

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE
(CRIMINAL DIVISION)

CASE NO. ANUHCR2023/0075

THE KING

Complainant

-and-

1. SALIEM HARRIGAN
2. WAYNE THOMAS
3. LASEAN BULLY

Accused

Appearances:

Mr. Wendel G. Alexander for the 1st Defendant
Mr. Sherfield Bowen for the 2nd Defendant
Mr. Michael Archibald for the 3rd Defendant
Mr. Clement Joseph Director of Public Prosecutions for the Crown

2026: April 16; 17

RULING ON ADMISSIBILITY OF STATEMENTS

- [1] **PERSAD, J (Ag).;** Before the court is an application by the Crown to admit into evidence certain statements of the accused. The Crown has led evidence from various police officers during the course of the investigation in relation to the taking of these statements.
- [2] Objection has been taken first by Mr. Bowen to the admissibility of the statements of his client on the basis that these statements are exculpatory and therefore they are not relevant and if they're not relevant, they are not admissible. Mr. Bowen has been joined by Mr. Robinson on behalf of Mr. Harrigan and by Mr. Archibald in relation to Mr. Lasean Bulley.
- [3] Having received the objections and having understood that the objection is one of relevance arising from the fact that the statements are, on the face of it, exculpatory, the court has invited the Director of Public Prosecutions to address the objections.

- [4] At the hearing of the objections, Director of Public Prosecutions, Mr Joseph, has been asked to determine whether or not the 11 statements proposed to be tendered fall into categories of being 'incriminatory', meaning that it includes admissions on behalf of the respective accused persons in relation to the offence, or are the statements capable of being described as 'mixed' in the sense that they are partly inculpatory and partly exculpatory? Or are these statements, as the defence are contending, wholly exculpatory?
- [5] The Director has taken a position that none of the statements being put forward by the Crown are inculpatory or mixed. Had the Crown's position been that they were wholly inculpatory or even mixed, then it would seem to this court that statements of that nature, either inculpatory or mixed would on the face of it be relevant and be *prima facie* admissible in the absence of any point being raised as to their voluntariness.
- [6] The court has taken the position that the 11 statements relied upon by the Crown are in fact exculpatory in nature. The question that first arises for consideration is: What is the law in relation to admissibility and relevance in relation to an exculpatory statement attributed to an accused person?

Law on Exculpatory Statements

- [7] The authors of Wolchover and Heaton-Armstrong on Exculpatory *Confession Evidence* examine the law relating to exculpatory statements and note as follows:-

Purely Exculpatory Statements

Lastly, the accused may make a self-serving assertion (which may or may not amount to an outright denial) the exculpatory nature of which remains intact in the sense that it is neither prejudiced by contradictory assertions from the accused nor (*whilst it may be in conflict with other challenged evidence*) invalidated by virtue of the defence accepting evidence in direct conflict with it.

C PURELY EXCULPATORY STATEMENTS

1. Admissibility and relevance technically distinguishable issues but inextricably linked

Although the issue of the admissibility of a purely self-serving statement is technically distinguishable from that of the question of its probative or evidential significance, the two issues are inextricably linked for the simple reason that if a statement has no evidential value it is likely to be treated as inadmissible. Thus many decisions on wholly exculpatory statements, though nominally concerned with admissibility, are in fact about relevance.

2. Usual practice of Crown to adduce purely exculpatory statements

Since a purely exculpatory statement offends against the hearsay rule it remains uncertain whether the defendant is entitled to establish that on being questioned by the police he made a wholly exculpatory assertion. No sanction for admissibility would be found in section 76 of P.A.C.E. since confessions are defined to include statements “wholly or partly adverse” to the accused. Statements on which the defendant seeks to rely as wholly exculpatory presumably lie outside the ambit of the Act. In the light of authorities considered below the defence probably rarely arises because the prosecution will usually adduce the statement anyway in pursuance of what Phipson has described as:

“... The modern practice by which the prosecution as a rule puts on evidence of what the accused said when first arrested or when interrogated by the police,”

a practice which is said to have grown up in fairness to the accused, and which the judges do not usually prevent. “Phipson says that the prosecution is not bound to put in the statement, but it could presumably be elicited from a police witness in cross-examination or from a defence witness, for example a solicitor or the defendant himself”.

It has been said that in England the balance of authority is to the effect that if the Crown do not lead evidence of the statement, the defence can do so.

If the prosecution chooses to put in an exculpatory statement, and are allowed to do so by the judge, the question will arise of what evidential significance is properly to be applied to it. But in a number of cases in which they have opted not to put in a statement the Court has had to consider whether the statement had sufficient evidential significance to justify holding that it should have been adduced.

3. Probative value of purely exculpatory statements

(a) Evidence of reaction

The probative value of the purely exculpatory statement to the police was explained by Widgery L.J in an otherwise curious passage in *Storey*, in which the appellant had tried to use the statement as a foundation for a submission of no case to answer:

“A statement by the accused to the police, although it always forms evidence in the case against him, is not itself evidence of the truth of the facts stated. A statement made voluntarily by an accused person

to the police is evidence in the trial because of its vital relevance as showing the reaction of the accused when first taxed with the incriminating facts. If, of course, the accused admits the offence, then as a matter of shorthand one says that the admission is proof of guilt and then as a matter of shorthand one says that the admission is proof of guilt and indeed, in the end it is. But if the accused makes a statement which does not amount to an admission, the statement is not strictly evidence of the truth of what was said, but is evidence of the reaction of the accused which forms part of the general picture to be considered by the jury at the trial.”

It has never been entirely clear whether this passage was really intended to suggest that an admission was not evidence of the truth of the facts narrated. Such a proposition clearly runs counter to the well-established rule that a confession is sufficient evidence for a conviction. It may be that in the first two sentences Widgery L.J. was thinking of exculpatory statements, with which the judgement was concerned, and that the reference in the middle of the passage to an admission was a digression. Perhaps he was thinking of a self-serving statement which, in the light of other evidence, amounts to a crucial admission of fact. It is not consciously made against interest so it cannot be an exception to the hearsay rule and, strictly speaking, cannot be evidence of the truth of the fact admitted.

(b) Meaning of reaction “when first taxed” with suspicion

The meaning of reaction “when first taxed” with an allegation was considered in *Pearce* in which the Court of Appeal held that the principle that a statement that is not an admission is admissible to show the attitude of the accused at the time when he made it was not to be limited to a statement made in the first encounter with the police. In the court’s view the reference in *Storey* to the reaction of the accused when first taxed ought not to be read as circumscribing the limits of admissibility. The longer the time that has elapsed after the first encounter the less the weight which be attached to the denial. According to the editors of *Archbold*, if this is correctly states the law, the words “when first taxed with incriminating facts” in *Storey* must be ignored and the Crown must, with one rare exception allowed for in *Pearce*, put in evidence an exculpatory statement made by the accused at any time. In *Newsome* the Court of Appeal addressed this problem when they said “One of the difficulties of *Pearce* is to know what to what extent [the ruling *Storey*] has been extended and it may well be necessary in some cases..... to consider very carefully indeed just how far this Court intended to go in the statement” [*in Pearce*].

(c) Relevance of evidence of reaction

An exculpatory statement to the police is admissible, then, as evidence of the accused's reaction, which is part of the general picture. But what is the "vital relevance" of a self-serving reaction – that is, one relied upon by the prosecution unless it is regarded as the reaction of an innocent man and is therefore evidence of innocence? The not very satisfactory answer may be that its utility to the defence is contingent. It may be capable of enjoying the status of evidence of the fact in its own right. But by heralding early on the defence ultimately run it serves in readiness to reinforce the credibility of the defence it foreshadows and to forestall any suggestion of late invention. This may furnish some answer to the complaint of J.C. Smith that a rule prohibiting an exculpatory reaction from amounting to evidence of the fact stated in it would require the judge to tell the jury:

"If you think his reaction amounted to an admission of the truth of the accusation, that is evidence against him but if you think his reaction suggest he is innocent forget it".

It is true that if the defendant had neither given nor called evidence such a direction, expressed in suitably decorous terms, might be justified. But if the accused does mount a defence consistent with the reaction, such a direction would be absurd.

The relevance of self-serving statement in foreshadowing the defence was acknowledged by the Court of Appeal in *Mc Carthy*. In oral and written statements the appellant had put forward an alibi and had told the police at the time that they were at liberty to check his movements if they wished. It was held that the trial judge was wrong to exclude the statements on the ground that they were all self-serving. Giving the judgement of the Court of Appeal, Lawton L.J. stressed that one of the best pieces of evidence that an innocent man can produce in his reaction to an accusation of crime and he acknowledged that although the details of the alibi were not evidence of the facts, the appellant's reaction when questioned by the police at the beginning of the interview was something which the jury could properly take into account as having some relevance to the genuineness of the defence of alibi.

(d) Accused does not give evidence

Evidence of reaction may be important to the extent that it foreshadows the defendant's evidence at trial. But in *Barbery*, where the appellant had made a self-exculpatory statement to the police which the prosecution had put in evidence and he had not gone into the witness box, was held, relying on *Storey*, that the trial judge could not be criticized for not referring to the statement in his summing up; the statement was inadmissible only as going to the consistency of the defence.

4. Exculpatory statement which proves incriminatory

It is not clear evidential value a statement bears in sub-category (a) of the four sub-categories of the statement set out in the paragraph earlier under the heading *statements exculpatory in form but damaging in effect*. Obviously, the prosecution would want to rely on the time given with exculpatory intent for the departure of the maker from the deceased's presence as evidence of its truth, and therefore of the of opportunity. But an admission can only furnish evidence of its truth if, by way of exception to the hearsay rule, it was made against the interest of the accused. Yet at the time of its making the accused in the example quoted in sub-category (a) plainly believed it was in her favor. It may be that the admission can be evidence of no more than reaction, which may go to guilty consciousness but to nothing more concrete. As already suggested, this maybe what Lord Widgery had in mind in *Storey*.

- [8] The court invited the Director to look at each individual statement and to provide the court with an understanding of why it is that the Crown wishes to rely upon the particular statement and why the Crown takes the view that the statement in particular is relevant, dealing first with the accused, Mr. Wayne Thomas, Mr. Bowen's client.

Statements of Wayne Thomas

- [9] The Director drew the court's attention to certain questions in the statement of 13th July 2020, in which the Crown posits that it is in fact relevant to the issues in the case and therefore it is probative of issues that have to be determined by the jury and they are therefore asking for it to be admitted.
- [10] By way of example, the statement of the 13th July 2020, the Director points to question 34 as well as other questions in which the accused appears to be suggesting and advancing an alibi. He reminds the Court that before it is evidence of Mr. Carlos Joseph in relation to the Crown who is saying that Mr. Thomas, along with the two other accused, were present at the McKinnon's home of Nigel Christian and was part of the kidnapping. The Crown states, that is a very relevant issue for the jury. If it is that the jury takes the view that Mr. Thomas was at the location of the crime scene and not anywhere else, then it is open to them to find that he has lied and that is a matter that they may take into account in relation to guilt.
- [11] The Director also referred to questions 53, 55, 69, 71 where the question of the relationship between Mr. Thomas and Mr. Harrigan is dealt with and those are matters which the Crown says goes to the question of joint enterprise which is part and parcel of the case for the Crown.

- [12] In relation to the statement of Mr. Thomas taken on the 15th August 2020, reference is made to question 39, where it is said Mr. Thomas denies the murder or playing any role in it and question 67 and 69 where Mr. Thom reasserts the alibi.
- [13] In relation to his statement of 20th January 2021, Mr. Thomas denies knowledge, challenges his participation in the killing. It is according to the Crown important also for establishing the relationship between Carlos Joseph (the main witness for the Crown) and Mr. Wayne Thomas. There are other issues in relation to Perry Bay and the DNA and the question of how his DNA relates to some of the items at Perry Bay.
- [14] In the statement of the 7th April 2021 by Mr. Thomas, the Crown relies on questions 28 to 30, 48 to 53 and they say that this tells the jury his reaction when confronted with the DNA items and also paragraphs 85 to 87 which deals with the question of alibi.

Statements of Saliem Harrigan

- [15] In relation to Mr. Alexander's client, Mr. Saliem Harrigan. The Crown basically puts forward that in his statement of 21st July 2021 reliance has been placed on a number of questions 5, 9, 17, 27, 31, 98, 99. Again there is the question of the raising of advancing of some sort of alibi. Then there's also the question of his movements and there is in this case positive evidence by cell phone mapping in which shows that at particular points of the day he is at certain locations or in certain localities which appears to contradict his assertion of being at home.
- [16] The Crown relies on question 74, where Mr. Harrigan says he did not lend the phone to anyone that day. There are questions at 67, 68 and 73 in which he states that he was never with the accused. According to the Crown, questions of relevance to joint enterprise arises in relation to the statement of 15th August 2020. Questions 17 and 21 addressed the relationship between Mr. Harrigan and Mr. Lasean Bulley. There are other questions 84, 94, 92, 97, 98, 100, 108, 109 to 115 and 116 where there is certain material which is relevant to the overall prosecution of the case.
- [17] In relation to 20th January 2021, the statement taken on that day, the accused Mr. Harrigan, at questions 13 to 25 refers to photographs shown of Cassada Gardens and Perry Bay. He is asked questions about his DNA and whether it would be detected. Question 28 to 29, deal with his being asked about the killing of Nigel Christian, which he denies. At question 34 he is asked about the horse racing track area and whether he was in that area, which he denied.
- [18] Again, there is a statement of 13th April 2021; questions 5 and 6 which relate to the photograph of vehicle of ABC 34. Mr. Harrigan is asked questions about why he is carrying a photograph of that vehicle on his phone. He is asked a question 12 about his phone number and also, he is also asked about his relationship with Mr. Wayne Thomas at question 33. Questions 46 and 49 deals with the discovery of DNA on

certain items and once again, the Director seeks to admit the interview with the police and the Crown's position is that the answers contained therein are relevant to the issues that the jury must determine for them to make a finding of innocence or guilt.

Statements of Lasean Bully

- [19] In relation to Mr. Lasean Bully, Mr. Archibald's client, there is a statement of 21st July 2020 which Mr Archibald objects to. According to Director the statement of 21st July 2020 is important because it differentiates between Mr. Bully and Mr. Harrigan, which is probative. They also talk about page 4, lines 9 to 19, questions about Bully's whereabouts on 10th July 2020 as well as other questions establishing the relationship between Mr. Bully and Mr. Wayne Thomas.
- [20] The Director concedes that the statement of 18th of January 2020 contains only material about Mr. Bully's relationship with Mr. Harrigan, which is already dealt with in the statement of the 21st of July. The Director has expressed that he is willing to accept and concede that this statement may not be probative of any material issue.
- [21] In relation to 7th April 2021, the Director maintains that this statement is probative because questions 23 to 30 deal with the backpack and questions relating to the DNA and that is shown to him and his answer is sought. Reliance is put on questions 25, 43, 51 where Mr. Bully confronted and asked to respond to the allegation of killing Nigel Christian, which he denies. For these reasons, the Crown asserts this statement is probative.
- [22] The Director, having explained and amplified to the court why each particular statement was relevant in the prosecution's view notwithstanding it was exculpatory, puts before the Court certain authorities in particular, ***Carlos Hamilton and Jason Lewis (Appellants) v The Queen (Respondent)*** a Jamaican case, at 2012 UK PC 37 and relies on paragraphs 43 to 61 which states as follows:-

Failure to admit into evidence the oral and written statements made by Hamilton during interviews by the police.

43. As we have already said, McLeish gave evidence that after Hamilton had been arrested and cautioned, Hamilton said that he had acted in self-defence and had not intended to kill Saleem (see para 5 above). We have also noted that after McLeish had been asked a number of questions by counsel for Hamilton seeking to establish that he had said various further things whilst at the police station, Reckord J ruled that what Hamilton had said to the officer was inadmissible as "self-serving" and "also hearsay".

44. During the course of the hearing before the Board it became clear that Hamilton had made a three and a half page statement under caution on 9 February 1998, five days after his arrest. The delay, it is not suggested, was

not the responsibility of Hamilton. The statement was taken by an Inspector in the presence of another police officer, probably McLeish, and signed by Hamilton.

45. In the statement Hamilton described his personal circumstances. He described knowing Saleem from his youth and how, when Hamilton was aged 13 Saleem had hit him with a stone in such a manner that Hamilton had to receive medical attention. The incident was reported to the police. Saliem, who was bigger than Hamilton and, so it appears, about a year older than Hamilton bullied Hamilton (our words not his) on more than one occasion and made him “fraid bad”. Hamilton described in some detail an incident in mid-January when Saliem “jucked” at him with a pointed cutlass and Hamilton retaliated by throwing two big stones at him. This incident was reported to the police. Hamilton then described again in some detail the incident the night before the killing about which he told the jury in his unsworn statement and about which the witness Wayne Knight gave evidence. Hamilton then described the events of the morning much as he did in his unsworn statement.

46. The prosecution decided not to introduce the statement into evidence. If the prosecution had done so then, given that it included both inculpatory and exculpatory passages (a so-called “mixed statement”), the whole statement would have been admissible for the truth of its contents: see the decision of the House of Lords in *R v Sharp (Colin)* [1988] 1 WLR 7.

47. It also became clear during the hearing before us that the Chief Justice during the earlier trial had ruled that the defence could not itself introduce the written statement under caution. Counsel did not seek a fresh ruling and, even if she had, Reckord J made it clear that the evidence was inadmissible as self-serving (see p 225).

48. In the light of that ruling, counsel sought to elicit what Hamilton had said to McLeish on 4 February but without success.

49. We do not have a copy of the Chief Justice’s ruling. However we take the view that we should ask ourselves whether the exclusion of the statement under caution and what Hamilton said on 4 February (which out of fairness to Hamilton we shall assume are similar) is such that the conviction should be quashed, pursuant to section 14 of the Judicature (Appellate Jurisdiction) Act 1962, on the ground of “a wrong decision of any question of law” or on the ground that the exclusion of the evidence caused a miscarriage of justice.

50. As counsel agreed during oral argument, the excluded evidence was not inadmissible because of the rule against hearsay. If it were to be admitted at the request of the defence, then the statement would not have been evidence

of the truth of its contents. The relevant common law rule of evidence is, as Reckord J identified, the rule which, subject to exceptions, prevents the admission of self-serving statements. The rule is also known as the rule against narrative or the rule against self-corroboration. To the long-established common law rule against the admissibility of self-serving statements there are exceptions, the most well-known of which is the rule which permits evidence to be called of a recent complaint in a sexual case. The evidence of recent complaint at common law is not admitted for the truth of its contents but to show consistency between the evidence given now and the earlier complaint. Another well-known exception to the rule provides for the admissibility of self-serving statements to rebut an allegation of recent fabrication.

51. Mr Fitzgerald relied upon the case of *R v Pearce* (1979) 69 Cr App R 365 Lord Widgery CJ, giving the reserved judgment of the Court prepared by Lloyd J, said (at 368):

“The case raises an unusual question. It has been the practice to admit in evidence all unwritten and most written statements made by an accused person to the police whether they contain admissions or whether they contain denials of guilt. ... In this case however the judge has excluded two voluntary statements and part of an interview on the grounds that they are self-serving statements and as such are not admissible. If the judge is right it would mean that the practice of the courts over the last fifty years or more has been erroneous.”

52. The Court said (369):

“A statement that is not an admission is admissible to show the attitude of the accused at the time when he made it. This however is not to be limited to a statement made on the first encounter with the police. ... The longer the time that has elapsed after the first encounter the less the weight which will be attached to the denial. The judge is able to direct the jury about the value of such statements.”

53. Thus in this case what Hamilton said to the police orally and in his statement under caution would be admissible on the authority of *Pearce* to show his attitude when he gave himself up to the police on the evening of the killing.

54. The Court also said (370): “Although in practice most statements are given in evidence even when they are largely self-serving, there may be a rare occasion when an accused produces a carefully prepared written statement to the police, with a view to it being made part of the prosecution

evidence. The trial judge would plainly exclude such a statement as inadmissible.”

55. That, in our view, is not this case. Mr Fitzgerald also referred us to *R v McCarthy (Gerald)* (1980) 71 Cr App R 142 in which Lawton LJ said (at 145): “One of the best pieces of evidence that an innocent man can produce is his reaction to an accusation of a crime. If he has been told, as the appellant was told, that he was suspected of having committed a particular crime at a particular time and place and he says at once, ‘That cannot be right, because I was elsewhere,’ and gives details of where he was, that is something which the jury can take into account.”

56. The Court in *McCarthy* ruled that the judge ought to have admitted into evidence what the appellant had said to the police following his arrest. However, on the facts of the case the appeal against conviction was dismissed. The Court took into account the strength of the evidence and the fact that the appellant did not give evidence and that no witnesses were called on his behalf.

57. We were also referred to the 1997 Edition of Archbold, Criminal Pleading, Evidence and Practice, paras 15-382 and following.

58. We have looked at an article by Professor Gooderson in the Cambridge Law Journal, 1968, p 64, entitled “Previous Consistent Statements”. The first example that he could find to illustrate the practice of admitting statements made by the accused when arrested is in 1858. He points out that Wigmore argued in his treatise on the law of evidence that such evidence should be receivable, albeit that, at that time, the bulk of US case law went the other way (69). Professor Gooderson also discusses the admissibility of statements by an accused person when incriminating articles are received from his possession, a sub-set of the exception which we are considering.

59. We have looked at the Law Commission’s 1997 “Report on Evidence in Criminal Proceedings: Hearsay and Related Topics” (Law Com 245), which preceded the substantial changes made to the common law of England and Wales by the Criminal Justice Act 2003. In Part X there is discussion of the common law rule to the effect that, subject to exceptions, a prior consistent statement cannot be used to enhance the credibility of the evidence of a witness by demonstrating consistency. The Law Commission Report did not deal with the exception now under consideration.

60. In our view the Court in *Pearce* correctly identified an exception to the common law rule making self-serving statements inadmissible. The modern practice of case management puts an emphasis on the defendant disclosing

as early as possible the nature of his or her defence. The defendant when cautioned at common law is asked for his account and is told that anything he says may be given in evidence (in Hamilton's case he was told before making his written statement that it would be introduced into evidence). Entitling defendants to put into evidence what they say at the time of arrest, if the prosecution chooses not to do so, should encourage defendants to give their account of the events at the earliest opportunity. This is particularly important where, as in this case, there is such a substantial delay between arrest and trial. It could perhaps be said that if the defendant wants his account to be considered by the jury, he should give evidence. But this ignores the fact that, even if Hamilton had given evidence, his statements to the police on arrest would have been inadmissible on the ruling of the Chief Justice and Reckord J, unless, which is unlikely, the prosecution had alleged recent fabrication.

61. In our view the statements made by Hamilton at the time of his arrest should have been admitted in evidence.

- [23] The defence made certain submissions in reply, and all Counsel, essentially having had the opportunity of hearing the Director's position, take the approach that they understand the probative value. They quite willingly concede that the statements that are being sought to put in are relevant and probative of those issues that have been raised. The Court commends them for this approach.
- [24] Mr. Alexander, is very careful to say that there is some reliance in the statements on certain photographs and certain material that is prejudicial. The Court inquired of him whether or not that could be cured by editing and he quite readily accepted that suggestion.
- [25] Accordingly, the court directed after the hearing that all parties were to forward to the Court over the weekend any areas or questions that they wish edited or objected to, so that, the Court could in making its ruling then direct for certain sections to be edited out in order to take out prejudicial material.
- [26] Mr. Archibald also agrees with the Director that the second statement, which is not being pursued by the Crown, and accepts the Director's position that Mr. Bully's statement of 21st July 2020 was relevant and does not press on that point.
- [27] However, in relation to the statement of 7th April 2021, Mr. Archibald crafts an argument that since that is an interview where it is a "no comment answer" where his client does not answer anything and does not give any significant response to the police questions and therefore is of no probative value.

- [28] The Director makes a very interesting point that when one looks at **Hamilton** and Pearce which is cited in **Hamilton**, he says it does not appear to be a suggestion that you need to admit anything in the answers. It is sufficient to just make no comment. It is still relevant for the jury's consideration because quite frankly they are entitled to look at the accused's reaction to when pressed with these questions and that is a relevant factor for them.
- [29] Having had the opportunity to hear both sides and consider the various submissions, the Court is minded to admit all the statements in relation to Mr. Wayne Thomas as being probative and relevant to issues that are likely to engage the attention of the jury.
- [30] The Court is also prepared to overrule the objections by Mr. Alexander in relation to Mr. Saliem Harrigan in relation to the statements of 20th January 2021, 13th of January and 13th of April 2021 as well as the statements of 21st July 2021 and 15th of August 2020.
- [31] The court is prepared to edit relevant portions that are considered prejudicial and is hoping that both sides would work that out over the weekend so that the jury is not presented with any prejudicial evidence.
- [32] In relation to Mr. Bully, the Court will overrule the objection by Mr. Archibald, understanding that the Crown has conceded that they will not rely on the 18th of January 2020 and therefore the statement of the 21st of July 2020 and the 7th of April 2021 is going to be admitted for its probative value and appropriate directions will be given to the jury in relation to each of these statements.

Rajiv Persad SC
High Court Judge (Ag)

By the Court

Registrar