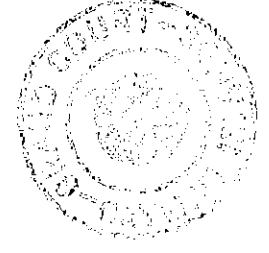


CIRCULATED

14.5.92 ✓

IN THE GRAND COURT OF THE CAYMAN ISLANDS

IND. 46/91



REGINA V. CARLOS CHIRINOS NAVARRO

For the Crown: Mr. A. Roberts
For the surety: Mr. D. Vernon

Hugo Barahona stood surety in the sum of \$5000 for his friend Navarro, who is accused of serious offences and failed to appear before the Grand Court. It fell to the Court, therefore, to consider whether Mr. Barahona should forfeit the whole or any part of the recognisance.

The obligation which a surety undertakes is a serious one and not to be undertaken lightly.

It may be proper to remit the whole sum where a surety is shown not to be at fault. The court can do what the justice of the case requires.

R. v. Southampton Justices ex parte Green (1975) 2 All ER 1077.

In this case, Mr. Barahona waited nearly a week between the time he was told that Navarro had left Grand Cayman and the time he reported his absence to the police. Indeed, he waited until the time when Navarro was due to report to the police - that is to say the time they would have in any event discovered his absence for themselves. He said he was waiting to be sure whether Navarro had gone or not. Yet he also said he lived 300 yards from him and normally saw him every day.

I suspect that Mr. Barahona may know more about Mr. Navarro's disappearance than he was prepared to divulge. That can be more than suspicion, but I do find that he was wanting in due diligence.

However, there is one factor which leaves me able to order that some part of the recognisance may be remitted. One of the conditions of bail was that all travel documents of the accused should be

surrendered, although there was no requirement to stay away from ports. Navarro appears to have slipped away illegally by sea. In the absence of collusion, of which there is no proof, Mr. Berahona could reasonably have expected that Navarro would not leave the Island.

Taking all these factors together, I order that \$3,000 of the \$5,000 recognisance be forfeited. That sum is to be paid by close of business on 15th June 1992.

G. E. Harre

G.E. Harre

14th May, 1992

