

IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

ON 5TH AND 6TH APRIL 1993

IND #6 OF 199

REGINA V CARLOS MINZETT

Mr. Bulgin for the Crown
Accused in person unrepresented

JUDGMENT

In this case the accused elected to be tried by Judge alone.

Evidence for the prosecution was given by Dianne Fredericks who testified that she was, at the material time, the overseer of a property in Bodden Town known as Sea Pine Cottages. She went to the property at about 12:30 p.m. on 24th April 1991 and found the door of one of the cottages open and a glass pane in the kitchen window broken. In addition to other damage she saw that an air conditioning unit had been removed from a window and was sitting on a sofa in the bedroom. She made a report to the police and returned to the cottage on 1st May with a view to meeting a police officer there. On that visit she found that the air conditioning unit was missing. She had given no one permission to remove it. She identified a unit which was shown to her at Bodden Town Police station as the one which was missing and did so again when she was shown it in court.

Two police officers D/C Banks and P/C Hydes gave evidence of an incident in which they were involved at about 11.50 p.m. on the 25th April 1991 when they were on mobile patrol in Cumber Avenue, Bodden Town. Both testified that they saw two men carrying an object along the road. They approached these men in their vehicle, whereupon they dropped the object and ran away. One was

caught after a chase but the other was not to be found.

The object which the men had left in the road was loaded by the Police Officers into their car and taken to the Bodden Town Police Station. It was the air conditioning unit which was identified there by Miss Fredericks on 1st May.

Now the evidence connecting the defendant, Minzett, with these events depends entirely on the identification which both police officers say they made at the time of their encounter with the two men in Cumber Avenue, and which the accused says is wholly mistaken. Before I deal with the evidence they gave I have to indicate that I have reminded myself of the special need for caution in dealing with this particular area of evidence, and the reason for that, which is that experience has shown that no matter how honest a witness, and no matter how convinced he may be of the rightness of his opinion, his evidence of identity may be wrong. Although recognition may be more reliable than identification of a stranger, even when a witness purports to recognise someone whom he knows mistakes in recognition of close relatives and friends are sometimes made.

Police identification evidence is not excepted from this need for caution.

D. C. Banks said that the men dropped the object they were carrying when the police car was about abreast of them. He recognised Minzett, who had on grey shorts and a white T-shirt. He had known Minzett for about 5 years at the time he gave evidence, which means nearly 3 years at the time of the incident, and saw him nearly every day in Bodden Town. When he recognised him he was right underneath a street light and the headlights of the police car also enabled recognition. He saw him from the back and had a view of his side face and recognised his walk also. The police car had stopped about 10 feet from him. On checking the area, no one else fitting the description was seen.

Cross-examined, he denied telling the accused that the street light had been out of order.

The evidence of P. C. Hydes was that Minzett was one of the two people he saw and recognised in Cumber Avenue. The area was well lit and he drove to a distance of three yards or less from them. He had known Minzett for at least 5 years at the time of the incident and indeed had played football with him in Bodden Town when he lived there. He saw him at least 4 times a week and had a full face view of him in Cumber Avenue.

As a result of what they had seen in Cumber Avenue, the two police officers went to Minzett's home, which was nearby. There they said they found him sweating and breathing as if after running. It is not, of course, an irresistible inference from that that he had just been fleeing the police but it is consistent with their evidence that he had. Both officers testified that he was still wearing the grey shorts they had seen on him in Cumber Avenue. D/C Banks estimated that the lapse of time between the meeting in Cumber Avenue and the visit to the defendants home was about 20 - 25 minutes. Throughout he has denied that he was the man involved.

The defendant called Raymond Terry, allegedly the second man involved in the incident. He simply said he was so drunk he could not remember who he was with at the time. I treat his evidence as worthless.

I take notice of the fact that Bodden Town is not a teeming city where strangers abound. The sight of the man they identified as the accused by the officers, though fleeting and by night, was an unimpeded one of a man they knew well in a small community. The area was lit by a streetlamp and the headlights of their car. I accept the evidence of the officers on all these matters as being honestly given, supported by what they say they saw him wearing both in Cumber Avenue and at home, and justifying the conclusion beyond reasonable doubt that they correctly identified the

man they saw.

So the evidence is that the air conditioning unit identified by Ms Frederick at the police station on 1st May after it had been transported there by officers Banks and Myrie was seen by her in Sea Pines Cottage at about 12:30 p.m. on 24th April 1991. She authorised no one to remove it. On 25th April at 11:50 p.m., the accused and another man were found carrying it in Cumber Avenue, at a place, according to D/C Banks, some 800 - 900 feet away from the cottage. Possession of such recently stolen property in these circumstances amply justifies the inference, and I find it proved beyond reasonable doubt, that Carlos Minzett entered Sea Pines Cottage as a trespasser on 25th April 1991 and stole therefrom that air conditioning unit and is accordingly guilty of the offence of burglary. The evidence points firmly to guilt on that charge, not the alternative charge of handling. It is not in my view a case which falls within the principle of R v Seymour (1954) 1 AER, where the evidence is as consistent with one count as the other. Accordingly I reach a verdict of not guilty on the second count of the indictment.



G. E. Harre
Chief Justice

6th April 1993.