

IN THE SENIOR COURTS OF BELIZE
CENTRAL SESSION-BELIZE DISTRICT
(Criminal Jurisdiction)
Central District

Indictment C11/2024

THE KING

V

JEROME CRAWFORD

Appearances: Mr. Riis Cattouse for the Crown
Mr. Ian Grey for the Accused

Trial Dates: 22nd and 24th May 2024

Judgment delivered: 31st May 2024

JUDGMENT

Introduction

[1] **SYLVESTER J**, By an Indictment filed on the 11th day of January 2024, the Accused Jerome Crawford was charged with the offence of murder. The particulars of the indictment are that Jerome Crawford on the 22nd day of November 2022, at Biscayne Village, Belize District, in the Central District of the High Court, Murdered Owen Tucker.

[2] The offence of murder is defined at section 117 of the Criminal Code, Chapter 101 of the Laws of Belize, Revised Edition 2003 as follows:

“Every person who intentionally causes the death of another person by any unlawful harm is guilty of murder, unless his crime is reduced to manslaughter by reason of such extreme provocation, or other matter of partial excuse...”

[3] As a prelude to this judgment I am guided by the law that applies in Belize. To be convicted for the offence of murder, the prosecution must prove that the Accused had the specific intent to kill.

An intention to cause grievous bodily harm will not suffice. In the Court of Appeal decision of **Eli Avilia Lopez and Anor. v R**¹ Bulkan JA, aptly stated the law thus:

‘..... In this jurisdiction the mens rea for murder is an intention to kill, nothing less. Whereas at common law an intention to cause grievous bodily harm also suffices, in Belize a higher, more exacting standard, applies’.

[4] On the 9th day of November 2023, the Accused was committed to stand trial before the Supreme Court for the offence of murder.

[5] The Accused’s trial was conducted without a jury, pursuant to the provisions of the **Indictable Procedure Act**, Chapter 96 section 65A of the Laws of Belize, as amended by Act No. 5 of 2011. All persons committed to stand trial for murder after the 1st of August 2011, pursuant to section 65A (2), must be tried before a Supreme Court Judge sitting alone without a jury. On the 18th day of April 2024, the Accused was arraigned and pleaded not guilty to the offence of murder and tried by a judge alone.

Burden and Standard of Proof

[6] In a Judge alone trial, I am the Judge of both the facts and law and as such I shall direct myself throughout my deliberations and keep in the foremost of my mind that the prosecutor has the burden of proof in this case and that the Accused stands innocent before me². The Accused has nothing whatsoever to prove. However, it is the prosecution that has the duty to prove each element of the offence of murder, beyond a reasonable doubt to the extent that I am sure before I can convict the Accused of the offence of murder.

[7] I am further guided by the legal principle that the prosecutor must prove each element of the offence by providing me with evidence of such a quality that I can feel sure of the respective elements. Ultimately, if I am sure of each element and I have no reasonable doubt, and I am

¹ Crim. App. 22-23/18

² Powell [2022] ECSC JO112-1

certain of the guilt of the Accused then I am duty bound to convict. If, on the other hand, the prosecutor fails to make me feel sure and I have a reasonable doubt of any of the elements of the offence I will be obliged to acquit the Accused of murder.

Overview

[8] I am guided by the decision of the Caribbean Court of Justice in the matter of, **Grenville Delpeache v COP**³ wherein Barrow J stated that in a criminal matter the charges should be set down in full and state to what extent these charges are proved, then followed by the evidence. He stated at par 41 thus:

‘When writing reasons for a decision in a criminal matter, it would be best practice to set out the charges in full, whereafter it should be indicated with precision to what extent these charges have been proved, to be followed by an exposé of the relevant evidence’.

[9] The prosecution called a total of 18 witnesses to prove its case against the Accused. A total of eight [8] witnesses gave sworn testimony and were cross examined, and ten witnesses were agreed by both the defence and prosecution. Their statements were read into the evidence pursuant to Rule 10 of the Criminal Procedure Rules 2016, (hereinafter “the CPR”) along with section 106 of the Evidence Act, Cap. 95 of the Substantive Laws of Belize Revised Edition 2020. One witness namely Kelsey Lowther, was sworn and testified virtually pursuant to section 186 of the Senior Courts Act 2022 with the agreement of both defence and prosecution.

[10] For ease of reference a list of the witnesses, a short synopsis of their evidence and manner in which the evidence was led is provided in the table hereunder as follows:

³ [2021] CCJ 10 par. 41

NO.	Name & Occupation	Synopsis of evidence	Type of evidence led
1	Andrew Humes Sales Clerk	Sold 12 gauge ammunition to the Accused the day of the shooting.	Sworn
2	Ruben Cox jr Farmer	Eye Witness to the Shooting and identified Accused	Sworn
3	Rose Cox Domestic	Was present when shooting occurred, saw the Accused, but she turned after the Accused issued threats of death to the deceased, then heard the explosion (circumstantial)	Sworn
4	Cpl. Dennis Palacio Police Officer	Witnessed and signed a short note the Accused signed stating: I need to go to court so I can plead guilty...". I want the death penalty' The accused also signed.	Sworn
5	Sgt Orlando Bowen Police Officer	Wrote a short note where the Accused stated I need to go to court so I can plead guilty...". I want the death penalty' and signed his name.	Sworn
6	Mark Wallace MSC Expert Forensic Analyst- Firearm examination]	Tested spent cartridge found on scene with firearm found at Accused' s house and it matched.	Sworn
7	SGT Dorian Chee Lead investigator	Interviewed- arrested and charged Accused- exhibited a hand drawn sketch of the crime scene. [Exhibit DC1] Tendered the interview of the deceased [DC2] DVD [DC3]	Sworn
8	Angella Wiltshire JP	Witnessed the Accused's video recorded interview at the police station	Sworn
9	Doris Jones Retiree	Mother of deceased – gave DNA samples which matched the charred body to be that of her son the deceased	Agreed

10	Robert Tucker iii American Marine	Son of deceased -provided DNA samples which matched the charred body to be that of his father.	Agreed
11	Oscar Valladarez Scenes of Crime [SOC]	Witnessed autopsy and took photos. Exhibits tendered [OV1-7]	Agreed
12	Brandon Oshon JP Justice of the Peace	Present when buccal swabs were taken from the deceased's mother and son.	Agreed
13	Everold Lopez CST Crime Scene Technician	Took seven (7) photos of the crime scene. Exhibit [EL1-7]	Agreed
14	Robert Henry CST Crime Scene Technician	Conducted blue star chemical tests. Took photos of the burnt human remains. Exhibited and marked [RH1-18]	Agreed
15	Santiago Flores Mechanic	Was present at the locus and saw the Accused immediately after the shooting, saw a cartridge on the ground and cleaned concrete from algae in one spot.	Agreed
16	Joseph Pook Cpl of Police	The Accused was his school mate and saw him the day of the incident in the general vicinity of the incident with a gallon bottle- wearing camouflage	Agreed
17	Kelsey Lowther Analyst [Expert]	DNA Analysis determined it was the deceased charred/burnt body	Agreed
18	Cpl Edward Ciau IT Technician	Retrieved 6 videos and placed on CD. Tendered and marked [EC1]	Agreed

Prosecution Overview

[11] The Crown submitted that its case against the Accused is triple pronged. **Firstly**, there is direct evidence. That being the eyewitness evidence of Ruben Cox Jr, to the murder, who was in close

proximity when the Accused, dressed in camouflage, whom he knew before as being employed with the deceased as head of security, lifted his 12-gauge gun and shot the deceased within a few feet of where he was standing. The Accused then ordered him to clean the blood and he wrapped the deceased in a tarpaulin and placed the corpse in the trunk of his car and drove away. Also, the direct evidence of Sgt Orlando Ruben, who testified that the Accused told him that 'he wanted to plead guilty, and he wants the death penalty', which he wrote, and the Accused signed. The Accused did not object to that document being tendered and he confirmed signing it.

[12] **Secondly**, there is circumstantial evidence. Rose Cox was present on the day of the shooting, standing a few feet facing the Accused, whom she knew before and identified. She saw the Accused with the gun, heard the Accused say to the deceased, you're Fxxxxxx (expletive) dead today. She testified, that she got scared, turned and walked away. After she made five [5] footsteps, she heard the explosion of the gun. Then she immediately left on her motorcycle. Further, later in the day, police officer Joseph Pook, who went to school with the Accused saw him the evening of the said day of the murder, at about 2:30 pm, with a gallon bottle walking around his car and they waved each other. Further, the evidence of Robert Henry Crime Scene Technician [CST], who conducted the blue chemical test in the trunk and inside of the Accused's car and on the concrete flooring of the abandoned building where the shooting allegedly occurred, all came back positive. Finally, the evidence of Andrew Humes who sold to the accused ten [10] rounds of ammunition for the 12-gauge gun which was used in the shooting on the said day, matched the gun found at the Accused's house. This factual matrix the prosecution asserts, when pieced together, all points to the same conclusion, they have dispelled the burden of, beyond a reasonable doubt, so that the court is sure of the Accused's guilt⁴.

[13] **Thirdly**, the expert evidence of Mark Wallace MSc who was deemed an expert in **Forensic Analyst- Firearm examination**. His testimony confirmed that the spent shell that was found at the locus, was fired from the gun, which the Accused admits he owned, and which was recovered at the Accused's house. Also, DNA swab testing from the mother and son of the deceased,

⁴ August [2018] CCJ 7 and Mc Greevy v Dpp [1973] 1 WLR 276

confirmed a DNA match to the charred body of the deceased, despite the body was burnt beyond physical recognition. Finally, the decimated and charred body of the deceased was discovered in the general area where the Accused was seen with the gallon bottle, the day of the incident.

[14] In sum, the prosecution asserts that any one of the above types of evidence taken singularly, is enough to convict the Accused, and they have satisfied this court beyond a reasonable doubt and thereby discharged the burden of proof. Learned Prosecutor, Mr. Riis Cattouse, has drawn the analogy of the evidence presented as, 'using a sledgehammer to kill an ant'.

Defence overview

[15] The defence retorted strenuously. In their response it was submitted that the Accused was not the shooter, and he was in another location at the time of the shooting. That it was virtually impossible, the Accused committed the crime. The defence further submits that the Accused had no motive to kill the deceased as he was his employer, and they knew each other for years and were business partners. The deceased had owed the Accused thousands of United States Dollars [USD], so inevitably there was no reason to kill the deceased. It would have been in the Accused's interest to have the deceased alive.

[16] The Accused gave sworn testimony, after the three options were explained to him and he consulted with his Attorney. The right to remain silent which is his constitutional right to silence, the giving of an unsworn statement, wherein he cannot be cross examined by anyone, but that the court will attach whatever weight to his evidence as it was not tested in cross examination and finally that he can give sworn testimony and be cross examined by the Crown. The Accused opted to give sworn testimony and was cross examined. However, he called no witnesses, despite leading the defence of alibi in his testimony.

[17] I will now seek to examine the evidence of each of the five elements which must be proved by the Prosecution to make me feel sure of the guilt of the Accused.

Elements of the Offence of Murder

[18] In order to convict the Accused of murder, the Crown is required to prove five elements so that I feel sure of the Accused's guilt namely⁵,

- (a) that Owen Tucker (hereinafter referred to as the deceased) is dead and
- (b) that he died of harm,
- (c) that the Accused inflicted the harm which resulted in the death of Owen Tucker,
- (d) that when the Accused inflicted the harm, he did so with the intention to kill Owen Tucker, and
- (e) that when the Accused inflicted the harm on Owen Tucker he did so without lawful justification.

Owen Tucker is dead and died of harm

[19] The evidence presented by the prosecution to prove that Owen Tucker is dead came primarily from the statements of Oscar Valladarez [Senior Crime Scene Technician], Owen Tucker III, Doris Jones, and Kelsey Lowther [Expert].

[20] Oscar Valladarez testified that he is a Senior Crime Scene Technician [CST] and a licensed Electrical Technician. He has completed courses in forensics, finger printing, Crime Scene, Criminal Investigation, DNA Exhibit handler, Chemical diversion, Aquatic and Homicidal death and Human Remains recovery as well as Crime Scene Investigation. That on Thursday the 8th day of December 2022, he assisted Cpl Dorian Chee. He witnessed an autopsy in respect of a Homicide investigation, at the morgue within the Belize Medical College Complex. He took photos of the remains, which was identified as 'John Doe'. Dr. Roque Blanco handed to him a specimen cup containing bone and tooth samples, which he sealed inside an evidence bag. He then handed over the samples to the Forensic Laboratory at Ladyville. The photos were exhibited and marked "OV1-7".

⁵ August v. R [Criminal Appeal No. 8 of 2001]

[21] Owen Tucker III and Doris Jones are the son and mother of the deceased respectively. Doris Jones testified that she is a retiree and Owen Tucker is her son. They both consented to provide samples of buccal swab, hair, blood, saliva, and any other biological samples to be used for analysis and to be provided to the Director of Public Prosecution's Office or other appropriate agency.

[22] Kelsey Lowther, an expert in DNA analysis, had the samples from Doris Jones and Owen Tucker III analysed and tested. He confirmed that the relative chance of Paternity, assuming a 50% chance of paternity is 99.9999%. In sum he concluded that the charred body found was that of Owen Tucker by virtue of the samples and test, including the DNA profile conducted.

[23] The combined evidence from Oscar Valladarez Senior Crime Scene Technician [SCT], Owen Tucker III, Doris Jones, and Kelsey Lowther convinces me that Owen Tucker is dead.

[24] This cumulative effect of the above evidence, especially the DNA confirmation and matching analysis of the expert witness leaves me without a doubt that the deceased died of harm, as defined by section 96 of the Criminal Code CAP. 101 of the Revised Edition of the Laws of Belize. That section of the law states that harm, ".....means any bodily hurt, disease or disorder, whether permanent or temporary."

The Accused inflicted the harm that caused the death of Owen Tucker

[25] The Prosecution's case as presented by the crown is tri partite, therefore I shall deal with the evidence from the perspective of, direct evidence, circumstantial evidence and expert evidence.

(a) Direct Evidence: Testimony of Ruben Cox Jr.

[26] In relation to direct evidence, Ruben Cox Jr., was the sole eyewitness to the shooting. The gist of Mr. Ruben Cox's testimony is that he knew the Accused 3 weeks prior and that he met him same time he met Mr. Tucker. He identified him when he came to the building on the 22nd day of November 2022. He had a gun. He saw when he shot Mr. Tucker, he lifted the gun, pointed it

at Mr. Tucker and said, 'why the fxxx you lie pon me', and shot him. He was ordered to clean the concrete flooring of the blood and assisted in putting the body of Mr Tucker, folded in a tarpaulin, in the trunk of the Accused's car, who subsequently left. He knew the Accused and he identified him by his hair style.

[27] During the cross examination of Ruben Cox, he confirmed that it was the Accused who shot Mr. Tucker and maintained this testimony throughout. He asserted that he was fearful, that the Accused told him not to speak to anyone about this, and he knew people in society, hence he didn't give an accurate first statement. However, after he met Mr. Bowen, someone whom he knew and trusted, he told him the complete truth that he stands by today.

[28] The Defence did not put to Mr Cox that he harboured any ill will, animosity or revenge against the Accused or had any reason to make up a story. The defence implied he was mistaken as to who shot Mr. Tucker. There was no indication whatsoever at any point in his testimony that Mr. Cox had any reason to distort his evidence or that he had made up a story to convict the Accused.

[29] As the judge of the facts, I found Mr. Cox to be an honest, credible, and forthright witness. He maintained that he still lives in fear and seemed a bit distraught in delivering his testimony. He was calm, respectful, forthright, and exercised impeccable court decorum under rigorous cross examination. He was coherent and clear throughout his lengthy testimony. His recall of events on the day of the incident was nothing short of excellent and unshaken in cross examination. Mr Cox said he recalled what happened on that day and it still haunts him. This incident occurred over 2 and a half years ago, and it still affects him.

Notwithstanding Mr Ruben Cox Jr.'s demeanour and credibility, his identification evidence was cogent, clear, and impeccable. However, for completeness I shall assess the quality of his identification evidence to determine if I may rely upon it. This I do below.

(b) Identification Evidence

[30] To avoid the risk of injustice, I have warned myself of the special need for caution before convicting the Accused on the visual identification in this case. A witness who is convinced in his

own mind that the person he saw is the Accused may as a result be a convincing witness but may nevertheless be mistaken. Mistakes can also be made in recognition of someone well-known to the witness such as a close friend or relative. So, I must carefully examine the circumstances in which the identification was made: for how long was the Accused under observation by the witness, at what distance, and in what light, did anything interfere with his observation? The fact that the Accused is also relying on the defence of an alibi is another factor to be taken into consideration in determining whether the Accused was the shooter that day. Thus, the Court must be more cautious in its consideration of the evidence of visual identification.

[31] There was no identification parade and there was in my view no need for it. The Accused was well known to the witness as they worked together, and the Accused provided instructions to the witness as to what work to do. They worked in close proximity for three weeks before the incident. Further, the incident occurred during the day. Mr Ruben Cox was a few feet away from the Accused and he was instructed to clean up and assisted in putting the body of Owen Tucker in the trunk of the Accused's car.

[32] Having warned myself of the danger of mistakes that can be made with identification, including with someone well know, as the Judge of the facts I have examine the quality of the identification evidence above and I am directed by the law on identification. This means that in a case which hinges on identification, I must direct myself in accordance with the **Turnbull**⁶ guidelines. In that classic case, the general guidance is,

“Whenever the case of an Accused person depends wholly or substantially on the correctness of one or more identifications of the Accused which the defence alleges to be mistaken, the judge should warn the jury of the special need for caution before convicting in reliance on the correctness of the identification. He should instruct them as to the reason for that warning and should make some reference to the possibility that a mistaken witness could be a

⁶.” **R v Turnbull** (1977) QB 224, (1976) 3 ALL ER 549

convincing one and that several witnesses could all be mistaken.”

[33] The **Turnbull** guidelines require that besides the general warning, the Judge should also point out the weaknesses in the identification or recognition evidence so as to determine the quality of that evidence. The judge should explain why something is a weakness which may cast doubt on the reliability of the identification. **Turnbull** says that the Judge must review the witness’ ability to observe the person he or she is identifying—the lighting, the distance from which the observation occurs, the length of time to observe, if any obstructions were present, if there are any inconsistencies or discrepancies in the identification, is there supporting evidence and did the witness know the person prior to the incident, and if so, under what circumstances. As the Judge of the facts, I must also look at whether the observation was made under difficult conditions ⁷.

[34] In examining the testimony of Mr. Ruben Cox Jr., and for completeness, the incident occurred in broad daylight, in an uncovered building with light shining through. The Accused was a coworker, the shooting occurred within a few feet of Mr. Cox, and he had the Accused in his view for over half hour after the shooting. I therefore see no practical weaknesses in his ability to identify the Accused. There was nothing to obstruct Mr. Cox’s view during the incident. The witness was in proximity to the attacker.

[35] Upon review of the evidence, I note that there are no obvious weaknesses in Mr. Cox’s ability to observe. In fact, the circumstances of Mr. Cox’s observations were “exceptional,” and he properly identified the Accused. Reviewing the testimony of Mr. Cox, I am reminded of the principle in **Turnbull** that, “...a mistaken witness could be a convincing one...” And so, I ask myself, not whether I believe Mr. Cox, who I found to be convincing, but could he be honestly mistaken in his recognition of the Accused as the shooter. Based on the quality and content of his testimony, which outlined all of the aspects of his ability to see, as well as his demeanor in the witness box, I do not believe that Mr. Cox was mistaken when he said he saw the Accused

⁷ **Wade et al v R**, Crim App No. 28 of 2001.

Shoot Mr. Owen Tucker. In my view, not only was the witness impressive, but the quality of his identification was also exceptional. Due to my confidence in the quality of Mr. Cox identification I am of the view that I may safely rely upon this evidence to convict the Accused.

Testimony of Sgt Orlando Bowen

[36] The evidence of Sgt Orlando Bowen states that, on the 28th November 2022, he was at the Queen Street police station, when he received a text via his cell phone from Sgt Leon Hewlitt. As a Result of the text message, he visited the Queen Street Police Station Cell block area, where he met Jerome Crawford, Cpl. Edison, Palacio, and PC Dennis. Upon arriving he met Jerome Crawford and informed him that he was charged with the murder of Mr. Owen Tucker. He then cautioned him, thereafter Mr. Crawford stated to him he just wants to go to court and plead guilty. My kids are out there so he can get over it. He is willing to ask for the death penalty because his kids are in danger. He had a yellow notepad with him which he dated at the top 28/11/2022. He then wrote the time 8:18 am Sgt Hewlitt message him stating that Jerome Crawford wants to talk to him. He wrote what Mr. Jerome Crawford said to him. He then invited Mr. Crawford to sign, he signed it and was witnessed by Edison and Denis Palacio. He then placed his signature his rank Sgt 245 then date 28-11-22. The document was tendered and marked "OB1", with no objection by the defence and stated as follows:

'28.11.2022 9:01 am Mr. Crawford state to me. I
Just need to get into the court so I can plead guilty.
My kids are out there. I need to get over this, I
willing to ask for the death penalty my kids are in
danger. **[signed by Accused and 2 witnesses]**

[37] The totality of the direct evidence led in and of itself is sufficient evidentially that the Accused caused the death of Owen Tucker. However, the defense case must be examined thoroughly, which will be dealt with later in this judgment.

Circumstantial Evidence

[38] I would now deal with the circumstantial evidence as advanced by the prosecution. The evidence came from Rose Cox, Santiago Flores, Cpl Joseph Pook, Robert Henry and Andrew Humes.

Testimony of Rose Cox

[39] The crux of Ms. Rose Cox testimony was that at the time of the shooting she saw the Accused 5-10 feet away, the lighting condition was good, it was daylight and sunny. There was nothing blocking her view from seeing the Accused's entire body. It was not the first time she had seen the Accused. She met him a month ago. Within that month she would see him about 3 times, with distance of about five feet and observation for about 15 minutes, and the lighting condition was good on those occasions. Further, she heard when the Accused said immediately before the gun shot, 'you know you're a dead man right' and five seconds after she heard the gun shot. Prior to that she turned and walked away after making 5 or 6 steps, she heard the gun shot.

[40] I have heard and seen the witness give her testimony and I have no reservation in concluding that Ms. Cox was credible, honest, and genuine in her testimony. Further, she was unshaken in cross examination. Her testimony is believed by this court.

Testimony of Santiago Flores

[41] Santiago Flores testified that he is a mechanic. That on the 22nd November 2022 he met the Accused. He visited the construction site in a red and white dodge pickup truck and had a conversation with him. He saw Jerome and Ruben Cox on the compound. Jerome had dread locks hair, he came to him and said stop, there was no work. Subsequently, he saw a female driver come with a car and left with Jerome, the vehicle left within half an hour of arrival. While the vehicle was leaving it stopped, Jerome spoke to him from inside the car and told him everything good, he could go now and gave him a 'thumbs up'. He then went to the compound, and he saw a cartridge on the ground, three [3] metal beads from a cartridge and an area of concrete cleaned in one spot from algae.

Testimony of CPL Joseph Pook

[42] Joseph Pook testified that he is a Corporal of Police. On the 22nd of November 2022 at about 2:30 pm while driving on the Butter Cup Village Road from the direction of Scotland Half Moon village heading towards Burrel Boom Village, he saw a vehicle in the distance. What drew his attention was he saw the vehicle parked approximately ¼ mile ahead of him on the left-hand side of the road facing the opposite direction he was travelling. What further alerted his attention was that the vehicle was parked with the front partly off the pavement and the rear portion was on the road. He began to travel at 15 MPH that is when he noticed a green Mercury Grand Marquis car, with a dark male walking, dressed in a camouflage pants with dreadlocks, dark complexion about 5 feet 10 inches tall and he immediately recognized the person to be Jerome Crawford, whom he knew for over 20 years as they both went to Edward P Yorke High School together. They were in the same class for the year 1997 to 1998. This is the first time he saw him in that area, and he had a white gallon bottle walking from the back of the vehicle to the front driver side. He blew his horn to alert him, and they waved to each other. He was approximately 2-3 feet away from Jerome Crawford, while driving past. On the 23rd of November he was listening the news and heard Jerome Crawford was detained for murder that occurred in that area, and he immediately contacted the investigating officer Cpl Dorian Chee and provided the information he had on Jerome Crawford.

Testimony of Robert Henry - Advanced Crime Technician

[43] Robert Henry testified that he conducted a 'blue star chemical test'. This test was conducted to determine whether the areas will 'glow blue in colour'. The test was conducted and the areas that glowed blue in colour were the trunk of the Accused's car, the mat on the floor of the driver side and the front floor of the passenger side. Also, the concrete building where the shooting allegedly occurred and the area where the concrete flooring was washed. These areas glowed blue. He also stated in his testimony that he took photos of the Grand Mercury car, the burnt human remains and the concrete building where the shooting occurred. The photographs were all tendered and marked **RH1-18**.

Testimony of Andrew Humes

[44] Andrew Humes testified that he is a sales Representative. That on the 22nd November 2022, at 10:00 am at his place of employment, Victor L Bryant & Co Ltd, located along the Chetumal Boulevard in Belize City, a customer named Jerome Crawford, came to his place of employment to purchase ten [10], twelve [12] gauge cartridges. He provided his gun licence and his passport as a means of identification. The passport number was P0349969 with the name, Jerome Crawford address 54 B Plues Street Belize City. His gun licence number was 198/22. The passport number, gun licence number and address were written on the receipt.

[45] The prosecution submits that the above evidence circumstantially points to the accused as the shooter, beyond a reasonable doubt.

Direction on circumstantial evidence.

[46] I will direct myself cogently on the case for the Crown as submitted, that certain inferences can be drawn, and pieced together it can lead to the inescapable conclusion of the Accused's guilt. The case for the Prosecution is based partially on circumstantial evidence. It is well established, and I am guided, that it is "no derogation of evidence to say that it is circumstantial"⁸.

[47] "Circumstantial evidence is particularly powerful when it proves a variety of different facts all of which point to the same conclusion...[it] 'works by cumulatively, in geometrical progression, eliminating other possibilities' and has been likened to a rope comprised of several cords: 'One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength. Thus, it may be in circumstantial evidence – there may be a combination of circumstances, no one of which would raise a reasonable conviction or more than a mere suspicion; but the three taken together may create a strong conclusion of guilt with as much certainty as human affairs can require or admit of.'⁹

⁸ August [2018] CCJ 7 (AJ)

⁹ Criminal Bench Book: Belize Barbados Guyana p. 342-343

[48] I would direct myself that a case built on circumstantial evidence often amounts to an accumulation of what might otherwise be dismissed as happenstance. The nature of circumstantial evidence is such that while no single strand of evidence would be sufficient to prove the Accused's guilt beyond reasonable doubt, when the strands are woven together, they all lead to the inexorable view that the Accused's guilt is proved beyond reasonable doubt.¹⁰

[49] The cumulative evidence of Rose Cox wherein she heard the gun shot went off after she heard the Accused threaten to kill the deceased, and identifying the deceased in proper lighting, proximity, and distance, is compelling. Santiago Flores' evidence that the Accused spoke to him, he identified him on the said day 22nd November 2022, asked him to wait on the compound and half hour after he left in the car with a female just before he told him it was good to go on the compound. While on the compound, he found, a cartridge, a cleaned concrete spot and metal beads. Corporal of police Joseph Pook testified that on the 22nd November 2022, at about 2:30 pm he saw the Accused, his school mate, whom he knew for many years, within the vicinity of the alleged incident, and they waved at each other. He had a gallon bottle in his hand walking to the back of his car. He found that strange because he has never seen the Accused in that area before and the way the car was parked. Robert Henry Advanced Crime Technician testified that he conducted a blue star chemical test in the Accused's car trunk, front driver passenger seat and front passenger side and the concrete compound where the shooting allegedly occurred, and it came back positive with blue, fluorescent lightings. And, Andrew Humes, the Salesman who sold ten 12-gauge cartridges to the Accused on the 22nd day of November 2022, at about 10:00 am and was able to identify him as he presented his passport.

[50] All the above evidence pieced together has left me no doubt that circumstantially the prosecution has satisfied me that the Accused caused the death of Owen Tucker, in that he had the means, the motive and the opportunity.

[51] I will now examine the expert evidence of Mark Wallace MSc, as led by the prosecution.

¹⁰ Criminal Bench Book page. 342

Expert Evidence

Testimony of Mark Wallace MSc

[52] Mark Wallace testified that he is a Forensic Analyst and was deemed an expert in the field of firearm examination. He has been employed with the National Forensic section of the **National Forensic Science Service**, since 2012. His evidence, in sum, was that the cartridge that was found at the crime scene matched analytically as being fired from the gun that was found at the Accused's home. The said gun the Accused confirmed was his. The complete analysis report was tendered into evidence and marked 'MW1' without objection.

[53] In cross examination Mark Wallace confirmed that it was a 12-gauge shot gun recovered from Mr. Crawford and there was an expended cartridge case that was submitted that matched back to the firearm. He got only one expended cartridge case/shell. The test confirmed it was fired from the gun that was recovered. The process entailed test firing and the fired shell was compared, which matched that of the firearm.

[54] The expert testimony confirmed that the cartridge that was found at the crime scene was fired from the Accused's gun and the result of the test analysis confirmed this.

[55] I would therefore direct myself in relation to expert evidence and how it should be treated.

Expert Evidence direction:

[56] I direct myself that I must determine if I accept the expert evidence and what weight I should reasonably attach to it if I do accept it. The testimony of an expert should be within his or her area of expertise. The testimony of an expert should be assessed in the same manner as the testimony of a non-expert witness, meaning I am not compelled to accept the expert's testimony because it is from an expert. I may accept or disbelieve all, none or part of the testimony of an expert just as with any other witness. While the expert opinion is not binding on me, I should "not simply cast aside expert evidence without some cogent reason"¹¹.

¹¹ Stockwell [1993] CrApp R 260 [p. 349 Criminal Bench Book]

[57] The expert opinion must be based on facts that are in evidence and if the testimony is not based on facts, I should give the expert opinion less weight. I have no reason to disbelieve Mark Wallace's evidence about the confirmation of the positive results of the gun and cartridge analysis together with the other experts' testimony. In addition to the evidence of Mark Wallace I accept the combined evidence of Andrew Humes, Robert Henry, Kelsey Lowther, and Santiago Flores all of whom I find credible. It is reasonable for me as the judge of the facts to conclude that the gun used to kill Owen Tucker was the gun owned by the Accused and recovered at his home, wherein he confirmed he was the owner.

The evidence of the other witnesses is stated, hereunder:

[58] For completeness I would give a short synopsis of the remaining prosecution witnesses who testified in this matter.

Testimony of Angella Wiltshire JP

[59] Angella Wiltshire testified that she is a retired Scene of Crime, Senior Justice of the peace. On the 26th November 2022, at 3:45 she witnessed the interview of the Accused and she enquired of him privately whether he was beaten threatened or promised anything to give the interview. His answer was, no. Thereafter, the police officer came into the room and the interview was taken by Sgt Chee.

Testimony of Sgt Dorian Chee

[60] Sergeant Dorian Chee testified that in November 2022, he was attached to the Ladyville police station Crime Investigation branch. He conducted an intensive investigation into the murder of Owen Tucker. He questioned Ruben Cox Jr, who pointed out Jerome Crawford to him while driving. He thereafter charged Jerome Crawford for the murder of Owen Tucker. He later obtained a search warrant and conducted a search at the Accused's house where he found a black colour Rose Brand single action 12-gauge shotgun which was inside a gun case, with

serial number # 5GY117785. Further search of the residence led him to find ten [10] Fiocchi brand 12 gauge cartridges, and one [1] Fiocchi brand 12 gauge expended casing on a TV stand. Upon his request Jerome Crawford presented a valid gun licence for the firearm. The firearm and ammunition were taken to Crime Scene Investigation branch support unit office, Queen Street police station. The investigation continued and statements were retrieved from Ruben Cox jr and Rose Cox. An interview was conducted with the Accused. He was subsequently charged with the offence of murder.

Testimony of Brandon Oshon JP

[61] Brandon Oshon testified that he is a Justice of the peace, and he was present when the swabs and samples were taken, consent form was signed by Doris Jones and Owen Tucker III. He also witnessed a handwritten statement recorded from Doris Jones.

Testimony of Cpl Edward Ciau

[62] Corporal Edward Ciau testified that he is an IT technician and he retrieved video footage from River Valley suppliers located at Scotland Halfmoon in Belize City regarding a murder that occurred on the 22nd November 2022. A total of 6 Videos were retrieved and downloaded on a DVD that was tendered and marked 'EC 1'.

Testimony of Everold Lopez SOC

[63] Crime Scene Technician Everold Lopez [SOC] testified that on the 26th November 2022, he visited the abandoned concrete building and did a walk-through of a cream coloured bungalow unfinished building. He took photos of a white plastic container labelled UN3149 peroxide and peroxyacetic acid mixture. He took a total of seven [7] photographs of the container and of the building and its surroundings.

Testimony of Sergeant Denis Palacio

[64] Sergeant Denis Palacio gave evidence that he is a Police Constable with regulation number 2269 presently attached to the Prosecution branch in Belize City. That on Monday 28th November 2022 at 9:00 am whilst on duty at the Queen Street Cell block, he saw the Accused whom he knew from before. He was present when the accused told Sgt Orlando Bowen that he wanted to plead guilty, he just want to get into the court, and he wanted the death penalty. The statement was then written down by Sgt Bowen and the Accused signed together with Sgt Bowen and he signed the statement as a witness.

Deliberation on whether the Accused harmed the deceased

[65] Based on the totality of the prosecution evidence, and particularly the exceptionally good quality of the identification evidence, I have no doubt that the Accused caused the harm that killed the deceased. The Crown proved beyond a reasonable doubt that the Accused was at the scene and that he shot the deceased.

As mentioned earlier in this judgment, the standard of proof in a criminal case is that I must feel sure of each element to convict. I am sure, with no reasonable doubt, that the Accused inflicted fatal harm on the deceased.

Intention to kill the deceased

[66] Having concluded that the Accused caused the harm to the deceased, I turn my attention to whether he intended to kill the deceased when he harmed him. Intention to kill is the *mens rea* for murder in Belize. Section 117 of the Criminal Code. The law guides the Judge to look at all of the surrounding circumstances in an incident to determine the intention of the Accused. Section 9 of the Criminal Code says that to determine if an Accused person intended to produce a particular result by his conduct, it must be decided by reference to all the evidence, drawing such inferences from that evidence as appear proper in the circumstances. I have directed myself in this regard in deliberating on the element of intention.

Further, I am mindful that I am not bound to infer an intention to kill from the mere fact that death was in my opinion a natural and probable result of the action of the Accused. This is, however,

a fact that is relevant to the question of intent and I would have to take it into account when considering all the evidence and the proper inferences to be drawn from that evidence.

[67] I considered the following factors in deliberating the element of intention to kill in this case: the deceased was shot in the head, the threats of death immediately before the shooting, blood coming from his head due to the gun shot and the body being wrapped and placed in the trunk of the Accused's car and driven away by a female. A combination of all of these factors leads me ineluctably to conclude that the Accused intended to kill the deceased when he shot him on the 22nd day of November 2022.

[68] In the circumstances of the killing as described by the prosecution eyewitness, and other witnesses including the experts witness, I have no doubt that the element of intention to kill has been proven by the Crown to the requisite standard.

There was no lawful justification to harm the deceased

[69] I now apply my mind to whether there is any lawful justification by the Accused to Kill Owen Tucker. This shall be dealt with succinctly as there was no evidence that there was any lawful justification, either provocation, self defence or any other defences. Immediately before shooting of Owen Tucker by the Accused, he said to him, 'why you lie pon me? And told him, "*you know you're a dead man right*"? I have concluded that there was not a scintilla of evidence to support any lawful justification for the killing of Owen Tucker, neither from the prosecution nor the defence.

[70] In deliberating on whether there existed any partial excuse or lawful justification for the killing, I first reviewed the relevant sections of the Criminal Code section 119 which states:

119. A person who intentionally causes the death of another person by unlawful harm shall be deemed to be guilty only of manslaughter, and not of murder, if there is such evidence as raises a reasonable doubt as to whether,

(a) he was deprived of the power of self-control by such extreme provocation given by the other person as is mentioned in section 120 of this Act; ...

120. The following matters may amount to extreme provocation to one person to cause the death of another person, namely,

(a) an unlawful assault or battery committed upon the Accused person by the other person, either in an unlawful fight or otherwise, which is of such a kind either in respect of its violence or by reason of words, gestures or other circumstances of insult or aggravation, as to be likely to deprive a person, being of ordinary character, and being in the circumstances in which the Accused person was, of the power of self-control;

(b) the assumption by the other person, at the commencement of an unlawful fight, of an attitude manifesting an intention of instantly attacking the Accused person with deadly or dangerous means or in a deadly manner;

(c) an act of adultery committed with or by the wife or husband of the Accused person, or the crime of unnatural carnal knowledge committed upon the Accused person's wife or child;

(d) a violent assault or battery, or any sexual offence, committed upon the Accused person's wife, husband, child or parent, or upon any other person in the care or charge of the Accused person;

(e) anything said to the Accused person by the other person or by a third person which were grave enough to make a reasonable man to lose his self-control.

[71] I reviewed the evidence to determine whether there was evidence in this trial that the Accused was provoked, defending himself, was assaulted or whether any of the above circumstances existed, and found none.

[72] Based on the foregoing, the Prosecution has proven the final element of murder, that is, that the Accused had no lawful justification to cause the deceased any harm. I have absolutely no doubt about this.

[73] Upon examination of the prosecution's case I am obliged to look critically at all the evidence in the round and to determine whether the facts as I find it, leads me to the conclusion, so that I am sure of the Accused's guilt¹². In other words, the cumulative effect of the evidence led when taken holistically, leads me to the inescapable conclusion that the Accused is guilty of murder.

The Defence case

[74] As the judge of the facts, I have the duty to consider the defence case cogently, accurately and faithfully, as I did the prosecution's case¹³.

[75] At the close of the prosecution's case, I informed the Accused of the three rights he is entitled to as an Accused person in a criminal case, the Accused elected to exercise his right to provide sworn testimony in the trial.

Testimony of the Accused

[76] The defence of the Accused is that it was not him who committed the murder, he was someplace else and raised alibi despite no alibi witness being called. The essence of his testimony is that he did not inflict the harm that caused the death of the deceased.

[77] In an effort to outline the full case for the accused I will paraphrase in his words, his testimony including the cross examination hereunder as follows:

- i. My name is Jerome Chester Crawford. I am 42 years old. I was born on the 22nd of January 1982. My last address is 40 Yorke Street North Side Belize City. I know why I am here today. I am here because I was charged with the offence of murder of Mr. Owen Ruben Tucker.

¹² Mc Greevy v DPP [1973] 1 WLR 276.

¹³ R v Nelson (1977) Crim L.R. 234 Appeal No. 17 of 2012.

My last occupation, I was working with Mr. Owen Tucker at Crock Land as Chief of Security and co-partners in developing the ECO Park. I met Mr. Tucker several years ago. It was before COVID. He used to run my taxi and he frequently asked me to pick him up and drop him off at places. That was a few years ago before COVID, that's all I can remember.

- ii. My last place of employment was at Crock land, Mr. Owen Tucker employed me there. I was working there maybe in September 2022, about two months. I was the Chief of Security in charge of making sure the other workers were safe at work, making sure the stealing from the property was halted.
- iii. Other workers were Mr. Ruben Cox, two young ladies that used to do the cleaning and Ms. Bernadine, and Ms. Gabriel along with myself and Mr. Owen Tucker approximately 6 persons and am familiar with the other five[5].
- iv. I met Mr. Tucker sometime before COVID. He was about to purchase Crock Land and it was around the time that Atlantic International had an issue where the people who were using their service, Central Bank put a halt on it. During that time, I met Mr. Tucker. After becoming friends, he told me the problems he was having with his property and the serious dispute about Crock Land property. Since then, we have been working and he has been back and forth in the USA. I never saw him during COVID but right after that he came to collect smoked food where I met him at Free town. This was when he was really annoyed with the Pitts family and the Elrington family, because of the dispute over the purchasing of Crock land.
- v. He told me then that he needed somebody to basically watch his back and be his right hand with the project, and then because he was fearing for his life at the time. At that time, he was thinking of hiring some people from across the border to come and protect him and help fight the case with the Elringtons and the Pitts.
- vi. There were several parties with disputes, you had Ruben cox, Rose cox and Roshelle Cox. We had the Reyes family and another man I cannot remember his name he lives immediately behind the next property. Those are the ones I remember right now.
- vii. The incident with the Cox family took place on the first day. Me, Mr. Owen and two other gentlemen, we rented a truck for that day to go up to see if we could meet some people to talk about the dispute and find a peaceful solution. The first people we encountered were

the Cox's. They didn't welcome us when we got there. There was a very heated exchange with Mr. Owen and Ms. Rose, followed by Mr. Ruben and the other sister, Ms. Rochelle Cox. That issue was because the boundary line was not clear to sight, you couldn't see where one property starts and the other begins. He said how his map looked, the Cox's were on his property. There was a heated exchange, but because I knew Rochelle Cox I went to school with her, I spoke to her, to try to calm the situation. I advised Mr. Tucker, to speak to the Chairman of the village just to have a next person with clearer head talk to the Cox's.

- viii. Mr. Reyes and his family had a 19-acre block that is behind the Cox's. It had Mr. Reyes and his family who had a 12x10 plywood structure on it and that property was planted out and it had some cows on it. Mr. Tucker didn't want to accept the fact that the Reyes's were using his property because according to his map from the Belize Bank this property was his. We ran into Mr. Reyes one day at Ms. Rose house and that exchange was very heated to the point where Mr. Reyes called his, sons', nephews, and grandson to come at us. That situation really annoyed Owen, to the point he asks me to burn the 12x10 plywood house down. I told him we can't do that, that's not the way it works in Belize, so I advised him to go to the Sandhill Police Station and report the matter, which we did. However, a week or so after we went to the police station.
- ix. A week later Mr. Reyes house was burnt down, I went to check on the 19 acres that structure was still up, the 10x12 structure. It was his house that was on the Highway that got burnt down.
- x. The family that lives immediately behind the building one day some young ladies were driving through. Up to a certain point everyone has to use Crock Land to get into their property. Owen waved the truck down and spoke to the young ladies in a very rude way, considered a verbal assault. The young ladies spoke to their grandfather, and he came straight away with a machete in his hand. Some very heated exchange was made, the grandfather told him, you can think you can just come here and we what 'fi' do'.
- xi. I had an incident with my wife at the time, and the domestic unit I went to report it, and I had to go to court for it. That is the only charge I would have for an incident like that on my record.

Prior to that date I was detained I had an incident, I was arrested and charged. I don't remember the name of the charge, but eventually I won my case and that was settled.

- xii. On November 22nd 2022, I got up early morning I called Owen he told me he was going to Wesley to see his lawyers, but remember that the material was coming, the material to replace and fix the roof at Crock Land and he was at the point of telling the Mennonites to give him back his money because according to him he didn't expected those things to take too long but I was explaining to him that in Belize things were slow. I told him I would go and receive the material and head back to the city. The ladies that were cleaning the pool, there wasn't enough work for them, and I sent them home. I waited, first the pickup came, Mr. Owen instruction was if the material came don't let them on the property as he was tired of waiting. I waited until the trailer with the roofing came, and I called for Ms. Gabriel, one of the workers she went to buy food in my car.
- xiii. She came and picked me up and we left. I spoke to a mechanic. I cannot remember his name at the moment to ask him about a rack and pinion because my steering was giving a bit of problem. He is located in Butter Cup, right outside of Boom Village heading to Scotland. He asks me if I can pass the gas station. I went to get two gallons of gas. Which I did and took it to him. It was almost noon.
- xiv. I took the gas to him, he spoke to me about the parts for my car and I proceeded to, 'Rancho Dolores'. Boom Junction is 13 ½ miles outside of the city heading north. Rancho Dolores is the last village, past, Boom, Butter Cup, Scotland, Half Moon, Flowers Bank, Bermudian Landing, Double Head Cabbage, St Paul's and Willows Bank, then Rancho Dolores. It's about 20 more miles.
- xv. I took a family and got some canvas for them, two brand new canvas for the roof. On the way back from there Ms. Gabriel ask me to try and locate one of her aunt as she was in the neighborhood. On the way back we made two stops, Ms. Gabriel and I, I bought some water and juice at a store that has hardware and gasoline and headed back to the city. After I left Crock and I went back that day, Mr. Cox was not feeling good so he asked for some time off. So, I found a guy to cover the night watch for him, so I had to get a guy from Belize City to cover for him, when I got there, it was just the workmen who were driving out, I ask them

to wait so we could have someone there. I got there about 5:30pm. The gentleman I took I know him as, 'Woo', I don't know his government name.

xvi. I dropped off Woo at 5:30 pm. On the 22nd November I went back home to the city. That concluded on the 22nd.

xvii. On Wednesday the 23rd November 2022, I went up to pick up Woo and bring him back to the city. I got a call I think, from Ms. Bernardine. Ms. Bernardine and Mr. Tucker had an intimate relationship at one point. I went on with my day. I think it is the Wednesday or the Thursday I have to go to Chetumal. I had a friend staying at my house, her son was in the hospital due to an accident in Corozal.

xviii. I went to Chetumal to get the tube for them to feed the guy as the hospital didn't have, coming back that night I got a call from Ms. Bernadine stating that Owen never went home from Tuesday.

xix. The last time I saw Mr. Tucker alive was the Sunday I was at his house the Sunday. We drove down to Hopkins on the 18th November, we decided that we needed a little break, so the remaining staff that was there, me, Ms. Gabriel and him. We went down to Hopkins on an 'R and R', we came back early on the 19th Morning dropped him home, Sunday we had the meeting at his house the 20th. I dropped Mr Owens at his house at 27 Fourth Street Kings Park.

xx. Sunday morning Mr. Owens and I had a meeting, to lay out the week's work. This meeting was held on his verandah by his mom at the same address, we talk about what we have to talk about then I leave. The last time I saw him was on the 20th at his house on 4th Street. I took for him that morning his tennis shoe, the guy at bridge street that fixes the shoes I took it for him about 10:30am.

xxi. I didn't commit this offence. I didn't commit this offence.

xxii. I have no idea where Mr. Ruben Cox got the story from, his testimony. I heard Ms. Rose Cox testimony, all of that is made up. I heard testimony from two officers Palacio and Mr. Bowen; Bowen had a note I signed. I asked him to help and protect my family, due to the incident that took place with Mr. Owen, and I told him when come to my kids safety and

family I would prefer to die to keep them safe. Even is to send an extra patrol in the neighborhood, that's the reason why I made that comment to him.

xxiii. What Mr. Chee said is true, my gun was there, my rounds were there, the shell was there. My gun was in my closet, all that is true, he found that at my place along with my licence.

xxiv. I asked Ms. Wiltshire if there was anything the police could do about protecting my family, she asked me if I was beaten, threatened or coerced in anyway and I gave this statement of my own free will, and I am doing that here today no promises no threat.

xxv. Owen Tucker was a friend and brother to me; his mom Ms. Doris Jones is like a mother to me. I knew her before I met Owen, I used to pick her up and take her to the clinic and to the elderly programme. I would go and get some things for her when she was sick, long before Owen came in the picture. Owen had a lot of enemies. Because of the incident I think I had touch on the incident with the taco vendor.

xxvi. I learnt Owen was missing the night I came back from Chetumal. I learnt he died while I was at the police station. It was then they told me. According to the evidence they never found him until the evening.

Cross Examination.

[78] The Accused was cross examined by the prosecution and in material particulars has accepted and or agreed with the suggestions by the prosecution.

Jerome Crawford cross examination (Paraphrased)

i. I have no idea what Mr. Tucker was telling lies on me about. There was always business as usual with Mr. Tucker, we never had a strained relationship. Mr. Tucker had raised certain things to me about what he didn't like about me. He said I was late to pick him up a couple times, as far as I could remember that was it nothing major. I learnt from the disclosure Mr. Tucker fired me a couple days before the incident. At the time Mr. Tucker was shot I had my common law relationship at the time, her name was Joshaun Stanford.

ii. **Witness shown exhibit RH 2-** [Pic of car PO10142] That is my vehicle, it is a Mercury Grand Marquis, its green. The licence plate colour is green. I was driving this vehicle on the

22nd November 2022. My common law wife was never in that vehicle on the 22nd November 2022. I drove that vehicle on the Crock Land compound on the 22nd November 2022. I know Officer Joseph Pook, we went to school together, what he testified was true. It is not true where he saw me. He saw me at Belize River Valley and the body was found at the Belize River Valley. It is not one single straight road to the Belize River valley. It is correct it is one paved road that connects all the villages, there is only one in and out road that connects those villages.

iii. Where I was seen and where the body was found is not on one stretch of road. There is only one paved road to access to get to where the body was found. You cannot get from Burrel Boom to Bermuda landing unless you travel on that paved road, or even Lemonal. Butter Cup is in Burrel Boom. There is not one road or drivable road to get you from Butter Cup to Lemonal.

iv. I agree with the evidence of Robert Henry, that came back positive, the blue star test. I agree it had several positive reactions in the trunk of the car and front passenger side. I disagree that the reaction was there from the blood of Owen Tucker. In my interview I didn't tell the police that because they never ask. That day, 22nd November 2022 wasn't hectic for me. I went to Crock Land twice. Crock land is 27 miles on the highway and 1 mile plus in. That is 54-mile round trip and 108 miles two trips. I did those miles. I also went to Butter Cup. That day I did close to 200 miles.

V. The 22nd November was a Tuesday. In the morning and evening had a lot of traffic. On the 22rd I went to Crock Land twice, and I got there around 9am. I left home about 8 am or 815am. That's the day I also went to Butter Cup. I got back down to Belize City around after 1 to 2pm more or less, early afternoon. I went back up again probably about 4 or 5 pm more or less I got there about 5:30 pm. I was looking for the security to take him back that evening, between 2 to 5 pm.

I agree with the statement of Andrew Humes. I never agree to purchase ammunition at around 10 am, as was said in the statement of Andrew Humes.

I agree it's not consistent, I cannot be both places at the same time. My timeline is not matching up. I said I got back down closer to the city early afternoon, 1 or 2 o' clock. I heard Joseph Pook statement read out in court, and he saw me on Butter Cup village road at 2:30pm. **I agree what I am saying is not consistent with what Joseph Pook statement says.** I agree Butter Cup is over 20 miles from Belize City more or less. I travelled Phillip Goldson Highway. I disagree at 2:30 pm I was nowhere close to Belize City. I agree to the statement of Mr. Pook.

vi. Mr. Tucker owed me US 10 grand; he couldn't pay anytime. He died owing me 10 thousand US dollars. Whenever I go to buy bullets they must log it, they write the weapon serial number, it's a process. They have to write it in their logbook and the minute sheet, it takes about 10 minutes. It doesn't take 15 minutes. It is not true that the reason why I purchase the bullets on 22nd November 2022, was to shoot Mr. Owen Tucker with it. I didn't mean to plead guilty to murder when I said it. I said anything for the safety of my family. I disagree that I signed my name on the paper if it wasn't true.

What Mr. Cox said is not true. What Ms. Rose Cox said is not the truth.

I disagree that I am lying to this court. I didn't make up anything for this court.

I didn't shoot and kill Owen Tucker.

I agree it is pointing towards me, when you piece the blue star test, what I told the police that I want to plead guilty and what Ms. Rose said. I agree it is pointing to me.

[79] The Accused was re-examined and gave the following answers:

- I. I agree with one road running to Burrel Boom.
- II. All I know is the body was found in Lemonal.
- III. Distance between Lemonal and Burrel Boom- 20 miles.
- IV. Yes, I am aware the test was positive for blue ray at the front of the car.
- V. On the 22nd I passed the bullet shop once.

Defence Submissions and Assessment of the Testimony of Accused

[80] The defence given by the Accused was that he was not present at the scene, and he raised an issue of alibi. In summary, the Accused testified that, on November 22nd 2022, he got up early, he called Owen Tucker and he told him he was going to Wesley to see his lawyers. However, the material was coming to replace and fix the roof at Crock land. He told him he would go and receive the material and head back to the city. The ladies that were cleaning the pool there wasn't enough work for them and he sent them home. He waited, first the pickup came, Mr. Owen instructions were if the material came don't let them on the property as he was tired of waiting. He waited until the trailer with the roofing came and called for Ms. Gabriel, one of the workers, who went to buy food in his car. He spoke to a mechanic about a rack and pinion because his steering was giving a bit of problem. He cannot remember his name. He is in Buttercup, right outside of Boom village heading to Scotland. He asked him if he could pass the gas station and get two gallons of gas, which he did and took it to him. It was almost noon. He took the gas to him, he spoke to him about the parts for his car and he proceeded to, 'Rancho Dolores'. Boom Junction is 13 ½ miles outside of the city heading north. Rancho Dolores is the last village, past, Boom, Butter cup, Scotland, Half Moon, Flowers Bank, Bermudan Landing, Double Head Cabbage, St Paul's and Willows Bank, then Rancho Dolores. It's about 20 more miles. He took a family and got two brand new canvas for the roof. On the way back from there Ms. Gabriel ask him to try and locate one of her aunts as she was in the neighborhood. On the way back he made two stops. He and Ms. Gabriel were together, and he bought some water and juice at a store that had hardware and gasoline and headed back to the city. After he left Crock he went back that day, Mr. Cox was not feeling good, so he asked for some time off. So, he found a guy to cover the night watch for him. He had to get a guy from Belize City to cover for him, when he got there, it was just the workmen who were driving out, he asked them to wait so he could have someone there. He got there about 5:30pm. The gentleman he took there, he knows him as, 'Woo', He doesn't know his government name. He dropped off Woo at 5:30 pm. On the 22nd November he went back home to the city.

[81] In sum, the above is the daily account of the Accused's activity. He was busy driving, meeting people and assisting others. However, he has failed to bring a witness who can support his whereabouts on the day in question. He had the mechanic, Ms. Gabriel, one named Woo and other people he would have met on the 22nd of November 2022. The Accused's sworn testimony was detailed as to his whereabouts for the day but lacked specificity in relation to time. I have observed the Accused's demeanor when he spoke of his busy day and I am satisfied that he is untruthful. Further, he was discredited totally in cross examination.

[82] In cross examination the Accused admitted on more than one occasion that his story was not adding up. He agreed his school mate Joseph Pook saw him at Belize River Valley and the body was found at the Belize River Valley area. Interestingly, Joseph Pook said he saw him at 2:30 pm. The Accused agreed in cross examination with the testimony of Joseph Pook seeing him in the area where he stated. He also agreed where he was seen was one paved road that connected all the villages, there is only one in and out road that connects those villages, and that there was only one paved road to access where the body was found. He also agreed with the evidence of Robert Henry, that came back positive, for the blue star test.

[83] Further, in cross examination the Accused stated that the 22nd November 2022 wasn't hectic for him. He went to Crock Land twice. Crock land is 27 miles on the highway and 1 mile plus in. That 54 mile round trip and 108 two trips. He did those miles. He also went to Butter Cup. That day he did close to 200 miles. On the 22nd he went to Crock Land twice, and he got there around 9am. He left home about 8 am or 8:15am. On that day he also went to Butter Cup. He got back down to Belize City around after 1 to 2pm more or less, early afternoon. He went back up again probably about 4 or 5 pm more or less. He got there about 5:30 pm. Interestingly, Mr. Andrew Humes documented that he sold the ten 12-gauge cartridges for the Accused at 10:00 am and the time and other identification marks were written down on the receipt.

[84] The Accused agreed in cross examination when the questions were put as to his timeline not matching up. He said, and I will paraphrase:

'I heard Joseph Pook statement read out in court. He said he saw me on Butter Cup village road at 2:30pm. I agree what I am saying is not consistent with what Joseph Pook statement says. I agree Butter Cup is over 20 miles from Belize City more or less. I travelled Phillip Goldson Highway. I disagree at 2:30 pm I was nowhere close to Belize City. I agree to the statement of Mr. Pook.....'

[85] On an examination of the defence case solely, without examining the direct, circumstantial and expert evidence presented by the prosecution and listed above, the Accused's evidence has been totally discredited. But this is not the end of the matter. Since, I must direct myself on the issue of lies as people are known to tell lies for innocent reasons, to bolster a defence or for other reasons.

[86] As I understand it, the theory proffered by the Accused is that he did not kill Mr. Tucker and he was nowhere around. All the witnesses who identified him were either mistaken or outright telling untruths. However, there was not a scintilla of evidence in this trial adduced to support the theory that someone other than the Accused killed the deceased. Consequently, I can find no merit in the defence submission that supports his self-proclaimed alibi.

[87] I note that the eyewitnesses cogently identified the Accused namely, Ruben Cox Jr, Rose Cox and Santiago Flores all at the scene of the crime. Ruben saw him shoot Owen Tucker and Rose Cox heard him threaten to kill him and shots fired seconds after. Forensically, the firearm ballistics matched the spent shell to the gun admittedly owned by the Accused and the purchase of the ammunition on the morning of the murder. The wrapping of the deceased and placing him in the trunk of his car, when two witnesses testified that a female came with a car and drove away with the Accused namely, Ruben Cox and Santiago Flores. The 'blue chemical test' that was positive when tested in the car and the concrete building where the offence occurred. The evidence against the Accused was overwhelming.

[88] Finally, the accused gave an interview while detained, dated 26th November 2022 at 4:15 pm. It was an exculpatory statement which I have taken into consideration in my deliberation, but it has not altered my final decision. After considering the interview compared with the accused sworn testimony, I do not find him credible.

[89] With respect to the testimony of the Accused, having concluded that he is not being truthful, I direct myself that I cannot convict him on that basis. I direct myself that accused persons may fabricate defences and alibis for reasons other than guilt. Most importantly, the Prosecution has the burden of proof and thus it is their evidence that must make me feel sure of the guilt of the Accused. I remind myself of the **Lucas** directions.

Lucas direction

[90] In this case, I believe that the Accused deliberately lied about his whereabouts on the day of the incident. I direct myself that it has been shown that persons may lie not because they are guilty, but for other reasons (for example, to bolster a weak case, to protect someone, out of panic, or to cover up disgraceful behaviour)¹⁴. Thus, it is not the lies of the Accused that lead me to conclude he is guilty. It is because I believe the prosecution evidence that I have reached the conclusions above mentioned.

Good Character

[91] The good character of the Accused in this trial was raised and, in my view sufficiently to trigger the good character directions. The defence counsel asked the Accused when he testified if there were any domestic violence reports against him to which the Accused said no. The Accused also said he had never been brought to Family Court. The learned defence counsel included in his closing submission that there was no domestic violence history. Even though there was no evidence that the Accused had no previous convictions of any sort, I have determined that I will direct myself in the law on good character.

¹⁴ **R v Lucas** [1981] 2 All ER 1008, [1981] 3 WLR 120

[92] Good character is not a defence. The two limbs of good character are credibility and propensity.

The Accused gave sworn testimony and thus is entitled to both limbs of good character. The first limb is where the Accused has good character it helps to support his credibility where he has testified under oath. The second limb is that good character of the Accused supports the lack of propensity that the Accused committed the crime with which he is charged. This means that because the Accused has good character, he is less likely than otherwise might be the case to commit the crime with which he is charged. I have taken both limbs of good character into consideration in assessing the credibility of the Accused and the likelihood he committed the offence. I have done so after directing myself that merely because an Accused has no previous criminal record does not mean he is a person of good character¹⁵. In this case, there is no evidence of previous reprehensible conduct by the Accused, so I do not find him to be a person of bad character.

[93] The authority of **Teeluck v. State**¹⁶ provides further guidance on the two limbs of good character and also that the jury should be directed to determine the weight to give each limb. The first credibility limb of good character is a positive feature which should be taken into account. The second propensity limb means that good character may make it less likely that the Accused acted as alleged and so particular attention should be paid to the fact. What weight is to be given to each limb is a matter for the fact finding tribunal, either the judge or the jury.

Revert to the Prosecution Case

[94] At this point in my deliberations, I return to the prosecution's evidence. As already noted, the Crown's case has convinced me so that I am sure that Owen Tucker is dead and died from unlawful harm inflicted by the Accused. Moreover, primarily the evidence of the eyewitness, expert witness, in conjunction with the circumstantial evidence of the ballistic gun and cartridge found in the Accused's home, convince me beyond a reasonable doubt that the Accused killed the deceased.

¹⁵ **Nigel Hunter and Others v R** (2015) EWCA Crim. 631 at paragraph 74

¹⁶ **[2005] UKPC 14**

As for the *mens rea* element, the Crown made me sure based on the use of the gun, pointing it to Owen Tucker and shooting him that the Accused intended to kill the deceased. Finally, the Crown negated, beyond a reasonable doubt, the existence of any lawful justification and or defence for the Accused to have harmed the deceased. The prosecution has proven each element of the offence so that I am sure that the Accused murdered, Owen Tucker.

[95] Furthermore, after giving the Accused the benefit of both limbs of good character, that he would not have the propensity to lie or offend the law, I give little weight to his good character. This is so because the previous good character of the Accused does not alter my acceptance of the prosecution evidence and the inevitable conclusions that the evidence has led me to adopt.

Verdict

[96] Based on the prosecution evidence and taking all factors into consideration, the Crown has satisfied me to the extent that I am sure that the Accused had the specific intent and did unlawfully and intentionally kill the deceased, Owen Tucker, without lawful justification.

Therefore, I find the Accused guilty of murder.

[97] The court is reminded of the guidance from our apex court the Caribbean Court of Justice in the recent matter of **Sherwin Harte v. State [2023] CCJ 9 [par. 25-27]** and the methodology to be followed when passing sentence. The sentencing is therefore adjourned for a separate hearing. At such time the court will examine the mitigating and aggravating factors, including mental health or psychological assessments, victim impact statements, prison and other reports can be advanced which will be considered holistically. By virtue, thereof the court orders the following:

- Social inquiry report of the Accused.
- Police criminal record/s report of the Accused.
- Prison report of the Accused.
- Victim impact statement.
- Psychiatric assessment of the Accused.

[98] The sentencing is adjourned to the 17th day of June 2024, for the receipt of the report and for filing of submission.

Dated 31st May 2024

Derick F. Sylvester
Justice of the Supreme Court