

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE
(CRIMINAL DIVISION)

CASE NUMBER: ANUHCR2025/0029

BETWEEN:

THE KING

and

TRISTAN ARMSTRONG

Appearances:

Ms. Rashida Jonas, Counsel for The Crown
Defendant in person and Unrepresented.

2026: May 7th, 8th, 12th, 14th, 19th, 20th;
June 8th;
July 1st, 23rd.

DECISION

Background

- [1] **SMITH, J.:** This trial was conducted as a Judge Alone Trial by virtue of the **Criminal Proceedings (Trial by Judge Alone) Act**, No.8 of 2021 the charges on the indictment in this matter are mandated to be tried by a single Judge. The **Criminal Proceedings (Trial by Judge Alone) Act** was signed by the Governor-General on the 28th May, 2021 and provides for cases to be tried by a Judge sitting alone without a Jury. The offence on the indictment is one such matter which can be tried by Judge Alone pursuant to the legislation.

Brief Facts

- [2] The Crown's case was that the defendant robbed and held up the supervisor of Baileys Supermarket in the early hours of the morning. The defendant had a firearm which he pointed at the supervisor. The supervisor was a licensed firearm holder and fired at the defendant, wounding him. The case for the Crown was essentially one of circumstantial evidence.

The Evidence

- [3] The first witness for the Crown was Mr. Ian Weste, who at the time of was the supervisor at Baileys Supermarket. His evidence was that he occupied his family

home located to the back portion of the supermarket. On the day in question at about 4:00 a.m. he proceeded to open the office door to the supermarket. He indicated that the door had 3 different layers of barriers. He had in his possession a money bag with the float of EC\$1,000.00. In order to open the 3 barriers he placed the money bag on the floor outside the office door. He testified that the first barrier had a grill secured with lock and pad lock, second was a large brown wooden door with key and padlock and the third barrier was a louver glass paneled door. He said that when he opened all three and he was about to take up the bag and go straight in and he heard a voice shouting "hey". He turned around and looked in the direction of the voice at the person.

- [4] This witness told the Court that there was a dark figure standing about 12 feet north of the office door by the storeroom door by a lit lightbulb. He described the person as wearing a black long sleeve hoody and a black mask. He was pointing something at him and he realized he was looking down the barrel of a handgun. It was covid time and his first thought was that no one should be out at that time of the morning. He then realized it was in fact a robbery and that it was not a police office because the person did not identify himself. The witness said he saw the persons finger on the trigger and the person was squeezing it. At the same time the witness indicated that he was able to push the glass door in and "quint" and he said "ah", he then heard a loud bang. The one who fired the shot came running towards him and he was able to slam the glass door shut. He then pulled out his service pistol and fired through the door. He said that the persons outside were rattling the door trying to get in. The witness indicated that he fired about ten rounds. He waited a short time and noticed the room started to smoke up due to the gunfire. The witness left the supermarket, went outside and he went to look for the money bag which was gone. He said he saw the other person wearing dark clothing running in the western direction, the other person entering his house gate the one in the hoody, after that he was concerned about his mother's well-being as she was home alone and the house in close proximity to the supermarket. The witness then chased after the one who was entering the yard. He was moving slowly and he appeared to be injured. The witness testified that the slide on his firearm was locked back and was out of ammunition so he decided to go into his house to get more another magazine. He had a conversation with his mother and the police came. The money bag was missing from the floor, and he saw a black handgun on the steps in front of the supermarket. The money bag was described as being 12 inches long and 5 inches wide, green with maroon ends and made of cloth material. He saw the bag again at the St. Johns Police Station where he identified the bag as the bag that was stolen and he signed his name on the package/evidence bag.

- [5] The next witness Andre Blair told the Court that he worked in construction in the Piccadilly area at the time of the incident in 2021. He said he was building a board house and he got to work at 8:10 a.m. that morning. When he got there and saw his boss, Mr. Weste at about 8:45 a.m. he felt like he wanted to defecate and he went in the bush about 30 feet away. He was coming back out from the bush and saw a man lying down in front of the gallery of the house at the back. He was 8 feet away. He was lying in dark colour hoody, dark short pants, grey and black socks. He went to the coworker and had a conversation. He called 911. He asked the person what he was doing there and he didn't answer. When he was about to walk off the man asked for a phone call and he said the phone didn't have any credit. He and his coworker approached him and asked him what he was doing there. It took a while before the police came. They came between 12 and 1 p.m. and he called at 9:30 a.m. They went to the gallery and went and arrested the person.
- [6] The Police collected and packaged certain exhibits and placed them into the police exhibit room. Certain bullet fragments and blood samples were also sent abroad to be examined and analyzed by the analyst Mr. Beecher.

Visit to the Locus

- [7] The Court visited the various locations of importance in relation to the scene. The first location the Court visited was the scene of the shooting at Baileys Supermarket. There the Court was shown various bullet markers and damage to the door. The witness Mr. Weste also pointed out his yard and the fence where he saw the person in the black hoody escape over. The Court then moved on to the clearing across the road where an Officer pointed out an area where a set of keys and a money bag were found.
- [8] The final area was the home where the defendant was discovered by the witness suffering from various injuries and where he was apprehended by the police.

DNA Evidence

- [9] The DNA evidence placed before this Court did nothing to assist the Crown's case. There was nothing put forward that could be said to link the defendant to the commission of the offence. The Crown candidly acknowledged in their submissions that the DNA evidence did not identify the defendant as a contributor to any profile recovered from the firearm. The Crown also submitted

that this evidence did not materially assist either side. The prosecution case in relation to possession rested upon the totality of the surrounding circumstances, including the defendant's admitted presence, his movements, his injuries, the clothing description and the recovery of the firearm at the location from which the gunman fled.

The Defence Case

- [10] The defendant was given his three options, and he opted to give an unsworn statement from the dock. In this statement he places himself in the vicinity of the Baileys Supermarket and admits to being shot. He said that he scaled a fence and collapsed on the gallery of an unfinished house where he was seen by the witness who later called the police.

In Relation to Evidence of Bad Character

- [11] The Crown was invited to adduce evidence of character but declined to do so. It is not proper procedure for the Court to delve into a defendant's character especially when unrepresented, that is the role of the Crown and so I make no findings on this issue.

Discussion

- [12] The prosecution case rested totally upon circumstantial evidence which, when considered cumulatively and in light of the defendant's own evidence, is capable of supporting the inference of guilt.
- [13] Circumstantial evidence consists of facts from which the existence or non-existence of facts in issue may be inferred. In **Director of Public Prosecutions v Kilbourne**¹ circumstantial evidence was likened to a rope comprised of several strands; no single strand may alone bear weight, but taken together the strands may be of considerable strength. The Crown submits that the cumulative effect of the evidence in this matter, including aspects of the defendant's own evidence, supports the prosecution's case.
- [14] As the Judge of the law and the facts, the Court will take into account the following facts:-
- a. A black 9mm Glock 19 pistol bearing serial number AAE571US was recovered at the steps on the northern side of the walkway – precisely where the gunman had stood and from which he

¹ [1973] AC 279

fled. The firearm was identified by Ellison Cornelius in his statement as one that had been stolen from him in July 2021 (exhibit “AG1”), and a receipt in respect of the firearm license was as admitted as exhibit “RE1”.

- b. Sgt. Kenrick Lawrence gave evidence that checks conducted at the Firearms Registry revealed that the defendant was not the holder of a firearm user’s license nor a license for ammunition.
- c. Approximately four to five hours after the robbery, the defendant was found by Andre Blair lying on the gallery of an unfinished house under construction in the Piccadilly area in close geographic proximity to Falmouth and in the general direction of the northward flight route from the supermarket.
- d. The defendant was dressed in a black long-sleeve hoodie, blue t-shirt, black jeans and camouflage socks, clothing substantially consistent with the description of the gunman provided by Mr. Weste and which the defendant himself admitted belonged to him.
- e. The defendant was found with a fresh gunshot wound to his left shoulder, together with abrasions to his neck, right forearm and other areas of his body.
- f. The medical report of Dr. Jessica Charles confirmed a fresh entry wound to the left scapular region of the defendant, with surrounding swelling, consistent with a recent gunshot injury sustained on 27th October, 2021.
- g. When asked by medical personnel and the police how he sustained his injuries upon examination and arrest, the defendant stated that he did not know.

Decision

- [15] Having examined the facts and the law in relation to this matter the Court finds the matter proved beyond a reasonable doubt and that the defendant Armstrong is guilty of the matters on the indictment. The case was one of circumstantial evidence which when all of the facts were taken together, the Court found that the elements had been proved.

Ann Marie Smith
High Court Judge

By the Court

Registrar