

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
HOLDEN AT GEORGE TOWN  
BEFORE THE HONOURABLE SIR JOHN SUMMERFIELD CBE QC

12.10.81

September 28, 29, 30, October 1, 2, 5, 6, 7, 8, 9, and 12 1981

INDICTMENT NO.

REGINA V MINWELL HILL

MURDER.

Mr. David Muirhead Q.C. and Mr. John Martin for the Crown  
Mr. Norman Hill Q.C. and Mr. Ritch for the defence

RULING

The victim in this case, Verna Lynn Ford, was last seen in the company of a male companion by any witness called sometime after 8.00 p.m. on Saturday, 4 April 1981. She was seen at the 19th Hole restaurant by Pauline Scott who was working there at the time. According to the description of the person with Verna given to the Police by Pauline Scott, particularly the description of the hair, that companion could not have been the accused. She had, however, seen the accused in the company of Verna at the 19th Hole on previous occasions i.e. before 4 April.

Verna Ford's body was found at Barkers on the morning of 12 April. On the orders of the Commissioner of Police all persons brought in by the Police as suspects were detained. Pursuant to that order the accused was detained on 12 April and remained in detention for 48 hours. On 12 April at 6.05 p.m. he was interviewed by Supt. Evans, with D/Insp. Cacho taking notes, and gave a fairly lengthy exculpatory statement in answer to questions. On 14 April, at 1057 a.m., the accused was again interviewed by Supt. Evans, with D/Insp. Cacho taking notes, and again gave a fairly lengthy exculpatory statement in answer to questions. No serious discrepancies appear in the two versions given. On 4 May accused was again interviewed at some length by Insp. Robinson of Scotland Yard and gave a lengthy

statement in answer to questions. That statement corresponded in essentials with the earlier two statements.

On 6 June D/Insp. Hall went to the accused's home at about 7.40 a.m. He was accompanied by two other officers. Detective Inspector Hall asked the accused to accompany him to Police headquarters which he did. Having regard to the accused's background, and confronted by three police officers, he must have thought that he had little alternative.

At Police headquarters he was taken to a room downstairs, given a chair and there left alone for about 2½ hours. It can be stated here that at no time was he told by anyone that he was free to leave at any time if he so wished. Had he been, then he might well have exercised that right during this period of solitude. With his background and having regard to the manner of his having been brought there, it would be surprising if he was aware of that right.

He was then interviewed by D/Insp. Hall and a record of the questions and answers was made by D/Sgt. Bodden. The interview lasted some two hours - 1010 a.m. to 1210 p.m. The answers given by the accused accorded substantially with the three earlier statements given by him. D/Insp. Hall then went to the Supt. Evans' office and there the two officers discussed the notes of interview. On Supt. Evans' instructions D/Insp. Hall returned to the C.I.D. office, brought the accused to Supt. Evans' office and, pursuant to a prior arrangement, left him there with Supt. Evans to return to the C.I.D. office. This was about 12.30 p.m.

The accused sat in a chair 6 - 8 feet from Supt. Evans. No one else was present. Supt. Evans had all relevant statements before him and had studied them. He began going through the notes and making some of his own. This lasted until 1250 p.m. nothing having passed between the two. At 1250 p.m. the accused asked Supt. Evans if he had anything to say to him. In turn Supt. Evans asked the accused if he had anything to say to him. There was no reply and Supt. Evans continued studying his

notes in silence. At 1.00 p.m. the accused said he had a headache. He was asked if he wanted a doctor or food and the accused replied: "No" to both offers. One can only infer that he did not realise that he was free to leave if he wished.

Superintendent Evans then started questioning the accused. No caution was given and it should be said that no caution was necessary as, at that stage, whether Supt. Evans suspected the accused or not, he had no evidence which would afford reasonable grounds for suspecting that the accused had been implicated in the murder of Verna Ford.

Supt. Evans recorded the answers given by the accused contemporaneously (E). He made notes of the questions he put (D) from memory and recorded answers at 9.10 p.m. the same night. He admits that he did not record every single thing he put to the accused and this is clear from the record itself and from what he added in cross examination. For example, the first question is: "You are now saying you dont love Verna and that what you told me on 12 April '81 is a lie." That must have been preceded by some exchange (unrecorded) because nothing like that appears from earlier statement, including the one taken by D/Insp Hall that same morning. The same may be said of the second question because the change alleged in that question is no change at all, having been stated to the Scotland Yard officer on 4 May.

It is clear that the accused's mental and physical condition deteriorated in the course of this interview. He complained of headaches, he cried on occasions; he perspired. According to Supt. Evans he looked weary and ill for some 3½ hours. The deterioration is apparent from the record and from what Supt. Evans said in evidence.

Supt Evans maintained that throughout this interview he was not treating the accused as a suspect but as a witness helping the Police in their enquiries. He said he did not suspect him. I find this impossible to reconcile with the nature of the questions asked and the whole tenor of the interview. Among other things, in several "questions" he put it to the accused that, or asked him whether, he had killed Verna Ford and suggested the reason why he had done so.

At the end of the interview, the accused's answers all having been exculpatory, the accused agreed to make a statement. Supt. Evans recorded that statement, item 28, which on the face of it is an admission to having killed Verna Ford.

When the statement had been concluded Supt. Evans cautioned the accused. It is unfortunate that that fact was not recorded.

At this stage it is convenient to relate some of the "questions" put to the accused in the interview leading up to the statement.

"Question" 10 as recorded was: "Look at that file there it has lots of facts in it, facts we are going to put in the proper order this evening Minwell, facts that you know about. And if you killed Verna we will know that too, Minwell, It will clear your mind to talk now Minwell because facts will prove otherwise later and we are talking facts today." Supt. Evans also agreed that in the context of that "question" he told the accused that the evidence against him was getting stronger. To that the accused replied: "What's in it can't kill me for what I don't do. My mind are clear, no I did not. Oh I have a headache, Don't want doctor now at least."

In fact there was no evidence implicating the accused in the murder of Verna Ford and there was nothing in prospect which would make the evidence stronger.

"Question" 27 was: "We have a woman who is coming to look at you later Minwell; she will say something that will shed a different light on this matter, you will know her when you see her." The woman Supt. Evans has in mind was Pauline Scott. The accused's reply was: "Who she is. Let me see her."

"Question" 28 was: "You were with her (meaning Verna Ford) at 19th Hole that night and don't say you were not." The reply was: "I did not go that night."

There can be little doubt that those questions would have conveyed to the accused that Pauline Scott would identify him as being

with Verna Ford at the 19th Hole on the evening of Saturday 4 April. Pauline Scott's statements clearly show that she was unable to do this. She was only able to identify him as being there with Verna Ford on occasions before 4 April - a fact freely admitted by the accused in his statements.

Returning to the statements, item 28, Supt. Evans maintained that it was dictated by the accused and was not in response to any questions by him. He was reminded of passages in his evidence at the preliminary inquiry and he agreed that he had said what was recorded in his deposition. On the ordinary natural construction of those passages (no less than three) they say unambiguously that the statement was made in answers freely given to questions he had put to the accused. Supt Evans maintained that the references to questions and answers were references to his earlier notes of interview. The context clearly suggests otherwise. The fact that the earlier interview had been in question and answer form was obvious and not an issue. In consequence I have considerable doubt that the statement, item 28, was dictated by the accused and not made in response to a series of questions.

At all events, Supt, Evans read the statement over to the accused and asked him to sign it. The accused refused saying: "I do not want to sign this statement now until the woman see me."

D/Insp. Hall had returned to the office when this occurred.

This was about 2.10 p.m.

Thereupon, Supt. Evans arranged for an identification parade to be conducted by Supt. Williams. At 2.55 p.m. Pauline Scott picked out the accused from a line with 8 other men.

There can be little doubt that Pauline Scott was picking out a man (previously identified from a stack of photographs) she had seen with Verna Ford at the 19th Hole on occasions prior to 4 April. There can be little doubt that the accused thought she had picked him out as the person seen with Verna Ford at the 19th Hole on the night of

4 April.

The accused was returned to Supt Evans' office and there in the presence of D/Insp. Hall, Supt. Evans again asked him to sign the statement and he did so in six appropriate places.

There can be little doubt that he did so on a false assumption induced, wittingly or unwittingly, by Supt. Evans' overall conduct and assertions in relation to this whole matter.

No convincing reason has been given for holding this identification parade at all. Pauline Scott could only pick out accused as a person she had seen with Verma Ford on occasions prior to 4 April. That could not carry the case against the accused further in any way. It certainly could shed no clear light on the case. And the accused had freely admitted this fact in earlier statements.

Superintendent Evans then wrote out his caption as appears on the statement. It was read to the accused. It includes the words: "He was invited to go before a J.P. where the statement would be read and he could make any comment he wished and have the J. P. sign the statement."

The accused was told by Supt. Evans that he could make any corrections or alterations to the statement before the J. P. The reason given to the J. P. for taking the accused before him was a different one as will appear.

The accused was taken to the residence of Mr. Berkley Bush, Justice of the peace, shortly after 3.00 p.m. Supt. Evans had a conversation with Mr. Bush before the accused was brought in. In the room at the relevant time were Supt. Evans, D/Insp. Hall, Mr. Bush and the accused. There are conflicting accounts of what happened in the presence of Mr. Bush. I prefer the version given by Mr. Bush.

It should be mentioned here that when invited to go before a Justice of the Peace the accused refused. He was then told that they would go before a Justice of the Peace. He, therefore, went involuntarily.

Mr. Bush was handed the statement, item 28, and asked to read it. He read it to himself - not to the accused. Supt. Evans told Mr. Bush

that he wanted him to certify it as a statement from the accused.

No caution was administered by anyone. Mr. Bush turned to the accused and said: "Did you make this statement?" The accused said: "Yes." Mr. Bush said: "Did you write your name here?" The accused said: "Yes." Mr. Bush said: "Is it true?" The accused said: "Yes." Mr. Bush said: "Do you swear it?" The accused said: "Yes."

To pause here, it is assumed that these two questions relate to the contents of the statement. They are ambiguous. They could equally refer to the admission that he had signed the statement. In the context that would be the normal construction, particularly as the statement had not been read over.

Mr. Bush then said: "Did anyone force you to make this statement?" The accused said: "No."

Mr. Bush then certified the statement as appears on it and signed it. Before doing so he made the accused sign below Supt. Evan's caption to make sure that the other signatures, which he compared, were the accused's.

He described accused's demeanour as quite calm, well composed, very quiet. That was very different from his condition in Supt. Evans' office.

In contrast to the evidence of the police officers Mr. Bush said that he was not asked to find out if the statement had been made in consequence of threats or favours held out. He understood that what was required of him was that he certify the statement of the accused and ascertain that no force had been used to obtain it.

Whether or not Mr. Bush was a person in authority in the circumstances is immaterial. Two senior police officers were present and Mr. Bush was acting in conformity with directions given to him by Supt. Evans, if not as his agent. It is perhaps unfortunate that these directions did not require a more rigorous enquiry as to how the statement

came into being.

The absence of a caution in my mind is sufficient to vitiate anything which may be properly construed as a confession at that interview having regard to the accused's involuntary attendance and the circumstances as a whole.

At 3.15 p.m. the accused was returned to Supt. Evans' office. Supt. Evans commenced a further interview at 3.45 p.m. There is no evidence of what happened during the intervening half hour. By then the accused had been in what must have appeared to him as police custody for some 8 hours. He had eaten nothing during that time and, although offered food, declined to have any.

He was reminded that he was still under caution. Again it was unfortunate that there is no record of that fact. In the ensuing 25 minutes 106 questions were put to the accused and 106 answers were given, all being recorded. In the course of that interview the accused made further admissions of having killed Verna Ford and the circumstances surrounding the incident. A curious feature of this interview is that while at an early stage he admitted killing Verna Ford, nearly half way through appears this passage: "Q: If Verna Ford had sex with you at Barkers would you still kill her? A: I didn't kill her." And at the very end when asked if he was telling the truth he replied: "I don't know." That suggests some confusion of mind.

Shortly after half way through this interview the accused was asked if he wanted a relative or lawyer present. He asked for Mr. Ritch. Steps were taken to find Mr. Ritch, but the interview continued and Mr. Ritch did not arrive until after the interview was concluded and the accused had been arrested and charged with the murder of ~~Verna Ford at 4.10 p.m.~~ The record of the interview was not read over to the accused.

After his arrival Mr. Ritch was informed by Supt. Evans that accused had suicidal tendencies. Superintendent Evans had formed that view in the course of interviewing the accused. The accused was taken to the hospital sometime after 4.55 p.m. where he was diagnosed as suffering

from mild depression.

The principles I have to apply in deciding the admissibility of any confession are well established. I have to be satisfied that it was voluntarily made. And I have to be so satisfied beyond all reasonable doubt. I am not concerned with the truth of any admission. A number of authorities have been cited to assist me, but the overall consideration is whether any confession was made voluntarily.

The crux of the matter as I see it lies in the first interview commencing at 1.00 p.m. in the context of the facts outlined. There is no time to set out the record in full, but the record speaks forcefully for itself.

I have given careful consideration to the evidence as a whole and, in particular, to the notes of the first interview on 6 June. I cannot in good conscience rule out the real possibility that the effect of that interview in the context of the events leading up to it and which occurred during the course of it, including the misleading statements put to the accused, had the overall effect of pressuring the accused into making the statement, item 28, and that the overall effect was to induce him to believe that there was fear of prejudice if he did not make it and hope of advantage if he did. I cannot rule out the real possibility that the overall effect tended to sap and did sap that free will which must exist before a confession can be said to be voluntary. Indeed, the probability lies in that direction.

It is well established that any threat or inducement, however mild or slight, uttered or held out by a person in authority makes a resulting confession inadmissible and there is no exception ever for trivial inducements (Halsbury 4th Ed Vol 11 para 412).

Furthermore, I cannot rule out the real possibility that those influences had not been dissipated when the accused signed the statement, when he was in the presence of Mr. Bush and when he was further interviewed at 3.45 p.m. Again, the probability is that they had not. The interval of time was relatively short. The same senior police officer was present

and in charge on all those occasions.

As to the last interview, I do not think that a further caution fully administered by the same police officer would have dissipated the earlier influences, in the light of events as a whole, let alone the words used to remind the accused that he was still under caution. In relation to that interview it could be said that, before it commenced, the stage had been reached when principle (d) of the Judge's Rules applied and that the accused should have been charged and cautioned in accordance with rule III. That would have ruled out further questioning. However, I need not consider that aspect further except to comment that the fact that Supt Evans had enough evidence (assuming it to be admissible on the grounds that the earlier confession was voluntary) to prefer a charge against the accused at that stage appears manifest from the fact that the preliminary inquiry was conducted with any evidence of the 3.45 p.m. interview.

In conclusion I wish to say that nothing in this ruling is intended to be critical of any police officer. As Supt. Evans said, they were not investigating a traffic case. They were acting zealously on behalf of the community to solve a case of murder. It was perhaps an excess of zeal which led to the situation I am faced with. The hard fact is that the law with regard to the admissibility of confessions does not vary with the gravity of the offence.

In narrating the facts in this ruling I have for the most part relied on the evidence of these same police officers and the natural inferences to be drawn therefrom. Their frank disclosure of the facts surrounding the events I am concerned with has been the basis on which my finding has been reached.

It follows that none of the confessions is admissible.

SIR JOHN SUMMERFIELD

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