

ORIGINAL

IN THE GRAND COURT OF THE CAYMAN ISLANDS

HOLDEN IN GEORGE TOWN, GRAND CAYMAN

IND. NO. 28 OF 2003

311-03

REGINA

- VS -

DOROTHY KELLY &

KEVIN FYNE

Excerpt of proceedings heard before
THE HONOURABLE JUSTICE LEVERS on the 23th day of
October 2003 in George Town, Grand Cayman.

APPEARANCES:

FOR THE CROWN:	MR. S. WILSON
For the DEFENDANT KELLY:	MR. S. DICKSON
For the DEFENDANT FYNE:	MR. L. SAMSON

1 (R v Kelly & Fyne 23/10/03 kam)

2 COURT COMMENCED ON THURSDAY,

3 OCTOBER 23, 2003 AT 10:12 A.M.

4

5 THE COURT: Good morning. Yes.

6 MR. WILSON: Good morning, My Lady. I
7 wonder if we can mention first of all the case
8 of Kelly and Fyne, please?

9 THE COURT: Yes, Mr. Wilson.

10 MR. WILSON: My Lady, Kelly is represented
11 by my learned friend, Mr. Dickson. Mr. Samson
12 represents the defendant, Fyne.

13 There is an indictment that has been
14 prepared. It has not been signed yet by the
15 Attorney General. My learned friend,
16 Mr. Samson, has a copy of the indictment.

17 As indicated on an earlier occasion, the
18 Crown are not proceeding against Kelly on this
19 particular indictment. She was only facing one
20 charge in any event, and that was unrelated to
21 the substantive offences against Mr. Fyne.

22 THE COURT: So what is she doing here this
23 morning then?

24 MR. WILSON: My Lady, "I don't know" is
25 the honest answer.

1 THE COURT: I know. If you are telling me
2 in this open Court that somebody -- you are not
3 proceeding against somebody, I would have
4 thought the proper thing to do is discontinue
5 and go on against the accused person alone --
6 the other accused person alone. You can't have
7 her coming back and forth and tell the Court
8 that you are not proceeding against her. I am
9 going to stand it down, Mr. Wilson. Please
10 take some instructions and come back to me by
11 11:00 o'clock.

12 MR. WILSON: Those are the instructions.
13 We are not proceeding against her on this
14 particular indictment.

15 THE COURT: Well then you have a certain
16 course of action to take against her now this
17 morning, don't you? What is she doing in the
18 box?

19 MR. WILSON: I've indicated that, My Lady,
20 so --

21 THE COURT: Are you asking me for leave to
22 withdraw the case against her then?

23 MR. WILSON: Well, we don't need leave to
24 withdraw the case, we can simply not proceed --

25 THE COURT: Well, you are telling the

1 Court you are not proceeding against her, she
2 is free to go.

3 MR. WILSON: Yes, she is.

4 THE COURT: Who represents her?

5 MR. DICKSON: My lady, I represent
6 Mrs. Kelly.

7 THE COURT: Well Mr. Dickson you have
8 heard what has happened.

9 MR. DICKSON: My Lady, yes.

10 THE COURT: Mrs. Kelly, you are free to
11 go. How many times has she been here?

12 MR. DICKSON: My Lady, she has been to
13 this Court, I think, on two occasions, but she
14 spent maybe ten appearances in the magistrate
15 court. The matters go back to 1998, and it was
16 the alleged theft of \$320. That is clearly an
17 abuse --

18 MR. WILSON: What?

19 MR. DICKSON: The offence alleged to have
20 happened, it's been trawling its way through
21 the courts for a number of years now --

22 THE COURT: I'm sure you find it highly
23 amusing, Mr. Wilson, that Mr. Dickson is
24 submitting in this way to me, but she is a
25 citizen of the Cayman Islands. She is entitled

1 to some form of justice and if the Crown, after
2 some five years, doesn't proceed against this
3 woman, then I think we must take it a little
4 seriously, don't you?

5 MR. WILSON: My Lady, we are taking it
6 seriously, which is why --

7 THE COURT: Seriously enough for you to be
8 smiling all over and taking it as a joke.

9 MR. WILSON: No, I'm merely smiling at the
10 incredulity of my learned friend's last
11 application, My Lady, having never mentioned it
12 on any previous occasion.

13 THE COURT: Well, Mrs. Kelly -- yes,
14 Mr. Dickson, anything else you need to say?

15 MR. DICKSON: No, My Lady, I don't intend
16 to get into some spat with my learned friend.
17 Obviously the time submission in an abuse of
18 process is when the matter comes to trial, but
19 given they are offering no evidence we are
20 happy to...

21 THE COURT: Mrs. Kelly, you are free to
22 go. Thank you.

23 What is happening on Fyne, Mr. Samson?

24 MR. SAMSON: My Lord -- I'm sorry, My
25 Lady -- I can confirm that I'm in receipt of an

1 unsigned indictment just this morning from my
2 friend, and it was agreed that the matter go to
3 the opening of the Grand Court so that either a
4 date can be fixed for plea or -- definitely a
5 date fixed for arraignment, or he could be
6 arraigned at the opening with a date found for
7 trial, or some date set down for sentence.

8 THE COURT: This matter has been going on
9 since 1998?

10 MR. SAMSON: It has indeed, My Lady.

11 THE COURT: When is the Grand Court
12 opening next year?

13 MR. SAMSON: The 5th of November, My Lady,
14 is the next --

15 THE COURT: Oh, this year. Is he on bail?

16 MR. SAMSON: He is, My Lady.

17 THE COURT: Mention the 5th of November,
18 2003.

19 MR. SAMSON: I'm Obliged, My Lady.

20 THE COURT: Bail continued. Next.

21

22 (AT WHICH TIME OTHER MATTERS WERE SPOKEN TO)

23

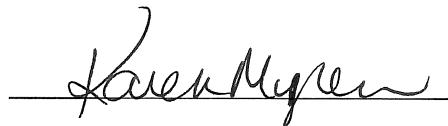
24

25

REPORTER'S CERTIFICATE

Certified correct to the best of my skill and ability,

dated the 3rd day of November, 2003.

A handwritten signature in cursive script, reading "Karen Myren", is written over a horizontal line.

Karen Ann Myren