

23.4.84

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

CASE NO. 862/83

BETWEEN	RAUL GONZALEZ	APPELLANT
AND	THE ATTORNEY GENERAL	RESPONDENT

Mr. D . Muirhead Q.C. (with him Mr. McField) for appellant
Mr. A. Smellie for respondent

ORDER

Section 22 of the Summary Jurisdiction Law imports practice and procedure in a Summary Court in "substantial conformity" with the practice and procedure observed in the equivalent Court in England where the local law makes no provision in relation to the aspect so imported. It does not apply the substantive law of England e.g. any law governing when bail may or may not be granted.

* In my opinion the provisions of the U. K. Criminal Justice Act 1967 (in particular section 18), the U. K. Magistrates' Courts Act 1952 and the U. K. Bail Act 1976 are not necessarily any guide to the exercise of the power to grant or refuse bail under section 27 of the Criminal Procedure Code. One must recognise that the type of offence triable in a Summary Court and the powers of such a court are very different in many respects from those of the equivalent court in England. It would be open to a Summary Court or this Court to take account of those provisions in cases where the offence charged and the punishment scale have a parallel in an equivalent English Court. Under section 27 of the Criminal Procedure Code the discretion of the Court is unfettered (except in the case of a charge of murder or treason) and must be exercised in the light of all the circumstances prevailing, including local conditions generally. x

I have given careful consideration to all the prevailing

circumstances, giving due weight to all those ably urged on behalf of the applicant, and have reached the conclusion that it would not be right to accede to this application. Among the factors which have led me to this conclusion are the seriousness of the offence charged, the strength of the prosecution case, the mandatory minimum penalty and the likely penalty in the event of a conviction, and the relative ease with which a person may escape from this jurisdiction notwithstanding his ties to it. One does not necessarily have to be within the jurisdiction to realise substantial assets in it. Although he enjoys Caymanian status and is established in business here, his origin is unconnected with these Islands,

There is also nothing to prevent a person with Caymanian status continuing with a business in these Islands from abroad - particularly where the business is run through a company.

The temptation to evade his forthcoming trial must be a strong one and relatively easily achieved. Weighing that factor with all the others I am of the view that bail would be inappropriate and should be refused.

Accordingly, the application is dismissed.

3rd September 1984



SIR JOHN SUMMERFIELD CBE QC JP.