

1 IN THE GRAND COURT OF THE CAYMAN ISLANDS
2 CRIMINAL SIDE
3

4 INDICTMENT NO: 50/17
5

6
7 THE QUEEN

8
9 v.

10
11 WAYNE CARLOS MYLES
12
13
14



15 **Appearances:**

16 Ellie Fargin, Senior Crown Counsel for the
17 Crown

18 Mr. Alex Davies of McGrath Tonner for the
19 Defendant

20 **Before:**

Justice Marlene I. Carter (Actg.)

21 **Judge Alone Trial:**

22 25th March 2019 – 5th April 2019

23 **Delivery of Decision:**

24 22nd May 2019
25
26

27 **HEADNOTE**

28 *Criminal Law – Living on the Earnings of Prostitution –*
29 *Attempting to live on the earnings of Prostitution*
30 *- Trial by Judge Alone -*
31

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34 **VERDICT JUDGMENT**
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1 **INDICTMENT**

2
3 1. The Defendant was tried on an indictment, dated¹ the 3rd April 2019, containing 11
4 counts as follows:



5 i. COUNT 1: **LIVING ON THE EARNINGS OF PROSTITUTION,**
6 contrary to s.139(1)(a) Penal Code (2013 Revision), with the particulars of
7 the offence being that, Wayne Carlos Myles, between the 18th day of
8 November 2014 and the 26th day of November 2014, within the jurisdiction
9 of the Cayman Islands, knowingly lived wholly or partly on the earnings of
10 prostitution.

11 ii. COUNT 2: **LIVING ON THE EARNINGS OF PROSTITUTION,**
12 contrary to s.139(1)(a) and s.139(2) Penal Code (2013 Revision), with the
13 particulars of the offence being that, Wayne Carlos Myles, on or about the
14 16th and the 17th days of September 2015, within the jurisdiction of the
15 Cayman Islands, knowingly lived wholly or partly on the earnings of
16 prostitution.

17 iii. COUNT 3: **ATTEMPTING TO LIVE ON THE EARNINGS OF**
18 PROSTITUTION, contrary to s.139(1)(a) and s.139(2) Penal Code (2013
19 Revision), with the particulars of the offence being that, Wayne Carlos
20 Myles, on the 22nd day of September 2015, within the jurisdiction of the
21 Cayman Islands, attempted knowingly to live wholly or partly on the
22 earnings of prostitution.

23 iv. COUNT 4: **ATTEMPTING TO LIVE ON THE EARNINGS OF**
24 PROSTITUTION, contrary to s.139(1)(a) and s.139(2) Penal Code (2013
25 Revision), with the particulars of the offence being that, Wayne Carlos

¹ Paragraphs 2 and 3 of this Judgment explain the date on this indictment.

1 Myles, on the 5th day of March 2015, within the jurisdiction of the Cayman
2 Islands, attempted knowingly to live wholly or partly on the earnings of
3 prostitution.

4 v. **COUNT 5: ATTEMPTING TO LIVE ON THE EARNINGS OF**
5 **PROSTITUTION**, contrary to s.139(1)(a) and s.139(2) Penal Code (2013
6 Revision), with the particulars of the offence being that, Wayne Carlos
7 Myles, on the 5th day of July 2015, within the jurisdiction of the Cayman
8 Islands, attempted knowingly to live wholly or partly on the earnings of
9 prostitution.

10 vi. **COUNT 6: ATTEMPTING TO LIVE ON THE EARNINGS OF**
11 **PROSTITUTION**, contrary to s.139(1)(a) and s.139(2) Penal Code (2013
12 Revision), with the particulars of the offence being that, Wayne Carlos
13 Myles, on or about the 25th and 26th days of July 2015, within the jurisdiction
14 of the Cayman Islands, attempted knowingly to live wholly or partly on the
15 earnings of prostitution.

16 vii. **COUNT 7: ATTEMPTING TO LIVE ON THE EARNINGS OF**
17 **PROSTITUTION**, contrary to s.139(1)(a) and s.139(2) Penal Code (2013
18 Revision), with the particulars of the offence being that, Wayne Carlos
19 Myles, on the 28th day of August 2015, within the jurisdiction of the Cayman
20 Islands, attempted knowingly to live wholly or partly on the earnings of
21 prostitution.

22 viii. **COUNT 8: ATTEMPTING TO LIVE ON THE EARNINGS OF**
23 **PROSTITUTION**, contrary to s.139(1)(a) and s.139(2) Penal Code (2013
24 Revision), with the particulars of the offence being that, Wayne Carlos
25 Myles, on the 18th and 19th days of September 2015, within the jurisdiction



1 of the Cayman Islands, attempted knowingly to live wholly or partly on the
2 earnings of prostitution.

3 ix. **COUNT 9: ATTEMPTING TO LIVE ON THE EARNINGS OF**
4 **PROSTITUTION**, contrary to s.139(1)(a) and s.139(2) Penal Code (2013
5 Revision), with the particulars of the offence being that, Wayne Carlos
6 Myles, on the 10th and 11th days of February 2016, within the jurisdiction of
7 the Cayman Islands, attempted knowingly to live wholly or partly on the
8 earnings of prostitution.

9 x. **COUNT 10²: LIVING ON THE EARNINGS OF PROSTITUTION**,
10 **contrary to s.139(1)(a) and s.139(2) Penal Code (2013 Revision)**, with the
11 particulars of the offence being that, Wayne Carlos Myles, on or about the
12 16th day of January 2015, within the jurisdiction of the Cayman Islands,
13 knowingly lived wholly or partly on the earnings of prostitution.



14 xi. **COUNT 11³: LIVING ON THE EARNINGS OF PROSTITUTION**,
15 **contrary to s.139(1)(a) and s.139(2) Penal Code (2013 Revision)**, with the
16 particulars of the offence being that, Wayne Carlos Myles, on or about the
17 11th and the 12th days of September 2015, within the jurisdiction of the
18 Cayman Islands, knowingly lived wholly or partly on the earnings of
19 prostitution.

20 **CLARIFICATION RE INDICTMENTS**

21 2. The trial commenced on a 9-count Indictment dated the 4th January 2019 which was
22 labelled Indictment 99/16 and was described by the Crown as a JOINDER Indictment.
23 This indictment was a part of the Crown's trial bundle on commencement.

² New count on the Amended/trial indictment

³ New count on the Amended/trial indictment

1 3. On April 3, 2019, in the second week of the trial, following a submission of no case to
2 answer, I ruled that there was sufficient evidence on counts 2-9 and that count 1 needed
3 to be amended. The Crown applied to amend, and I allowed the amendment(s). On
4 April 4, 2019, count 1 was amended, and counts 10-11 added. The defendant was
5 arraigned on the amended counts and pleaded Not Guilty.

6
7 **THE LAW ON JUDGE ALONE TRIALS**

8
9
10 4. The Defendant elected trial by Judge Alone pursuant to s.129 of the Criminal Procedure Code
11 (CPC) of the Cayman Islands.

12
13 5. The Cayman Islands Court of Appeal (CICA) has given some guidance on the duties of a Judge
14 in a Judge Alone trial. In **K. Richards v R**⁴ Rowe JA, stated:

15 *“When a trial judge sitting alone has advised himself to the applicable*
16 *principles of law, and given himself any necessary warning, he must*
17 *indicate clearly in his judgment his reasons for acting as he did in order*
18 *to demonstrate that he has acted with the requisite degree of caution in*
19 *mind and has therefore heeded his own warning. No specific form of*
20 *words is necessary for this demonstration, what is necessary is that the*
21 *Judge’s mind upon the matter should be clearly revealed.”*



22
23 6. In **Randy Martin v R**⁵, Mottley JA stated as follows:

24 *“A judge sitting in a criminal case without a jury, in rendering his decision*
25 *and giving his reasons for so concluding is not required to review every*
26 *fact and to detail each argument on which the prosecution and defence*
27 *rely as if he were summing up to a jury. The judge must set out the*
28 *conclusion reached and make clear the reasons for arriving at that*
29 *conclusion. He is required to have regard to any difficult or unusual*
30 *points of law and to show how those points of law has in any way impacted*
31 *the conclusion that he has reached.”*

⁴ 2001 CILR 496
⁵ CICA Crim. Appeal No. 2/2010 (Ind. 27/2009)

1 7. As in all criminal trials the burden is on the Crown to prove beyond a reasonable doubt that the
2 Defendant is guilty of the offences for which he is charged on the Indictment. There is no
3 burden on the Defendant to prove that he is innocent. The Defendant has no obligation to prove
4 that he is not guilty, or to explain the evidence offered by the Prosecution.

5
6 8. I will not review every single detail of the evidence, but I will address my mind to the important
7 or prominent aspects of the evidence in deciding the critical issues in this case. I will not decide
8 every single point that has been raised – only such matters that will enable me to determine
9 whether the charges on the indictment have been proved.

10
11 9. I remind myself that I must have regard to the whole of the evidence that has been presented at
12 trial and form my own judgment about that evidence. The questions of fact at issue on this trial
13 are for me to determine.

14
15 10. I must consider all of the evidence in this case and if after having done so, I have any reasonable
16 doubt as to whether the Defendant is guilty or not, I must resolve that doubt in favour of the
17 Defendant and find him not guilty of the offences for which he is charged.

18
19 11. On the other hand, if having considered the evidence I am satisfied so that there is no reasonable
20 doubt in my mind, and I am sure of the guilt of the Defendant, then it will be equally my duty
21 to find him guilty as charged.

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1 **THE CASE FOR THE CROWN**

2
3 12. The Crown's opening statement set out the context in which the indictment was brought against
4 the defendant. It detailed as follows.

5
6 13. The Crown's document states that the Crown's case is that Wayne Myles between the
7 01.07.2014 and the 17.06.2016 knowingly attempted to live off the earnings of prostitution, or
8 in fact did live off the earnings of prostitution in the Cayman Islands. He exercised control,
9 direction or influence over the movements of prostitutes in such a manner as to show that he
10 was aiding, abetting or compelling their prostitution with another person. The Crown states
11 that, colloquially his actions would lead to him being called a 'Pimp'.

12
13 14. The Crown's document details that the evidence in fact comes from documented conversations
14 and arrangements made in telephone communications through the use of WhatsApp or SMS
15 text messaging. Wayne Myles offered prostitution services by sending promotional messages
16 and photos. He agreed pricing and locations for prostitutes to work. The Crown say the
17 evidence leads to the common sense conclusion that he took a monetary cut of their earnings.

18
19 15. The Crown states further that not all of his attempts at arranging services came off and that
20 accounts for the Counts relating to attempt, on the Indictment. However, there were times
21 when it is clear that they did. And that is reflected in the remaining Counts.

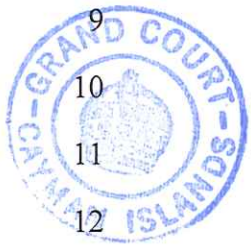
22
23 16. The Crown continues that, in overview the evidence to come is as follows. On the 22.10.2015
24 Officers from the RCIPS arrested a man called Alexander Ebanks. They seized from him an
25 iPhone. That iPhone was processed by the Police using specific software that allowed for the
26 information on it to be downloaded into a PDF or excel format.

1 17. The Crown states that on that iPhone, of relevance to this case, was evidence both as to
2 prostitution and the Crown say which goes to attribution of a cell phone number 9288917 to
3 someone called “Beenie”.

4
5 18. The Crown details that the evidence as to attribution from these examples is that the ‘pimp’ is
6 using number 9288917 and is labelled by the other person as “Beenie”. The Crown says that
7 is a name Wayne Myles uses. The Crown will call DC Mendez who will assist the Court with
8 outlining his experience and knowledge of working in Grand Cayman as a first responder and
9 the interactions he has with many persons in the George Town over several years but
10 specifically he will say he has come to know Wayne Myles as “Beenie”. Further the Crown
11 say that Wayne Myles is linked to the number 9288917 in many ways which will be highlighted
12 in due course.

13
14 19. The Crown sets out that on the 15.06.2016 a Samsung Galaxy S6 was seized from Wayne
15 Myles. It was initially processed by the RCIPS using software to try and extract the information
16 on the handset and Sim card. Only partial information was recoverable as the phone was in a
17 locked state. However even from the material initially recovered the Crown say that evidence
18 both to attribute the phone and number to Wayne Myles; and evidence amount to attempting
19 to live on the earnings of prostitution was found.

20
21 The Crown states further that the RCIPS concluded that there may be more evidence in some
22 of the material that could not be retrieved and so arranged to have this handset sent to Canada
23 to Cellebrite, Advance Investigative Services. They were able to use custom built software to
24 unlock the phone and remove the lock on the handset. This was not invasive and did not alter
25 the phones content but it meant that when the handset was sent back to the Cayman Islands the
26 RCIPS were able to extract further information on the handset including the WhatsApp
27 account.




1 was removed so that further analysis could be undertaken by others. On the
2 29.11.2016 exhibit DS/WM/1 was returned to the RCIPS in Grand Cayman.

3 viii. On the 13.03.2017 DC Boxwell utilized Cellbrite UFED Touch on
4 DS/WM/1 and produced DS/WM/AB2.

5 ix. On the 27.10.2017 DC Boxwell produced the SIM report from the SIM
6 taken from exhibit DS/WM/1 AS DSWM1/AB/SIM.

7 x. Cable and Wireless Jamaica Limited have assisted the RCIPS with
8 information about number **13459288917**. That number was registered in the
9 name of Adrian Bodden active from 09.05.2014 to 05.10.2017 as per exhibit
10 SH/2 exhibit page 54. As per exhibit SH/1 and exhibit page 53 they have
11 also confirmed it was used in the following handsets on the following dates:

- 
- 12 a) 19.10.2014 a Blackberry
 - 13 b) 07.09.2015 unknown
 - 14 c) 07.12.2015 Samsung 35301807029722 (exhibit DS/WM/1)
 - 15 d) 21.07.2016 Samsung SGH-T999
 - 16 e) 13.08.2016 Samsung SM-G900W8 35230806082861

17 xi. Number **5467296** was activated on the 01.12.2009 in the name, of Tyrone
18 Stewart and was active between February 2012 and April 2014 utilizing
19 three different handsets as follows:

- 20 a) 01.02.2012 - 17.09.2013 Blackberry Torch 9800 IMEI
21 35349004168221
- 22 b) 17.09.2013 – 24.04.2014 Blackberry Z10 IMEI 35401005854133
- 23 c) 24.04.2014 – 26.04.2015 Samsung Galaxy Pocket Neo S5312L
24 IMEI 35627705033267

25
26 Search of #38b Litigate Court Apartment 9

1 xii. On the 15.06.2016 Officers from RCIPS searched #38b Litigate Court
2 Apartment 9. Initially a female occupant Marieka Hunt was present and then
3 Wayne Myles was also. In a room that was identified as a baby room in the
4 corner on the floor, exhibit KR1 was found which was a red folder which
5 contained an application for a business Deposit Account for a company
6 incorporated in 2007 called “Exxtasy Promotions Ltd. This is page 42 – 44
7 of the exhibits and shows the name of Wayne C. Myles and an email address
8 of DJ_ROMEO1404@yahoo.com. The contact telephone numbers listed on
9 the form are: 9492648 and 3252754.

10 Savemore Rent-a-Car Ltd.

11 xiii. Officers from RCIPS obtained unsigned rental agreements exhibited as
12 ALS/RENT/1 exhibit pages 45-52. These show rentals in the name of
13 Wayne Myles address 437 Will T Drive and number 9288917. Driver’s
14 license details are also given as number 281610, expiry 02.05.2016 and the
15 date of birth as the 14.04.1980.

16 xiv. The dates of these are:

- 17 a) 15.04.2015 exhibit page 52
- 18 b) 03.06.2015 exhibit page 51
- 19 c) 09.06.2015 exhibit page 50
- 20 d) 19.08.2015 exhibit page 49
- 21 e) 18.09.2015 exhibit page 47
- 22 f) 08.12.2015 exhibit page 46
- 23 g) 14.01.2016 exhibit page 45



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3243027 on exhibit page 55. A photograph of Mr. Myles is included in this document.

xx. Mr Wayne Myles driving license has number 281610 and was issued on the 13.05.2016, expiring on the 13.05.2019 as per exhibit ELEC 1 exhibit page 55. The license (with the same number) was renewed after the previous license expired on the 02.05.2016 as per exhibit ELEC2 exhibit page 56. The receipt for payment and application for the expired license in exhibits ELEC3 and ELEC 4 respectively, are exhibit pages 57 and 58 which show a contact email address of DJ_ROMEO1404@YAHOO.COM and an address of 437 Will T. Bodden Town. Exhibit ELEC4 contains contact numbers **5467296** and 9292249 for Mr. Myles.

MoneyGram Receipt

xxi. On the 26.01.2016 Wayne Myles attended MoneyGram on Shedden Road and sent funds to a Vincent Davis in the UK. He produced Driver's License no 281610 and gave his date of birth as 14.04.1980. He also gave his address as 437 Will Drive and a phone number as **345 9288917**. This was recorded in exhibit KD/001 as per exhibit page 60.

24. The Crown called three live witnesses as follows.





1 OFFICER NAKEA MENDEZ

2
3 25. This Officer's This Officer's testimony is crucial to the Crown's case as it sought
4 to link the defendant to the name "Beenie", a necessary link on the issue of
5 attribution. The more salient aspects of Officer Mendez' testimony are produced
6 below.

7
8 26. Examination in chief:

9
10 *"I was a first responder, first in 2009 for about 2 to 3 years as an Officer in uniform*
11 *in the district of George Town.*

12
13 *I first became aware of someone called "Beenie" about 5 years back. It should be*
14 *probably 11 years back. In George Town I usually task myself with meet and greet*
15 *with members of the community and as such I have come in contact with the*
16 *gentleman sitting in the box in the Martin Drive area of George Town.*

17
18 *Normally I go in and speak with members of the community in bad areas,*
19 *especially the younger youth and that's when I came to know Wayne Carlos Myles,*
20 *otherwise called "Beenie".*

21
22 *It was not a formal introduction. Nobody usually called people by their correct*
23 *name. Most of them go by aliases. He did not say it but persons would refer to him*
24 *as Beenie and he would answer to it. I myself called him by that name and he*
25 *answered by that and that's how it started up and I came to know him by that name.*

26
27 *I called him by the name. Whenever I see him in the area or we come in contact I*
28 *would hail him up, call to him, sometimes a little pump of fist. This was over a*
29 *time period, a lot of time that I seen him and speak to him in the Martin Drive area*
30 *even in clubs along West Bay Road.*

31
32 *He never said I was off and that's not my name and not my nickname. He answered*
33 *to it."*

1 27. Cross examination

2
3 *“I was never called to an incident involving Mr. Myles or something similar. He*
4 *was someone I encountered who was polite to me. He has never been disrespectful*
5 *to me.*

6
7 *In my experience that area was associated not with violence but with frequent*
8 *reports by the Police. I don't deem such places in any of these islands as*
9 *dangerous.”*

10
11 [Officer Mendez was asked about another young man, James Anthony Connor. It
12 was suggested to Officer Mendes that he was mistaken about Beenie and that it
13 was Connor who was known as Beenie.]



14 *I have not heard of that name. I recall a murder in the parking lot at Mango Tree*
15 *but I am not sure of the year. I have never met him.*

16
17
18 *Q: You never met Wayne prior to 2016?*

19
20 *I can't give a date when I meet him. He is someone who is known to me very well.*
21 *In the past we spoke, bumping of fists, he responded and he never said to me Beenie*
22 *is not his name, not his correct name. He is someone I know, and he knows me*
23 *very well.*

24
25 *When I spoke with him sometimes he would be in the company of other people.*

26
27 *My memory/testimony is not vague because my memory is not clear of the*
28 *circumstances in which I would have seen Mr Myles.*

29
30 *In the Martin Drive area most persons don't call each other by proper names. They*
31 *use aliases which I came to find out was because they responded and never*
32 *complained and I have spoken to them.*



1 I would say I am like a big brother/father. Whenever I am on duty I do various
2 checks with the youth, elders and everyone in the community around me and the
3 youth tell me who goes by that name. That is how I learned that Mr. Myles goes by
4 that name "Beenie".

5
6 I have not heard of any other nickname being used in relation with Mr. Myles.

7
8 I have never heard of him being referred to as "Jason".

9
10 **OFFICER ALVAN BOXWELL**

11
12 28. Officer Boxwell's evidence offered an important link in the prosecution case. He was
13 part of the team assigned to recover the data from the exhibit phones EMT 1 and
14 DS/WM1. He described the processes and software that he used to download data from
15 these exhibits. Once that data was downloaded, he passed it to Officer Delaney. His
16 role as he related was "simply to download and transfer the data." Paragraphs iv – ix of
17 the Agreed Facts encompassed most of the more relevant aspects of Officer Boxwell's
18 evidence.

19
20 29. Officer Boxwell was cross- examined by counsel for the Defendant and stated, *inter alia*:

21
22 30. **Cross examination:**

23
24 I am not in a position to assist the court with a high level of tech in relation to how
25 the system works. My role is simply to download and transfer information without
26 real knowledge of the technical side of it.

27
28 I don't know if Celebrite can change data as opposed to simply replicating it.



1 *I do not have any experience number spoofing – copying of SIM cards. Celebrite*
2 *technology, I am not sure if it can be used to add or replicate numbers. If a SIM*
3 *is Replicated or copied, I would not be able to discern that from the original in any*
4 *way.”*

5
6 **MRS. JOANNE DELANEY**

7
8 31. I have categorized Mrs. Delaney’s evidence into relevant categories and related the evidence
9 that she gave in answer to questions raised in cross examination on her evidence in those
10 categories as far as possible.

11
12 32. Mrs. Delaney’s evidence was extensive and formed the real base of the prosecution’s
13 case.

14
15 33. She related that she is employed as the intelligence analyst for the RCIP, and that
16 her role involves communications and data analysis including the analysis of cell
17 phone downloads.

18
19 34. She related that she would usually receive data in different formats from Officer
20 Boxwell, and confirmed that she has a licence for the Cellebrite software
21 described by Officer Boxwell in his evidence, and can receive material in that
22 format i.e. the Cellebrite software format as well as PDF or Excel.

23
24 35. She also related her previous experience working as part of police investigations related
25 to prostitution and/or pimping.
26

1 36. *The download from the phone seized from Alexander Ebanks.*

2
3 i. Mrs. Delaney stated that she analysed information downloaded from the handset
4 exhibit EMT1. She found a small number of items relating to material of inferred
5 prostitution. This information was in the nature of a WhatsApp communication
6 between the exhibit and another user which she exhibited as JD/14. Ie the
7 communication. She explained that these were communications between the
8 number 322-4470, Alexander Ebanks and *8917, the number of the recipient that
9 received the messages from Ebanks during the communications. Her evidence was
10 that the Name “Beenie” is how that number *8917 was stored within the contacts
11 section of Ebanks phone book on the handset, exhibit EMT/1. There was also
12 another number stored within the contacts section on the handset as “Beenie”, -
13 546 7296. The communication set out in JD 14 from EMT1 was all the identified
14 communication between Ebanks and 8917.



15
16 ii. Delaney related that the conversation between Ebanks and 8917, downloaded from
17 the phone for the dates 16th and 17th of September 2015, and another from the 19th
18 of September 2015 are those which the Crown says forms the basis of the offences
19 charged at Counts 2 and 3 of the indictment.

20
21 iii. In answer to questions from defence counsel Mrs. Delaney related:

22 *“The WhatsApp messages on Alexander Ebanks’ handset were not*
23 *repeated on the handset of Mr Myles. In relation to this handset Celebrite*
24 *did not have ability. I could not confirm if an S6 was on the list for*
25 *deletions but the WhatsApp messages recovered were not indicated in*
26 *software as being [deleted] but multiple images stored on the handset,*
27 *identified as sent WhatsApp messages, did not feature within any of the*
28

1 These messages the Crown says are evidence related to the counts on the
2 indictment of *attempts* by the defendant live on the earnings of prostitution:

3
4 a) Relating to count 4, there was evidence of a conversation on the 5th March
5 2015 between the 8917 handset and a number ending *26. There were no
6 further messages between the two numbers about that discussion on the
7 handset.

8
9 b) Relating to Count 5, a conversation with the number ending *37 on the 5th
10 July 2015. The entirety of the conversation was recorded.

11
12 c) Relating to Count 6 a conversation with a number ending *32 on the 25th
13 July 2015, the entirety of the conversation is recorded and produced.

14
15 d) Relating to Count 7, the 28th August 2015, a conversation with a number
16 ending *64. Again Ms. Delaney confirmed that she had produced the
17 entirety of the conversation between the 8917 number and *64 on that date.

18
19 e) Relating to Count 8, the 18th and 19th of September 2015, a further
20 conversation between 8917 and *64.

21
22 f) On Count 9, a conversation from the 10th of February 2016 was produced
23 between the 8917 and *73.

24
25 iv. Mrs Delaney went on to state that she was aware that DS/WM/1 was processed
26 again by Cellebrite in Canada at the end of November 2016 and she subsequently
27 received a jump drive which contained a download product with a witness
28 statement and the cell phone itself. She was then able to access WhatsApp material



1 from the handset and to extract photos and messaging that she inferred were
2 relevant to prostitution. She exhibited this information as JD/16.

3
4 v. She related that the handset DS/WM/1 was associated with the name Jason as that
5 was the user name on the WhatsApp associated with the cell phone. She clarified
6 that with regard to counts 2-9 where there appeared in the exhibited material the
7 words in brackets “Myles”, that that label was her annotation to the user of the
8 SMS messages, that label was not direct from the handset but was her input.

9
10 vi. For Count 1, from line 70 of the exhibit JD/16 Officer Delaney stated that from the
11 18th November 2014 the Jason phone sent out a message to a number ending in
12 *51 saying: “If you know of anyone interested in escort services let me know”.
13 There were multiple photos then sent after that message of women posing in under
14 wear and in some swim wear, exposing parts of their bodies. The same message
15 with the same set of images was sent to different numbers ending in *09, *37, *01
16 and then further, different photos also accompany the original message.



17
18 vii. Mrs Delaney also identified that in some of the latter photographs there appeared
19 a photograph of Mr. Myles which identification she based on the picture appearing
20 on his Vehicle Licence with the name Wayne Carlos Myles.

21
22 39. **Pricing Structures**

23 i. Mrs. Delaney related that there appeared to be differences in messages which she
24 grouped as Sections 1-3. These sections she described as follows:

25
26 a) *“Section 1 is in relation to inferred customers and promotion of sexual
27 activity and females for sale. Section 2 detailed inferred sourcing of
28 females for sexual activity for the user and others. Section 3 relates to*

1 *inferred activity of arrangements for lingerie parties, where partially*
 2 *clothed females in attendance or serving. There was a distinct difference*
 3 *in types of promotions being fide for this section as opposed to Section 1.*
 4 *There is a considerable reduction in pricing sections.”*

5
 6 ii. Mrs. Delaney also determined that there was a price guide for a variety of
 7 services offered by the *8917 number. She derived these from the
 8 communications exhibited as JD/16 and JD/16. She created the following
 9 chart.

DATE	REFERENCE	PRICE
29.09/14		\$300
18/11/14	“Escorts”	CIS400
26/11/14	“ <u>Fuckfest</u> ”	CIS200 per hour
05/03/15		\$250
11/04/15		250
25/07/15	“Sleep over & have sex”	\$500
30/08/15	“To come in her mouth”	\$200
	“To do everything”	\$300
11/09/15	“Come to fuck”	CIS400 per hour
19/09/15	“To show up”	\$400
	“To have sex”	\$400
27/12/15		\$200
11/02/16		\$400 per hour
28/02/16	“Roster”	200
04/04/16		\$300
16/04/16		\$250
01/05/16	“Young Pussy”	\$150
10/05/16	“Pussy”	CIS400 per hour
19/05/16		200 per hour
22/05/16		CIS400
22/05/16		200
25/03/16		\$250
16/05/16		150

10
 11 iii. From those exhibits she also gave evidence of the references that she found
 12 therein from which she inferred that the defendant was in direct control of



1 and supplying female prostitutes to inferred customers. She detailed these
2 as follows:

3

4 MYLES: *"I have another girl that sucks and swallows... she*
5 *available now and she is a good massusse at suck dick"*

6 MYLES: *"You have any customer wanna buy some pussy –200*
7 *an hour"*

8 MYLES: *"You want some young pussy to buy - \$150"*

9 MYLES: *"I have some girls selling you interested"*

10 MYLES: *"I have a new girl – 250 – She working for me now*
11 *bro"*

12 MYLES: *"Genesa say she wants to swallow your cum... I*
13 *should bring. Her now swallow your cum... ..*
14 *Just to cum in her mouth \$200 but to do everything*
15 *\$300"*

16 MYLES: *"I have another girl that do everything"*

17 MYLES: *"New freak me an Eddie trying to break her in"*

18 MYLES: *"You want magma – 200"*

19 MYLES: *"Hey you want Kimberly today for \$250... AL be there*
20 *in 15 min don't give her the mone . Give it to me"*
21

22 iv. She was cross examined about the pricing structures that she had identified in her
23 evidence. She related that:

24



25 *"The pricing structure gives a great deal in relation to alleged prices and*
26 *different services. For example: As low as \$150 up to \$500 – sleep over*
27 *and have sex.*

28

29 *These were messages going to \$25 per hour for topless for private party*
30 *at Vic's bar. I inferred that this was less than for services provided for sex*
31 *and prostitution.*

32

33 *The provision of topless bar staff is not akin to prostitution."*

34



1 v. She related examples of a Conversation with a potential customer seeking girls to
2 wear lingerie, initially seeking 3 girls, where the price of 200 each and then 500
3 discussed between 8917 and the inferred customer for party of their own.

4
5 *“The Pricing structure of \$200 each or \$500 for 3 was more akin to what*
6 *is also prostitution services. Where a specific price point does not*
7 *necessarily denote services on order, I have highlighted special services*
8 *and details per pricing.”*

9
10 vi. She agreed that in some instances there were conversations in relation to parties
11 where she could definitely state if anyone physically undertook those activities at
12 those prices and also that ‘Escort services’ do not necessarily involve prostitution
13 activities as defined. She stated that messages with descriptions of escorts were
14 included to compare with later chats where escorts provided/quoted as \$400. \$400
15 same prices found in other chats “to show up” ‘have sex’ for p---y’ and ‘come to
16 f—k’. There was one message for 400 to show up and 400 to have sex. Others
17 related specifically for \$400 for more intimate services.

18
19 vii. She agreed that the word ‘pussy’ can be a derogatory word in relation to female
20 genitalia only and said that “It is difficult to be sure of interpretation based on [a
21 price of] \$400 alone” and stated that she provided the pricing and comparisons in
22 wording to show similarities and differences.” She related that she had identified
23 31 individual females and 15 inferred customers with 15 separate cell phone
24 numbers.



- 1 e) MoneyGram Receipt. The defendant's name and physical address and the
2 telephone number associated given 928 8917 is the same as the handset of
3 DS/WM1
- 4
5 f) A large number of photos were extracted from the handset of the
6 DS/WM1. Mrs. Delaney stated that these appeared to be selfie images 127
7 images and metadata from file paths on the phone. These images were all
8 selfie images, close up images of a person where it appears that they are
9 taking it themselves, of the defendant.
- 10
11 g) Further images (21 images) were actual images on the handset. They all
12 showed the defendant.
- 13
14 h) Image file for a receipt from Autohaus Norway. The defendant is named
15 as the consignee with the number 8917 associated with the handset as well
16 as his physical address and email waynemyles.ky@gmail.com.
- 17
18 i) The shipment related to a vehicle being imported a BMW 323i. This is
19 the same make of the vehicle registered to the defendant.
- 20
21 j) Evidence of a SMS message sent from the handset 8917 stating "this
22 Beenie, when you get chance call me."
- 23
24 k) Various other SMS messages were recovered from the handset, DS/WM1
25 - 114 messages which all refer to "Jason", in either the incoming and
26 outgoing messages.
- 27
28 l) Messages referring to "Wayne" both incoming and outgoing. 21 such
29 messages were identified.

1
2 m) Evidence that the user of the handset responds to incoming messages for
3 “Beenie”/Further references to “Beenie” and Vic’s bar. The defendant
4 was employed at Vic’s bar during the period under consideration.

5
6 n) Evidence of the name Jason being used by the user of 8917. There were
7 incoming and outgoing messages referencing the name Jason. Further
8 references to Jason’s birthday on the 14th of April. The defendant’s
9 birthday is on the 14th of April.

10 ii. Cross Examination

11 a) Mrs. Delaney was subjected to extensive and rigorous cross-examination.
12 She confirmed that a voluminous amount of information was recovered
13 from the cell phone DS/WM/1 and agreed that the WhatsApp messages
14 alone accounted for over 30,000 lines. She agreed that the schedules that
15 she had provided as JD 14 -JD 16 were but a small snapshot, a subset of
16 the entire amount of information recovered.

17
18 b) She confirmed that there had been disclosure of the full entirety of the cell
19 phone downloads to the defence for their review, stating that she did not
20 specify or identify any particular material contained therein which
21 underlined the Crown’s case. However, she refuted any suggestion that
22 when she went through the data her role was to only find material that
23 implicated guilt.

24 c) She agreed that for some of the images that she had included in her
25 schedules that it was difficult to say when the image had been taken
26 however for others taken directly from the phone she was able to extract
27 both the image itself and file information which would be generated



1 automatically from the software used for the downloads. She agreed that
2 looking at some of that information that she could say that those images
3 were not taken or created by the handset DS/WM/1.

4
5 d) She described in answer to questions from Counsel for the defendant how
6 she was able to say that the WhatsApp Account which she stated was
7 associated with the defendant had been transferred from another device,
8 where that account had been used prior to the activation of DS/WM/1 in
9 November 2015.



10
11 *“During September 2014 to November 2015 data from the*
12 *download identified a number of messages sent via this WhatsApp*
13 *account 8917. Multiple of these messages would include same*
14 *male I identified as Wayne Myles and often a small female child*
15 *was included in these messages and metadata available for those*
16 *messages sent via WhatsApp. Metadata consistently identifies a*
17 *Galaxy S4. In addition to that to help support the fact that the*
18 *WhatsApp was from one handset to another handset is in*
19 *September 2014 a WhatsApp activation code was sent to cell*
20 *number 928 8917. A further WhatsApp activation code was then*
21 *sent on 7/12/2015. It was sent to 8917 on the same date the Galaxy*
22 *S6 Edge was activated. 2 SMS activation codes were sent when*
23 *verification of WhatsApp is required providing an indication of*
24 *dates at which WhatsApp activation activity took place. I inferred*
25 *a download of a WhatsApp application to a new handset.”*
26

1 e) In answer to a question posed by Counsel for the defendant Mrs Delaney
2 agreed that it was possible that a Sim card could be contained in one
3 handset with a WA account on another handset. However, she stated that
4 the phone with the SIM card which had the number associated with the
5 WA account was still necessary at the initial setup to receive the WA
6 activation Code to complete the process of acquiring the app, to complete
7 the process on the potential 2nd handset.

8
9 f) Counsel for the defendant put a number of scenarios to the witness which
10 she answered openly and clearly. She stated that the WA account covered
11 a greater period than the period of activation of DS/WM/1 and stretched
12 from June 2014 to June 2016. She concluded that it was a continuous
13 account during that period because of the common thread of images for
14 that two-year period.

15
16 *“WhatsApp has been utilized on a separate handset prior to*
17 *07/12/15 so messages prior to this date took place on a different*
18 *handset and were possibly stored on the original handset but there*
19 *is nothing I can analyze to provide information in relation to that.*
20 *... There may be another handset that contains deleted messages.*
21 *The previous handset may or may not contain WhatsApp data that*
22 *would have been deleted. I cannot say further.”*



23
24 41. The following Agreed Facts numbered xii – xxi are relevant to this evidence relating to
25 DS/WM/1 and attribution.
26
27

1 42. Number spoofing

2 i. Mrs. Delaney stated that she had experience of number spoofing in which a Sim
3 card is copied in order to duplicate a number on a network. She did not agree that
4 there was evidence of hacking just by dint of the fact that there was a handset
5 associated with the number 8917 for which no IMEI number could be recovered.
6 She stated that as far as she was concerned that there was nothing to show anything
7 out of the ordinary with the activity that she had seen within the instant inquiry.
8 Specifically, in relation to the unknown handset, she stated that she “did not feel it
9 was necessary to make inquiries based on the data obtained, as the consistency of
10 usage during the span of the WA account, the fact that a SIM was not definitively
11 required for a WA account to continue functioning and all of the material that was
12 contained was sufficient” for her purposes to make the conclusions that she did
13 from the data.



14 43. Multiple users of DS/WM/1

15 i. She was questioned about whether she had identified any other medium from
16 which the handset could have backed up the material on the phone. She stated that:
17
18 *“The only evidence I have in relation to backup material is whereby a
19 download involving a number of images on the handset have been backed
20 up to the google account associated to the email
21 waynemyles.ky@gmail.com. Outside that element, I cannot say where or
22 how backups have taken place”*

23
24 44. Mrs. Delaney was also questioned about her findings about the number of users of the handset
25 DS/WM/1. She confirmed that there was only a single SMS message that referenced “Beenie”
26 found on the phone, a message dated the 22nd March 2016. She went on that she did not have
27

1 any evidence to indicate multiple users of the phone but if multiple users were having use of
2 the phone that it this could be a reason for the message: “This Beenie”, as the receiver of that
3 SMS message needed to be told who the author of the message was of the multiple users.

4
5 45. When it was suggested to Mrs. Delaney that the evidence of a large number of selfie pictures
6 on the handset was inconsistent with someone covering up their identity from using the phone
7 she answered:



8
9 *“Each individual is difference and the manner that they deal with cells, media
10 communication on an individual basis. If there is no information at all in relation
11 to a second user, I can't infer a second user due to no information at all [of a
12 second user].”*

13
14 46. It was also suggested to her that the lack of identification features that would show a second or
15 multiple users would be consistent with either there being one user or multiple users some of
16 whom deleted [information] to avoid detection of their use] and her response was:

17
18 *“I have no information to show a 2nd user but it would be 2nd user who has removed
19 each and every trace of identification or usage or no 2nd user. I cannot comment
20 on something I have no evidence of.”*

21
22 47. When Mrs. Delaney was re-examined she stated as follows with regard to number spoofing:

23
24 *“There is no evidence appearing on the handset in this case. If it were to take place
25 especially SMS messages which are networked, if the outgoing messages sent from
26 another number but spoofed to show 8917 number as the sender, the outgoing
27 messages would not feature on handset containing that SIM card or associated to
28 that SIM. There are messages outgoing on SMS. Had they been spoofed they would
29 not feature.”*

1
2 48. And with regard to the WhatsApp messages from another website or PC Mrs. Delaney stated:

3
4 *“WhatsApp messages from the website or PC. There was no WhatsApp on the*
5 *handset sent from the website or PC. The incriminating messages were not sent in*
6 *that way. If messages were sent from webmail or other platform, if sent as part of*
7 *WhatsApp chat utilizing web interface and subsequently deleted, that chat there*
8 *may possibly be a memory of that message or image. I did not have any evidence*
9 *of that.”*

10
11 49. And relating to evidence of whether females in picture in Cayman or not Mrs. Delaney stated:

12
13 i. *“There is no evidence whether the females in some of the pictures were in Cayman*
14 *or not. That is not the same for all females in Section 1 of JD/16. I have identified*
15 *who some of the females are in Sect 1. They have been in the Cayman Islands at*
16 *times.”*

17
18 50. And in answer to a question from the court Mrs. Delaney stated:

19
20 *“There is Consistent usage of user I identified as Wayne Myles. Also from the non-*
21 *criminal content usage of this cell phone and WhatsApp account prior to DS WMI*
22 *being activated. I don't see 2nd user of data account. My identification is only of*
23 *consistent usage throughout the period....I don't see identifiable usage by anyone*
24 *else on the accounts on the handset. The lack of those identification features of*
25 *either user could be consistent with one user or multiple users who have remove*
26 *identification traces in these communications. I can't comment on the lack of*
27 *evidenc removed because it is not there. I would be speculating on what is no there*
28 *to say otherwise.”*
29



1 **THE DEFENCE CASE**

2

3 51. At the close of the Prosecution case the defendant elected to give evidence on oath.

4

5 52. I remind myself that I must assess the evidence of the defendant in the same objective and
6 dispassionate manner as I would any witness for the prosecution. I remind myself that if I don't
7 accept the evidence of the defendant that I must still return to the Crown's case to look for
8 evidence that the crown has proved its case to the requisite standard before I can find the
9 defendant guilty. If the Crown's evidence does not reach that standard so that I am sure of the
10 defendant's guilty then my verdict must be not guilty.

11

12 **EVIDENCE OF THE DEFENDANT**

13

14 53. The defendant testified that he worked at Vic's Bar and had done so from late 2011 or 2012.
15 He described that he had a number of duties there.

16

17 54. He agreed that a mobile phone was recovered from him in June 2016 (Exhibit dswm1, no 8917).
18 He stated:

19

20 *"A mobile telephone received from my person on 15/06/2015 was a Samsung*
21 *Galaxy S6 Edge and referred to as DS/WM1. It contained a SIM card with SIM*
22 *928-8917.*

23

24 *That handset came to be in my possession. It is accessed by me. It is accessed by*
25 *me from time to time. It is not a private handset. It is used in a public manner. I do*
26 *not own the handset or SIM card used in it. My use was limited to receiving calls*
27 *from friends and family numbers as well as my boss. But the handset also has*
28 *another function – to sell electronic products, including other handsets, computers*
29 *and services that go along with those products.*

29





1 *The sale of electronics and other products was not part of my employment. It was*
2 *something offered to me by a third party. I prefer not to name names. I do not want*
3 *to put my life or my family's life at risk. I am Caymanian and I have to live in this*
4 *jurisdiction. I prefer not to get any further involved with the handset than is*
5 *necessarily required by this Court.*

6
7 *The handset just came to be in my possession as it was loaned to me by the owner.*

8 *The owner, I prefer not to name names.”*

9 55. The Defendant stated that he could not recall when the handset first came into his possession
10 although he knew that the number 8917 was being used prior to the activation date of the
11 handset. He stated that he had no knowledge of any dealing with the number prior to having
12 the handset but stated that he accepted that he may have had access to the number previously
13 on the handset. He clarified that he meant that it was possible that the owner of the number
14 gave him access to it to make a phone call.

15
16 56. He went on to state that in November 2014, prior to the activation of the handset, he could not
17 recall if he had had access to the number at that stage. The defendant stated that the messages
18 received from the handset dswm1 which formed the evidence in this case, that he believed that
19 those messages were fabricated and that he did not believe any such transaction or alleged
20 prostitution exists throughout the jurisdiction of the Cayman Islands.

21
22 57. He further stated that he was not in a position to speculate why the messages were in the handset
23 neither was he in a position based on looking at the messages to call any female described in
24 the photographs as prostitutes.

25
26 58. With regard to Officer Mendez the salient parts of the defendant's evidence was:
27

1 *“Most certainly it is not my telephone number. I do not know who the number*
2 *belongs to. If at some point I utilized that number for a bill or statement or receipt*
3 *it would merely be in the context that I had to give a number at the time that I*
4 *utilized the number. I may have had access to that telephone no at some point in*
5 *time but I cannot say where, what, why or how.”*

6
7 *“To my knowledge it was accessed by others. At this point I cannot recall specifics.*
8 *The phone had a PayPal account on it as well as an EBay account and all sorts of*
9 *people from all walks of life would access the phone on a daily basis for all sorts*
10 *of reasons. I would not name names given the nature of the case even if I could*
11 *recall because I would not want to put my life or my family’s life at risk.*



12 *While 8917 was accessible by me to the best of my knowledge I did not make a*
13 *payment towards the phone or if someone made a payment I cannot recall who*
14 *made what payment at what time.*

15
16 *I cannot recall how the 8917 number was funded. I cannot recall if it was a*
17 *contract or pay-as-as-you-go situation.”*

18
19
20 62. In relation to Exhibit EMT 1 - The WhatsApp messages between 16th to 17th September 2015
21 – the Defendant said:

22 *“Whilst I am not at liberty to say who is the owner of 8917 - given what I know of*
23 *the circumstances surrounding 8917 - I believe these messages and messages*
24 *around that period were as a result of number spoofing. I don’t accept Joanne*
25 *Delaney’ evidence of number spoofing as it is clear to me that she is not truly*
26 *capable of understanding what a spoofed phone would do to the network.”*
27
28

1 63. The defendant went on to say that spoofing and ghosting of phones was outside of his capability
2 of understanding although he had physically seen equipment needed to embark on such a task.
3 However he stated that he believed that the messages reflected on EMT1 at no time came from
4 any handset that he had in his possession. The Defendant stated:

5
6 *“I don’t recall seeing these previously. I don’t know who was sending messages
7 from the 8917 account. I was not sending those messages.”*

8
9 64. When he was asked about the WhatsApp and SMS messages which formed the basis of the
10 counts on the indictment counts 2-9 the defendant’s response was in essence that he had no
11 knowledge of messages or whether they are true or fabricated. He said that he had *“never seen
12 this prior to disclosure and have no idea of what the contents of the messages are.”*

13 65. The defendant reiterated:

14
15 *“I have seen the disclosure and read the messages. My answer I gave previously
16 stands for all messages throughout the disclosure. I have no idea who is sending
17 or receiving. No knowledge of the messages. I have never received a dollar from
18 anyone in respect of aiding prostitution.*

19
20 *I stated I never received money for aiding or assisting prostitution. I had no control
21 or influence over anyone I know to be a prostitute and I would add I do not know
22 any prostitutes or any women that may be suggested to be involved in prostitution
23 within the jurisdiction of the Cayman Islands.”*

24
25 **Cross examination**

26
27 66. The defendant denied knowing any of the females whose pictures appeared in the downloads
28 from the phones and in JD16. He stated that he did not set up the handset and that he believed
29 it was a combination of technical individuals whom *“I believed had experience in hacking*

1 *systems may have not only transferred images from another handset but also set up the Gmail*
2 *and WhatsApp accounts from which images taken.”*

3
4 67. He stated that he had never purchased a phone and had not had one prior to 2009 but he has
5 had access to phones. He stated that he was oblivious to the contents of the phone which
6 formed the basis of the charges before the court and that he could give an explanation as to
7 who the handset belongs to but he was in fear of his life and of his family’s life if he was to
8 disclose the owner at this stage. He refuted counsel for the prosecution’s suggestion that he
9 was using this suggestion of fear to distance himself from the handset.



10
11
12 68. The Defendant could not say how long he had had the handset up to June 2016 when it was
13 seized by the police. When asked about WhatsApp messages that were sent by Beenie very
14 close to that time, he stated “*I have not thought who used the phone and WhatsApp on the date*
15 *it was taken from me. I have no knowledge and I prefer not to speculate.”*

16
17 69. When asked specifically if he had not seen the WhatsApp messages on the phone while it was
18 in his possession, the defendant maintained his answer that he had no knowledge and he refused
19 to speculate.

20
21 70. The Defendant admitted that waynemyles.ky@gmail.com was one of his email addresses but
22 not dj_romeo1404@gmail.com . He stated that the latter email was only associated with a
23 business account to which he did not have access and which had been inactive since 2008.
24 When he was questioned about his use of the latter email address on his DVDL application
25 form, he admitted that he did so but that it was not existing and did not work at that time. He
26 stated: “*...generally speaking I would not be expecting licence Department to be emailing me*
27 *after I received the licence.”*



1 71. However, he agreed that he had used his proper address on the DVDL form. He also agreed
2 the he had previously had use of the number 546-7296 which appeared on the DVDL form and
3 that this number was also used on three occasions to contact the police where the person calling
4 had identified himself as Wayne Myles. The *7296 number was also used on Western Union
5 Receipt form. He stated however that *“I was using and had access and a number of times I
6 used the number, I would not go so far as to say the number was mine.”*

7
8 72. With regard to the name Beenie, the defendant stated that it could be more than one person
9 called Beenie in reference to the numbers attributed to that name on the EMT/1 handset as well
10 as messages on the DS/WM/1 handset which referred to that name. He stated that he did not
11 know who it was referring to and that he would not want to speculate on the message. He
12 categorically denied that he was ever called “Beenie”.

13
14 73. The defendant did not accept that the exhibited messages in which the name “Wayne” referred
15 to were sent by him. He stated that the messages at pages 142-143 of the Trial bundle could
16 be messages which someone had *“written and sent out pretending to be me”* or it was sent on
17 his behalf.

18
19 74. In answer to a question from Crown Counsel whether there was any message in any of the
20 Crown’s bundle that he was prepared to accept the defendant stated: *“There are no messages
21 in this trial bundle that I have any knowledge of being a part of. I think it would be a little bit
22 that I don’t remember and a little bit that I didn’t sent them. I have no knowledge.”*

23
24 75. The defendant accepted that his birthday was on the 14th of April but stated that he did not
25 know who the messages referred to at Page 112 Line 87 could refer to, even when confronted
26 with the fact that the person was also connected to Vic’s Bar where the defendant was employed
27 during this time.



1 76. With regard to the evidence of JD 14 -16, the defendant stated that he had no knowledge of any
2 of the messages. He was questioned about messages which the Crown says referred to different
3 rates for services. Again the defendant denied having any knowledge about any of those
4 matters. When asked about who would have had access to the handset on the many occasions
5 when messages sent from the handset were sent very late at night and very early in the morning,
6 the defendant's answer was with regard to the messages from 2014, that he could not recall
7 having the handset on those dates or what it was being used for and closer to 2016, he had no
8 knowledge and could not speculate on something he did not know.

9
10 77. The defendant was asked if he did not see incoming messages on the handset requesting
11 whether a girl available or if he did not think that someone was using the phone for sex and
12 money. He repeated that he had no knowledge of any prostitution activities in the Cayman
13 Islands. He stated: "*the first time I saw WhatsApp messages to the best of my knowledge was*
14 *on the 30-31st March 2017, when the large data set was disclosed to me at Northward*" and
15 that he had now knowledge before that of any of the messages in the Crown's bundle.

16
17 78. In re-examination he agreed that he had used the email address waynemyles.ky@gmail.com -
18 -- however he stated that at the time that he used that address when he was incorporating the
19 company, he did not actually have access to the account and he did not know who usually used
20 it or who had set up the account.

21
22 79. He stated that he did not read any messages that were "going to prostitution" because he "*was*
23 *not in the habit of reading messages in the phone that belonged to other people*". He went on:

24
25 *"...many people from all walks of life had access on a daily basis for a number of*
26 *reasons. It was not a private device for 1 person to say it was mine. It was*
27 *accessible to the public on any given date at any given time....On the times and*
28 *dates of the messages referred to in the indictment, I have no knowledge who was*



1 *operating the phone at that time and if there was a specific time I could refer to I*
2 *choose not to given the nature of the case and due to the fact that I would not put*
3 *my life or family's life at risk."*

4
5 80. He reiterated that he would prefer not to name the persons who had access to the phone as he
6 would not want to put lives at risk.

7
8 81. When questioned as to why the evidence of Mrs. Delaney was not challenged on the matter of
9 other persons having access to the phone, the defendant's evidence was: "*on the material dates*
10 *there were other selfie images on the phone but I chose not to refer to those because of the*
11 *nature of the case. I chose not to disclose those other individuals because of the nature of the*
12 *case."*

13
14 **COURT'S CONCLUSIONS**

15
16 82. It was difficult for this court to accept Mr. Myles' account.

17
18 83. He made a bald assertion at the beginning of his evidence that he would prefer not to name
19 names. He said, "*I do not want to put my life or my family's life at risk. I am Caymanian and I*
20 *have to live in this jurisdiction. I prefer not to get any further involved with the handset than*
21 *is necessarily required by this Court."* He did not give any further details to bolster this
22 assertion.

23
24 84. It is noteworthy that Mr. Myles did not say to the Court that he had been threatened in any way.
25 He instead asserted that he had chosen not to provide details of other users or persons who
26 purchased or operated the phone. Therefore, while he appeared to suggest that he did have
27 evidence which could contradict the evidence of Mrs. Delaney, he chose not to produce that
28 evidence to the court or to refer to it at all. A defendant facing the very serious crimes for



1 which the defendant is before the court would, to this Court's mind, produce evidence which
2 could go to contradict the Crown's evidence and/or raise reasonable doubt in the court's mind
3 if it were available. The defendant has offered an incomplete and implausible explanation as
4 to why he would not give a full account of all he knew of persons that he says may be involved
5 in this matter.

6
7 85. He stated his lack of experience with a phone but seemed to have intimate knowledge of
8 concepts of spoofing and ghosting and, from his evidence, may have known or associated with
9 persons who were involved in such activities. However, he did not offer any detail to raise
10 doubt on the clear evidence of the Crown's analyst that upon her examination of the phone
11 there was nothing to show anything out of the ordinary, no evidence of spoofing or ghosting or
12 any other activity which could have led her to conclude that there was interference with or
13 another user of the phone.

14
15 86. Mr. Myles' evidence of persons unknown using the *8917 handset is not supported by any
16 evidence in this case. To the contrary, the Crown's evidence to support the fact of one user of
17 the phone is credible and uncontroverted.

18
19 87. The defendant's evidence that he did not view the various messages 'going to prostitution' is
20 implausible. It is difficult to accept the defendant's evidence that he would have ignored the
21 many messages that would, on the Crown's case, have been displayed on the phone. He
22 appeared to contradict himself somewhat in his evidence when he stated that he did not read
23 any messages that were "going to prostitution" because he "*was not in the habit of reading*
24 *messages in the phone that belonged to other people*". This response raises the question of
25 how would he know that the messages belonged to other people if he had not seen them himself.

1 88. I cannot convict the defendant because I do not believe his account. I must go back to consider
2 the prosecution case in its entirety in order to determine whether I am satisfied of the elements
3 of each offence beyond a reasonable doubt.

4
5 89. I remind myself that a defendant may lie for different reasons not necessarily because he is
6 guilty of the offences charged.

7
8
9

LUCAS DIRECTION

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12

90. I am reminded of the warning that I would give to the jury, and, in this case, to myself,
pursuant to *R v. Lucas*⁶, and I treat this evidence with great care.

13
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15

THE LAW



16
17

91. Section 139 of the Penal Code states as follows:

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“139. (1) Every male person who -
(a) knowingly lives wholly or in part on the earnings of
prostitution; or
(b) in any public place persistently solicits or importunes for
immoral purposes,
commits an offence.

(2) Where a male person is proved to live with or to be habitually in the
company of a prostitute or is proved to have exercised control,
direction or influence over the movements of a prostitute in such
manner as to show that he is aiding, abetting or compelling her
prostitution with another person, or generally, he shall, unless he
shall satisfy the court to the contrary, be deemed to be knowingly
living on the earnings of prostitution.”

⁶ [1981] Q.B. 720



1 92. In the instant case the Crown has not specifically named a prostitute upon whose
2 earnings the defendant was living. However, there is no issue that the manner in which
3 the offence has been charged is allowable within s.139 (1).

4
5 93. In order to prove the offences on the indictment, the Crown's evidence must satisfy me
6 that persons were engaging in prostitution, that prostitution was occurring during the
7 period under consideration. The Crown does not have to prove that the prostitute in
8 question is a common prostitute but must show by evidence that the person whom they
9 allege is engaged in prostitution, has on at least one occasion made a contract for sexual
10 activity.

11
12 94. The Crown's case to support prostitution comes from evidence of discussions with
13 females about prices they would accept for sexual activity and the offering of females
14 for sexual activity from both of which they ask this court to infer that such persons were
15 prostitutes.

16
17 95. The Crown's evidence is directed to the third limb of the deeming provision in s.139 (2).
18 The Crown must also prove that this defendant exercised control, direction or influence
19 over the movements of prostitutes in such manner as to show that he is aiding, abetting
20 or compelling their prostitution with another person, or generally, in order to establish
21 that he was knowingly living on the earnings of prostitution.

22
23 96. If such is proved, the onus shifts to the defendant to satisfy the court to the contrary, that
24 he was not knowingly living on the earnings of prostitution.

25
26 97. The prosecution on this indictment for Counts 1, 2, 10 and 11, rely on the various
27 messages/conversations from a cell phone number 8917 which they say is attributed to
28 this defendant as evidence of the defendant's exercise of control, direction or influence

1 for these offences charged and to give context to the entire criminal enterprise which
2 they allege was being conducted by the defendant.

3
4 98. Counts 2 and 3 relate to messages displayed on the device EMT1.

5
6 99. For each of these counts on the specific dates stated in each of the particulars, the Crown
7 must prove that that X was a prostitute at the time of the commission of the offence and
8 that the defendant attempted to exercise control, direction or influence on her movements
9 in such a way as to show that he was aiding, abetting or compelling her prostitution with
10 another person.

11
12 100. The Crown must prove that the defendant did something that was more than merely
13 preparatory to control or influence the movements of a prostitute and that the act(s) had
14 the effect of aiding abetting or compelling her prostitution with another person.

15
16 101. I remind myself that I must look to see whether the evidence presented by the Crown
17 proves all the elements of each individual offence to the requisite standard before I can
18 find the defendant guilty of the offences charged on the indictment. I remind myself that
19 in the usual case that the defendant has nothing to prove. However in this case, if I find
20 that the Crown has proved that the defendant exercised or attempted to exercise control,
21 direction or influence over the movement of a prostitute, I also remind myself that the
22 section does then place a reverse burden on the defendant to satisfy the court to the
23 contrary, such burden being on a balance of probabilities.

24
25 102. The defence submitted to the court that the court could not be satisfied to the requisite
26 standard in order to find the defendant guilty on the counts on the indictment for a
27 number of reasons. Specifically, the defence state that with regard to counts 4-9 of the
28 indictment that these messages stand alone, without context, and that the messages upon





1 which the Crown rely to found those counts were inherently vague, that they could relate
2 to anything. The question for the court was whether the court could be satisfied that the
3 act of prostitution was put into action sufficient to sustain the counts of attempt. Counsel
4 for the defendant pointed to the lack of evidence of protagonist or prostitutes to set that
5 context. I have considered these submissions.

6
7 103. Mrs Delaney's evidence was not contradicted in any material way. She maintained her
8 evidence and was able to offer plausible reasons for her conclusions and to answer the
9 questions put to her by counsel for the defendant in a manner and with explanations
10 consistent with her evidence. I do not find that there were any material inconsistencies
11 in her evidence or between her evidence and that of the other prosecution witnesses.

12
13 104. I am satisfied on the Crown's evidence that someone was engaged in the provision of
14 prostitution services between 18th November 2014 and up to September 2015.

15
16 105. Officer Mendez was a credible witness. I believe his evidence that he knew the
17 defendant as Beenie and that he had heard other persons refer to him and call him by
18 that name. It was suggested to him that his memory may be somewhat faulty as to the
19 circumstances in which he first learnt/heard the defendant being referred to as Beenie.
20 The witness denied this. However, it was never suggested to the officer that there was
21 any reason that he would fabricate this evidence of his knowing the defendant by this
22 name. He was insistent that he knows the defendant, he outlined how he came to know
23 the defendant and I accept his evidence.

24
25 106. I am satisfied and find as a fact that the defendant was known by the Nickname "Beenie."

26
27 107. I am satisfied and find as a fact the defendant was the same person named as "Beenie"
28 and "Jason" as they appear from the relevant messages, WhatsApp and SMS which form

1 the basis of the Counts on the indictment and that the defendant was the person “Beenie”
2 and Jason who used the handset *8917. I am satisfied so that I am sure that the defendant
3 was the main or only user of that handset during the relevant period.

4
5 108. Having made those findings I must go on to consider with regard to the specific counts
6 on the indictment whether the prosecution have proved beyond a reasonable doubt that
7 the defendant was living or attempting to live on the earnings of prostitution on the dates
8 specified for each count. If I so find, I must go on to consider whether the defendant has
9 proved, on a balance of probabilities, that he was not knowingly living on the earnings
10 of prostitution on those dates.

11
12 109. Count 1: Living on the earnings of Prostitution

- 13
14 i. Between the 18th November 2014 and 26th November 2014. Pgs. 70 – 92.
15 From the 18th November 2014 the Jason phone sent out a message to a
16 number ending in *51 saying: “*If you know of anyone interested in escort*
17 *services let me know*”. There were multiple photos then sent after that
18 message of women posing in under wear and in some swim wear, exposing
19 parts of their bodies. The same message with the same set of images was
20 sent to different numbers ending in *09, *37, *01 and then further, different
21 photos also accompany the original message. The Crown’s case is that the
22 sending out to various persons with different numbers and the nature of the
23 conversations, how much for which girl, that accompany the pictures show
24 that the defendant was engaged in providing prostitution services and living
25 on the earnings of prostitutes during this period, that this is clear evidence
26 of numerous girls seeking and supplying prostitution services.
27



1 ii. I have reviewed the conversations and pictures which go to Count 1. I find
 2 that the Crown has satisfied me to the requisite standard that the defendant
 3 was exercising control over the movements of persons who were prostitutes,
 4 being engaged in the provision of sexual services for money.

5
 6 iii. The Defendant is Guilty on Count 1.

7
 8 110. Count 2: Living on the Earnings of Prostitution



9
 10 i. Here the Crown relies on the conversation downloaded from the handset
 11 EMT1. The conversation was not long and related Ebanks and the 8917
 12 number where Ebanks first states that the 8917 user has not linked him back,
 13 to which Beenie states that it was tonight for sure.

14
 15 ii. The conversation then follows:

FROM	TO	WHATSAPP CONTENT
EBANKS 3224470	9288917 Beenie	Where she live
9288917 Beenie	EBANKS 3224471	Town
9288917 Beenie	EBANKS 3224472	Al get her
EBANKS 3224473	9288917 Beenie	Good
9288917 Beenie	EBANKS 3224474	And when you dun drop her to me
EBANKS 3224475	9288917 Beenie	Sounds good
9288917 Beenie	EBANKS 3224476	She say 200 if you want her swallow
EBANKS 3224477	9288917 Beenie	She lucky she don't only get 100
9288917 Beenie	EBANKS 3224478	😊😊😊
EBANKS 3224479	9288917 Beenie	I wouldn't do that lol
9288917 Beenie	EBANKS 3224480	👍
EBANKS 3224481	9288917 Beenie	\$150 whole package deal lol
9288917 Beenie	EBANKS 3224482	Al ask
EBANKS 3224483	9288917 Beenie	Good friend discount
9288917 Beenie	EBANKS 3224484	Everything for 200
9288917 Beenie	EBANKS 3224485	And remember you nah paying so stop being cheap
9288917 Beenie	EBANKS 3224486	😊😊😊
EBANKS 3224487	9288917 Beenie	That's true too



9288917 Beenie	EBANKS 3224488	 
9288917 Beenie	EBANKS 3224489	Everything is perfect
EBANKS 3224490	9288917 Beenie	I never made 200 profit in 30min before 
EBANKS 3224491	9288917 Beenie	Lol cool
9288917 Beenie	EBANKS 3224492	She agreed to everything
9288917 Beenie	EBANKS 3224493	Youll lsat more than that
9288917 Beenie	EBANKS 3224494	Pop a pill
9288917 Beenie	EBANKS 3224495	  
EBANKS 3224496	9288917 Beenie	I take a quick fuck not being greedy
9288917 Beenie	EBANKS 3224497	Take you time enjoy it
EBANKS 3224498	9288917 Beenie	She takes them?
9288917 Beenie	EBANKS 3224499	Weed
EBANKS 3224500	9288917 Beenie	Yo
9288917 Beenie	EBANKS 3224501	Show time
EBANKS 3224502	9288917 Beenie	
9288917 Beenie	EBANKS 3224503	Am here at t I
9288917 Beenie	EBANKS 3224504	
EBANKS 3224505	9288917 Beenie	I'm seen a friend I'll be there soon
EBANKS 3224506	9288917 Beenie	
EBANKS 3224507	9288917 Beenie	
EBANKS 3224508	9288917 Beenie	Where are you
EBANKS 3224509	9288917 Beenie	
9288917 Beenie	EBANKS 3224510	Lobby
EBANKS 3224511	9288917 Beenie	Cool
9288917 Beenie	EBANKS 3224512	She say she cant fuck for week
9288917 Beenie	EBANKS 3224513	Good job
EBANKS 3224514	9288917 Beenie	Had to get my money's worth lol
9288917 Beenie	EBANKS 3224515	
9288917 Beenie	EBANKS 3224516	Pussy good

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iii. Beenie has provided the ‘girl’, he has arranged for her to be dropped off and arrangements made for her to be picked up after the transaction. It is clear that there was a cost associated with the service that the girl was to provide. There is haggling over the price, 150 whole package deal and 200 for everything. When Ebanks says “*I take a quick fuck not being greedy,*” the nature of the service is established. The concluding lines of the

1 conversation: “*She say she can’t fuck for a week- pussy good.*”, solidify this
2 view.

3
4 iv. I have no doubt that this was a transaction related to the provision of sexual
5 services. Beenie arranged for the girl to provide the service and I am
6 satisfied that the defendant exercised control, direction or influence over the
7 movements of prostitutes in such manner as to show that he is aiding,
8 abetting or compelling their prostitution with another person, or generally,
9 in order to establish that he was knowingly living on the earnings of
10 prostitution.



11
12 v. I find the Defendant Guilty on Count 2.

13
14 111. Count 3:

15 i. This count relates to an attempt to provide prostitution services to the same
16 person Ebanks.

17
18 ii. The Crown says that the attempt by the defendant is evidenced by the
19 conversation that appears at lines 259 – 306 of JD14. In this conversation,
20 Ebanks seeks to find out whether there is anything new and he clarifies that
21 he “was talking about girls”. Beenie tries to set up a meeting with Ebanks
22 and the girl. He describes her and when he relates at lines 280-285 what the
23 girl can do, it is then that Ebanks agrees to meet her. The nature of the
24 proposed encounter can be inferred from this conversation. It is also clear
25 that Beenie is again orchestrating the meeting. Payment for services are
26 confirmed at lines 291 – 295 and it is also apparent that Beenie has made
27 efforts to bring the girl and Ebanks together but is unable to because “this

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girl had plans”. He says “am going home” indicating that he had travelled to a location to further these efforts.

EBANKS 3224470	9288917 Beenie	Anything new?
9288917 Beenie	EBANKS 3224470	Bro he's fucked
9288917 Beenie	EBANKS 3224470	We all need help him with a good lawyer and prey
EBANKS 3224470	9288917 Beenie	I was talking about girls btw
EBANKS 3224470	9288917 Beenie	Lol
9288917 Beenie	EBANKS 3224470	Oh come to ultra
EBANKS 3224470	9288917 Beenie	Good lawyer and peer
9288917 Beenie	EBANKS 3224470	I have one
EBANKS 3224470	9288917 Beenie	Let me see her
9288917 Beenie	EBANKS 3224470	Just come
9288917 Beenie	EBANKS 3224470	
9288917 Beenie	EBANKS 3224470	You free now
9288917 Beenie	EBANKS 3224470	No need to hyde your face
EBANKS 3224470	9288917 Beenie	Come on let me see her
EBANKS 3224470	9288917 Beenie	Don't like blind dates
9288917 Beenie	EBANKS 3224470	She doesn't want to send pictures
EBANKS 3224470	9288917 Beenie	Age
9288917 Beenie	EBANKS 3224470	But she nice
9288917 Beenie	EBANKS 3224470	Carol
9288917 Beenie	EBANKS 3224470	She works here
9288917 Beenie	EBANKS 3224470	I think 22
EBANKS 3224470	9288917 Beenie	I don't know her
9288917 Beenie	EBANKS 3224470	No
9288917 Beenie	EBANKS 3224470	We have fuck a few times pussy clean
9288917 Beenie	EBANKS 3224470	And she can suck good
EBANKS 3224470	9288917 Beenie	I coming cross
EBANKS 3224470	9288917 Beenie	Check me out side
EBANKS 3224470	9288917 Beenie	
9288917 Beenie	EBANKS 3224470	Am outside
EBANKS 3224470	9288917 Beenie	Chh I just left running by he old man quick



1 112. Count 4:

2 i. This count relates to a conversation at lines 7-11 of JD15. The text of the
3 conversation was as follows:

7	****26	9288917 (MYLES)	05/03/15	15:33:37	Inc - SMS	Hey can I ask you something? he talk u he will give me 250 dollar. because he ask me what u talk me
8	9288917 (MYLES)	****26	05/03/15	15:35:06	Out - SMS	It's 250 just make sure he gives you don't do nothing unless you get the money
9	****26	9288917 (MYLES)	05/03/15	15:35:25	Inc - SMS	but u tell him he hace to give me?
10	9288917 (MYLES)	****26	05/03/15	15:36:53	Out - SMS	Yes and you tell him to give you 250
11	****26	9288917 (MYLES)	05/03/15	15:36:55	Inc - SMS	ok

4
5 ii. Mindful of the required elements of the offence, on the evidence led by the
6 Crown I am not satisfied that the Crown has satisfied this count to the
7 required standard, beyond a reasonable doubt.

8
9 iii. The Crown has submitted that the court must infer from this conversation
10 an attempt by the Defendant to control the movement of a prostitute.
11 However, from the crown's own evidence it is not in dispute that the
12 defendant offered other services which the Crown agree do not amount to
13 prostitution. In this instance based on the amount that is being offered it is
14 not readily apparent what the monies were being paid for. Another inference
15 can be drawn on the evidence that the conversation may relate to some other
16 service.



17
18 iv. There is insufficient evidence related to this date from which I can say that
19 the only reasonable conclusion was that was has being discussed or arranged
20 related to prostitution.

21
22 v. On Count 4 the defendant is Not Guilty.

1 113. Count 5:

2 i. This Count relates to a conversation at lines 14 – 22 of JD 15. The text of
3 this conversation is as follows:
4

14	*****37	9288917 (MYLES)	05/07/15	02:00:27	Inc - SMS	You don't do girls as well do you?
15	9288917 (MYLES)	*****37	05/07/15	06:40:19	Out - SMS	Yes
16	9288917 (MYLES)	*****37	05/07/15	16:12:26	Out - SMS	How many you need and when
17	*****37	9288917 (MYLES)	05/07/15	18:16:31	Inc - SMS	No plan yet. just wondered if possible. Cheers
18	9288917 (MYLES)	*****37	05/07/15	18:21:30	Out - SMS	Ok
19	*****37	9288917 (MYLES)	05/07/15	19:39:48	Inc - SMS	Any pics? Cost?
20	9288917 (MYLES)	*****37	05/07/15	19:40:55	Out - SMS	You have whats app and if you dont mind we can have a drink with you now
21	9288917 (MYLES)	*****37	05/07/15	19:40:57	Out - SMS	Lol
22	*****37	9288917 (MYLES)	05/07/15	19:43:15	Inc - SMS	Ha. Not for tonight man, poss next weekend. Just wanted to know they are cool.

5
6 ii. I am not satisfied beyond a reasonable doubt that this conversation relates
7 to sexual activity with a prostitute and that the defendant was seeking to
8 control the movements of a prostitute sufficient for the elements of this
9 offence. Again, I find that any ambiguity must be resolved in favour of the
10 defendant.

11
12 iii. On Count 5 the defendant is not guilty.

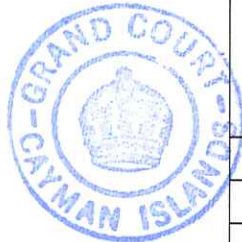


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114. Count 6:

i. This Count relates to a conversation at lines 23 – 42 of JD 15. The text of this conversation is as follows:

23	9288917 (MYLES)	9288917 (MYLES)	25/07/15	20:49:16	Out - SMS	Yup
24	9288917 (MYLES)	*****37	25/07/15	20:53:07	Out - SMS	Anna*****63
25	*****32	9288917 (MYLES)	25/07/15	21:01:42	Inc - SMS	1 missed call from 13455255532 at 21:01 Sat, 25 Jul 2015.
26	*****32	9288917 (MYLES)	25/07/15	21:06:00	Inc - SMS	Thanks bro, are you near? If so can you drop by? No problem if not.
27	9288917 (MYLES)		25/07/15	21:07:05	Out - SMS	Yes give me 20minutes
28	*****32	9288917 (MYLES)	25/07/15	21:07:09	Inc - SMS	Cool.
29	*****32	9288917 (MYLES)	25/07/15	21:52:55	Inc - SMS	All good?
30	9288917 (MYLES)		25/07/15	23:10:37	Out - SMS	Yup
31	*****32	9288917 (MYLES)	25/07/15	23:13:43	Inc - SMS	Plus one?
32	*****32	9288917 (MYLES)	25/07/15	23:32:31	Inc - SMS	j, what is the deal with the other one?
33	9288917 (MYLES)		25/07/15	23:33:47	Out - SMS	She is available
34	*****32	9288917 (MYLES)	25/07/15	23:34:53	Inc - SMS	Cost?
35	9288917 (MYLES)		25/07/15	23:35:55	Out - SMS	\$500 to hang out sleep over and have sex
36	*****32	9288917 (MYLES)	25/07/15	23:39:47	Inc - SMS	I need to ask a big favour and get some cash with my card, I pay day 30 buck? Or I can get tomorrow. She cool eh?
37	9288917 (MYLES)		25/07/15	23:44:24	Out - SMS	Yup
38	9288917 (MYLES)		25/07/15	23:44:35	Out - SMS	See you in 30 minutes
39	*****32	9288917 (MYLES)	25/07/15	23:44:41	Inc - SMS	Thanks man.
40	*****32	9288917 (MYLES)	26/07/15	00:09:02	Inc - SMS	1 missed call from 13455255532 at 00:09 Sun, 26 Jul 2015.
41	*****32	9288917 (MYLES)	26/07/15	00:10:12	Inc - SMS	Still good?
42	*****32	9288917 (MYLES)	26/07/15	00:31:22	Inc - SMS	Hey man all cool but let me know if it's off. Cheers,



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ii. It is clear that the conversation relates to sexual activity with a prostitute and that the defendant was seeking to control the movements of a prostitute sufficient for the elements of this offence. Myles, *8917, is attempting to



1 make a deal to have a girl available to hang out, sleepover and have sex. It
 2 is not clear however whether that the transaction was completed, whether
 3 sexual activity took place. However the evidence is sufficient to support an
 4 attempt.

5 iii. I find the Defendant Guilty on Count 6.

6
 7 115. Count 7:

8 i. This Count relates to a conversation at lines 43- 60 of JD 15. The text of
 9 this conversation is as follows:

43	*****64	9288917 (MYLES)	28/08/15	15:39:07	Inc - SMS	May need 6, got 250, you around?
44	9288917 (MYLES)	*****64	28/08/15	15:40:09	Out - SMS	Yes
45	9288917 (MYLES)	*****64	28/08/15	15:40:10	Out - SMS	Now
46	9288917 (MYLES)	*****64	28/08/15	15:44:33	Out - SMS	Meet ala cabab
47	*****64	9288917 (MYLES)	28/08/15	15:44:51	Inc - SMS	Half an hour
48	9288917 (MYLES)	*****64	28/08/15	15:45:26	Out - SMS	Ok
49	9288917 (MYLES)	*****64	28/08/15	15:47:33	Out - SMS	Lets meet at 5 o clock then
50	*****64	9288917 (MYLES)	28/08/15	15:48:11	Inc - SMS	430 better, bet the Effing traffic
51	9288917 (MYLES)	*****64	28/08/15	15:48:44	Out - SMS	Ok
52	*****64	9288917 (MYLES)	28/08/15	16:28:28	Inc - SMS	Here
53	9288917 (MYLES)	*****64	28/08/15	16:28:58	Out - SMS	15 minutes am in traffic
54	*****64	9288917 (MYLES)	28/08/15	16:29:18	Inc - SMS	Ok, meet lone star then
55	9288917 (MYLES)	*****64	28/08/15	16:29:35	Out - SMS	Ok
56	9288917 (MYLES)	*****64	28/08/15	16:30:07	Out - SMS	Can I bring one girlfor you to meet
57	*****64	9288917 (MYLES)	28/08/15	16:31:07	Inc - SMS	No thanks buddy, maybe next summer.
58	9288917 (MYLES)	*****64	28/08/15	16:36:19	Out - SMS	Ok am by the car
59	*****64	9288917 (MYLES)	28/08/15	16:37:53	Inc - SMS	Thanks mate, nice girl, have a good weekend
60	9288917 (MYLES)	*****64	28/08/15	16:38:35	Out - SMS	You two she is available any time

10
 11 ii. I am not satisfied to the requisite standard that this conversation relates to
 12 sexual activity with a prostitute and that the defendant was seeking to
 13 control the movements of a prostitute sufficient for the elements of this

1 offence. There is an ambiguity as to what the transaction related to. The
 2 benefit of that doubt must be resolved in the defendant's favour.



3
 4 iii. I find the Defendant Not Guilty on Count 7.

5
 6 116. Count 8:

7 i. This Count relates to a conversation at lines 61-75 of JD 15. The text of this
 8 conversation is as follows:

9

61	****64	9288917 (MYLES)	18/09/15	22:33:55	Inc - SMS	Got 3 girls for a couple of hour? Including the one you intro me to the other day?
62	****64	9288917 (MYLES)	18/09/15	22:59:26	Inc - SMS	Possible?
63	****64	9288917 (MYLES)	18/09/15	23:09:17	Inc - SMS	Dude, we good? We have money.....!
64	9288917 (MYLES)	****64	18/09/15	23:21:15	Out - SMS	Am working on it
65	****64	9288917 (MYLES)	18/09/15	23:23:27	Inc - SMS	Cool
66	****64	9288917 (MYLES)	18/09/15	23:28:17	Inc - SMS	1230 is the cut off mate
67	****64	9288917 (MYLES)	19/09/15	00:13:54	Inc - SMS	Lul
68	****64	9288917 (MYLES)	19/09/15	00:18:09	Inc - SMS	Maybe I am?
69	9288917 (MYLES)	****64	19/09/15	00:19:13	Out - SMS	Yes
70	****64	9288917 (MYLES)	19/09/15	01:28:19	Inc - SMS	Any chance?
71	9288917 (MYLES)	****64	19/09/15	01:29:00	Out - SMS	Nope not till later like 3 I only can get one now
72	****64	9288917 (MYLES)	19/09/15	01:35:25	Inc - SMS	How much? is she nice?
73	9288917 (MYLES)	****64	19/09/15	01:36:33	Out - SMS	\$400 to show up and \$400 for sex
74	9288917 (MYLES)	****64	19/09/15	01:36:48	Out - SMS	Yes shes nice
75	****64	9288917 (MYLES)	19/09/15	01:40:19	Inc - SMS	Sorry buddy, the moment has gone. Next time we'll plan in advance.

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 11
 12 ii. I am satisfied so that I feel sure that the defendant attempted to arrange for
 13 a girl to have sex. The nature of the transaction is clear as well as the fact
 14 that there would be a payment for such a transaction. I am satisfied to the

requisite standard that this conversation relates to sexual activity with a prostitute and that the defendant was seeking to control the movements of a prostitute sufficient for the elements of this offence.

iii. The defendant is Guilty on Count 8.



117. Count 9:

i. This Count relates to a conversation at lines 76-83 of JD 15. The text of this conversation is as follows:

76	*****73	9288917 (MYLES)	10/02/16	23:53:18	Inc - SMS	Jason my neighbout Art at Oceanside said I can order from you. Can you send me pics? Thanks Khy
77	9288917 (MYLES)	*****73	10/02/16	23:54:41	Out - SMS	What am lost !!!! Pics?
78	*****73	9288917 (MYLES)	10/02/16	23:59:33	Inc - SMS	You know big American Art from Oceanside plantation?
79	9288917 (MYLES)	*****73	11/02/16	00:00:09	Out - SMS	Oh yes \$200
80	9288917 (MYLES)	*****73	11/02/16	00:00:16	Out - SMS	30 min
81	9288917 (MYLES)	*****73	11/02/16	00:00:46	Out - SMS	If your talking girl \$400 an hour
82	*****73	9288917 (MYLES)	11/02/16	00:01:20	Inc - SMS	Wow that's a lot. Do you have pics?
83	9288917 (MYLES)	*****73	11/02/16	00:02:15	Out - SMS	Yes send me a what's app message and I'll send pics

ii. I am not satisfied to the requisite standard that this conversation relates to the provision of sexual services or sexual activity with a prostitute or that the defendant was seeking to control the movements of a prostitute sufficient for the elements of this offence. I am not satisfied that what is related in the conversation was more than merely preparatory sufficient to support the count of attempting to live on the earnings of prostitution. Any doubt must be resolved in favour of the defendant.

iii. The defendant is Not Guilty on Count 9.

1 118. Count 10:

2 i. This Count relates to a conversation during the period on or about 16th
3 January 2015, at JD16, Section 2 lines 189 – 196.

189	9288917"jason"	*****86	16/01/15	10:17:11	You make any sales yet
190	*****86	9288917"jason"	16/01/15	10:17:29	No waiting on you
191	9288917"jason"	*****86	16/01/15	10:17:36	Ok
192	*****86	9288917"jason"	16/01/15	10:17:54	We not get nobody yet
193	9288917"jason"	*****86	16/01/15	10:17:58	I have a full day for you
194	9288917"jason"	*****86	16/01/15	10:18:15	WA room number
195	*****86	9288917"jason"	16/01/15	10:21:46	5105 nobody else must kno
196	9288917"jason"	*****86	16/01/15	10:23:46	Got it load an clear

4
5 ii. The Crown seeks to have the court infer that this conversation shows the
6 level of control that Jason exercised over women who acted as prostitutes.
7 I am not satisfied from this conversation that the Crown have satisfied me
8 to the requisite standard to establish that the defendant was living on the
9 earnings of prostitution. There is nothing in the conversation to suggest the
10 nature of the sales, or what service was being provided. This is against the
11 background as set on the Crown's evidence that the defendant was known
12 to have been engaged in the provision of other services involving women
13 such as topless dancers. On the interpretation as advanced by the Crown in
14 this case, an indication as to price could suggest the nature of the service to
15 be provided using the pricing structures that Officer Delaney has provided
16 in evidence. However, without such evidence to support this count and
17 without further context there is some doubt in this court's mind.



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19 iii. I find the defendant not guilty on count 10.
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1 119. Count 11:

2 i. This Count relates to the period on or about 11th and 12th September 2015.

3 These are conversations and pictures from JD 16 lines 428 to 508.

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428	****01 Ian	9288917"jason"	11/09/15	18:18:19	Rich friend in town	
429	****01 Ian	9288917"jason"	11/09/15	18:18:25	Wants one two girls tonight	
430	****01 Ian	9288917"jason"	11/09/15	18:18:27	What's good	
431	9288917"jason"	****01 Ian	11/09/15	18:18:42	Ok	
432	9288917"jason"	****01 Ian	11/09/15	18:18:47	I have them	
433	****01 Ian	9288917"jason"	11/09/15	18:18:53	Let me see	
434	9288917"jason"	****01 Ian	11/09/15	18:18:55	\$400 an hour	
435	****01 Ian	9288917"jason"	11/09/15	18:18:57	So I can show him	
436	****01 Ian	9288917"jason"	11/09/15	18:18:59	And price	
437	****01 Ian	9288917"jason"	11/09/15	18:19:01	Kk	
438	9288917"jason"	****01 Ian	11/09/15	18:21:53	[IMAGE]	IMG-20150911-WA0004.jpg
439	9288917"jason"	****01 Ian	11/09/15	18:21:53	[IMAGE]	IMG-20150911-WA0006.jpg
440	9288917"jason"	****01 Ian	11/09/15	18:21:53	[IMAGE]	IMG-20150911-WA0007.jpg
441	9288917"jason"	****01 Ian	11/09/15	18:21:53	[IMAGE]	IMG-20150911-WA0008.jpg
442	9288917"jason"	****01 Ian	11/09/15	18:21:53	[IMAGE]	IMG-20150911-WA0009.jpg
443	9288917"jason"	****01 Ian	11/09/15	18:21:53	[IMAGE]	IMG-20150911-WA0005.jpg
444	****01 Ian	9288917"jason"	11/09/15	18:33:48	Kk	
445	****01 Ian	9288917"jason"	11/09/15	18:33:52	Soon update you	
446	9288917"jason"	****01 Ian	11/09/15	18:34:00		
447	9288917"jason"	****01 Ian	11/09/15	21:03:58	Yo	
448	****01 Ian	9288917"jason"	11/09/15	23:40:44	Yo	
449	****01 Ian	9288917"jason"	11/09/15	23:40:45	Ready	
450	****01 Ian	9288917"jason"	11/09/15	23:40:48	For you	
451	****01 Ian	9288917"jason"	11/09/15	23:40:58	1.5 hrs	
452	****01 Ian	9288917"jason"	11/09/15	23:41:00	400	
453	****01 Ian	9288917"jason"	11/09/15	23:41:03	Cash ready	
454	****01 Ian	9288917"jason"	11/09/15	23:41:08	Incoming call	
455	****01 Ian	9288917"jason"	11/09/15	23:41:37	Yo	
456	****01 Ian	9288917"jason"	11/09/15	23:42:11	Incoming call	
457	****01 Ian	9288917"jason"	11/09/15	23:42:22	Yo	
458	****01 Ian	9288917"jason"	11/09/15	23:42:24	Yo	
459	****01 Ian	9288917"jason"	11/09/15	23:42:26	Yo	
460	****01 Ian	9288917"jason"	11/09/15	23:42:29	Yi	
461	****01 Ian	9288917"jason"	11/09/15	23:42:39	Yo	
462	9288917"jason"	****01 Ian	11/09/15	23:45:49	Ok	
463	9288917"jason"	****01 Ian	11/09/15	23:47:40	Were	
464	****01 Ian	9288917"jason"	11/09/15	23:47:45	What can you deliver we waiting	
465	9288917"jason"	****01 Ian	11/09/15	23:47:55	Were are you	
466	****01 Ian	9288917"jason"	11/09/15	23:48:20	"It's the condominium complex across from the cricket pitch in town, I'll give you the name, I'm on my way there, I'll be there 3 to 4 minutes	PTT-20150911-WA0012-amr



467	9288917"jason"	*****01 Ian	11/09/15	23:49:08	If it's an hour an half I need extra	
468	*****01 Ian	9288917"jason"	11/09/15	23:49:23	Transcribed: "Bro hold up, the guy wants to know if he can do fucking 2 hours for 400 bucks, straight up, he's got cash in hand, he like yeah, 1.5, he's being weird man, you just need to tell me what's up. 400 bucks cash in hand, location coming in 2 minutes, need to know if that's good"	PTT-20150911-WA0013-amr
469	*****01 Ian	9288917"jason"	11/09/15	23:50:01	Transcribed: "Don't let me down brother, this guy is here like, come on"	PTT-20150911-WA0014-amr
470	*****01 Ian	9288917"jason"	11/09/15	23:50:24	Come on bro	
471	*****01 Ian	9288917"jason"	11/09/15	23:50:31	400 2 hrs	
472	*****01 Ian	9288917"jason"	11/09/15	23:50:34	Cash up front	
473	*****01 Ian	9288917"jason"	11/09/15	23:50:40	He cum before that	
474	*****01 Ian	9288917"jason"	11/09/15	23:50:43	Whatever	
475	9288917"jason"	*****01 Ian	11/09/15	23:50:55	No bro I told you 400 an hour	
476	*****01 Ian	9288917"jason"	11/09/15	23:51:13	He is crying 1.5s then	
477	*****01 Ian	9288917"jason"	11/09/15	23:51:19	Serious	
478	*****01 Ian	9288917"jason"	11/09/15	23:51:37	90 min 400	
479	*****01 Ian	9288917"jason"	11/09/15	23:51:46	Or he for 300	
480	*****01 Ian	9288917"jason"	11/09/15	23:51:55	For an hr	
481	*****01 Ian	9288917"jason"	11/09/15	23:52:02	Work with me bro	
482	*****01 Ian	9288917"jason"	11/09/15	23:52:06	Cash in hand	
483	*****01 Ian	9288917"jason"	11/09/15	23:52:40	?	
484	*****01 Ian	9288917"jason"	11/09/15	23:53:39	Bud?	
485	*****01 Ian	9288917"jason"	11/09/15	23:53:58	Incoming call	
486	*****01 Ian	9288917"jason"	11/09/15	23:55:19	Fuck man	
487	*****01 Ian	9288917"jason"	11/09/15	23:55:39	400 hr	
488	*****01 Ian	9288917"jason"	11/09/15	23:55:41	Come	
489	*****01 Ian	9288917"jason"	11/09/15	23:55:49	He. Eying	
490	*****01 Ian	9288917"jason"	11/09/15	23:55:53	Crying	
491	9288917"jason"	*****01 Ian	11/09/15	23:56:05	Ci	
492	*****01 Ian	9288917"jason"	11/09/15	23:56:13	Yup	
493	*****01 Ian	9288917"jason"	11/09/15	23:58:19	Transcribed: "We're in apartment 30 Sunset retreat, that's the fuckin place when your coming towards Triple C on the road heading up on the right hand side, there'slike Sunset Ryan Retreat, anyway, we're at Sunset Retreat number 30"	PTT-20150911-WA0015-amr
494	9288917"jason"	*****01 Ian	11/09/15	23:58:36	On my way	
495	*****01 Ian	9288917"jason"	12/09/15	00:02:40	Which girl	
496	*****01 Ian	9288917"jason"	12/09/15	00:06:37	
497	*****01 Ian	9288917"jason"	12/09/15	00:06:39	Incoming call	
498	9288917"jason"	*****01 Ian	12/09/15	00:10:27	[IMAGE]	IMG-20150911-WA0005.jpg
499	9288917"jason"	*****01 Ian	12/09/15	00:10:27	[IMAGE]	IMG-20150911-WA0005.jpg
500	9288917"jason"	*****01 Ian	12/09/15	00:36:45	Am here	

501	****01 Ian	9288917"jason"	12/09/15	00:53:56	What time you coming back	
502	****01 Ian	9288917"jason"	12/09/15	00:53:59	And I am passed	
503	****01 Ian	9288917"jason"	12/09/15	00:54:01	Passed	
504	****01 Ian	9288917"jason"	12/09/15	00:54:04	Passed	
505	****01 Ian	9288917"jason"	12/09/15	00:54:08	Pissed	
506	****01 Ian	9288917"jason"	12/09/15	00:54:14	No even a strip tease	
507	9288917"jason"	****01 Ian	12/09/15	00:54:35	She cum to fuck bri	
508	9288917"jason"	****01 Ian	12/09/15	00:54:40	Bro	

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ii. I have already found that the Crown has satisfied me so that I am sure taht of the attribution of "Jason" to the defendant. The conversation relating as it does to girls, the price discussed and the images, of nude and semi-nude women which followed once the 01 Ian asks to see; the offer made for 1.5 hours and the sum of \$400.00 suggested for that time, all go to satisfy me to the requisite standard that this conversation relates to the provision of sexual services or sexual activity with a prostitute or show that the defendant was controlled the movements of a prostitute sufficient for the elements of this offence to be proved. It is clear from this evidence that Jason controlled the movements of the 'girl' who was dropped off and it was stated clearly what she was to do for the money that was offered: "She come to fuck bro."



iii. I am satisfied so that I am sure that the defendant is guilty on Count 11.

120. For the avoidance of doubt, in each instance in which I have found that the Crown has proved its case I have gone on to consider whether the defendant has proved the contrary on the balance of probabilities that he was not knowingly living on the earning of a prostitute.

121. I have considered his evidence and find that he has not done so.

1 122. The verdicts of this Court are therefore as follows:

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i. Count 1 – Guilty

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ii. Count 2 – Guilty

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iii. Count 3 – Guilty

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iv. Count 4 – Not Guilty

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v. Count 5 – Not Guilty

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vi. Count 6 – Guilty

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vii. Count 7 – Not Guilty

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viii. Count 8 – Guilty

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ix. Count 9 – Not Guilty

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x. Count 10 – Not Guilty

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xi. Count 11 – Guilty

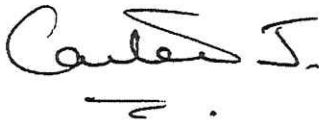
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Dated this 22nd day of May 2019.

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Justice Marlene I. Carter

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Judge of the Grand Court (Acting)

