’s mind*
10 *upon the matter be clearly revealed.”*
11

12 122. Deborah Barker stated in her Second Edition of Criminal Litigation in the
13 Cayman Islands at chapter 7, paragraph 13 on page 255:

14 *“The basis of this duty is that the appellant is entitled to know the reasons for*
15 *the Court’s decision and a written record of those reasons is essential to the*
16 *proper conduct of any Appeal.”*
17

18 123. More recently our Court of Appeal in *R v. Dave Kennedy Whittaker Cr.*
19 *App. R. No. 14 of 2006* gave some guidelines regarding the duties of a judge
20 in judge-alone trials. In the judgment of Mottley JA, delivered on the 8th
21 December 2009, he adopted the judgment of the former Lord Chief Justice of
22 Northern Ireland, Lord Lowry, in *R v. Thompson* [1977] NI 74, in which he
23 stated at page 83:

24 *“While on the subject I might say a word on the duty of the judge when*
25 *giving judgment in a trial under the 1973 Act. He has no jury to charge and*
26 *therefore will not err if he does not state every relevant legal proposition and*
27 *review every fact and argument on either side. His duty is not as in a jury*
28 *trial to instruct laymen as to every relevant aspect of the law or to give*
29 *(perhaps at the end of a long trial) a full and balanced picture of the facts for*
30 *decision by others. His task is to reach conclusions and to give reasons to*
31 *support his view and, preferably, to notice any difficult or unusual points of*
32 *law in order that if there is an Appeal, it may be seen how his view of the law*
33 *informed his approach to the facts.”*
34

1 124. The Indictment charges the defendant with murder contrary to Section 181 of
2 the Penal Code and the particulars of the offence are that the defendant, on a
3 day unknown, between the 11th day of March 2009 and the 17th day of March
4 2009 in Grand Cayman, Cayman Islands, murdered Sabrina Schirn.

5
6 125. Section 181 of our Penal Code states:

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

10
11 126. As the Tribunal of Fact I have endeavoured to remind myself of the
12 prominent features of the evidence, both on behalf of the Crown and on
13 behalf of the Defence, because it is my responsibility as the Tribunal of Fact
14 to judge the evidence and decide on the relevant facts of this case.
15 Accordingly I have reviewed the relevant evidence as I see it and I have also
16 taken into account the arguments in the speeches of the Solicitor General,
17 Ms. Cheryll Richards Q.C., and Defence counsel, Mr. David Evans Q.C.

18
19 127. I remind myself that the burden of proof is always on the prosecution. It is
20 for the prosecution to prove that the defendant is guilty and further it is never
21 for the defendant to have to prove his innocence. I also have to remind
22 myself that the prosecution must prove the defendant’s guilt to a high
23 standard of proof, namely, that I must be satisfied that the defendant is guilty
24 of the charge of murder beyond all reasonable doubt or, accordingly, I must
25 be sure that he is guilty. If I find that the prosecution has not made out the
26 case so that I am sure, I must find the defendant not guilty. Accordingly, I

1 must review all the evidence and decide whether the defendant is guilty of
2 unlawfully causing the death of the deceased.

3
4 Circumstantial Evidence

5
6 128. In this case there are no eye witnesses to the crime, nor is there any
7 confession, and therefore we do not have any direct evidence of the murder
8 off High Rock Drive. The prosecution relies upon circumstantial evidence in
9 order to prove the defendant guilty. The prosecution submits that the various
10 circumstances relating to this crime and the defendant are such that when you
11 take them all together, it leads to the sure conclusion that the defendant
12 committed the act of killing Sabrina Schirn.

13
14 129. It has often been cited that circumstantial evidence can be powerful evidence.
15 It is important that I examine it with care and consider whether the evidence
16 upon which the prosecution relies in the proof of its case is reliable, and
17 whether it does prove guilt. Furthermore, before convicting the defendant on
18 circumstantial evidence, I must consider whether it reveals any other
19 circumstances which are, or may be, of sufficient reliability and strength to
20 weaken or destroy the prosecution's case. Finally, I have to warn myself to
21 be careful to distinguish between arriving at conclusions, based on reliable
22 circumstantial evidence, and mere speculation.

1 Defendant lies to the police

2

3 130. On the 21st March 2009, some ten days after the death of Sabrina Schirn, and
4 some ten days after being with her, the defendant gave a witness statement to
5 the police. The defendant told the police that he had heard that some people
6 had found Sabrina Schirn in East End. However, he told the police that he
7 had never met Sabrina before and never had any direct or indirect contact
8 with her.

9

10 131. The defendant has admitted that he lied to the police in his witness statement
11 regarding Sabrina Schirn. I then must ask myself why did the defendant lie. I
12 must remind myself that the mere fact that the defendant lied to the police is
13 not in itself evidence of his guilt for the charge of murder. I must also remind
14 myself that the defendant may lie for many reasons, and they may possibly
15 be “innocent” lies in the sense that they do not denote guilt, for example,
16 they could be lies to bolster a true defence, or to protect someone else, or to
17 conceal some disgraceful conduct, other than the murder of Sabrina Schirn.
18 Furthermore, the defendant may have lied out of panic, distress, or confusion.
19 In this case the defendant says that he lied because he thought he had become
20 a suspect and had been put in maximum security at the prison.

21

22 132. I have to ask myself if there is an innocent explanation for the defendant’s
23 lies and, if there is, I can safely disregard the lies. However, if I am sure that
24 the defendant did not lie for an innocent reason, then his lies can be regarded
25 as evidence to support the case for the prosecution and to prove his guilt.

1 Schirn had been found dead off High Rock Drive. The defendant states that
2 he lied in his witness statement because he felt under pressure and had been
3 moved into the maximum security area of the prison. Although it was not a
4 caution statement, the defendant felt he had become a suspect.

5
6 135. The defendant admitted that he worked on Monday the 9th March 2009 on the
7 prison farm. The defendant also said in his statement that the inmates on the
8 farm are usually under constant supervision, which was also a lie. The
9 defendant also indicated that the prisoners are not allowed any visitors, as it
10 is against the rules. In his witness statement to the police the defendant made
11 no mention of the fact that he and many other prisoners received visits from
12 girls acting as drug couriers and from girls providing sexual favours for
13 prisoners on the prison farm.

14
15 136. In his witness statement the defendant said he was wearing black boots, long
16 blue pants, and a short-sleeved blue shirt. He said that he had left his white
17 shirt on the line to dry on the previous evening. There was no mention of any
18 gloves nor has there been any evidence that the defendant wore the blue
19 glove in Exhibit 10 at any time before the 11th March or on the 11th March.

20
21 137. In his witness statement the defendant states that on his return from the
22 prison farm on the 11th March 2009 he took off all his clothes so that they
23 could be put into the wash on Thursday morning. He further stated that he
24 put all his dirty farm clothes in the wash and put on a clean set of clothes on
25 Thursday the 12th March 2009 and went back to his usual farm detail.

1 138. It is quite clear that the defendant lied. I am reminded of the warning that I
2 would give to the jury, pursuant to *R v. Lucas* [1981] Q.B. 720, and I treat
3 this evidence with great care.
4

5 Meeting at Banana Shed at 10:38 a.m.
6

7 139. The defendant insists on maintaining that his meeting with the deceased on
8 the prison farm at the banana shed took place at 10:38 a.m. He says that he
9 checked his silver Fossil watch and it said 10:38 a.m. It has been shown to
10 the defendant and to this Court that Sabrina Schirn could not possibly have
11 reached the farm by 10:38 a.m. or even by 10:52 a.m. on the 11th March
12 2009. Yet, still the defendant hangs on to this time and to his story. On the
13 evidence before this Court this could not have happened.
14

15 140. First Ms. Christian goes for her cigarette break at 10:50 a.m. and calls
16 Sabrina Schirn, who says she is on her way to East End.
17

18 141. Secondly, at approximately 11:00 a.m. Ms. McTaggart calls Sabrina Schirn's
19 Digicel phone to say she would buy her lunch and Sabrina Schirn tells Ms.
20 McTaggart that she is going to East End "to deal with some business" and
21 then come back.
22

23 142. Thirdly, if one examines the telecommunications Exhibit evidence, there is a
24 call at 10:24:10 a.m., which has Sabrina's phone transmitting from the
25 Patrick's Island cell site. At 10:27 a.m., the defendant calls Sabrina and

1 Sabrina's phone is transmitting from the Prospect cell site. I find that Sabrina
2 Schirn's cell phone and Sabrina could not get from Patrick's Island and
3 Prospect, stop with Ms. Ramoon at Pease Bay to give her breakfast, and get
4 to Wilderness Farm, past the entrance, and arrive at the banana shed by 10:38
5 a.m.

6
7 143. Furthermore 10:37:23 a.m., on Exhibit 13, has Sabrina Schirn's telephone in
8 the Bodden Town/Savannah cell site of 9182-9185. It would be impossible
9 for Sabrina Schirn and her phone to get from that location to the banana shed
10 in time for meeting the defendant at the time, and at the place, that the
11 defendant has sworn took place. In fact the deceased could not possibly be at
12 Bodden Town Savannah and reach the Prison Farm before 10:52 a.m. when
13 the defendant says he rushed back to the tomato patch.

14
15 144. I find on the evidence before me that the defendant could not have met the
16 deceased at the banana shed or indeed anywhere on or near Wilderness Farm
17 at 10:38 a.m. on Wednesday the 11th March, because the deceased and her
18 telephone had just left Blockbuster and were on the way to pick up Ms.
19 Ramoon in Pease Bay near Bodden Town.

20
21 145. On the basis of the testimony from the other witnesses and from Ms.
22 Christian and Ms. McTaggart, and from the evidence presented by the IT
23 technologists from the telecommunications firms of Cable & Wireless and
24 Digicel, I conclude that the defendant has been completely dishonest and lied
25 to the Court about the so-called meeting at the banana shed. I find the

1 defendant's sworn testimony to be entirely unreliable and untruthful on this
2 very important piece of evidence. This is a fact that supports the Crown's
3 case and the Crown's submission that the inference is that the defendant is
4 trying to remove himself from the scene of the crime and from the time of the
5 assault which caused the death of Sabrina Schirn.

6
7 146. At some time after 10 a.m. Mr. Evans did see a white car go past the gate of
8 the prison farm towards the banana shed, and then back from the banana shed
9 towards East End. It is quite conceivable that the deceased managed to get to
10 the prison farm and drive past the gate after 10:56 a.m. and then drive back
11 again to meet the defendant on the East End side of the prison farm. This
12 would have involved the defendant going down towards the orange grove at
13 the bottom of the farm and over to the roundabouts as can be shown on
14 Exhibit 2 Map 4 and Exhibit 8. WPC Zoan Marin timed this walk at six
15 minutes, but clearly, it could be run in a much shorter time.

16
17
18 147. It is very significant that Mr. Hudson who was watering some plants on the
19 Lookloy's farm saw a white car, which he described to the police as being
20 parked as shown in Exhibit 2 Map 5. Mr. Hudson saw a prisoner with prison
21 blue pants and no blue prison shirt get into the white car and then the white
22 car drove off. He said that the man he saw might have a lighter complexion
23 to Officer Price (who was in Court when Mr. Hudson gave his evidence) but
24 it has to be remembered that Mr. Hudson said he did not see the prisoner's
25 face. There is absolutely no reason why Mr. Hudson would fabricate this
26 evidence. I find Mr. Hudson to be an honest and reliable witness and I accept

1 Mr. Hudson's evidence. Mr. Hudson said, "Me see the prisoner pants and
2 shoes and he did not have a shirt." "Blue prisoner pants and he did not have
3 no shirt." "Me don't see him face or nothing." "Me just see him like open the
4 white car and then him get in behind." Mr. Hudson was not sure about the
5 driver of the white car, "but it looked like a woman's hair where me stand
6 from." "So it look like a woman to me, not sure." Mr. Hudson was asked by
7 the defence whether he was sure he had got the right date and his answer
8 was, "Me know what me saw on Wednesday, me didn't saw nothing on
9 Friday."

10
11 148. Mr. Hudson's evidence is consistent with the message that Ms. Ramoon
12 heard on or about the 4th March 2009 when she listened to two telephone
13 messages on Sabrina Schirn's phone from Randy. In the second message Ms.
14 Ramoon heard a message from Randy asking Sabrina to pick him up from
15 the farm and drop him at East End. Mr Hudson sees a white car which he
16 thinks is driven by a woman pick up a prisoner on the East End side of the
17 prison farm.

18
19
20 149. However, the defendant has denied leaving the message on the deceased's
21 telephone for the deceased to come and pick him from the farm and take him
22 to East End. Ms. Ramoon clearly recalls this telephone message. She heard it
23 and had no reason to fabricate any story relating this. Accordingly, I accept
24 Ms. Ramoon's evidence as evidence of truth and that the defendant, contrary
25 to his story, did leave the said message with the deceased. Furthermore, on
26 the morning of the 11th March 2009 when Sabrina went to pick up Ms.

1 Ramoon at Pease Bay, Ms. Ramoon's evidence is that Sabrina Schirn had
2 told her, that she, Sabrina, was going to drop Randy at East End.

3
4 150. I have to treat Juliette Ebanks' statement with a high degree of caution
5 because she was not subject to cross examination. It may be that another
6 Sabrina, namely Sabrina Powell, was involved in the attempted murder of the
7 defendant's brother. However the action of putting Sabrina Schirn's head in a
8 plate of oxtail is a very detailed account. It is regrettable that Juliette Ebanks
9 felt that she could not give live testimony due to her fear. Accordingly, I do
10 not put much store on this evidence.

11
12 Acquiring the glove

13
14 151. Another conflict in the evidence is when the defendant first identified the
15 gloves and his need for them. Mr. Myles was clear that in early March 2009
16 the defendant noticed his gloves and said he needs a pair like that. Mr. Myles
17 is also clear that the defendant, either early on the morning of the 10th or the
18 11th of March 2009 took the gloves.

19
20 152. The defendant's evidence is that he borrowed the gloves in the second week
21 of February 2009. There is no evidence to support that fact, nor is there any
22 evidence that the defendant ever wore a blue glove during the following
23 weeks in February and in early March. In fact there is no evidence to suggest
24 that he ever used the glove on the farm. Accordingly, one must ask the
25 question why the defendant made such a deliberate point of identifying the

1 gloves and then taking the gloves. The defendant said he would never go
2 anywhere on the farm without the glove, and yet nobody ever saw him wear
3 the glove or carry the glove. On this point I accept the submission from the
4 Solicitor General that the evidence of the defendant is internally inconsistent.
5 Mr. Myles, in the view of this Court, has no reason to lie regarding this very
6 significant evidence, and he was, in my view, both clear and reliable. It is
7 also evidence that the defendant was planning to use the glove. Accordingly,
8 on the evidence before me I reject the defendant's evidence on this point.

9
10 Pathology Evidence

11
12 153. Dr. Shuman, a forensic pathologist confirmed that the deceased had, at some
13 stage, received four multiple wounds on the mid-upper back, which went
14 through the skeleton muscle, to the vertebrae. Dr Shuman said that these
15 wounds were consistent with the deceased having been struck from behind.
16 The deceased received five chop wounds on the skull and wounds to her
17 forearm, left wrist, hand, foot, and one to the index finger of her right hand
18 which amputated that finger, and one which also almost amputated her
19 thumb. Dr. Shuman confirmed that these were all injuries he termed
20 defensive injuries, caused by what can only be described as a most brutal
21 assault. Dr Shuman confirms that the chop wounds would cause the victim to
22 lose consciousness, and the injuries to the scalp would bring about such a
23 serious loss of blood that the deceased would have, mercifully, died within
24 minutes.

1 DNA

2

3 154. Mr. Noppinger has examined several areas of the glove and he has found the
4 blood of the deceased and DNA of the deceased inside the glove. In
5 summary Mr. Noppinger found the DNA of the deceased and the DNA of the
6 defendant in the interior of the glove on the right index fingertip. Mr
7 Noppinger also found the DNA of the deceased and the defendant at the tip
8 of the interior of the middle finger.

9

10 155. Mr. Noppinger also found that the blood on the defendant's belt matched the
11 blood of the deceased. The Crown submits that this is further proof of the
12 fact that the defendant was the deceased's assailant.

13

14 156. In my view, the blood of the deceased and the DNA of both the defendant
15 and the deceased could not have found their way into those locations in the
16 manner described by the defendant. The defendant's belt and the blue right
17 hand construction glove, in my view, link the defendant to the crime. There
18 is no doubt that it is the DNA of the deceased and the defendant's DNA at
19 the right index and middle fingers and there is no doubt that it is the
20 deceased's blood on the defendant's belt.

21

22 157. The Crown submits that the DNA of the defendant and the deceased got
23 inside the glove when the defendant attacked the deceased and after the
24 injuries had been inflicted.

25

1 158. In addition Mr. Noppinger found the defendant's blood on the ignition. The
2 Crown submits that the glove could explain the lack of DNA in the car and
3 the presence of the deceased's blood where the key can be put into the
4 ignition.

5
6 Disposal of car, keys and glove

7
8 159. I accept that the Honda Torneo was moved from the body site and hidden
9 551 feet up a dirt track cul-de-sac off High Rock Drive. The car appears to
10 have been deliberately hidden. The keys were hidden away into the bush.
11 Most significantly the glove was hidden even further into the bush by
12 someone who never wanted it to be found and identified. I should say at this
13 point that in my view an unknown assailant would have had no reason to
14 appreciate the significance of the glove. The only person who could possibly
15 understand its significance was the defendant. In fact if Mr. Frederick had
16 not noticed the smoke coming from a fire near Bottom Road, it is quite
17 conceivable that the white Torneo, the keys and the glove would never have
18 been found.

19
20 160. I should also mention the evidence of PC Scott. He is a native of East End
21 and on the 30th March he searched the area where the car was discovered. At
22 2:30 that afternoon he found the keys in very dense bush off the dirt track.
23 He actually found the keys and a tag marked Blockbuster in a hole. At 3:30
24 p.m. he discovered the blue right hand construction glove further into the
25 bush and 100 feet from where the keys were found. PC Scott said he was

1 very familiar with the area and had walked it many times, and he said that
2 one could get back to the boundary of the prison farm by the back route
3 within three to five minutes.

4
5 161. The Crown submits that, on the evidence, the defendant was able to hide the
6 car, get rid of the keys and, most importantly, the glove, and still be in good
7 time to return to the prison farm without his absence causing untoward
8 concern.

9
10 P.O. Duhaney's Evidence

11
12 162. I come to evidence of Officer Duhaney. It is correct that there is some
13 conflict between his evidence and that of P.O. Hunter. For example they both
14 stated they were doing the cooking on the 11th March 2009. However George
15 Evans also remembers P.O. Duhaney doing the cooking. In my view, P.O.
16 Duhaney's evidence was more accurate and reliable than P.O. Hunter's
17 evidence. An example of this, as was pointed out by the Solicitor General, is
18 that P.O. Hunter was not sure on which day the defendant's phone was
19 found. First of all, he thought it was found on the Wednesday then he thought
20 it was found on the Friday, then he thought it was found in the following
21 week. Furthermore, on several occasions, the defendant told the Court that
22 P.O. Duhaney paid special attention to him, and on the 11th March appeared
23 to be dogging him.

24

1 163. P.O. Duhaney thought it strange that the defendant kept drawing attention to
2 himself to show that he was working. This is a small detail, but there is no
3 reason for P.O. Duhaney to be mistaken on this innocent detail, or to
4 fabricate it. Officer Duhaney recalls that the defendant said he was going off
5 down the farm for a “dump” and that there were two, or possibly three, 45-
6 minute periods when the defendant was absent. Officer Duhaney also recalls
7 the defendant missing at lunchtime. It was P.O. Duhaney who felt that the
8 defendant was behaving suspiciously and who noticed these periods when
9 the defendant was missing. It was also P.O. Duhaney who asked P.O. Hunter
10 for assistance in locating the defendant after lunchtime.

11
12 164. Just after going to search for the defendant, P.O. Duhaney was called to the
13 prison farm gate to meet a visitor. There was some delay with the visitor, but
14 the defendant’s behaviour had aroused P.O. Duhaney’s suspicion. P.O.
15 Duhaney’s evidence to the Court was that he became very concerned about
16 the defendant’s suspicious conduct, for which there was no innocent
17 explanation. Eventually, the defendant appeared peeling an orange, but
18 without a shirt. Officer Duhaney saw that the defendant was not wearing a
19 shirt and recalled the conversation he had with him. P.O. Duhaney told the
20 Court that he asked the defendant what happened to his shirt, to which the
21 defendant replied, “You know, because I was lying underneath the guava
22 tree, and the sun was hot hot on me, the shirt became all sweaty to I took it
23 off.” This evidence from P.O. Duhaney is clear. The defendant denied taking
24 his shirt off and also denied the conversation with P.O. Duhaney. The Court
25 finds that there is no reasonable explanation for P.O. Duhaney to fabricate

1 what is, of itself, an innocent observation. Furthermore, it is consistent with
2 Mr. Hudson's description of the prisoner who got into the white car.

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Items found in the Defendant's cell

165. The Crown relies upon what it admits may be a minor point but yet a very unusual point. The Crown asks why had the defendant marked off the 11th March 2009 and the 18th March 2009 on both calendars found in his cell? The defendant had received visits from the deceased and others, but no other dates were marked off on these calendars.

166. There is the lock of hair which the defendant claims is his hair which the defendant claims is his hair, wrapped in a piece of paper with Sabrina Schirn's name written on the paper. The defendant first admitted that he wrote the name, and then the defendant said it wasn't his handwriting, but implied that it could have been written by a number of Prison Officers whilst he was at the lock up in Central Police station. The defendant also said he had Sabrina Schirn's name on the piece of paper to remind him to apply to put her on the visitor's list. What is particularly strange is that Sabrina Schirn had visited the defendant for many months and was actually #15 on the Northward Prison Visitors List. Accordingly, I find the defendant's account of these items to be both extraordinary and implausible.

1 Crown's list of circumstances

2
3 167. The Crown concludes by saying that the following items of circumstantial
4 evidence, when added up, demonstrate that the defendant is guilty as
5 charged.

- 6 i. The acquisition of the deceased's telephone number by the
7 defendant in early 2009;
- 8 ii. The telephone message on the 4th March 2009 to get Sabrina
9 Schirn to pick up the defendant and drop him off at East End;
- 10 iii. The circling of the date of the 11th March 2009 on two calendars
11 when no other meeting has been circled for 2 ½ years;
- 12 iv. The defendant identifying the blue construction gloves in early
13 March 2009;
- 14 v. The defendant taking the glove early in the morning of either the
15 10th or the 11th March 2009;
- 16 vi. The defendant's suspicious conduct on the farm on the 11th
17 March 2009;
- 18 vii. Mr. Frederick's sighting of the prisoner getting into the white car
19 at the East End of the farm with no shirt;
- 20 viii. The two or three absences of the defendant for 45 minutes each
21 on the 11th March 2009;
- 22 ix. The absence of the defendant after noon on the 11th March;
- 23 x. The defendant's removal of the shirt and the claim of being
24 sweaty;

- 1 xi. The defendant's sudden appearance in the afternoon and the
- 2 conversation about the baggy pants;
- 3 xii. The defendant never calling the deceased on her cell phone after
- 4 their amorous encounter, which I will address shortly;
- 5 xiii. The defendant's lying to the police in his witness statement;
- 6 xiv. The defendant having Sabrina's name written on a piece of paper
- 7 wrapped around a lock of hair in his cell;
- 8 xv. The defendant having clippings of Sabrina's disappearance and
- 9 of Sheldon Brown's Appeal related to the Attempted Murder of
- 10 his, the defendant's, brother;

11

12 The Crown submits that this evidence shows that the defendant had

13 knowledge of the assault and that on the basis of this cogent

14 circumstantial evidence the defendant is guilty.

15

16 Phone Calls

17

18 168. It has been suggested by the Crown that the defendant hung on to the

19 meeting time of 10:38 a.m. so that he would draw himself away from the

20 crime and the time when the deceased was attacked and, consequently, the

21 time of her death. The defendant has called Sabrina Schirn on her Digicel

22 phone and on her Cable & Wireless phone on many occasions before the 11th

23 March 2009. The last telephone conversation recorded between the defendant

24 and the deceased was at 10:59:29 a.m. It has been confirmed that the

25 deceased's Cable & Wireless telephone stopped working at 11:27:35 a.m.

1 when the phone somehow was destroyed. The Cable & Wireless phone goes
2 completely off the network at that time. The last Digicel call is 10:59:29 a.m.
3 and all subsequent calls went into voicemail. Pieces of the Cable & Wireless
4 phone are found near the murder scene on Exhibit 2 Map 2 “C” and shown
5 on Exhibit 1 photos 41 and 42. Accordingly the Crown submits that this is
6 the window of opportunity. The Crown also submits that the inference is that
7 the defendant attacked the deceased between 10:59:29 a.m. and 11:27 a.m.
8 on the 11th March 2009.
9

10 169. The Crown submits that the defendant’s account of the four telephone calls
11 after their meeting at 10:38 a.m. is contrived and implausible. The first call
12 was at 10:44 a.m. – supposedly made to a man in North Side during their
13 amorous encounter. The second is at 10:52 a.m. which the defendant says is
14 the deceased warning him about the officer at the gate. The third call is the
15 10:56:19 a.m. call of 108 seconds, to make arrangements to meet the
16 following Wednesday. The fourth and last call is at 10:59:29 a.m., which the
17 defendant says is the deceased playing music from her car radio.
18

19 170. I find the defendant’s explanation regarding the telephone calls to be wholly
20 implausible. I assume for the sake of argument that Sabrina Schirn was able
21 to drive from Boddan Town to Wilderness Farm, for the defendant to meet
22 her at 10:38 a.m. On the defendant’s account she had just brought him some
23 weed and cigarettes and then they had ten minutes of amorous activity before
24 the defendant was whistled back to the farm. The defendant values his phone
25 and his farm privileges and yet he proceeds to have, on his account, a 108-

1 second conversation at 10:56:19, and, a 41-second conversation at 10:59:29 –
2 all while he can see the vigilant P.O. Duhaney at the farm gate.

3
4 171. What I find to be of even more significance is that the defendant does not call
5 Sabrina Schirn's phone after 10:59:29 a.m. He does not try to have any
6 further conversation with the deceased, someone who is, according to the
7 defendant's own testimony, his supplier of weed, cigarettes and someone
8 who would do anything he asked her to do.

9
10 172. Even more unusual is that the deceased, who uses the phone all the time,
11 does not call the defendant after she supposedly leaves the prison farm and
12 the defendant does not think it strange enough to try to make phone contact
13 with her.

14
15 173. Then we learn from the defendant that some time on Friday the 13th March
16 he discovers that the deceased has gone missing. Again, the defendant makes
17 no attempt to call her. This is someone to whom, by the defendant's own
18 testimony, he had begun to get closer to and was even willing to call a
19 boyfriend of hers to question him about hitting her. The defendant does not
20 attempt to call the deceased when he discovers she has gone missing, but
21 says, he calls other people instead.

22
23 174. Finally, the defendant then realizes he cannot make their supposed
24 appointment on Wednesday the 18th March because he has been removed
25 from farm work and placed in maximum security at the prison. The

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defendant still does not call or attempt to call her to tell her he won't be there. One very compelling inference is that the defendant did not call her or attempt to call her because he knew she was dead. He had killed her. He had disposed of the body and then hidden the car, the keys and the right hand glove with the blood of the deceased and the DNA of the deceased and the defendant in the index and middle finger tips.

175. Accordingly I find that the Crown has proved on the evidence before me that the defendant is guilty beyond all reasonable doubt.

176. I find the defendant guilty as charged under Section 182 of our Penal Code and I sentence the defendant to life imprisonment.

Dated this 26th day of January 2010



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

