

21.8.09

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

C.I.C.A. No. 12 of 2009
S.C.A. No. 25 of 2006

ERICK ARMANDO BUSH

V.

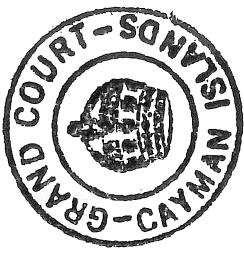
REGINA

Appearances: Ms. Cheryl Richards of the Govt. Legal Dept.
for the Plaintiff, the Crown

Mr. Ben Tonner of Samson & McGrath
for the Defendant

Before: Hon. Justice Henderson

Heard: April 24, 2009 & May 15, 2009



REASONS FOR JUDGMENT

1. Erick Bush appeals from his conviction in the Summary Court on a charge of possession of cocaine with intent to supply.
2. There were two points taken on appeal. Mr. Bush has argued that there was insufficient evidence before the Learned Magistrate from which she could infer, as she did, that his intent was an intent to supply. My reasons for judgment in respect of this ground have been delivered orally on April 24th, 2009.

3. Mr. Bush also argued that the Learned Magistrate applied an incorrect test in her consideration of a public interest immunity application and thus prejudiced Mr. Bush's right to a fair trial. The argument on this ground was such that I felt it necessary to entertain the same public interest immunity application privately in my chambers in order to assess whether the withheld information should have been disclosed. I conducted such a hearing in the presence of Ms. Richards, for the Crown, and the investigating officer in the case on May 1st, 2009. Ms. Richards repeated to me the submission made by the Crown in the Summary Court in support of its successful public interest immunity application. After considering the facts and arguments advanced by Ms. Richards (in the absence of any representative of the Defendant), I found that the information over which public interest immunity was being asserted was not relevant to the issues in the case, i.e., the requested information did not tend to weaken the Crown's case or strengthen that of the Defendant.

4. I advised counsel of my conclusion by a memorandum to counsel dated May 5th, 2009. The Defendant was given a further opportunity to advance argument on May 15, 2009, after which I dismissed the appeal from conviction.

Dated this 21st day of August, 2009

Henderson, J.

Henderson, J.
Judge of the Grand Court

