

IN THE SUPREME COURT OF BELIZE, A.D. 2021

CRIMINAL JURISDICTION

CENTRAL DISTRICT (BELIZE CITY)

INDICTMENT No. C12/2016

THE QUEEN

v

KEYRON GIBSON

CHARGE: MURDER

Before H. Lord (J)

Heard: 7, 8, 11, 21, 22, 24, 29, 30 June, 2 & 5 July 2021

Appearances:

Ms. Sheiniza Smith, Sr. Crown Counsel)
Ms. Romey Wade, Crown Counsel) for the Crown
Mr. Oscar Selgado) for the Defence

JUDGMENT

5 The accused stands indicted for the crime of murder of Tulio Caceres Jr. and it is alleged that on the 13th day of June, 2014 in Belize City in the Belize District, in the Central District of the Supreme Court he murdered Tulio Caceres contrary to Section 117 read along with Section 106(1) of the Criminal Code, Chapter 101 of the Substantive Laws of Belize (Revised Edition 2003).

5 The accused was arraigned on the 8th day of June, 2021 and pleaded Not Guilty; a trial then proceeded before me sitting without a jury, by virtue of Section 65(a) of the Indictable Procedure Act, Chapter 96 Laws of Belize as amended by Act No. 5 of 2011 and Statutory Instrument No. 79 of 2011.

10 It is noted the accused was committed for trial on the 24th day of June, 2015.

BURDEN AND STANDARD OF PROOF

Sitting as a Judge alone, I am both the trier of fact and of the law, as such I now direct myself and I keep in mind throughout my deliberations of this matter that the Prosecution has the burden of proof in this case, and that the accused stands before
15 me as an innocent person. Therefore (he) the accused has nothing to prove whatsoever but rather, it is the Prosecution that has the duty to prove each element of the offence of murder.

I have further noted, and I have directed myself that the Prosecution must prove
20 each element of the offence by providing me with evidence of such quality that I can feel sure of the respective elements.

Finally, if I have no doubt; then I can be certain of the guilt of the accused and may convict him.

5 However, if on the other hand, the Prosecution fails to make me feel sure, and if I
have any reasonable doubts of any of the elements of the offence, then I will be
obliged to acquit the accused of murder.

ELEMENTS OF THE OFFENCE OF MURDER

Now in order for me to convict the accused of murder, the Prosecution is required
10 to prove the following elements so that I can feel sure of each –

1. That Tulio Caceres is dead
2. That the death was caused by harm
3. That it was the accused (Keyron Gibson) who caused the harm
4. That at the time the accused inflicted the harm on Tulio Caceres he had the
15 specific intention to cause his death.
5. The infliction of the harm was without any lawful justification.

Here I note that the standard of proof in respect of each element is proof beyond a
reasonable doubt.

THE PROSECUTION’S CASE

20 The Prosecution called a total of nine (9) witnesses during the trial.
It is noted in this case two (2) of the witnesses’ evidences were read into evidence
during trial as agreed evidence.

5 These witnesses evidence were accepted at Case Management and at trial as agreed evidences and were agreed to be read into the evidence by the Crown and Defence Counsels.

Therefore, without any objections the following witnesses' evidence were read into evidence at trial in accordance with Rule 10 of the Criminal Procedure Rules 2016
10 which also incorporates Section 123 of the Indictable Procedure Act, Chapter 96 Laws of Belize.

1. Laura Caceres
2. Tulio Caceres Sr.

1. The First Element – that Tulio Caceres Jr. is dead

15 The evidence brought by the Crown to prove that Tulio Caceres Jr is dead came from the following persons –

1. Scenes of Crime Technician Daniel Daniels who stated that on the 16th June, 2014 at 1:30 p.m. his assistance was requested and he proceeded to the KHMH Morgue in Belize City. There he stated - I met Dr. Mario Estrada Bran and DC
20 Jaime Hibberd where I saw a male clear skin person lying on the slab inside the morgue and the body was then identified to be Julio Caceres by his father Tulio Caceres Sr.

5 After the identification then the post-mortem started and I took pictures before the commencement of the post-mortem. There I observed several suspected bullet holes on the body.

Then I took pictures of the bullet holes on the body. During the autopsy Dr. Estrada Bran handed to me a purple top tube containing post-mortem blood and
10 also three (3) slugs that was retrieved from the body.

Dr. Estrada Bran conducted the post-mortem examination.

After the post-mortem the slugs and the post-mortem blood was handed to me along with a chain of custody form.

15 He stated after photographing the body of the deceased and returning to the Scenes of Crime office he later printed eleven (11) photographs and made three (3) copies of each for a total of forty four (44) copies.

These photographs were accepted into evidence as Exhibits DD1A to DD12A.

20 2. Laura Caceres stated in her deposition which was agreed upon by Defence Counsel and Crown Counsel and then read into evidence as follows - that on Friday, 13th June, 2014 at about 10:38 a.m. as a result of information I received I proceeded to Majestic Alley in Belize City and she stated – on my arrival, about 10:45 a.m. on 13th June, 2014 I saw a male person lying motionless in a pool of

5 blood, almost at the junction of Majestic Alley and North Front Street. I then identified the body as that of my brother Tulio Caceres to Cpl. #82 Carmelito Cawich who was at the scene.

She continued – I have known my brother all my life since we grew up together.

3. Tulio Caceres Sr. stated in his deposition which was agreed upon by Defence
10 Counsel and Crown Counsel; and then read into evidence as follows – On Monday, 16th June, 2014 around 1:30 p.m. upon the request of police I visited the KHMH morgue where I met a Police Officer who introduced himself as Jaime Hibbard, DC #1383. I was led to a room in the morgue at which time DC Hibbard introduced me to Dr. Mario Estrada Bran. In the room I noticed the apparently
15 lifeless body of a Hispanic male person who I identified as my son Tulio Caceres to Dr. Estrada Bran and DC Hibberd.

4. Dr. Mario Estrada Bran testified that on the 16th June, 2014 at 1:30 p.m. he conducted a post-mortem examination on the body of Tulio Caceres Jr.

He further testified that at the conclusion of his examination, he arrived to an
20 opinion that the direct cause of death was exsanguination due to internal and external bleeding; due to multiple gunshot wounds.

The above evidence in conjunction with that of Dr. Mario Estrada Bran is here sufficient to make me feel sure that indeed Tulio Caceres is dead. I am therefore satisfied the Crown has proven this element satisfactorily to the court and myself.

5 **2. The Second Element – That Tulio Caceres died from harm**

The evidence of Dr. Mario Estrada Bran was that the cause of death of Tulio Caceres was exsanguination due to internal and external bleeding due to multiple gunshot wounds.

The doctor here then explained that his findings were externally/that there are
10 seventeen (17) orifices characteristic of firearm describe as follows –

1. one ovoid shape (9 x 10 mm) entry wound located on the right anterior lateral area of the neck
2. A (9mm) wound located on the right side of the occipital area of the neck showing concentric abrasion (ring) scar tissue around the entry wound.

15 He explained – this is a phenomenon produced by burning tissues around the entry wound, caused by friction of the projectile entering, passing through the skin of the subject.

The concentric rings tell the medical examiner the distance where the firearm was located to the direct entry approximately close range (Distance of 32
20 inches) to the target.

3. A (9 mm) in diameter (wound) located on the right side of the shoulder with visible concentric abrasion rings.

- 5 4. A (9 mm in diameter wound) with visible concentric ring located on the dorsal area at 1½ inches, on the left side of the posterior middle line of the body (e.g. back of body)
5. A (9 mm) in diameter wound located on the dorsal area at 3 inches to the right side of the posterior (caudal line) (note close to the number 4).
- 10 6. An irregular shaped entry located on the inner area of the upper right forearm.
7. An irregular shaped entry on the posterior inner area of the right distal segment of the forearm.
8. An irregular shaped entry located on the upper posterior region of the left forearm.
- 15 9. A (9 mm) in diameter entry with visible concentric abrasion ring on the upper segment of the thigh.
10. An irregular (9 x 10) entry located on the right side of the posterior aspect of the iliac spine (bone of the pelvis).
- 20 11. An irregular disc located immediately above the lower mandible of the left side (exit wound)
12. An irregular wound located on the right base of the shoulder (trapezius area) (Exit)

5 13. An irregular shaped wound located on the outer right area of the upper segment of the forearm (exit wound)

14. An irregular shaped wound situated below the left ankle (exit wound).

15. An irregular shaped wound located above the left nipple area.

16. An irregular shaped wound located on the inner area anterior upper right thigh (Exit wound)

17. An irregular shaped wound located on the right elbow (exit wound)

There are bruises/concussions on the face.

The doctor then noted the internal examination of the deceased (Tulio Caceres) and stated –

15 **The head and neck**

1. (Number one) the entry took direction, right to left tandenture downwards to upwards, entering the neck area and face wounding soft tissues, exiting through number eleven (11) point.

2. (Number two) entry took direction backwards to frontwards, slightly upwards to downwards and right to left entering the skull, disrupting (wounding) the brain, passing through and through the skull base up to the oral cavity where the slug landed.

3. (Number three) entry took direction right to left, slightly downwards to upwards wounding soft tissues of the area exiting through number 11.

- 5 4. (Number four) entry took direction backwards to frontwards, downwards to
 upwards and horizontal entering the chest cavity wounding the left upper
 lobe of the lungs, exiting through number fourteen (14) hole.
5. (Entry Number five) took direction backwards to frontwards, downwards to
 upwards and right to left, entering the chest cavity wounding the base of the
10 mitral valve (lower lobe of the left lung) exiting through number fifteen (15)
 hole.
6. Entry number six exits through number seventeen (17) hole, also number 6
 entry produces two exit holes as well as slug found on the left anterior elbow
 area.
- 15 7. Number nine entry took direction backwards to frontwards exiting through
 number 16 hole.
8. Number ten took direction backwards to frontwards, downwards to upwards
 to the right anterior region of the hypochondrium where the projectile landed
 underneath the skin.

20 The doctor continued – otherwise there is 750 cm of fluid/clotting blood in the left
 chest cavity.

 He therefore stated he arrived at an opinion that the direct cause of death was
 exsanguination due to internal and external bleeding due to multiple gunshot
 wounds.

5 This evidence was of such a quality as to leave me with no doubt that the deceased
Tulio Caceres, died of harm as defined by Section 96 of the Criminal Code, which
states – *“That harm means- any bodily hurt, disease or disorder whether
permanent or temporary.”*

10 The Prosecution also called Inspector Carmelito Cawich who gave evidence and
stated that on the 13th June, 2014 (Friday) at 10:30 a.m. I received information of a
shooting incident at Majestic Alley, Belize City.

On arrival at the Corner of Majestic Alley and North Front Street I saw the body of
a fair complexion male person motionless lying on the pavement right at the corner
15 of Majestic Alley and North Front Street.

I saw the body had apparent gunshot wounds. On the scene I observed several
expended shells and some that led to a park about 15 – 20 feet from where the
body was.

20

Now having also carefully considered all the above evidences presented to the
court, I am therefore convinced beyond a reasonable doubt that Tulio Caceres died
from harm. I am therefore satisfied the Crown has proved this element to the court
beyond a reasonable doubt.

5 **3. The third element – That it was (the accused) Keyron Gibson who caused the harm that resulted in the death of Tulio Caceres**

The Prosecution's case is that the accused caused the harm that resulted in the death of Tulio Caceres; and it relied on the evidence of the following witnesses called by the Prosecution:-

10 **THE ISSUE OF IDENTIFICATION**

1. Shamir Mai who stated that in June 2014, he was a Constable stationed at Queen Street Police Station.

He continued in evidence as follows – That on 13th June, 2014 at 10:28 a.m. whilst standing at the entrance of the San Pedro Water Taxi Terminal located on North Front Street, Belize City I heard a loud bang that sounded like a gun shot, coming from the direction of Majestic Alley and North Front Street.

I ran about a few steps from where I was and then looked at the direction I heard the loud bangs, where I saw a brown skin male person, slim built about 5 feet 10 inches wearing a yellow tee-shirt and a grey cap who with his right hand was holding a black in colour hand gun and firing shots inside the park in the direction of Majestic Alley and North Front Street.

At the time I was about 100 feet from where I saw the person and 100 feet from the park.

5 I am able to say he was firing shots with this right hand, because due to the movements when someone is firing a gun (firearm) with the right hand by placing his finger inside the trigger. The movements I referred to is when he places his finger inside the trigger.

He continued – at the time I saw him pulling the trigger I heard some more shots
10 (simultaneous shots).

When I first saw the person with the gun in hand, he was at the rear end of the park. (N.B. witness indicates the person was standing at the rear end or back of the park.)

15 The witness continued – when I saw the person firing the gun and I heard the simultaneous bangs, I saw several persons exiting the Majestic Alley Park and running in different directions.

At the time I observed the male person I was about 100 feet away from him.

The weather condition the day was clear, it was a sunny day. When I saw the
20 person I was able to observe the left side of his body for 10 to 15 seconds.

The person I saw with the gun in hand, I recognized him to be one Keyron Gibson. I had known Keyron Gibson about one and a half (1½) years before that, due to when I was working mobile and foot patrol in the Majestic Alley Area. I would conduct stop and searches on him and I documented his particulars. I saw him

5 about 2 to 3 times for the week when doing patrol in the area. He would be hanging out inside the Majestic Alley Park.

On cruise ship days, he would be on Handyside Street by St. Mary's Church and I spoke to him; then I was about 3 feet from him. On the occasions I spoke to him, it would be in the morning time about 9:00 a.m.

10 Prior to the 13th June, 2014 the last time I saw Keyron Gibson was on Monday 9th June, 2014. He was in front of St. Mary's Church on Handyside Street, about 8:30 a.m. I saw him about 30 minutes at about 100 feet.

I saw his entire body and face, nothing obstructed my view from seeing him on that day 9th June, 2014.

15 He continued – On the 13th June, 2014 from there; I came back inside the San Pedro Water Taxi Terminal and I ring 911 where I spent approximately 30 seconds before I went back outside and where at the same time I heard about 10 shots being fired in about 10 – 15 second whilst making the 911 call. I then ran to the corner of North Front Street in front of the San Pedro Water Taxi where I saw Keyron
20 Gibson at North Front Street and Majestic Alley coming towards the direction of a Chinese Shop located on North Front Street and Handyside Street.

He was coming towards the Chinese Shop in a direction facing me. He was walking towards the Chinese Shop on the sidewalk. He was walking towards the

5 direction of North Front Street and Handyside Street and I was able to recognize his entire face.

After that he took a bicycle and rode off in the direction of Handyside Street towards Queen Street. I believe the Chinese shop I spoke of is still located at the same place today (the red and white shop).

10

I was in front of San Pedro Water Taxi at this time that would be North Front Street and the street that leads to the Fisherman Cooperative.

The witness continued – when I first saw him it was about 100 feet at the corner of North Front Street and Majestic Alley. He was walking towards my direction.

15 The distance between us at the time was about 75 feet away. (N.B. here the court notes at the locus when the distance was measured it was 130 feet away from Majestic Alley to the Alley by Fisherman Cooperative and that the distance decreased to approximately 42 – 43 feet when the shooter got on the bicycle and rode away up Handyside Street, and when he was last seen up to 130 feet going in
20 the distance away from the witness).

The witness continued – I observed him for 10 – 15 seconds walking towards me to when he got on the bicycle, nothing obstructed my view of seeing him and I was

5 able to see the front part of his body, his entire face, due to the cap not covering his face. The cap was being worn from the forehead down not covering his face.

It is noted that here the witness indicates to the middle of his forehead as the area the cap was being worn.

10 He here stated the weather had not changed, it was still clear and sunny. It is also further noted the witness identified the accused in the dock without objection from the Defence as the person he knows as Keyron Gibson and saw on 13th June, 2014.

The witness then continued – after I saw him ride off on the bicycle I ran to
15 Majestic Alley and North Front Street where I saw a fair in complexion male person who was lying motionless with apparent gunshot wounds on Majestic Alley and North Front Street. I recognized the person lying on the street to be Tulio Caceres who I came to know because he used to hang out in the same Majestic Alley Park, and I used to stop and search Mr. Tulio Caceres whilst making mobile
20 or foot patrol about 2 – 3 times per week; and I had seen both persons together in the Majestic Alley Park at times.

The Defence Counsel on this topic submitted that the alleged recognition of Gibson did not meet the standard laid down in the Turnbull guidelines. He stated

5 this case depends wholly on the correctness of one identification of the accused
which the Defence alleges to be mistaken.

The Crown Counsel replied the cross-examination of this witness was not lengthy,
as it relates to the witness evidence of identification, it merely suggested to the
witness that he was mistaken, and the witness emphatically rejected that
10 suggestion.

The Crown Counsel further submitted that the court is invited to recall the
demeanour of the witness during his testimony and the manner in which he gave
his testimony. The witness was forthcoming, confident, and there was not even an
15 inkling of uncertainty about his identification of Keyron Gibson as the shooter that
day. He presented himself as a credible witness and withstood cross-examination.

Having listened and considered the submissions of both Defence Counsel and the
Crown Counsel. I here look at this evidence and the cases submitted to the court in
20 reaching my decision on this point.

So I remind myself in accordance with the case of ***R v Turnbull*** [1977] Q.B. 224
of the Special need for caution before convicting the accused in reliance of the
evidence of identification here made, therefore I must also consider that a witness

5 who is convinced in his/her own mind may as a result, may be a convincing witness, but may nevertheless be mistaken.

Therefore mistakes can also be made in recognition of someone known to a witness or even a close friend or relative and I note also here that a number of such
10 witnesses can all be mistaken too.

Therefore, as the jury here in this case, I warn myself that I should therefore examine very carefully the circumstances in which the identification was made in this case now before the court of the accused (Keyron Gibson).

15

Therefore I will bear in mind the following questions as I recall the testimony of Shamir Mai as to his identification of the accused on 13th June, 2014.

I. How long did the witness Shamir Mai have the person he says was the accused under observation?

20 Here I note in his evidence he stated that after he heard a loud bang which sounded like a gunshot coming from the direction of Majestic Alley and North Front Street and when he ran closer he said the person he saw in the grey cap and yellow shirt with the gun in his hand who he identified as Keyron Gibson he had him under observation for 10 – 15 seconds in the first instance.

5 On the second occasion after making the 911 call which lasted approximately 30 seconds and coming back out by the corner of San Pedro Water Taxi and the street that leads to the Fishermen's Cooperative; he said he had the person under observation for another 10 – 15 seconds walking from the corner of Majestic Alley and North Front Street and walking towards him.

10

The court (myself) therefore notes that the witness from the evidence had the shooter/accused in his vision/sight a total of 30 second and also later when the shooter got on his bicycle and began riding away. He also saw him for some additional seconds until he rode out of sight on Handyside Street 130 feet away.

15 **II. In what light did Samir Mai see the accused?**

He stated the lighting was clear, it was a sunny day.

III. At what distance?

Shamir Mai stated in his evidence, he was approximately 100 feet away on the first sighting (N.B. at the locus this was measured and agreed at 150 feet away at first
20 sighting) and when the witness walked forward about 20 feet, that measurement was 130 feet away from the person later identified at Keyron Gibson.

On the second sighting after making the 911 call and coming by the corner of North Front Street and the street leading to Fishermen Cooperative he estimated it to be 130 feet away. However, from the evidence of Mai, he says the accused

5 walked towards his direction on the sidewalk and this ended about 43 feet away
when he saw the accused mount his bicycle and began riding away towards
Handyside Street and the witness stated he still had him in sight up to 130 feet
away when the shooter/accused rode up into Handyside Street.

4. Did anything interfere with the observation of the person?

10 The witness stated that nothing obstructed his view.

5. Had the witness ever seen the person he knew before?

Shamir Mai stated in his evidence he had known the accused for about 1½ years
prior to 13th June, 2014. He had got to know him while conducting foot patrols
and mobile patrols in the Majestic Alley area and Park conducting stop and search
15 on him where he had obtained his particulars.

He also stated he would see him about 2 – 3 times per week either at the Majestic
Alley Park or on cruise ship days on the street at St. Mary’s Church.

He also testified that he would have spoken to Keyron Gibson before and on those
occasions they would be about 3 feet apart and it would be in the mornings.

20 He also stated the last time he saw Keyron Gibson was on 9th June, 2014 (4 days
before) on Handyside Street in front of St. Mary’s Church and he the witness was
100 feet from him and he had him under observation/and unobstructed view for 30
minutes seeing his entire body.

5 **6. If so, how often?**

He stated he saw Keyron Gibson at least 2 – 3 times per week and on cruise ship days on Handyside Street by St. Mary’s Church.

Therefore, the court noted the length of time, the distance where the accused was observed by the witness and of importance his previous knowledge of the person, 10 the description and name given to the Police immediately or shortly after the shooting on the same day 13th June, 2014 (e.g.) the name being Keyron Gibson.

I therefore after a careful reading of the evidence and following the Turnbull guidelines in the said case. I therefore accept here that he (Shamir Mai) had 15 sufficient opportunity to observe and register the features of the shooter, further I note that the witness also was able at the time,, to note the colour of the clothing and the cap of the shooter as well as his height, built and sex, thus supporting his evidence that he indeed had a sufficient opportunity to observe the person he claimed to be the shooter (e.g. Keyron Gibson).

20

I again here accept that from the above (Mai) had seen the accused sufficiently in this case (e.g. sunny day) to identify him and that he had sufficient opportunity to recognize the shooter as someone he knew and had interacted with many times before.

5 Here then, giving clear evidence of the person he saw. I note the case of
Freemantle in which their Lordships stated –

*“An examination of the circumstances of which the quality of the evidence of
visual identification of the defendant reveals that the quality of the evidence
was exceptionally good*

10 *Firstly, the identification were by way of recognitions by the eye witnesses
who knew and had previously seen the defendant.”*

(e.g.) here Mai had known the accused – he had stated he had interactions with the
accused while on mobile and foot patrol in Majestic Alley area at least 2 – 3 times
per week, took accused particulars and knew him for approximately 1½ years.

15 Secondly, the distance between the eye witness and the accused was not great, and
he had more than one opportunity to observe the accused that day 13th June, 2014
at closer range.

Thirdly, the eye witness observations of the accused were not fleeting glances.

20

Having looked at the evidence of identification, I therefore accept that the witness
(Mai) had ample time to see and recognize the person whom he described as
knowing; whom he had interacted with for about 1½ years in the same area (e.g)

5 Majestic Alley and the park there and St. Mary's Church on Handyside Street particularly when cruise ships were in port on cruise ships days.

I therefore accept Shamir Mai as a credible witness in relation to the strength of the identification evidence before the court.

I have also concluded that the veracity of the witness was indeed tested before the
10 court in the cross-examination and that he maintained that he was sure it was the accused (Keyron Gibson) he saw and recognized on 13th June, 2014 present at the area and immediately thereafter, coming from the area towards himself and getting on a bicycle and riding away from the scene thereafter.

I therefore also conclude from the above that the quality of the evidence was good
15 enough to eliminate the danger of any mistaken identification. I here accept the evidence of Shamir Mai as given in evidence before the court in trial and give his evidence full weight.

It is noted that Counsel for Defence also submitted that the identifying witness
20 failed to give a description of the appellant to the police in his statement.

The Crown Counsel replied that the failure of a witness to give a full description of an assailant to the police in his statement is not a crucial weakness in his identification; reference the case of *Michael Rose v The Queen* PC Appeal No. 3

5 of 1993 where Counsel for the applicant argued that the identifying witness had failed to give a description of the appellant to the police in his statement.

It is noted by the court that the Privy Council held that the failure of the Judge to identify this as a weakness was not crucial. It is again noted that a similar argument was also raised in the Belizean case of Chadrick Debride v The Queen
10 Criminal Appeal No. 13 of 2007 where the Appellant stated also that the main eye witness for the Prosecution had failed to give a description of the gun man to the Police.

The court here stated – *“though it is no answer to the complaint of Counsel, the*
15 *court will observe that this curiously is a situation more often than not encountered in criminal cases in this jurisdiction.”*

The Court of Appeal then adopted the same approach as the Privy Council in the case of Rose treating the omission as not crucial. This Court therefore adopts the ruling of the two cases quoted above and will treat the omission as not crucial, and
20 it notes that unlike the case of Rose and Debride, here the witness knew the shooter/accused and knew his full name.

I therefore rule that the failure of the witness (Mai) to include the aspects complained of by Defence Counsel in his description of the accused is not crucial and therefore it does not weaken the reliability of his identification evidence.

5 The Crown also called Mr. Jiro Sosa (Advanced Crime Scene Technician) who stated in evidence that he recall 13th June, 2014 at 10:35 a.m. He departed to corner of North Front Street and Majestic Alley. There he saw a motionless body laying face up.

He continued, I then began a search during which I saw nearby an expended casing
10 near to the left sidewalk of the park and I noticed a red substance. I noticed the general direction of the red substance was from the park and the angle showed it came from the general direction of the park.

So I went into the park to conduct a search. I discovered and noticed several
15 expended casings, a black stocking and more red substance. I placed yellow markers to denote these items. I placed evidence markers from the swing area going out through the gate and on to the body. Then I began to take photographs of the area and the items.

20 The Crown also called Inspector Sherlette O'Brien who testified and stated that in June 2014, I was a Corporal of Police stationed at #117 North Front Street, Belize City where the office was there from 2008 to 2020.

5 On the 13th June, 2014 after 9:00 a.m. I left my work place to run a quick errand; on my way back I stopped at a red and white Coco-cola (Chinese) shop, which is situated corner North Front Street and Handyside Street. There I purchased a phone card.

10 Whilst standing outside of the shop which is still there, I saw a brown skin male person coming from across the Brown Sugar Water Taxi that was across the street from the Chinese shop on North Front Street (e.g.) that would face St. Mary's Church.

The said male person had on a grey Tee-shirt, a $\frac{3}{4}$ pants, the colour. I cannot recall
15 braided hair. He came across to the said Chinese shop; and we exchange words casually. He then purchased a 25 cents water. I recognized him to be Keyron Gibson as he was making his way to the Chinese shop.

The witness continued – whilst there I saw when he crossed the street and went
20 back to Brown Sugar Water Taxi. I paid for my card and I left and went back to my office at 9:35 a.m.

The distance between me and Keyron Gibson was about an arm's length. He was in front of me and I saw his whole body, nothing obstructed me from seeing his

5 face when he was in front of me. I had him under my observation for one minute at the shop. I observed him walking from Brown Sugar to the shop for about two minutes. Nothing obstructed my view at the time. The weather was bright and sunny that day.

The first point I saw him at Brown Sugar was about 50 feet from me. He was
10 outside of the entrance. I knew Keyron Gibson for about two (2) years before. I saw him over the two (2) years every other day either at Majestic Alley, at Brown Sugar, or by City Council building. He would just be out there standing, socializing as that was the route I frequented, and when leaving the office it was the route we would take; and because of the job I hold, I have to do a lot of
15 interaction with youths in the hot spot area. I did conflict resolution and other community projects. I only saw him within that area. (N.B. witness without objection from Defence points out defendant/accused as the person known to her as Keyron Gibson.

Witness continues – the last time I saw Keyron Gibson was about 2 to 3 days
20 before 13th June, 2014.

The Defence Counsel here it is noted submitted in closing submission that the evidence of Sherlette O'Brien was an attempt to corroborate the identification of Shamir Mai, and that this did not prove that O'Brien saw Gibson shooting or with a firearm.

5 Even if O'Brien's evidence is believed, it does not prove she saw Gibson with a
firearm at the relevant time, nor did she saw Gibson shoot Tulio Caceres, being in
the area is different from seeing someone doing a specific act.

The Crown Counsel replied that Shamir Mai could not have been mistaken about
10 seeing Keyron Gibson on that day in Majestic Alley and it finds support in the
evidence of Inspector Sherlette O'Brien about not being mistaken on 13th June,
2014.

Therefore again here I note that I must warn myself about the need for caution
before convicting the accused on reliance of the evidence of identification here
15 made by the above witness – Inspector O'Brien. Therefore again I must consider
that a witness who is convinced in his/her own mind may as a result, may be a
convincing witness, but may nevertheless be mistaken.

Therefore, mistakes can also be made in recognition of someone known to a
20 witness or even a close friend or relative, and I note also here that a number of
such witnesses can all be mistaken too.

Therefore, here as the Judge/Jury I warn myself that I should therefore examine
very carefully the circumstances in which the identification was made in this case
now before the court of the identification of the accused Keyron Gibson.

5 Therefore again I will bear in mind the following questions as I recall the testimony of Inspector Sherlette O'Brien.

I. How long did the witness (O'Brien) have the person she says was the accused under observation?

Here I noted she stated – Keyron Gibson was about an arm's length from me. He
10 was in front of me. I saw his whole body. I had him under my observation for one minute at the shop. I observed him walking from Brown Sugar to the shop for about two minutes.

II. In what light did Inspector O'Brien see the accused?

She stated the weather was bright and it was a sunny day.

15 She also stated she left her office at about 9:00 a.m. to run a quick errand. I returned to my office at about 9:35 a.m.

The inference the court draws is that it was daylight time – (e.g.) a bright and sunny day from the evidence before the court.

III. At what distance?

20 Inspector O'Brien stated in her evidence the distance between me and Keyron Gibson was about an arm's length. He was in front of me. The first point I saw him at Brown Sugar was about 50 feet from me as he was outside from the entrance. She said he was making his way over to where she was then.

5 **IV. Did anything interfere with the observation of the person?**

She stated nothing obstructed my view at that time.

V. Had the witness ever seen the person she knew before?

Inspector O'Brien stated in her evidence as follows –

I knew Keyron Gibson before that day for about two (2) years.

10 I saw him over the two (2) years every other day either by Majestic Alley, Brown Sugar or City Council Building. He would just be out there standing or socializing as that was the route I frequented and when leaving the office it was the route we would take and because of the job I hold, I have to do a lot of interaction with youths in the hot spot area and at the Chinese Shop.

15 **VI. If so, how often?**

The Inspector stated –

I saw him over the two (2) years every other day either by Majestic Alley, at Brown Sugar or by City Council Building.

The Crown submitted further that the witness absolutely refuted the suggestion that
20 she was mistaken in her identification of Keyron Gibson that day.

Therefore, having considered the evidence of the Inspector, the court noted the length of time, the distance where the accused was observed by the witness and

5 also her previous knowledge of the person, the description and the name she knew him by (e.g. **Keyron Gibson.**)

Therefore, after carefully reading the above evidence and following **the Turnbull guidelines** I therefore accept here that she (Inspector O'Brien) had sufficient opportunity to observe and register the features of the accused; further, I note that
10 the witness also was able at the time to note the colour of the clothing she described and the cap she claimed the accused wore at the time.

I also accept that the witness (Inspector O'Brien) had seen the accused sufficiently on that day (e.g. a sunny and bright day) and that she had sufficient opportunity to recognize the accused as the same person she knew.

15

Here then as in the **case of Freemantle** I note that the quality of the evidence was exceptionally good.

I also conclude that the veracity of the witness was indeed tested in cross-examination and she was able to refute the suggestion that she was mistaken in her
20 identification of the accused (Keyron Gibson).

I therefore conclude from the above evidence that the quality of the evidence was good enough to eliminate the danger of any mistaken identification.

5 I therefore accept that this evidence support the evidence of PC Shamir Mai of seeing the accused in Belize City in the area of North Front Street and Majestic Alley on the 13th June, 2014.

FORENSIC EVIDENCE

The forensic evidence in this case was heard under oath in evidence from the
10 following persons on behalf of the Prosecution.

I. Scenes of Crime Technician – Jiro Sosa – stated in his evidence – that on the 13th June, 2014 at 10:35 a.m. on request of Cpl. Carmelito Cawich, he went to the Corner of North Front Street and Majestic Alley, there at the said corner. He saw a motionless body laying face up. He stated the body had several visible injuries,
15 and the head of the body was near the side walk which is to the right of Chon Sing Restaurant. The feet of the body were pointing towards a park that was on the opposite side of Majestic Alley.

He stated I then began a search during which near to an expended casing near the sidewalk of the park. I notice a red substance. I noticed the general direction of
20 the red substance was from the park and the angle showed it came from the general direction of the park. I went into the park to conduct a search, and I discovered and noticed several expended casings, a black stocking and more red substance. I placed evidence mark #1 from the swing area going out through the gate and on to the body; then I began to take photographs of the area and the items.

5 When the body was being moved I noticed a projectile with in the mouth of the deceased whose mouth was partially opened. I photographed this projectile within the mouth and I left it there for the medical examiner to remove.

He stated I collected all the items and as I collected the items I placed it in a bag and write evidence number and time.

10 I collected it on the bag, then I would fold over the evidence bag and placed it in a larger bag that I had.

He stated this was done progressively until I collected each and every item and I kept these items with me. At my office I began fully labelling each paper bag containing the item with time, date, etc., when I recovered or collected the items. I

15 took them to the National Forensic Science Service Lab on 3rd July, 2014 at 8:57 a.m. I handed them over to Mr. Rene Moh on their respective chain of custody I prepared. When I handed them over they were intact, in the same manner I packaged them. There was no physical damage on the envelopes, no discolouration, no holes. I did not observe any break on the seals I placed; no
20 damages, nobody had access to my locker only me (e.g.) 13th June, 2014 to 3rd July, 2014.

5 **Scenes of Crime Technician – Daniel Daniels** in his evidence stated – On 16th June, 2014 he was at the KMHM morgue in Belize City to witness a post-mortem examination. There I met Dr. Mario Estrada Bran and DC Jaime Hibberd.

The body was then identified to be Tulio Caceres by his father Tulio Caceres Sr. He stated – after the identification then the commencement of the post-mortem
10 started of which I took pictures of the body. There I observed several suspected bullet holes on the body.

During the autopsy Dr. Estrada Bran handed to me a purple top test-tube containing post-mortem blood and also three (3) slugs that was retrieved from the
body.

15 After post-mortem the slugs and the post-mortem blood was handed to me along with a chain of custody form. Then on the following day 17th June, 2014 I took photographs of the three (3) slugs that was retrieved from the body of Tulio Caceres.

Before I repacked the slugs, each slug was placed in a small brown coin envelope
20 individually, which I then placed in a white envelope labelled and seal, meaning all three (3) were then placed in one white envelope.

He continued – on 30th June, 2014 I handed over to the National Forensic Science Service Lab along with a chain of custody form, the slugs and envelope which is marked item#2 of the envelope I handed over to the lab. I handed it over to Rene

5 Moh who at the time was the Exhibit Manager. The envelope was intact (meaning the seal is not broken, the envelope packaged and label was in good condition. The other parts of the envelope were (okay) intact as well. I took photographs of the three (3) slugs prior to sealing them.

Dr. Mario Estrada Bran stated in his evidence – he recalled doing a post-mortem
10 examination on Tulio Caceres on 16th June, 2014. Three (3) slugs were retrieved from the body, he stated it was retrieved by me. It was given to Crime Scenes Technician who witnessed the post-mortem examination on the same day. The body of the deceased was identified as Tulio Caceres.

Questions by Defence Counsel

15 Q. Can you say where in the body you retrieved the slugs from?

A. #1 was extracted from the oral cavity.

#2 from the anterior region of the elbow.

#3 from the right hypochondrium (Ribs area)

The doctor also stated specifically to the court that the 9mm wound located on the
20 right side of the occipital area of the neck, showed concentric abrasions (rings) scar tissues around the entry wound.

He stated – this is a phenomenon produced by burning tissue s around the entry wound caused by friction of the projectile entering, passing through the skin of the subject.

5 The concentric rings tells the medical examiner the distance where the firearm was located to the direct entry (e.g.) approximately close range (distance of 32 inches) to the target.

Mrs. Ebony Lyall-Nicholas stated in her evidence - I was requested to do a re-analysis on all the items I noted in 2019. I received the items from the Exhibit
10 Manager of the National Forensic Science Service, Mr. Rene Moh who retrieved them from the secured storage area of the National Forensic Science Service Exhibit Room which I witnessed.

Between 2014 to 2019 as per protocol after completion of analysis these items were retained and stored in the National Forensic Science Service Exhibit Room.
15 Mr. Rene Moh is now deceased as of December 2020.

After my analysis I sealed the items and returned them along with report and case file to the Exhibit Manager, Mr. Rene Moh.

The items were between the time I gave them to Mr. Rene Moh (2019) to commencement of trial, they were in the secured storage area of the National
20 Forensic Science Service Exhibit Room (e.g. of Mr. Asail Chan).

I know this because on request I went and ask the current Exhibit Manager to retrieve them from where they had been stored in 2019.

There is a designated area for the retention of firearm related materials in the event that they are needed for further comparison.

5 He later retrieved them and he showed them to me along with the case file, and I observe the envelopes to ensure the seals were intact and I gave instructions to release the items as they related for trial. The seals were intact when I observed them.

10 The witness continued and stated – I recall conducting re-analysis on the items submitted to the National Forensic Science Service Lab on 30th June, 2014 and 3rd July, 2014. I prepared a report of my findings in regard to both analysis of 30th June, 2014 and 3rd July, 2014.

I prepared a report at the end of the analysis dated 25th November, 2019. Apart
15 from my report 25th November, 2019 during my analysis as per standard operating procedures I took contemporaneous notes on the mark sheets designated for each item (e.g.) bullets/slugs mark sheets which contained details of the findings of the examination and were signed and dated by myself and the re-viewer.

It is required that a technical administrative review be done prior to writing the
20 report to check for accuracy of the findings. This would be in the person of another firearm analyst. The notes aided me in the preparation of my report dated 25th November, 2019.

5 The witness continued – On receipt of the items I examined these items for any evidence of tampering and none were observed. I noted that each item had green forensic tamper proof evidence tape on them.

I received as follows –

First – a sealed white envelope labelled item #02.

10 I proceeded to photograph the item in sealed condition and then opened the item to analyse its contents. The contents included three (3) metal objects wrapped individually in brown paper.

1. The first item was a lead core fragment of an expended bullet of an undetermined calibre.

15 2. The second item was a damaged copper jacket lead core fragment of a 9mm calibre expended bullet.

3. The third item was a slightly deformed 9mm calibre expended bullet.

These items were set aside for later comparison analysis where possible.

(#2) the second envelope was a sealed white envelope labelled #10 which
20 consisted of a lead core fragment of an expended bullet of an undetermined calibre.

#3 The third item was a sealed white envelope labelled #15 which consisted of a copper jacket 9mm calibre expended bullet.

#4 the last set of items consisted of eight (8) sealed white envelopes labelled 1, 2, 3, 8, 11, 13A and 14.

5 These each contained one (1) cartridge case, which was brass and had a firing pin
dent on the primer. They were all 9mm calibre expended cartridge cases,
consisting of (A) (3) Aquila Brand (B) (4) GFL Brand (C) (1) PPU Brand.

After completion of the preliminary examination I conducted comparison analysis
on the suitable items. The procedure would be to photograph all evidence in the
10 condition received and also after removing them from the packages.

If any evidence of tampering, the seals on the envelopes would have been broken.

I did not observe any tears on any of the envelopes.

I began comparison analysis with the expended bullets which included two (2)
items from envelopes labelled #02 and expended bullets from envelope labelled
15 #15.

The two led cores from envelope 10 and item 02 were unsuitable for comparison as
led cores do not contain any suitable markings.

The three items compared had sufficient similarities in class and individual
characteristics to determine that they were all fired from the same pistol (e.g.)
20 consistent with Glock or Bursa brand firearms.

(A) The characteristics included the calibre which was 9mm

(B) The calibre was determined based on weight and diameter.

(C) The type of rifling seen on the bullet determined (as poligonal) meaning this

5 Indicate how the barrel of the firearm was rifled during manufacturing and it is distinguishable from the more common type of rifling (e.g.) conventional or cut buttoned rifling.

This included marks used and are also created during the manufacturing process by the tools used to rifle the barrel and these individual marks are called striations,
10 lines and are microscopic.

These markings are unique to the barrel and firearm which the bore is on. In comparison analysis, a comparison microscope is used, consisting of two (2) microscopes joined by an optical bridge that allows you to view two (2) items at the same time.

15 These three (3) items were compared in the comparison microscope and when placed side by side matching striations/line were seen in different areas around the base of the bullets leading to the conclusion that they were all fired from the same pistol.

I arrived at the opinion of 9mm as there is a guide that is used to classify bullets of
20 different brand, based on their weight and diameter of the base.

The eight (8) cartridge cases were also inter compared using the comparison microscopes. In this case the first cartridge case would be observed for markings and used as a reference. I observed corresponding markings which in this case was striations in the fire pin area and on the breach face.

5 After observing each cartridge case for these similarities and other markings which included the ejector markings and the extractor markings were looked at for further confirmations; this led to concluding/conclusion – that all of these cartridge cases were fired from the same pistol.

Further due to the unique rectangular shape of the fire pin impression it was
10 concluded that they were fired from a Glock Brand pistol.

The witness further stated here – I was referring when saying they were all fired from same pistol – to a 9mm calibre pistol.

All eight (8) cartridge cases had striations, firing pin marks and ejector marks and breach case marks which were very similar and had enough indented marks to
15 conclude they were fired from the same pistol, the same Glock 9mm firearm.

The witness concluded – After I finish analysing these items, I marked them with my initials (ELN) dated 25th November, 2019.

On concluding my report, the report and items were returned to the Exhibit
20 Manager with instructions for him to retain them for possible future analysis.

Therefore looking carefully at the Scene of Crime Technician (Jairo Sosa) retrieving the items at the scene of the crime, carefully itemizing each item, packaging each item, transporting all the items retrieved from the scene to the

5 National Forensic Science Service Lab and the doctor's (Mario Estrada Bran)
evidence of retrieving the three (3) slugs from the body of the deceased Tulio
Caceres at post-mortem and passing it to Scenes of Crime Technician Daniel
Daniels; and finally the evidence above also of Mrs. Ebony Lyall-Nicholas
analysis/comparison of the slugs and bullets she examined at the National Forensic
10 Science Service Lab on 25th November, 2019 and after careful study of the
evidence, I am led to the conclusion that on the 13th June, 2014 when Tulio
Caceres was killed at the corner of North Front Street and Majestic Alley only one
(1) firearm was used/involved in the said shooting. I am satisfied from the above
evidences before the court that since I have reached the conclusion that there was
15 only one (1) firearm used in the shooting of the deceased; then I am led to also
accept there was only one shooter that day 13th June, 2014 involved in the said
incident.

20 **Circumstantial evidence and of identification/evidence**

The Defence Counsel here submitted – that the Crown is relying on the evidence of
one eye witness that allegedly saw someone firing a weapon during the same time
when Caceres was shot, and the said witness heard several loud bangs which
sounded like gunshots in the same area.

5 Defence Counsel continued that the witness (Mai) did not see the shooter firing at Tulio Caceres; nor he did not see the shooter killing Caceres.

Defence continued Mai testified that after he heard the first valley of shots and saw the shooter firing, he ran back inside the terminal and made a 911 call. He said during the call time which was about 30 seconds he heard about 10 more shots
10 being fired. This time he did not see who was firing, or what the target was. He did not testify whether Tulio Caceres was still alive or dead at this time.

The Crown Counsel replied – that after making the 911 call the officer ran to the corner of San Pedro Water Taxi and the street that leads to the Fishermen’s
15 Cooperative where he saw the shooter, dressed in the same yellow tee-shirt and grey peak cap, at the corner of North Front Street and Majestic Alley walking towards his direction on a sidewalk which runs along the side of the park. According to the witness he was about 100 feet away (but the locus visit showed this to be 112 feet).

20 Counsel continued – he (Mai) said he once again had an unobstructed view of the accused’s entire body including his face (despite the presence of a cap) for about 10 – 15 seconds in sunny weather whilst he (accused) walked on the sidewalk until he got onto the bicycle at the Chinese shop.

5 Whilst the accused was at the Chinese shop he was about 58 feet away from the witness and went as close as 41 feet after he picked up the bicycle.

The Crown Counsel continued – his observance of the accused continued whilst he rode on Handyside Street in the direction of Queen Street until he was about 130 feet away from him.

10 Counsel continued – we submit that there is sufficient circumstantial evidence of identification of Keyron Gibson as the shooter.

This is because after making his 911 call, 30 seconds later, the witness saw the male person who he saw firing shots from the rear of the park, and who was dressed in a yellow tee-shirt and grey cap walking away from the said park heading
15 towards his direction dressed in the same yellow tee-shirt and grey peak cap. He identified this person to be Keyron Gibson. The Crown Counsel then invited the court to draw the inference that it was one and the same person; and the court was referred to the cases of Wayne Martinez v The Queen CA No. 9 of 2007 and Phillip Tillett v The Queen [2011] UKPC 21 where the identification of the suspect
20 was made by (1) someone who saw him after the altercation; and (2) by someone who did not see the altercation.

The Crown Counsel concluded that based on its submissions the Prosecution is submitting that it has proven the circumstantial evidence before the court.

5 Now having listened and considered very carefully the closing submissions of the
Defence and Prosecution, I now here also consider the cases which were submitted
before the court during the closing arguments.

Here I note the Crown's case of Wayne Martinez, Criminal Appeal No. 9 of 2007
where it was submitted the identification of the suspect was made by someone who
10 saw him after the altercation, and Phillip Tillett v The Queen [2011] UKPC 21
where the identification was made by someone who did not see the altercation.

However, in both cases the inference drawn was that it was one and the same
person from the circumstantial evidence then before the court in each case.

15 Here then the court notes the first sighting of the accused was made by the witness
(Mai) when he saw the person he identified as Keyron Gibson with a gun shooting
at the back of the park at the corner of North Front Street and Majestic Alley on
13th June, 2014.

It is noted he (Mai) left the area where he was from the evidence and went back
20 into San Pedro Water Taxi to call 911. He stated this took him about 30 seconds
during which time for about 10 – 15 seconds he heard ten (10) more shots fired in
that space of time.

He continued – after making the call he (Mai) ran to the corner of the San Pedro
Water Taxi and the street that leads to the Fishermen's Cooperative there he stated

5 is where I saw Keyron Gibson at North Front Street and Majestic Alley coming towards the direction of a Chinese shop located on North Front Street and Handyside Street. He was coming towards the Chinese shop in a direction facing me.

He continued – when I saw Keyron Gibson he was still wearing the yellow tee-
10 shirt and grey cap. He was not at the time armed, he was just walking and looking side to side. I was able to recognize his entire face.

After that he took a bicycle and rode off in the direction of Handyside Street towards Queen Street. It is noted once again (Mai) the witness had an unobstructed view of the accused entire body including his face despite the
15 presence of a cap for about 10 – 15 seconds. It is also noted from the evidence the weather was sunny whilst he (accused) walked on the sidewalk until he got on a bicycle and finally rode away.

I here again note from the evidence before the court that there is no evidence of the
20 eye witness actually seeing the exact shooting of the deceased Tulio Caceres on 13th June, 2014 as submitted by Defence Counsel.

It is therefore noted that the Defence is saying mistaken identity (I was not there, I was not in Belize City on the 13th June, 2014 at the time of the incident).

5 However, the Crown has presented circumstantial evidence from which it ask the court to draw the inference that indeed the shooter seen shooting in the back of the park on 13th June, 2014 was the person responsible for the death of Tulio Caceres.

10 The Crown's evidence is that the witness (Mai) heard shooting/gunshots and saw the person he identified as Keyron Gibson shooting a gun in the direction of the persons gathered in the park that day (13th June, 2014).

He (Mai) also observed many persons running/leaving the park at that time (e.g.) the time of the shooting by the person identified as Keyron Gibson.

15 He (Mai) left for approximately 30 seconds and for 10 – 15 seconds of this he stated that he continued to hear approximately 10 more shots being fired in that space of time.

20 He promptly returned and ran to the corner of North Front Street and the street leading to the Fishermen's Cooperative. So there he saw the same person still dressed the same way yellow shirt - grey cap now right at the corner of North Front Street and Majestic Alley. Just now coming his (Mai) way walking towards the Chinese shop.

This it is noted is very shortly after all the gunshots were heard as noted by the witness (Mai).

Further the evidence of the Prosecution shows that right at the said corner of North Front Street and Majestic Alley (shortly thereafter) or left behind after the shooting

5 is the motionless body of Tulio Caceres (Deceased) lying right, close to the park
and at the corner of Majestic Alley and North Front Street.

It was later discovered he had been shot seventeen (17) times in the back in various
parts of the body and that one slug/bullet was fired from/approximately 32 inches
10 from the deceased head, the slug was found in his mouth after damaging the brain
from the post-mortem report of Dr. Estrada Bran.

The Scenes of Crime Technician Jairo Sosa in his evidence shows a pattern of red
substance trail leading from the deceased leading in the general direction of the
15 park. He stated – I discovered and retrieved expended casings and more red
substance in the park.

I went into the park to conduct a search, and I discovered and noticed several
expended casings and more red substance. I placed evidence marked #1 from the
swing area going out through the gate and on to the body. Then I began to take
20 photographs of the area.

The inference that can be drawn is that Tulio Caceres was one of the persons, who
was seen running from the park when (Mai) witness/saw several persons running
in different directions according to Mai's evidence when on the first occasion he

5 observed and identified the person shooting at the back of the park to be the accused Keyron Gibson.

It therefore follows that the further inference can be drawn from the circumstantial evidence that the deceased was fatally injured during the shooting (e.g.) the first set of shots continuing into the second set of shots (e.g.) 10 more shots heard in a
10 space of 10 – 15 seconds during the call (911) of Mai.

From the circumstantial evidence the inference can also be drawn that the shooter first seen at the back of the park shooting and persons fleeing in different directions, moved from the back of the park and subsequently continued shooting (e.g.) the shots heard by Mai for 10 – 15 seconds whilst making the 911 call.

15 The inference is he left the back of the park went through the entrance of the park (N.B. reference the red substance trail from the park to the body and the shell casings discovered and photographed in the area of the park, the entrance, the street and near the body and in the mouth cavity of the deceased all fired from the back into the deceased body.

20 Again, the circumstantial evidence leads to the inference that the shooter moved from the rear of the park to the entrance and then to the corner of Majestic Alley and North Front Street where he was seen the second time by Mai after he (Mai) ran from the Water Taxi to the corner of North Front Street and the street leading to the Fishermen's Cooperative.

5 He (Mai) stated he saw the shooter leaving the corner of North Front Street and
Majestic Alley heading in his direction towards the Chinese shop and walking on
the sidewalk, still in the same yellow tee-shirt and grey cap.

So the inference can also be drawn and accepted that the shooter was
10 approximately 32 inches away from the deceased as described by Dr. Mario
Estrada Bran in his testimony to the court when the shot to the back of his head
was fired.

Therefore although there is no evidence of anyone seeing the actual shooting of the
15 deceased Tulio Caceres, the circumstantial evidence does indeed point in one
direction and one direction only (e.g.) that the shooter of the 13th June, 2014
shooting during the first shooting heard that morning at 10:28 a.m. or thereabouts
and the continued second subsequent shooting, that the only inference to be drawn
is that the deceased (1) was one of the persons in the park that day. (2) that the
20 deceased was killed during the shooting by the shooter seen shooting on 13th June,
2014 at the back of the park, who then subsequently advanced to the front and
through the gate of the park and to the corner of Majestic Alley and North Front
Street where the body of Tulio Caceres was later found.

5 Therefore having reached this conclusion, (and noting the forensic evidence in this case also reveals all the shell casings found at the scene and the slugs matched by the National Forensic Science Service Lab Technician were fired by only one gun.)

Then the conclusion the court draws in the given circumstances is that there was
10 only one (1) one shooter and not two shooters; and also that there was also only (1) gun used in the shooting at the corner of Majestic Alley and North Front Street on the 13th June, 2014.

Therefore the submission of Defence Counsel is not accepted here.

15 The inference based on all of the above therefore follows that the only shooter from the evidence before the court on 13th June, 2014 at that time on the scene was therefore as identified to be the accused Keyron Gibson and is so accepted by the court in the given circumstance noted above, following the consideration that during the officer's absence for approximately 30 second the shooting also
20 continued, this suggests the shooter did not change, the inference being that the shooter remain the same shooter from start to finish on 13th June, 2014.

The court also finds that there is not a scintilla of evidence to suggest that there was another shooter, and as noted the forensic evidence and the time lapse brought out in the present case before the court eliminate the possibility of another shooter.

5 The court also draw the inference that the presence of the expended shells in the park also confirms that the shooting commenced within the park and concluded near the body of the deceased where the rest of the expended shells were found.

And finally, the location of the expended shells on the scene is accepted as
10 corroborating PC Mai's version of events on the 13th June, 2014 at the scene.

So having looked at the evidence I accept and I believe that Mai did have ample time to see and recognize the person whom he described as knowing for approximately 1½ years and who he saw 2 – 3 times per week during that period.

15 I am satisfied that in the present case the earlier knowledge by the eye witness of the accused was knowledge of a far greater degree than in other cases, I note the eye witness identification to the police of the accused by name was virtually immediate. I also accept Shamir Mai as a credible witness in relation to the
20 strength of the circumstantial evidence and the identification evidence now before the court.

Looking at the forensic evidence, I accept that the forensic evidence in this case does inform the court in its decision that there was only one (1) firearm and one

5 shooter from the analysis and test performed at the National Forensic Science
Service Lab by the Analyst (Mrs. Ebony Lyall-Nicholas) who gave testimony here
in.

I further also accept that the identification of the shooter did indeed meet the
Turnbull case test and I am satisfied that the witness had again enough time both
10 at the first and subsequent second sighting of the shooter, which was immediately
after the second round of shooting that day 13th June, 2014 at the said scene corner
Majestic Alley and North Front Street to identify the shooter.

Therefore, I draw the irresistible inference from the evidence of identification;
15 forensic evidence; and circumstantial evidence place before this court that indeed
the deceased (Tulio Caceres) was shot many times (e.g.) during the first and
second sequential shooting that day 13th June, 2014 at the corner of North Front
Street and Majestic Alley and that there was only one shooter and, one firearm
used that day 13th June, 2014. (Ref. forensic evidence of the National Forensic
20 Science Service).

Therefore, after consideration of all the evidence, I am led to accept and conclude
that the shooter identified that day was Keyron Gibson the accused.

5 Therefore, I have considered again all the issues presented in this element of the charge of murder, I now accept that the Crown has proven this element beyond a reasonable doubt to me from all its evidence that it was the accused Keyron Gibson who caused the harm which resulted in the death of Tulio Caceres on 13th June, 2014 at the corner of North Front Street and Majestic Alley in Belize City.

10

Finally, I have considered the evidence of the yellow shirt and grey (Green and Black) cap found in Brides Alley on the afternoon of 13th June, 2014 which was retrieved by the Scenes of Crime Technician Jairo Sosa.

I have concluded that this evidence did not advance the case for the Prosecution in any way or form.

The evidence does not show any connection between the accused and the items found by the Police on 13th June, 2014. There was no DNA analysis or any analysis/comparison to show or lead the court to conclude that these items were ever worn by the accused or connected in any shape or fashion to the accused.

20 **4. The fourth element – that at the time, the accused inflicted the harm on Tulio Caceres, he had the specific intention to cause his death**

Now having reached the position where I am convinced that Tulio Caceres is dead, and that he died of harm caused by the accused; I now turn to the element of

5 whether the accused had the specific intention to cause the death, when he inflicted the deadly harm on him (deceased).

I now therefore note that here the intention is to kill, and that it is essential that the Prosecution provide evidence that makes me as the trier of fact feel sure that when the accused caused the fatal injury/injuries, that it was with the specific intention to
10 kill the deceased (Tulio Caceres).

Here it is further noted that one cannot see into an individual's mind to know his intention and thus the law guides the trier of fact to look at all the surrounding circumstances in an incident to try and determine the intention of the accused.

It is therefore noted that Section 9 of the Criminal Code states – *“that to determine
15 if an accused person intended to produce a particular result by his/her conduct, it must be decided by reference to all the evidence as appear proper in the circumstances.”*

Now then, I therefore direct myself in this regard in deliberating on this element of
20 specific intention. I am also minded that I am not bound to infer an intention to kill from the mere fact that death was in my opinion, or anyone else, a natural and probable result of the action of the accused. I however note that this is a fact that is relevant to the question of intent and I will have to take it into account when I am

5 considering all the evidence, and also the proper inferences to be drawn from all
the evidence.

Therefore, it is here noted that in this case the evidence does not disclose that any
words were spoken by the accused to the deceased (or visa-versa). However here
10 the evidence disclosed the use of a firearm by which the deceased was injured.

I therefore turn again to Dr. Estrada Bran's evidence:-

Dr. Estrada Bran here testified as follows – that when he conducted the post-
mortem examination on the body of Tulio Caceres on the 16th June, 2014 at 1:30
p.m. he observed externally seventeen (17) orifices characterized of firearms (e.g.)
15 one ovoid shaped (9 x 10mm) entry wound located on the right anterior lateral area
of the neck.

(2) A 9mm entry wound located on the right side of the occipital area of the neck,
showing concentric abrasions (rings) scar tissue around the entry wound. This is a
phenomenon produced by burning tissues around the entry wound caused by
20 friction of the projectile entering, passing through the skin of the subject. The
concentric rings tells the distance where the firearm was located to the direct entry
– approximately close range – distance of 32 inches to the target.

(3) 9mm in diameter wound located on the right side of the shoulder with visible
concentric abrasion rings.

- 5 (4) A 9mm in diameter wound visible concentric ring located on the dorsal area at 1½ inches on the left side of the posterior middle line of the body (Back of the body).
- (5) A 9mm in diameter wound located on the dorsal area at 3 inches to the right side of the posterior caudal line (close to number four wound).
- 10 (6) An irregular shaped entry wound located on the inner area of the upper right forearm.
- (7) An irregular shaped entry wound located on the posterior inner area of the right distal segment of the forearm.
- (8) An irregular shaped entry located on the upper posterior region of the left
15 forearm.
- (9) A 9mm in diameter entry wound with visible concentric abrasion ring on the upper segment of the thigh.
- (10) An irregular (9 x 10) entry located on the right side of the posterior aspect of the iliac spine (bone of the pelvis)
- 20 (11) An irregular disc located immediately above the lower mandible of the left side exit wound.
- (12) An irregular wound located on the right base of the shoulder trapezius area (exit wound)

5 (13) An irregular shaped wound located on the outer right area of the upper segment of the forearm (exit wound)

(14) An irregular shaped wound situated below the left ankle (exit wound).

(15) An irregular shaped wound located on the inner area anterior upper right thigh (Exit wound)

10 (16) An irregular shaped wound located on the right elbow (exit wound)

(17) An irregular shaped wound located above the left nipple area.

Dr. Estrada Bran continued that his internal examination revealed that the number one entry took a direction right to left, tanderenture downwards to upwards entering the neck area and face, wounding soft tissues exiting through the number 11 point.

15 Number 2 entry took direction backwards to frontwards slightly upwards to downwards and right to left entering the skull, disrupting and wounding the brain, passing through and through the skull base up to the oral cavity where the slug landed. (N.B. The slug was found in the mouth as indicated by the doctor).

Number 3 entry took direction right to left, slightly downwards to upwards
20 wounding soft tissues of the area, exiting through number 11 exit wound.

Number 4 entry took direction backwards to upwards and horizontal entering the chest cavity wounding the left, upper lobe of the lungs and exited through number 14 hole.

5 Number 5 entry wound took direction backwards to frontwards, downwards to upwards and right to left entering the chest cavity wounding the base of the mitral valve. The lower lobe of the left lung, and exited through the number 15 hole.

Number 6 entry number exited through number 17 hole, also number 6 entry produced two exit holes, as well as slug found on the left anterior elbow entry.

10 Number 9 entry took direction backwards to frontwards exiting through number 16 hole.

Number 10 took direction backwards to frontwards, downwards to upwards to the right anterior region of the hypochondrium, where the projectile landed underneath the skin.

15 He continued that he observed 750 cm of fluid and clotting blood in the left chest cavity.

Dr. Estrada Bran also stated that he arrived to the conclusion that the direct cause of death was exsanguination due to internal and external bleeding due to multiple gunshot wounds.

20

Therefore after very careful consideration of all the above evidence before the court, and after noting them carefully, I noted that the instrument used to cause the injuries was a firearm (a 9mm firearm) using (9mm slugs) from the evidence before the court, and as has been noted in evidence that the slugs which were

5 examined by the ballistic expert during firearm comparison (Mrs. Ebony Lyall-Nicholas). (e.g.) when the slugs removed from the body of the deceased were examined at the National Forensic Science Service Lab it was found by comparison that indeed the undamaged slugs came from, and were fired from a 9mm firearm.

10

I further noted that this was a dangerous weapon, and its use on a human being especially at very close range causing the injuries described above in Dr. Estrada Bran's evidence, I note that the inference can be drawn that the person using this weapon meant to kill the deceased.

15 Further, I noted the area of some of the gunshot wounds (e.g.) the back of the head of the deceased as described by Dr. Estrada Bran – the weapon/gun was fired at a close distance to the head approximately 32 inches away from its target.

I also noted that the deceased received approximately ten (10) gunshot injuries to areas such as the neck, the back of the shoulder, pelvic region etc.

20 I further noted that the shot to the back of the head wounded and disrupted the brain, (e.g.) the brain is the control centre of the body and was damaged by the slug fired (e.g.) 32 inches from the head which caused immediate death according to the doctor's reply under cross-examination.

5 Finally, I also noted and draw the conclusion that the injuries to the above noted organs of the body as explained by Dr. Estrada Bran were also as deadly as the one to the back of the head.

I concluded that these organs which were damaged are extremely important to and for the continuation of life.

10 Here, I also considered the location of the injuries (gunshot injuries) to several areas of the deceased body which penetrated, and damaged so many major and important organs/vessels (etc.) of the body. I again looked at the damage found to the organs of Tulio Caceres, and I draw the inference that the implement (a 9mm gun) and the use of it in inflicting the injury to the deceased, some at very close
15 range/quarters; then the only inference I am led to, or can draw is that the shooter (accused) intended to kill Tulio Caceres when he used this weapon and shot the deceased at such close range, and particularly also shooting to the head which contains the brain (or the control center of the human body for all organs to cohesively work together to maintain life).

20 Then therefore, the areas of the body where the injuries took place lends and leads to one conclusion that indeed the shooter had the specific intention to cause death to the deceased.

5 Therefore, after assessing all of the evidence and that of Dr. Estrada Bran's discovery during post-mortem,. And his conclusion, I am now sure that the one inference I can now draw is that the shooter (accused) intended to kill the deceased when he used the weapon (a 9mm gun) and inflicted the type of injuries found during post-mortem on the body of Tulio Caceres.

10 Therefore, from the above, I am now of the opinion, that I am sure that the accused intended to kill the deceased by the use of the said weapon (a 9mm gun) when he inflicted the harm on Tulio Caceres on 13th June, 2014 in Belize City.

So taking all the evidence and circumstances mentioned above before me; I am
15 sure that the accused had the specific intention to kill the deceased (Tulio Caceres) when he inflicted the harm on him on 13th June, 2014. Therefore, I here conclude that the Prosecution has also proven this element of the crime of murder to me.

20 **5. The fifth element – that the infliction of the harm was without lawful justification**

I have considered the evidence before the court on the events of 13th June, 2014 leading to the death of Tulio Caceres (deceased), and having studied carefully the evidence of the Defence and the Prosecution, I find that there is no evidence that

5 shows that he was killed as a result of (1) provocation, (2) accident, or (3) in self-defence.

The evidence does not speak to any of the three (3) defences mentioned above, in fact it is silent. So I note that the defence is not claiming any of the above, it is saying rather – it is claiming an alibi (e.g.) I (accused) was not there at the time of
10 the incident, I was somewhere else as he (accused) stated in his unsworn statement
“On 13th June, 2014 I was in Lord’s Bank Village from around 9:00 a.m. to 11:30 a.m. I was at my cousin’s house Leon Gibson and also there was our friend Rodney Castillo, my cousin Leon Gibson was fixing my bike.”

Therefore, after due consideration I am satisfied that the harm inflicted on the
15 deceased Tulio Caceres as was submitted by the Crown Counsel – that it is not in dispute that the harm was unlawful as there is no evidence that he was killed as a result of (1) provocation, (2) accident, or (3) in self-defence, and I also accept that the harm was inflicted without lawful justification in this case.

20 **THE DEFENCE CASE**

I turn to the defence’s case and evidence, and I note as the trier of fact that I have the duty of accurately, honestly and legally to consider the defence presented to the court in this case.

5 In the instant case, the accused Keyron Gibson, having been told of his Constitutional and legal Rights, he chose to give an unsworn statement from the dock.

Therefore, in consideration of the unsworn statement, I will now follow the guidelines in the case of **Marcotulio Ibanez v The Queen [1988] UKPC 18**
10 **where Lord Hutton** referred to the case of **DPP v Walker 1WLR 1090 at 1096**
and stated –

*“The jury should always be told that it is exclusively for them to make up their minds whether the unsworn statement has any value, and if so, what weight should be attached to it; that is for them to decide whether the
15 evidence for the Prosecution has satisfied them of the accused’s guilt beyond a reasonable doubt, and that in considering their verdict they should give the accused’s unsworn statement only such weight as they think it deserves.”*

Here in this case where I sit as both Judge and Jury, I will apply the above guidance in coming to a final conclusion.

20 The accused Keyron Gibson has here stated in his unsworn statement as follows –

“On 13th June, 2014 I was in Lord’s Bank Village from around 9:00 a.m. to 11:30 a.m. I was at my cousins house Leon Gibson and also there was our friend Rodney Castillo. My cousin Leon Gibson was fixing my bike.

5 *On 13th June, 2014 Ms. Sherlette O’Brien did not see me at North Front Street and corner of Handyside Street, and I did not spoke to her that morning.*

Shamir Mai did not see me at Majestic Alley, did not search me and I have never spoken to Shamir Mai.

10 *On 13th June, 2014 I did not shoot or murder Tulio Caceres and my witness Leon Gibson will testify to the court that I was in Lord’s Bank.”*

I have noted that here the accused has chosen not to give sworn evidence before the court in this trial; but I note he gave an unsworn statement of his alibi; therefore in considering his unsworn evidence I have warned myself as is required
15 in these instances – that the accused is of good character, and that it may mean that he is less likely than otherwise might be the case to commit this crime.

The defence also called **Leon Gibson** as a witness on its behalf and he stated on oath as follows –

20 *“I am 36 years old. I live at #231 Lord’s Bank Village. I am a Baber, my date of birth is 9th October, 1984.*

On 13th June, 2014 I was at home at 231 Lord’s Bank Road, at that time my cousin Keyron Gibson and my friend Rodney Castillo we were there at home at the time at Lord’s Bank, and my cousin was there because he brought a bicycle he wanted me to fix at that date.

5 *That date I remember clearly as I had to go to Ladyville to buy bearings to
fix the bicycle that he brought. I left he and Rodney Castillo there and I
went to get the bearings for the bike.*

*I took about close to an hour or 1½ hours before I came back. When I came
back I fix the bicycle and listen to some music before I open my shop. Then*
10 *when I left and open my shop, Keyron and Rodney left.*

*Then while at my place of business in the evening I got a call from my mom,
as a result I called Keyron to let him know what they were accusing him of.
Keyron was dressed that day with me, he had on a green button polo shirt,
checkered ¾ pants and a blue peak cap.*

15 *Rodney had a red shirt and a blue jeans pants. I remember good that day
because of the news I heard, and I knew I would have to be his alibi for that
day.*

*Keyron Gibson and I grew up together, I know him over twenty four (24)
years.”*

20 Having listened to the defence evidence and the having again carefully reviewed
the evidence of the defence as above, I now note that Defence Counsel in closing
submissions submitted – that the accused gave an unsworn statement in which he
denied being at the scene of the crime and denied killing Tulio Caceres.

5 That the witness gave unshaken evidence that the accused was with him on the material date and time and could not have been in Belize City. The witness testified that except for a brief moment of 1 – 1½ hours when he went to buy bearings for a bicycle in Ladyville, the accused was in his presence.

The Crown Counsel replied that it was inviting the court to consider the character
10 of the alibi witness. The alibi witness is a convict and have been charged before with dishonest crimes. His character alone impeaches his credibility as a witness.

The demeanour of the witness whilst testifying, the witness appeared shaky on the stand during cross-examination and was unsure about a lot of things. He testified that he took about one and half hours to get to a hardware store in Ladyville.

15 In light of all the foregoing we submit that the accused and his witness ought not to be believed on the alibi defence.

We invite the court to reject the alibi defence as the accused and his witness have presented themselves as being less than credible.

Having listened to the evidence and unsworn statement of the Defence, I note very
20 carefully the above and I note that in June of 2014, the police had given the accused approximately one month to produce his alibi witness whom he had spoken of being with on the 13th June, 2014. Unfortunately, the accused never produced the witness, and also the witness never showed up to give an alibi statement on behalf of the accused. So the accused was subsequently rearrested

5 and charged for the present offence now before the court; due to the fact the police was unable to locate the witness, and the accused failed to present his or any alibi witness also.

It is further noted that the accused in his interview with the police of the 18th June, 2014; he claimed he did not know the police was looking for him immediately
10 after the shooting. However, the court notes that in the same interview on 18th June, 2014 He (accused) stated to the police that his sister text him to go for his clothes as she learnt that his name was being called for a murder. So the court notes he was being untruthful/lying when he told the police in the same interview he did not know that he was wanted by the police before.

15 He also stated in his unsworn statement that Ms. Sherlette O'Brien did not see him at North Front Street and Corner of Handyside Street on 13th June, 2014 and he denied speaking to her that morning.

He also stated in his unsworn statement that Shamir Mai did not see me at Majestic Alley, did not search me and I have never spoken to Shamir Mai.

20

The Court therefore notes and draw the inference that he (accused) is saying he does not know both persons or they knowing him, and he is stating, that both officers never saw him or spoke to him (e.g.) on 13th June, 2014.

5 The court therefore notes the case of Allen James v The Queen Criminal Appeal
No. 7 of 2009 at para 12 where it is stated –

10 *“In the present case the earlier knowledge by the eye witness of the
appellant was knowledge of a far greater degree than that in those other
cases, and the eye witness identification to the police of the accused by name
was virtually immediate.”*

Therefore, I adopt the above statement and note that indeed knowledge of the
defendant was of a far greater degree than in other cases before the court, and
therefore the Defendant’s denial in his unsworn statement of both officers not
seeing him on the morning of 13th June, 2014 is not accepted by the court as being
15 a truthful statement in light of the Prosecution’s evidence now before the court
which have been accepted as identification evidence as such.

I now look at the evidence of Leon Gibson who gave alibi evidence on behalf of
Keyron Gibson (accused) and here I note that he stated that his cousin arrived at
his home at #231 Lord’s Bank, however, he failed to state the exact time of his
20 cousin’s arrival at his house, but in cross-examination he answered it was around
9:00 a.m.

It is noted however, the witness during examination-in-chief and particularly under
cross-examination he indeed as submitted by Crown Counsel appeared shaky and
unsure about many things on several occasion (e.g.) not sure about where his

5 cousin/accused lived, or if he lived at Ladyville Village, or where exactly he lived (etc.) and unsure of where in Belize City his other cousin Keyron's sister lived also.

I further noted the witness and accused spoke of one Rodney Castillo also being with Keyron and himself on 13th June, 2014 at his home while he fixed the bicycle,
10 but this person was never called as a witness to corroborate the unsworn statement of the accused and the evidence of Leon Gibson as to both himself and Keyron being in Lord's Bank Village on 13th June, 2014 at Leon's between the hours of 9:00 a.m. to 11:30 a.m.

It is noted when cross-examined if Rodney was dead, the witness said no, but was
15 not sure if he was in Belize also.

Further it is noted Leon Gibson stated he left his home shortly after Keyron arrived at Lord's Bank to proceed to Ladyville Village to buy bearings to fix the bicycle, but he further stated he took about 1 to 1½ hours to return from Ladyville from the hardware store. When questioned why he left to proceed to Ladyville he said at
20 that time Lord's Bank did not have a hardware store in 2014.

It is therefore noted that in light of this witness leaving his home travelling to Ladyville Village which is very close (e.g.) next door to Lord's Bank Village both in the Belize District and being there for 1 to 1½ hours then the inference to be

5 drawn is he is unable to definitely say what if anything occurred during his absence
that day 13th June, 2014 and therefore, his evidence during that space of time does
not corroborate the accused of being with him for the estimated period as stated by
him. There then is a lacuna in his alibi evidence concerning the time as stated by
himself and the accused which is not accounted for.

10 It is further noted that this witness also agreed he had previous convictions for
dishonesty, robbery, burglary and others and had spent time in prison for such
offences.

He also accepted and stated that he had told a police officer on a basketball court
15 about being an alibi witness for Keyron Gibson his cousin, but that he never made
a formal statement during the years until today in court to anyone about the matter
except as he stated a police (e.g.) on a basketball court verbally in 2014 whose
name was unknown to himself (the witness.)

20 I have carefully read; and carefully considered the evidence of Leon Gibson and I
have arrived at the conclusion that I cannot accept the evidence of this witness, his
demeanour and his evasiveness on the witness stand combined with his convictions
for dishonesty (etc.) does not lend to the court accepting or believing him as a

5 witness of truth. Further he cannot testify to the time (of 1 – 1½ hours during the time he was away from home on the 13th June, 2014.

His evidence is therefore not accepted in this instance as corroborating the alibi of Keyron Gibson.

Looking at the unsworn statement of the accused (Keyron Gibson) I note and rule
10 that the unsworn statement was not corroborated in any material particular by the witness Leon Gibson, as his evidence was not accepted as corroborating that of Keyron Gibson for the period of 9:00 a.m. – 11:30 a.m. on 13th June, 2014 by the court.

15 I now here rule that having considered the statement of the accused, I note that the statement being unsworn, its veracity and truthfulness (etc.) was and could not be tested under cross-examination.

I note further that though the accused had raised the defence of alibi when first
arrested in 2014; he was given a period of approximately one (1) month or more to
20 produce his alibi witness to the police. This he never did; and so on the non-production of his alibi witness or the particulars there of, he was subsequently arrested and later and charged for the offence now before the court.

5 It is also noted further though the accused had raised the defence of alibi in 2014, he never gave the investigating officer any details as such to enable the investigator to do an independent investigation of the said alibi and his witness, nor did he do so at the Preliminary Inquiry, either until the matter was raised, and argued during trial by the Crown.

10

Therefore, after careful consideration of the above and the submission of the Crown that – introducing details seven (7) years later obviously deprives the police and Prosecution of the opportunity of independently investigating the particulars and detail of the alibi; also that the police had given the accused approximately one
15 month in 2014 to produce his alibi witness, and since they were unable to locate him and the accused failed to do so, this led to his re-arrest.

I therefore, after further consideration of the submission of the Crown and the evidence I accept the submission as made by the Crown in closing arguments in
20 preference to that of the defence on this matter.

Now having looked at the credibility of the defence (e.g.) the accused and the witness called in support of his alibi, and having carefully considered the evidence before this court I give little to no weight to the evidence of Leon Gibson and same (little to no weight) to the unsworn evidence of accused Keyron Gibson.

5

Simply put the testimony of the Prosecution’s witness especially on identification – was clearly compelling, coherent and cogent. So simply put as the jury it was clearly believed; and that of the defence is clearly disbelieved in the present instance before the court.

10 **CONCLUSION**

Therefore, after very careful consideration of all the above evidence and elements presented by the Crown, I am satisfied from the Crown’s evidence that it has proven all the elements of the charge of murder to this court.

The defence of alibi as raised by the Defence is therefore not accepted and fails.

15

Accordingly, after careful consideration of all the evidence before me; I am satisfied to the extent that I feel sure that the accused inflicted the harm that resulted in the death of the deceased with the intention to kill the deceased.

Consequently, I find the accused Keyron Gibson, **Guilty of the charge of murder.**

20

GIVEN THIS 4th DAY OF OCTOBER, 2021

25 **(H. R. LORD)**
Justice of the Supreme Court