IN THE COURT OF APPEAL FOR THE CAYMAN ISLANDS

CRIMINAL APPEAL NO. 4/84

BEFORE: The Hon. Mr. Justice Zacca, President
The Hon. Mr. Justice Kerr, J.A.
The Hon. Mr. Justice Ross, J.A.

RAUL GONZALES)
FREDDIE SUAREZ) v. REGINA

Mr. B. Muirhead and Mr. D. Chin See for the Appellant Gonzales
Mr. D. Chin See as Amicus for the Appellant Suarez

Messrs. T. Kendall and T. Scarborough for the Crown

20th, 21st, 22nd June, 1984

ZACCA, P.:

The Court has arrived at a unanimous decision, and the decision of the Court is that the appeal will be allowed, the convictions are quashed and the sentences set aside. A new trial will be ordered to take place before a different Magistrate. In view of our decision to order a new trial we think it is appropriate at this stage to indicate very briefly that we regard the entire trial to be a nullity and that the offence is a Category 'C' offence.

The reasons for our decision will be put into writing at a later date. Both Appellants are remanded in custody.

(ARGUMENTS FOR AND AGAINST GRANTING OF BAIL HEARD)

ZACCA, P.:

One of the circumstances which the Court would consider as to whether it ought to grant bail would be the question of whether or not there could be a speedy re-trial. This is of course another matter that we are not aware of at this moment, and the Court is of the view that the Appellants ought to be remanded in custody, but that they should be taken before the Magistrate at a very early date and that at that stage the matter can be considered as to whether, in fact, there will be a speedy trial

and then the Appellants' counsel can at that stage before the Magistrate perhaps renew his application having regard to whether or not there will be a speedy trial. So, we are of the view that the matter should really be considered by the Magistrate when the case comes before him, and the question of whether a speedy trial or not is a possibility this is a matter which ought to be considered by the Magistrate whether or not he will grant the application for bail. Mr. Ground, can you assure us that the matter will come before the Magistrate?

MR. GROUND:

M'Lords, that effect could be produced, and in the eight days, which are the normal remand days before the Magistrate.

ZACCA,P.:

We are not thinking that it ought to take eight days to have them before the Magistrate, we are thinking that they should immediately, I don't necessarily mean today, but certainly at the first opportunity they should be taken before the Magistrate for the matter to be considered.

MR. GROUND:

I am grateful for that indication of what Your Lordship means by speedy. I can only say this that, of course, enquiries will have to be made as to the Magistrate.

ZACCA, P.:

The Magistrate's Court sits every day.

(FURTHER SUBMISSIONS FROM MR. GROUND)

ZACCA,P.:

We are not suggesting any particular date, but we are certainly of the view that they ought to be taken before the Magistrate at the very earliest opportunity. That is as far as we will take it.

GROUND:

I was hoping to get Your Lordship to give some

direction so that there can be no quarrel about it in the future as to what is a reasonable date, even an earliest possible date, M'Lord.

ZACCA, P.:

We say by next Wednesday.

MR. GROUND:

M'Lord, yes, I am grateful to Your Lordships.