

1.8.84(2)

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
HOLDEN AT GEORGE TOWN  
BEFORE THE HON MR KIPLING DOUGLAS ACTING CHIEF JUSTICE

ON 1 MAY 1984

CAUSE NO 53 OF 1984

IN THE MATTER OF THE TRIAL ON INDICTMENT FOR MURDER OF  
VICTOR ALVARDO SABAZ AND ROSMAN DIAZ MOREL

AND IN THE MATTER OF AN APPLICATION FOR AN ORDER FOR THE  
COMMITAL OF THE RESPONDENTS FOR CONTEMPT OF COURT

BETWEEN	:	THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS	:	APPLICANT
AND	:	CAYMAN FREE PRESS LIMITED	:	FIRST RESPONDENT
		BRIAN UZZELL		SECOND RESPONDENT
		BOB BERGGREN		THIRD RESPONDENT

Mr. Ground (with him Miss Dilbert) for applicant  
Mr. Alberga QC (with him Mr.Voaden) for first and second respondents  
Third respondent absent

J U D G M E N T

As has already been stated, this is first time an offence of this nature has been committed in these Islands. I sincerely hope it will be the last. This is a serious offence and learned counsel for the respondents has submitted,inter alia, that the offending publications were not a deliberate and calculated attempt to mislead or interfere with the administration of justice, nor was it the outcome of a deliberate intention to flout authority of the court or to disregard its orders, but an outcome of a misunderstanding and interpretation of a direction given by the Chief Justice.

Notwithstanding this the authorities cited clearly show that intention

is not important on deciding whether there is contempt or not. Indeed the very first case cited R.v.Odhams Press Ltd.it was held that mens rea was not a necessary constituent of a contempt of which the court would take cognizance and the lack of intention and knowledge was only material in relation to the penalty. The test was whether the matter complained of was calculated to interfere with the course of justice, not whether the authors and printers intended that result.

This has been a serious offence. It is always a serious matter to publish material which may prejudice the jury against the accused. On this occasion a murder trial was brought to a halt at great expense to Government. I cannot treat it lightly and my sentence must not only reflect the gravity with which I view this offence, but must act as a warning to any news media in this country that may in future act with such callousness and negligence.

Although, as I have said, I view this case as a most serious one for which the power to imprison can be imposed. I will not in this instance exercise that power.

To the second named defendant, I reiterate the words of his learned counsel, that the media, of which your paper, the Compass, is an important member, are the means by which the public are informed of happenings in court and you have an important roll to play in so doing. You have stated that your circulation has, through you, grown from approximately 2,000 per week to 4,000 per day, an admirable feat. But with this increase in circulation there arises the need for an increase in vigilance, for the greater will be the effect of your contempt if and when it does occur as it has now done. A paper of such circulation in a country of this size, must of necessity, exercise great influence and, therefore, greater caution.

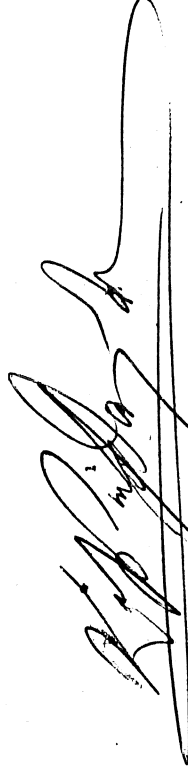
It now remains to deal with the penalty. As I have already said, the court cannot but look at this as a serious offence. One which has resulted in the abortion of a murder trial and accordingly a substantial

fine must be imposed on both these defendants

I therefore order that the First named respondent pay to the Crown a fine of \$10,000.00 or the appropriate writs will be issued.

The order in the case of the second and third named respondents will be that leave to issue a writ of attachment against them is granted, but the writ is not to be enforced if within 30 days they pay a fine of \$2,000.00 each.

The respondents will pay the costs of these proceedings.



KIPZING DOUGLAS

1st May 1984.