

C.A. Murder - Evidence - Circumstantial evidence - Summing-up -
whether misdirection - Appeal dismissed.

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO: 4/93

COR: THE HON. MR. JUSTICE FORTE J A
THE HON. MR. JUSTICE DOWNER J A
THE HON. MR. JUSTICE GORDON J A

R v VINCENT BROWN

No appearance for Applicant

Hugh Wildman for Crown

16th May & 25th July, 1994

GORDON J A

On 21st January 1993 before Pitter J sitting with a jury in the St. Catherine Circuit Court the applicant was convicted for the non-capital murder of Ula Stennett on 19th June, 1991 and sentenced to imprisonment for life with a direction that he serve 12 years before parole is considered.

When this case was called no counsel appeared for the applicant. Miss Farah Brown's name was on record as appearing so the Court adjourned at 10.55 a.m. for her to be contacted. The court reconvened at 11:20 a.m. and was informed by the Registrar that Miss Brown's chambers were contacted and information had been received that she was at court elsewhere.

Mr. Wildman submitted he had perused the record and found no area of deficiency in the learned trial judge's summing-up, no flaws in the prosecution's case that would warrant an interference by this court with the verdict of the jury. With the views expressed by learned Crown Counsel we agreed and refused the application for leave to appeal and confirmed the conviction and sentence. We now place our reasons on record.

The applicant, and Ula Stennett (the deceased), lived as man and wife at 19 Wild Street, Allman Town Kingston.

Mr. Wignall Beckford also lived at the same premises, and like the applicant, he was a vendor of drinks at the Kingston Public Hospital. Much of the prosecution case came from the testimony of Mr. Beckford. The evidence in the case was circumstantial.

On Thursday 17th June, 1991 at about 6.00 p.m. the witness Beckford and the applicant partook of a meal of peas soup prepared by the deceased. She placed some of the soup in a "butter pan" and left the home with it. That was the last time Beckford saw her alive. On the Friday morning following, the applicant told Beckford he had trailed her. Beckford said, the applicant went on to say, "Is a man yard she carry the soup go you know".

Mr. Beckford next saw the applicant at about 7.00 a.m. on Saturday the 19th of June 1991 in a bar. He asked the applicant what had happened to him the previous night, he responded that he had slept at Oxford Street. On the following morning, the two men again met and the applicant told Beckford that on the previous Friday evening, he and the deceased were walking across Race Course when a car drove up to them. Men in the car spoke to the deceased and she entered the car, told the applicant indecent words, and left with the men in the car.

Beckford advised the applicant to report her absence to the police and the applicant said "I am going to a mother first to read up and find out what happened." Be it noted that the body of the deceased was discovered the Saturday morning the 19th. Later that Sunday the applicant returned to his home and told Beckford "Murder! Murder! knife cut, knife, them kill her at Bog Walk and she is at Spanish Town at the Undertaker."

Beckford's evidence was unchallenged; he was not cross-examined.

Mr. Arthur McIntosh, a shopkeeper at Harkers Hall, 6 miles from Bog Walk, heard a whistling at his gate at 3.40 a.m. on Saturday 19th November, 1991. He looked out and saw the applicant whom he did not know before standing at his gate. The applicant asked if he had anything to eat, and he said no. He asked for cigarette and Mr. McIntosh lit one and handed same to him: then Miss Ethlyn Brown came up to them and exclaimed "Vincent what you doing here?" The applicant replied; "I come to look for my family, towards some lumber tree."

Miss Brown said the applicant said, the person he had come to see about the tree was away, so he was turning back. He moved off, then retraced his steps and said to her, "I am coming from Bog Walk to Paradise, I see a dead woman lie in the water table." He then asked her "what is the earliest vehicle going down?" He said he was going back to Bog Walk. He later rode on her son's van to Bog Walk. She was also on the van.

Roy Taylor, the owner of the van spoke to the applicant before he entered the van. He told him he had been informed that the applicant said he had seen the body of a woman by the road. He asked the applicant where this was and the applicant told him the area. When the witness drove off with the applicant in the van, the witness slowed as he passed the area and searched visually but saw no body. The applicant left the van at Bog Walk and on the return journey the witness saw a crowd and the body of the woman now by the side of the road visibly displayed.

About 2.00 a.m. on the 19th June 1991 Miss Ethlyn Brown heard a whistling and a calling outside her home at Edward Piece Harkers Hall, St. Catharine. The applicant is her brother but she had not seen him for about 30 years and she did not recognize the voice. At 6.00 a.m. she opened her door and there stood her brother, he told her "I was walking coming and three miles from Bog Walk, I see a woman lying down on the ground and I dont know

who it is." She said she saw him with a knife a bottle lamp, a bag and he told her he was "travelling" and left.

Responding to a report received at 7.:30 a.m. on 19th June, 1991 Det. Cpl. Clarence Givans of Bog Walk went to Paradise district, there he saw the body of the deceased. There were several stab wounds on the body.

Dr. Royston Clifford the Consultant Forensic Pathologist found forty-nine stab wounds on the body, sixteen of a group of 36 penetrated the lungs and heart causing massive haemorrhage from which death resulted. An ice pick could have inflicted the injuries he opined. It was Dr. Clifford's opinion that there would have been no spurting of blood from the injuries; and unless there was close contact, it was unlikely that any blood from the victim would have got on the clothes of the assailant.

A submission of no case was summarily despatched by the learned trial judge and in an unsworn statement the applicant said in defence, "I did not kill her. I am not guilty."

Mrs. Yvonne Cruickshank, the Government Analyst called by the defence found no blood on garments submitted by the police for examination.

The learned trial judge gave directions to the jury that were clear, fair and correct. He dealt with identification evidence, circumstantial evidence and placed the defence before them for their consideration. The circumstantial evidence was overwhelming and the jury returned their verdict in seven minutes. This we find is a correct verdict on the evidence and we cannot interfere with it.