



Press Summary

14 March 2024

(1) Shawn Campbell (2) Adidja Palmer (3) Kahira Jones and (4) Andre St John (Appellants) v The King (Respondent) No 2 (Jamaica)

[2024] UKPC 6

On appeal from the Court of Appeal of Jamaica

Justices: Lord Reed, Lord Lloyd-Jones, Lord Briggs, Lord Burrows, Lady Simler

Background to the Appeal

On 13 March 2014, following a 64-day jury trial in the Home Circuit Court in Kingston, Jamaica, the appellants, Shawn Campbell, Adidja Palmer, Kahira Jones and Andre St John, were convicted of the murder of Clive “Lizard” Williams (“the deceased”).

At trial, the prosecution case was that the deceased and another man, Lamar Chow, had been given two unlicensed firearms belonging to Palmer for safekeeping. On 16 August 2011, Campbell summoned Chow and the deceased to Palmer’s house after they had failed to comply with Palmer’s deadline for returning the weapons. The prosecution alleged that they were met on arrival by Palmer, Jones and St John, and that Chow and the deceased were both attacked, after which Chow saw the deceased lying motionless on the ground with Jones bending over him. Chow escaped but the deceased was never seen again.

Police attended Palmer’s house on 22 August 2011. They noticed the house smelled of disinfectant. On 25 August 2011 they cordoned off the perimeter wall, treating the premises as a crime scene. When they returned on 27 August 2011 they found that the entire interior of the house had been destroyed by fire. On 29 August 2011 police forensics reported a foul odour emanating from the living room. On a further visit on 30 September 2011 it was discovered that the rear of the house had been demolished. Police dug at the premises but did not find a body.

The police seized the mobile phones of Palmer and St John. Text messages, voice notes and a video from those phones were put in evidence at trial. The prosecution also relied on

telecommunications data which the police had obtained from Digicel, a communications provider.

The prosecution case was that the mobile phone evidence and telecommunications data, taken as a whole with Chow's evidence, proved the fact of the killing, the reason for the killing, the method of disposal of the deceased's body and the identity of at least one of the killers, namely Palmer. The four appellants each denied murdering the deceased.

At trial, the appellants objected to the telecommunications data being admitted as evidence. They argued that the data was inadmissible because it had been obtained in breach of the Interception of Communications Act and the fundamental right to the protection of privacy of communications guaranteed by the Charter of Fundamental Rights and Freedoms contained in the Jamaican Constitution. The judge admitted the evidence. He ruled that the data could be relied upon by the prosecution, even if it had been obtained in breach of the Charter or the Interception of Communications Act.

Over the course of the 64-day trial, there was a series of incidents involving the jury. The jury was reduced to eleven members after a juror was discharged almost eight weeks into the trial. On the final day of the trial, it was brought to the judge's attention that a member of the jury, who will be referred to as Juror X, had attempted to bribe other members of the jury. The judge questioned the jury forewoman who stated that Juror X had offered bribes to each of the other jurors to acquit the appellants. The judge asked counsel for the prosecution and the defence if the trial could continue. It would not have been possible only to discharge Juror X, because under the Jury Act, a trial for murder cannot continue with fewer than eleven jurors. The judge decided to proceed with his summing up and gave a direction to the jury reminding them of their function.

The jury retired to consider its verdict at 3.42 pm. The jury returned at 6.08 pm and by a majority of 10:1 convicted all four appellants of the deceased's murder. A fifth defendant was unanimously acquitted. Juror X was immediately arrested and was later convicted of attempting to pervert the course of justice. There was no evidence to connect his activities with the appellants.

The appellants appealed against their conviction to the Court of Appeal of Jamaica, which dismissed their appeals. The Court of Appeal granted permission to appeal to the Judicial Committee of the Privy Council on three grounds, which were:

- 1) The trial judge failed properly to enquire into allegations of juror misconduct;
- 2) The trial judge departed from standard practice in inviting the jury to retire to consider their verdict so late in the day, putting undue pressure on them to reach a verdict;
- 3) The trial judge erred in admitting the telecommunications data because it had been obtained in breach of the Interception of Communications Act and the Charter.

Judgment

The Judicial Committee of the Privy Council has concluded that the appeals should be allowed and the appellants' convictions should be quashed on the ground of juror misconduct, and that the case should be remitted to the Court of Appeal of Jamaica to decide whether to order a retrial of the appellants for the murder of the deceased. Lord Lloyd-Jones gives the unanimous judgment of the Board.

Reasons for the Judgment

Issue 1 (juror misconduct)

The Board has considerable sympathy with the dilemma faced by the trial judge on the final day of a long and complex trial. Following the allegations of bribery, he had either to continue with the eleven remaining jurors or to discharge the jury. Despite this, the Board considers that the approach taken by the judge was a material irregularity in the course of the trial which makes it necessary to quash the convictions [41]–[42]. This is for three reasons.

First, the direction to the jury on the final day was inadequate to save the situation. The judge simply reminded the jury that they had sworn or affirmed that they would return verdicts in accordance with the evidence they had heard in court. The judge did not refer to the alleged bribery, of which, if the allegations were true, the jurors were already aware [43]–[44].

Secondly, the trial continued with the allegedly corrupt juror serving as one of its eleven members. In the Board's view, there should have been no question of allowing Juror X to continue to serve on the jury. Allowing Juror X to remain on the jury is fatal to the safety of the convictions which followed. It was an infringement of the appellants' fundamental right to a fair hearing under the Jamaican Constitution [45].

Thirdly, the judge should have considered whether the remaining jurors might have become consciously or unconsciously prejudiced for or against one or more of the appellants as a result of Juror X's behaviour [48]. For example, there was a danger that the attempted bribe could have made the other jurors overcompensate, consciously or unconsciously, if they assumed that the offer must have come from one of the appellants and that therefore they must be guilty. The judge took no account of this risk [52].

The Board is mindful of the very serious consequences which may flow from having to discharge a jury shortly before the end of a long and complex criminal trial. It is also very conscious of the danger of deliberate attempts to derail criminal trials by engineering situations in which it is necessary to discharge the jury. In England and Wales there is legislation which allows a judge in certain situations to discharge a jury because of jury tampering and to continue the trial by judge alone. There is no such legislation in Jamaica. It follows that there will be occasions where, as in this case, a court will have no alternative but to discharge a jury and end the trial to protect the integrity of the system of trial by jury [54].

Issue 2 (timing of jury retirement) and Issue 3 (evidence obtained in breach of the Charter):

In view of its conclusion on the issue of juror misconduct, the Board holds that it is not necessary to express a concluded view on these grounds of appeal [59]–[62].

References in square brackets are to paragraphs in the judgment.

NOTE:

This summary is provided to assist in understanding the Committee's decision. It does not form part of the reasons for that decision. The full opinion of the Committee is the only authoritative document. Judgments are public documents and are available at: [Decided cases - Judicial Committee of the Privy Council \(JCPC\)](#)