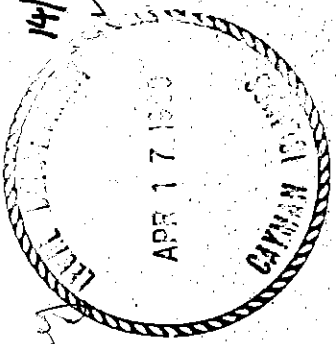


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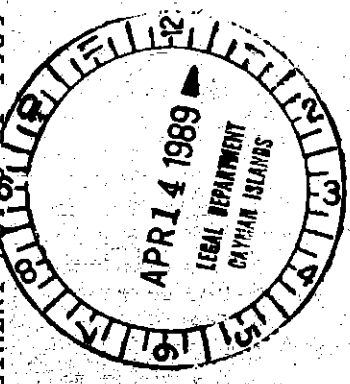
14/4/89

IN THE GRAND COURT AMENDED INDICTMENT
CRIMINAL SIDE



THE QUEEN
versus
DORRINGTON DEAMONDO MYERS and SHEILA MINZETT

INDICTMENT NO. 106 OF 1989



J U D G M E N T

Miss. Sheridan Brooks for Crown
Mr. Keith Collins for Defendant

The defendant Dorrington Myers is charged in this Amended Indictment with three counts of official corruption contrary to section 78(a) of the Penal Code and one count of Conspiracy to Defraud contrary to common Law to which he has pleaded not guilty and elected to be tried by Judge alone. A trial has been conducted in accordance with S. 121A of the Criminal Procedure Code.

The Crown's general allegation against this Defendant is that in May 1984, while employed as a Constable in the Royal Cayman Islands Police Force, he conceived a scheme whereby, in return for payment he would procure for selected members of the public the issue of Cayman Islands drivers licences to which they were not entitled without such persons having to undergo the prescribed drivers test. Advantage was to be taken of the provisions of section 36 of the Traffic Law Revised which grants exemption from the taking of that test to applicants for a Cayman Islands drivers licence who hold valid driving licences issued in certain specified countries overseas, including the U.S.A. and Jamaica. The Defendant being employed in the Police Traffic Department as a vehicle inspector and driving test examiner was well placed to operate such a fraudulent scheme.

It is further alleged that in 1985 he recruited one of the clerical officers in that department to assist in it by the issuance of licences at his instigation to persons whom they were aware were not entitled to obtain them. The alleged co-conspirator, Sheila Minzett, has already pleaded guilty to one count of conspiracy laid

against her in this Indictment and to one count of official corruption and has been sentenced therefor. Subsequently she gave evidence for the Crown at the Defendant's trial.

At the outset I remind myself that it is for the Crown to satisfy this Court by evidence so that I can feel sure of the Defendant's guilt. If there is any reasonable doubt, the benefit of that doubt must be given to the Defendant. Unless the Crown can establish to this standard of proof every essential ingredient of the offence charged in each of these counts the defendant is entitled to be acquitted of that offence.

The particulars of the three counts of official corruption all allege that this Defendant on a specified day in 1985 or 1986 being employed in the Public Service as a constable in the Police Force and being charged with a duty by virtue such employment corruptly obtained from a particular individual a sum which varied between \$150 and \$300 on account of omitting to do something in the discharge of the duties of his office namely to ascertain that the applicant had a valid foreign drivers permit as required by Cayman Law.

Strenuous efforts were made by the Defence to cast doubt upon the Defendant's status as a constable in the Police Force at the relevant time. Mr. Myers gave evidence that he was taken on as a handyman by the then Commissioner of Police in 1981 and that he was at that time given an identity card which describes him as a civilian employee of the Force. That evidence is not disputed and I accept it. I also accept that he was given a service contract dated 22/7/81 which describes him as a constable although he did not sign as such. The reason for this procedure, which was confirmed by the evidence of Sandra Smith, formerly secretary to the Commissioner of Police, was that since the department was not established for a post of handyman it was necessary to hold the defendant against a vacant constables post and to have him paid accordingly. This also I accept.

Sometime subsequently the Defendant was transferred to duties of inspecting vehicles in the Traffic Department of the Police force.

He was given a Police uniform which included a regular constables short tunic and assigned the number 237. He was given a new identification card which describes him as a constable with that number. When his contract expired he signed a further one dated 20th July 1983 which describes him as such and by that number and again on 20th July 1985 a further contract which he signed as 'Dorrington Myers Const. 237'. In the Official Gazette of 4th April 1983 his name appears as 'P.C. Dorrington Myers' in a list of persons appointed by the Commissioner of Police to be vehicle inspectors and driving examiners in Grand Cayman. The Defendant himself in evidence has asserted that he was assigned as driver of the police vehicle crane truck and on occasions that he came to Court to give evidence as a vehicle examiner about damages to vehicles.

From the fact the Defendant acted the capacity of a Police Officer as shown by the evidence there arises a presumption that the Defendant was properly appointed as such until the contrary is proved see Archbold 42 nd Edition paragraph 9.5 and Campbell v. Wallsend Shipping and Engineering Co. Ltd (1977) CLR 351 as well as other authorities. The Defendant gave evidence that he was ^{not} given police training and that he never subscribed the oath required by S. 10 of the Police Law at any time. In the face of all this evidence however, I cannot accept his assertion to that effect: it is not enough to rebut the presumption of regularity. Everything points to a change having taken place in his status, in all probability during early 1983 when he seems to have been transferred to the vehicle inspectorate at the Traffic Department. I may also say that having examined the Driving Tests Application Book I am satisfied that, notwithstanding his denials he has conducted at least two drivers tests respectively on 25th March 1984 and 25th June 1985 in each case signing himself as 'Constable 237'. I reject as entirely fanciful the Defendant's suggestion that another police officer in the Department had been impersonating him and signed Mr. Myers' name rank and number in that book. The weight of all this evidence is convincing and I have no doubt that at all relevant times for the purpose of this indictment he was indeed a duly attested Police Constable.

It follows from this finding that it was the duty of the

Defendant in accordance with S. 24 of the Police Law to prevent the commission of offences at all times and to detect and bring offenders to justice. Although it was not the specific duty of Mr. Myers to issue Cayman Islands drivers licences and he was not authorised to do so, it was clearly his duty to prevent applicants for such licences from obtaining them irregularly by pretending to possess specified foreign licences which they did not possess so as to evade the requirement for undergoing of a driving test. It is of course the allegation to the Crown that the Defendant so far from preventing that occurrence actively prompted and assisted in the process of evasion which would certainly be a flagrant dereliction of that duty on his part if proved.

In order to prove the charges of official corruption the Crown have called Leonard Kamoon in relation to Count 1, Maxine Spalding and Mark Ebanks in relation to Count 2 and Delene Godiva McLean in relation to Count 4 as witnesses. They have also called Francis Logan in relation to a further alleged incident of official corruption which is not specifically charged but is alleged to have occurred during the course of the conspiracy. I have examined the evidence of each of these witnesses in detail. Each of them must be regarded as an accomplice of the defendant in regard to the incident which he or she relates and I remind myself that it is dangerous to convict upon the un-corroborated evidence of an accomplice. If accepted this evidence would establish that on four separate occasions the Defendant solicited and thereafter accepted sums varying from \$150 to \$300 for the procurement of driving licences to members of the public who either had not taken or had not passed the local driving test, that he furnished information as to the particulars of purported foreign driving licences to be entered by the applicant upon the relevant application form and that thereafter he handed a Caymanian Islands full drivers licence to the applicant or his agent. Incidentally, all of those licences were issued by the alleged co-conspirator Minzett.

The Defendant has alleged that each of these witnesses has given false evidence against him at the instigation of and under pressure from Sergeant Wood the investigating officer. It was put to

Sgt. Woods and strenuously denied by him in cross-examination that he had induced each of these witnesses to give false evidence against Mr. Myers by threatening to charge those who would not co-operate and refraining from charging those who would do so. His motive for so doing is said to be resentment at the Defendant's conduct in failing on two occasions a motor vehicle produced for his inspection as a motor vehicle examiner by some friend or relative of the Sergeant, an incident which the Sergeant has testified never occurred.

I cannot believe having seen and heard the Sergeant give evidence, that he would so abuse the authority vested in him as to suborn perjured evidence for the purpose of securing personal revenge against Mr. Myers in the way suggested, let alone for so trivial a cause as that suggested by the Defendant. I accept without hesitation the Sergeant's denial that he brought any pressure to bear upon these witnesses, which they also have denied.

Corroboration must consist if at all in some testimony from a source independent of the alleged accomplice which supports the latter's evidence by tending to show that crime alleged was committed and that the accused committed it. In general one accomplice should not be taken as corroborating the evidence of another but this is not a rule of universal application: see D.P.P. v. Kilbourne (1973) 57 CAR 381 per Lord Reid at p.410 and Lord Hailsham at pp 405/406. The danger against which the Court must be alert is a conspiracy between witnesses to commit perjury. Having in the present case found no basis for the suggestion that such a conspiracy was put together by Sgt. Woods it is of course much less likely that these four witnesses, each of which spoke to different incidents (except Maxine Spalding and Mark Ebanks) would have got together to frame Mr. Myers. In my view their evidence is capable of providing in the circumstances of this case a measure of mutual corroboration of each others testimony, provided of course that upon examination I find the evidence of each such witnesses to be reliable.

Leonard Ramoon gave evidence in straight forward manner and his evidence was not shaken in cross-examination. It was suggested to him that he had actually shown the Defendant a purportedly valid U.S.

drivers licence and he denied it. When the Defendant came to give evidence he repeated this allegation on oath. It was the evidence of Alan Cochrane, Chief of the Bureau of Records, Division of Drivers Licences for Florida that the number entered on Leonard Ramoon's application form purporting to be number of the U.S. drivers licence which he claimed had been issued to him in Florida bore no relation to the numbers entered upon genuine Florida State driving licences so that such information had to be fictitious. This clearly eliminates the possibility that Ramoon had shown the Defendant an apparently genuine Florida licence as the latter alleged because if he had done so it is only logical that he would have put its actual number down on his Cayman application form and that would not have been a number anything like the one that actually appears upon it. This goes to confirm the definite impression which I received that Ramoon rather than the Defendant was telling the truth on the issues between them.

Maxine Spalding and Mark Ebanks also gave straight forward evidence which in major respects tallied the one with the other, although Mr. Ebanks' recollection of these events four years ago seemed rather hazy. Both witnesses readily acknowledged their awareness of the illegal nature of the transaction. Neither was shaken in cross-examination. Their evidence discloses a method of operation employed by the Defendant which in essentials is strikingly similar to that used in relation to Ramoon's licence application.

The evidence of Delene McLean was likewise straight forwardly given. I was a little less impressed with her as witness because, although readily admitting the illegality of the transactions in which she engaged, she did not exhibit the degree of contrition or of embarrassment which would have befitted a lady who has since joined the Police Force. However I could discern no good reason for her to manufacture the rather complicated details of her evidence falsely against Myers with whom she seemed to have had at all times a friendly relationship. She too was unshaken in cross-examination.

Francis Logan also was an impressive witness and unshaken by cross-examination and no good reason for her to lie in the matter could be suggested, although she too, like others who have not given

evidence, have escaped prosecution for aiding and abetting official corruption. I have no hesitation at the end of the day in regarding her evidence as also the evidence of Kwoon, Spalding and Mark Ebanks as substantially the truth. The testimony of the Defendant in relation in these particular witnesses allegations against him did not impress me and did not alter my confidence in the truth of their evidence. Furthermore I regard their evidence as mutually supportive in relation to the methods employed by the Defendant to procure the issue of these licences and as indicative of the existence of a conspiracy in the terms laid in Count 11 of the Indictment to enable such licences to be issued in that way.

Then there is the evidence of Sheila Minzett, the alleged co-conspirator. She testified to the existence of the alleged conspiracy from early 1985 onwards after, she said, the Defendant had come to her and explained it was an easy way to make money. Her part in it was to issue drivers licences to applicants upon his say-so. I was not inclined to place too much reliance upon her evidence not merely because she admitted that she was a co-conspirator and thus an accomplice in all these offences if she is to be believed but also because it appears likely that she has materially exaggerated the part played by the Defendant in the conspiracy as contrasted with her own part. That is not uncommon feature of the evidence of co-conspirators who turn Queen's evidence.

In particular Minzett's evidence was contracted by Colford Hill and Humphrey Codner, both of whom gave convincing evidence as defence witnesses and had no perceptible reason for telling untruths, as to the way in which they obtained their licences from Minzett without the apparent intervention of the Defendant. Minzett's evidence under cross-examination upon these issues was not impressive. If there had been no corroboration of her testimony I would have felt obliged to reject it altogether. I bear in mind however that she volunteered evidence to the Police from the beginning of the investigation both as to her own involvement and as to the alleged role of the Defendant without apparently having any motive for picking upon him rather than upon other officers in the Traffic Department whom she might have named if making up the story altogether.

Furthermore I formed the impression that she was not a woman of sufficient intelligence or drive to have conceived and carried out such a scheme upon her own sole initiative. This pointed strongly to the existence of a co-conspirator within the Department who could well be the defendant.

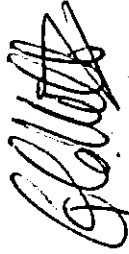
There is one further factor which I took into account. The evidence of Yasmin Ebanks was that on several occasions the Defendant as well as Minzett came to her with drivers licence application forms purporting to record the applicant's possession of a valid foreign licence which she did not actually see, because they would assure her that they had checked those licences themselves. The Defendant in evidence under cross-examination admitted that he had on occasions given the clerks in the office applications without foreign drivers licences attached and that his assurance that he had checked the foreign licence was accepted. She could not remember which applications were brought by Myers and which by Minzett, so that it is impossible to tie him in to the issue of any particular Cayman drivers licence upon the faith of these representations. Nevertheless both Alan Cochrane in relation to Florida licences and Kemsley Grahame in relation to the much larger number of Jamaican licences which were investigated at the instance of Sgt. Woods, gave evidence which established beyond doubt that all the numbers were fictitious ones. It is a fair inference from that evidence that the numbers entered upon the application forms which the Defendant handed to Mrs. Ebanks for the issue of Cayman drivers licences upon his say-so were fictitious ones and that fact indicates that the assurance which he gave her that he had checked and verified the foreign licences concerned was false.

At the conclusion of the case I was satisfied so that I felt sure upon the evidence that the Defendant Myers was party to a conspiracy with Minzett and perhaps one other officer to defraud the Public Revenue of the test fees which would have otherwise had to have been paid by persons, including those who gave evidence, who were desirous of obtaining Cayman drivers licences and were prepared to pay money so as to avoid the necessity of taking the prescribed local drivers test. I am further satisfied so that I felt sure that the witnesses who testified that they handed the Defendant sums of money

for that purpose actually did so and that the Defendant both solicited and received that money for his own benefit and/or in some instances for the benefit of Sheila Minzett and that he in turn procured the issue of Cayman drivers licences in the names of those applicants and handed these to them well knowing that they were not qualified to obtain them under the Traffic Law. I am, as already indicated, satisfied so that I feel sure that the Defendant was a properly attested constable in the Royal Cayman Islands Police Force at the relevant times and that his conduct in these respects was in grave dereliction of his duty as such a constable.

Accordingly I convict the Defendant Myers on Counts 1,2 and 4 and Count 11 of this Amended Indictment as charged.

NB He was sentenced to 18 mths
concurrent on each count.



Chief Justice

Dated 14th April, 1989.