JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO. 30 & 31/92

COR: THE HON MR JUSTICE CAREY J A
THE HON MR JUSTICE FORTE J A
THE HON MR JUSTICE GORDON J A

REGINA VS KERWIN WILLIAMS
MELBOURNE BANKS

Dennis Morrison QC & L Jack Hines for Williams

L Jack Hines for Banks

Kissock Laing for Crown

May 30 & June 20 1994

CAREY J A

In the Home Circuit Court before Panton J and a jury, these applicants, after a trial which lasted from 2nd to 17th March 1992, were convicted of the murder of Keith Ramtallie aged 54 years and his mother Evelyn Ramtallie aged 94 years. They were sentenced to death. It was an altogether atrocious crime even in this country where one violent death occurs each day: the throats of the victims were slit.

The prosecution case depended essentially on statements under caution made by each of the applicants and in the case of the applicant Kerwin Williams, in the presence of a Justice of the Peace. Both statements were admitted when the judge ruled on their admissibility after he held a voir dire. Williams also made admissions to a police officer and a doctor. There was some circumstantial evidence which provided some background to the entire sad affair. It emerged that Banks was employed to the slain man who was a horticulturist and carried on such a business from his home at 6 Par Drive where he lived with his mother, the other victim. At about 2:00 p.m. on 22nd March 1991, Roslyn Lindo a household help at the Ramtallie's overheard Banks grumbling about the low wage

and lunch money which he was receiving from his employer and warning that he would not be returning to work because his relationship with Marcia Brooks (another household help) had caused her to lose her job. This applicant was obviously in a foul temper because his monologue was punctuated by some expletives.

On the morning of the 25th, Patrick Scott a former gardener at the victim's home attended there in answer to a summons by the slain man. When he had no response to his call, he went into the premises to find Keith Ramtallie lying on the ground in a pool of blood with his throat cut. He raised the alarm and only returned to the premises upon the arrival of the police. He found Mrs. Ramtallie sitting in a rocking-chair with her throat cut also.

Sometime later that morning, Gladwin Ramtallie, a daughter of the slain woman was summoned home to learn of the death of her mother and brother. She did not see the bodies but observed bloodstains at various parts of the house, that her mother's handbag was absolutely empty, money as also a change-purse were missing. Her brother's room was ransacked, and from it, she missed a black pouch with his cheque book, lodgement books and money.

On that same day, Camille Benjamin and her boyfriend who live at 7 Miles Bull Bay, some considerable distance from Par Drive to our knowledge, saw both applicants come there. These persons observed that the clothes of Kerwin Williams was bloodstained. He explained the soil by saying that he had been cut by the conductor on his way from Lawrence Tavern in a bus. Camille Benjamin eventually washed these clothes.

Kerwin Williams was interviewed by Deputy Superintendent Hewitt sometime after 6:00 a.m. on 26th March. The officer told him that he was investigating a case of a double murder of Keith Ramtallie and Evelyn Ramtallie and he wished to ask him questions about it. Immediately the applicant then stated - "A dat bwoy deh carry mi round deh go kill the people dem." Melbourne Banks who was then present, remained silent. Both applicants were then

taken to a doctor, Dr Ford for blood and samples of their nails to be taken. Dr. Ford who gave evidence for the prosecution, said that he told both applicants that they had nothing to fear from the police while in his presence, and if they had any complaints they should voice them. Whereupon Williams said - "this idiot boy (referring to Banks) carry me and get me in trouble."

On 26th March 1994, Kerwin Williams intimated that he wished to make a statement. Thereafter Detective Inspector Chin engaged the services of a Justice of the Peace and the applicant dictated the following statement:

> " Monday morning about something after five Bones weh him same one name Melbourne come to me and tell me that him want me follow him go collect him pay. Me tell him fe hold on mi soon come. That a up a my yard a Unity. Him hold on and me go out a de bus stop go join him and de two a we tek a Leyland Thirty-one bus marked "Border," and we come off at Constant Spring and walk go round a Norbrook way. Bones tell me say me must stand up outside when me reach there and him tell me seh him soon come and him go inside. When Bones go inside me hear him and him boss a talk a quarrel and me hear him boss tell him seh him fire him from Friday. After that me hear him boss scream out.
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> Me go inside a de yard after him boss scream out and me see him lie down pon de ground wid him throat cut, slice round and me see Bones a go in a de room wid one middle size kitchen knife wid blood pon it and him tell me seh me must go back outside. Me go back outside a de back gate. Me did go a de back gate when me go deh and him go a de front. Me go back inside the yard after about five minutes because every move him make him send me a de gate fe go watch see if any-body a come.
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> Me go in a de house after me go back in a de yard and me see the lady in a chair lean back with her throat cut and Bones upstairs a search with the knife in a him hand.
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> Me and Bones go outside and him tell me fe pass a knapsack bag weh him did carry deh and left it outside, a black bag. Me pass de bag give Bones and him go inside wid it and him put him shirt in it and give me but it have more things in deh because it never flat like when me give him but me no see what else him put in deh.

The two a we outside now and him seh me must carry de bag, dat a when we a go leave. We walk go a Constant Spring and we tek a bus go a Half way Tree and from there so we tek a next bus go a Bull Bay and go a one young lady house. A de first time me go out deh still and de two a we lie down pon de lady bed and sleep.

Before me and Bones go sleep him tell the lady fe wash we clothes because blood did deh pon we clothes.

When me did go up a Bones boss house me did have on me shirt but when me go in a de yard Bones tek off him shirt and put it pon de top a one shed weh de flowers dem grow and have on him yellow merina wid de hole dem in a hit. Me keep on my shirt but me tek it off when me a go in a de house and put it weh Bones put fe him because me no want it blood up. Bones put my blue merina in a de bag when we a left him boss house.

Bones tek de clothes out a de bag a Bull Bay but me never see fe him yellow merina weh look like fe me.

Me and Bones wake up and me see my clothes pon de line and fe Bones to. Fe me clothes was grey trousers and blue merina and tall sleeve brown shirt but fe me shirt neve de pon de line because Bones tek fe me shirt and wipe off de knife. When me no see the shirt and ask him fe it him say him go mass it. Bones did have him pretty stripe shirt pon de line but him trousers never wash because no blood never deh pon it.

Me and Bones put on we clothes after dem dry and we travel pon de same bus go a Half Way Tree. Me left Bones a Half Way Tree and go a Unity.

Me forget fe tell you seh when we reach Bull Bay before we go a de girl house when we a cross the road Bones tek five hundred dollar out a one four corner black purse and give me and say dat a my cut. Me know seh him have more money left in a de purse but me never see a how much.

Me just member seh Bones carry weh de knife in the same bag weh him carry weh de shirt in a.

Me reach up a Unity about something after seven and hear seh Police go a Bones yard go ask fe him, but me stay a my yard until early dis morning when me see Police and Bones come deh come wake me and de Police carry me down ya. Das all."

On the 26th March 1991 Melbourne Banks intimated to the police (Det. Inspector Asphall) that he wished to tell his side of the story. This officer handed him over to Assistant Superintendent Howell who was in charge of homicide. He tried unsuccessully to find a Justice of the Peace. This applicant agreed to a Sergeant of police sitting in, while the statement was taken. We set it out in full:

> "Well, one youth from up a my way a work up a Stony Hill name Lambert, him and my boss Mr. Ramtallie move good. Mr. Davis Lambert boss and my boss move good, so Mr. Ramtallie check Lambert fi get a youth fi work fi him and Lambert carry me to him and that is how me get the job with Mr. Ramtallie. A don't member the date me get the work but mi work there one year and two month. Mi improve, mi cut flowers and set them under the water, circumpose and clean up the place, mix up chior (sic) and sand and bag and bathe the dog them and wash down the concrete. While me there working Lloyd and Omar used to come there to the boss. Lloyd work there one time but Omar never work there. Tony and Winston used to work there. About three month ago Lloyd and Omar and me dey out pon de road up a Unity. Lloyd and Omar tell me say to make we hold up Mr. Ramtallie. I tell them say it better them go off a dem own for like how me a work dey police going say is not stranger and is must a worker carry them in. About three weeks ago mi boss Mr. Ramtallie go out and left me dey with the helper Marcia. Rain start fall. The two a we dey gainst the washing machine. The boss come round and say, Melbourne, what is dat you a gwan with in a mi house? Him tell me say, 'You can't stay here no longer.' Him fire me and the next week him send back come call me and say him a send me pon a next work but him never send me pon the work him only re-employ me. Friday 22.3.91 when mi finish work twelve o'clock Lloyd and Shine was there. Lloyd come there from in the morning, me and him go there together. Shine come in a day before twelve. Mi get fifty-three Dollars fi mi pay and lunch. Mi tell Rosalee say me a go tell boss say the lunch money small him fi put something pon it. Me, Shine and Lloyd leave and go home. From before the Thursday (21.3.91) Lloyd and Omar did a plan fi go down with me to the work place on the Thursday (21.3.91) but me tell them say me not going a work down town if them want the two a them can go on. Me never go a work the Thursday, that is why me come a work the Friday. Monday morning when me

come a my bus stop me see Omar. Me and him tek the bus. Him tell me say him and Lloyd a go down a Mr. Ramtallie because Mr. Ramtallie beg them plantain. None out a de two a dem never carry no plantain. A the next bus stop Lloyd tek the bus. The three a we go round deh. As me reach a the gate and pull the gate Mr. Ramtallie come round the front from the back and say, 'Lloyd, whey you bring fi mi?' And Lloyd say him no get through. Mr. Ramtallie say to Lloyd, 'You bring the bank book fi make the two a we go draw the money whey you promise fi lend me.' Mr. Ramtallie run in the dog them fi mek the youth them come in. Melbourne go inside a the bathroom and Lloyd and Omar and Mr. Ramtallie go round the shed and sit down.

My Lord, at this stage I remember when he said Melbourne went into the bathroom others went a round the back, I asked him which Melbourne and his reply is, 'When I say Melbourne go in the bathroom I am speaking about myself. When I go in the bathroom and start change I hear a noise outside like somebody choking. When me come outside me see Lloyd and Omar hold down Mr. Ramtallie a ground beside the shed. Me say, 'A what the man dem do?' And Lloyd say to me, 'Come gi him a cut,' and him say if mi don't gi him a cut them a go beat me up and cut me up and leff me in a de yard; him neck did cut a ready. Lloyd and Omar have knife in them hand. Me take way Omar knife and mi gi the boss one stab a him belly and mi rip it with the knife. Them say come mek we go in the house fi Granny. When we go in dey we see Grannie sit down in a de the chair in the hall, and Omar said to me, 'Hold him hand, man, do something'. And me hold one a her hand. Omar hold back her head and cut her throat with him knife? That time Lloyd a search the house. After that dem dig up in a Grannie room then them run upstairs. Me just stand like mi knock out. Me see Omar come with Mr. Ramtallie black pouch. Omar said, 'Lloyd, unoo come, me find whey mi fi find.' Me come out through the front gate.

Omar and Lloyd walk through the back gate and the three a we meet up at Constant Spring. Omar say a only Three Hundred Dollar him get. Him give me One Hundred Dollar, me don't see how much Lloyd get. Lloyd say him going up a Unity and Omar say mi fi come mek me and him go out a Bull Bay. We left go straight a Bull Bay. Omar did blood up, him beg Camile wash out the clothes them fi him. We wait till them dry. We cook some food and sleep. We leave there

> something to four o'clock. When me reach up mi sister tell mi say that mi father and mother gone down a station and say me must come down deh. When me going pon the road me see a car coming down back a mi. The car draw down a mi foot, mi father did in a the car and him tell mi fi come in, so me go in. The police ask mi whey me was the day, me tell them Bull Bay and me carry them to Bull Bay and me carry them go a Omar yard and them hold Omar. When we did out a Bull Bay we hear the 12:00 o'clock news say them find Mr. Ramtallie and him mother dead with them throat cut. Omar say him knew say police going check me and me mustn't talk because it going rough pon my side if mi talk. When the police dem hold me me never did want fi tell dem and then me say to miself say me going talk for mi no talk a mi one going in a this trouble ya and mi start tell the police how it go and who and who go there. And that is how me cary them up a Unity fi Omar. When them hold Omar him say, 'Boy what kind a thing you do, man?' That is all, sah."

Both applicants, as is customary in this jurisdiction, made unsworn statements in which they spoke of third-degree methods used by police officers to induce them to sign confessions. Banks asserted that he saw no reason to kill Keith Ramtallie. Neither directly spoke to the crime charged against them.

On behalf of Williams, two grounds of appeal were argued. First, it was said by Mr. Hines who dealt with this point that the trial judge erred in ruling that the evidence of Deputy Superintendent Hewitt as to what Williams said to him was, admissible when a caution had not been administered to the applicant.

We remind of his statement and the circumstances in which it came to be made. Deputy Superintendent Harris visited the scene of the crime. On the same night he interviewed the other applicant Banks and learnt from him his movements on that day. In the result, Banks was taken to Bull Bay, Seven Miles where the officer interrogated Omar Cobourne and Camille Benjamin. They provided information which brought Kerwin Williams into the picture. Instructions were then given to pick him up. He was brought in at 6:00 a.m. on the 26th to Deputy Superintendent Hewitt who identified himself and intimated that he intended to ask him

some questions into the murder of Keith and Evelyn Ramtallie. Whereupon Williams pointed to Banks and said - "Ah dat bwoy deh carry mi round deh go kill the people dem." Mr. Hines said that that evidence which the Superintendent had, would indicate a state of mind that he had reasonable or sufficient ground for suspecting that an offence had been committed by Williams. The officer should have cautioned him before he said anything. He relied on **R v Osbourne & Virtue** [1973] 1 All E R 649.

Rule 2 of the Judges' Rules directs as follows:

> "As soon as a police officer has evidence which would afford reasonable grounds for suspecting that a person has committed an offence, he shall caution that person or cause him to be cautioned before putting to him any questions or further questions relating to that offence."

The question of what sort of information a police officer was required to have in his possession to provoke a caution being administered was considered in **R v Osbourne** (supra). Lawton LJ who delivered the judgment, said this at p. 655:

> "... The rules contemplate three stages in the investigations leading up to somebody being brought before a court for a criminal offence. The first is the gathering of information, and that can be gathered from anybody, including persons in custody provided they have not been charged. At the gathering of information stage no caution of any kind need be administered. The final stage, the one contemplated by r 3 of the Judges' Rules, is when the police officer has got enough (and I stress the 'enough') evidence to prefer a charge. That is clear from the introduction to the Judges' Rules which sets out the principle. But a police officer when carrying out an investigation meets a stage in between the mere gathering of information and the getting of enough evidence to prefer the charge. He reaches a stage where he has got the beginnings of evidence. It is at that stage that he must caution. In the judgment of this court, he is not bound to caution until he has got some information which he can put before the court as the beginnings of a case.
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> On that view of the Judges' Rules the next question is what information had the chief inspector when he

> started his interrogation which would have enabled him to put evidence before the court? The answer is in both these cases none. The inspector in the judgment of this court, was right when he told the recorder that he had no evidence. That can be demonstrated in both cases."

It was Mr Hines' contention that the police officer had reached the stage of the beginnings of evidence. The question we are entitled to ask, as the court did in Osbourne, was - What information had the Deputy Superintendent when he intimated that he proposed to interrogate the applicant Williams. Mr. Morrison helpfully isolated that information for the court. It amounted to this - that both applicants had arrived at Bull Bay on the same morning of the murder, that Williams' clothes were bloodstained and he explained that he had been injured by another man. The answer to the question we think, is pretty obvious. That information could scarcely qualify as the beginnings of a case, such as could be put before the court. In terms of Osbourne (supra) that officer, in our view, had reached the stage of the mere gathering of information.

Before the trial judge overruled the objection to the admission of the statement he had the benefit of addresses by counsel for the applicant and counsel for the Crown. Learned Crown counsel argued correctly as we have shown that the time for a caution to the applicant had not arrived because the officer was still on a fact-finding mission (p.226). He also pointed to the obvious fact that the response to his intimation was a spontaneous outburst by the applicant. Subsequent to that ruling by the learned judge, counsel for the other applicant added her weight to her colleague's earlier objection arguing that the judge had a residuary discretion to exclude the statement. It was after this objection that the statement was allowed in evidence. It seems to us that in all the circumstances, the trial judge properly exercised his discretion. We have no hesitation in saying that the statement was correctly admitted in evidence and accordingly, the trial judge's ruling cannot be faulted.

Secondly, it was argued by Mr. Morrison QC that the learned trial judge erred in law when he directed the jury (at p. 793) that if they accepted that the applicant (Williams) made the statement attributed to him, that he would be guilty of murder, applying the principle of common design. Learned Queen's Counsel accepted that the trial judge had given correct directions on the issue of common design. But he submitted that the cautioned statement did not give any indication to the jury in express terms of a common enterprise amounting to what took place at Par Drive that morning. He said that the applicant's statement indicated an intention to accompany another person to collect his pay. The only material in the cautioned statement that could lead the jury to an inference that the scope of the common enterprise embraced causing grievous bodily harm to the victims was the fact that the applicant stated that every move the other man made, he sent the applicant to the gate to guard against surprise. The jury, argued Mr. Morrison QC, should have been asked to consider whether the applicant's compliance with that instruction would lead them to an inference that the applicant participated in the common plan or whether it was capable of other inferences. Lastly, the trial judge withdrew from the jury their own consideration of the significance, if any, of the applicant's behaviour.

Once it is accepted that the trial judge's directions on common design was unimpeachable, the question for the jury was the interpretation of the applicant Williams' statement. We have previously set out that in extenso and it is sufficient now merely to give it in synoptic form.

It amounted to this. The other applicant (Banks) invited him to accompany him to his work-place to collect his pay. He did so. Banks requested him to wait outside. While there, he heard Banks in conversation with Banks' employer. Then he heard the employer scream. On entry, he saw the employer lying on the ground with his throat cut. Banks who had a bloodstained knife, told him to return outside. Every five minutes or so, he would

go back inside the premises, only to be told to go back on guard. On one such excursion, he saw a lady in a chair with her throat cut, and Banks engaged in searching rooms upstairs the premises. He assisted Banks in taking things from the premises although he was not aware of the nature of those things. Banks gave him $100 saying it was his cut. They eventually left the premises for Bull Bay where a lady washed their clothes which were bloodstained.

The applicant's statement on any view, once it was accepted as true, showed that he had willingly participated in the events of that morning. He knew quite well that two murders had been committed by the colleague who had said he was intending to collect his pay; that he stood guard to prevent his colleague being surprised; that he assisted in removing and shared in the proceeds of the morning's enterprise. At no time did he disassociate himself from those events but faithfully kept watch. He could have run off after his discovery of the first murder. He could have made an alarm at any time. He could have reported the crime to the police. He did none of these things. We would think that the inescapable inference to be drawn from his statement was that he was present aiding and abetting in the commission of the crimes that morning. Any other inference would have been unreasonable. A verdict of not guilty would have been perverse in the circumstances.

The learned judge having rehearsed the applicant's statement, dealing with the murder of Keith Ramtallie, couched the language of his directions in this way: (p.793)

> " Any watchman in these circumstances, guilty of murder. Any watchman in these circumstances, is guilty of murder, if you accept it."

Later, when he reminded the jury of the applicant's statement after he realized that Evelyn Ramtallie had been murdered and the events thereafter, ended with this admonition:

> " Well, Mr. Foreman and members of the jury, using the principle of common design, as I related it to you earlier, if you accept this, Williams is guilty of murder. If you don't he is not guilty. If you doubt the statement, not guilty."

It was these bald statements of the learned judge which learned Queen's Counsel criticised as a withdrawal of the jury's consideration. We do think that the judge could be said to have directed the jury to convict because although he left for their consideration the acceptance or otherwise of the applicant's statement, he substituted his view of the application of the law to the facts which the jury were required to find. As was made clear in **DPP v Stonehouse** [1977] 2 All ER 909, the function of the jury always is to find facts, to draw inferences from those facts and to apply the law as given to the facts found.

Lord Keith at p. 940 said this:

> "... It is the function of the jury, on the other hand, not only to find the facts and to draw inferences from the facts, but in modern practice also to apply the law as they are directed upon it, to the facts as they find them to be. I regard this division of function as being of fundamental importance, and I should regret very much any tendency on the part of presiding judges to direct juries that, if they find certain facts to have been established, they must necessarily convict. A lawyer may think that the result of applying the law correctly to a certain factual situation is perfectly clear, but nevertheless the evidence may give rise to nuances which he has not observed, but which are apparent to the collective mind of a lay jury. It may be suggested that a direction to convict would only be given in exceptional circumstances, but that involves the existence of a discretion to decide whether such circumstances exist, and with it the possibility that the discretion may be wrongly exercised. Thus the field for appeals against conviction would be widened. The nicer and sounder course, in my opinion, is to adhere to the principle that, in every case where a jury may be entitled to convict, the application of the law to the facts is a matter for the jury and not for the judge. I see no reason to doubt that the good sense and responsible outlook of juries will enable them to perform this task successfully."

The fundamental importance of the division of function as between judge and jury has not been doubted and we do not think it should become blurred. A jury on whom the burden of decision rests is,

regrettably, free to return what may appear to a judge as a blatantly perverse verdict. But the ultimate decision is the jury's. A judge's function is to assist them to arrive at a correct decision by passing the ball to them, not scoring the goal. To the like effect is **R v Gent** [1990] 1 All ER 364 where it was said that so long as a defendant maintains his plea of not guilty, he is entitled to the verdict of the jury, even though in the view of the judge an acquittal would be perverse. A trial judge is not entitled to direct a jury boldly or otherwise, that if they accept facts to be true, then the result is inexorably a verdict of guilty: the jury must be told that it is for them to decide whether the defendant is guilty or not, though of course, if they agree with the judge's view, then they can give effect to it. We wish to make it abundantly clear that a judge is entitled to express his opinion on the facts, even strongly, but the jury should not be directed to convict.

Having said this, we must go on to consider whether the proviso should be applied. The case against this applicant depended on this cautioned statement and two other statements of his, one of which was a clear admission of participation in the events of the morning of 25th March. That made in the presence of Dr. Ford, was at least equivocal, but coupled with the other amounted to powerful evidence against him. In these circumstances, we would apply the proviso.

With respect to the other applicant, Banks, a solitary ground of appeal was advanced. It complained that the trial judge erred in admitting his cautioned statement in evidence. Learned counsel, Mr. Hines isolated four factors which he said in combination should have inclined the trial judge to rule that the statement was not voluntarily given. These were:

"(a) There was evidence of oppression and or the taking of the statement in an oppressive manner;

(b) the evidence of the prosecution witness Miss Sharon Bryson as to injuries she observed on the applicant which injuries were consistent with being beaten as alleged by the Police;

(c) the evidence of the witness Mrs Carole Beswick Resident Magistrate as to injuries she observed on the applicant which injuries were consistent with being beaten as alleged by the Police;

(d) the failure of the Crown to call the witness Detective Sergeant Gerald Wallace at the Voir Dire in the light of the Crown contention that Sergeant Wallace witnessed his caution statement as it was given voluntarily and the applicant's contrary contention that he was beaten and forced to sign."

It is enough to say that we examined each in turn, with the assistance of counsel who was driven to accept that there was little if any substance in any.

With respect to oppression, counsel conceded that the recording of a statement for slightly under two hours could scarcely rank as oppression. He said that the applicant had neither eaten nor slept, before providing the statement. But there really was no evidence of that. It was not even suggested that the applicant was hungry. As to the injuries, which Miss Sharon Bryson or the Resident Magistrate, Mrs. Carol Beswick said they observed on the applicant, neither could speak to their recency or otherwise. Of course, neither were medical practitioners. Miss Bryson testified that she saw an abrasion on one of his arms on 26th March. The Resident Magistrate saw him on the 28th March when she noted a three inch long linear injury on left forearm, a bruise on the right forearm, two linear scars by right shoulder and "rubbing type of injury by the right of the right nipple and continuing below."

Both applicants in the course of the voire dire spoke to systematically being beaten, in the case of Banks with a hose and with respect to Williams, with guns. Williams also said he was

kicked in the stomach while Banks spoke of some officer standing in his back. He was also beaten with a hose. It is not too farfetched to say that such extensive third degree treatment would more likely than not, have resulted in far more extensive injuries than those seen by the witnesses called on behalf of the applicants.

It is perfectly true that Detective Sergeant Wallace was not called, but we did not understand Mr. Hines to be suggesting that this amounted to some irregularity or impropriety on the part of the prosecution. That being so, there is no rule requiring corroboration in these circumstances. A senior police officer, Assistant Superintendent Howell took the statement and he gave evidence in that regard. We are quite unable to appreciate how the failure to call the Sergeant to support the Assistant Superintendent has any significance whatever in determining whether the statement was given voluntarily or not. It was a matter for the trial judge having seen and heard the witnesses to determine the voluntariness of the statement.

No other ground of appeal was argued on behalf of Banks but we considered the case against Banks. Once the jury accepted his statement, the result would be inevitable. In his statement he admitted that he actively participated in the murder of Keith Ramtallie and Evelyn Ramtallie and shared in the money stolen from the premises. He admitted going to Bull Bay with one Omar whose clothes he said were bloodstained and were washed by Camille Benjamin. He mentions a third person as participating in the crime. He attributes responsibility for the killing of Evelyn Ramtallie to Omar, apparently Omar Cobourne. His choice is interesting because from the prosecution's perpective Cobourne had an alibi which he could easily prove on the basis of Camille Benjamin's evidence, and the statement of Williams. We should note as well that Banks had a motive for the killing of Keith Ramtallie whom he thought paid him low wages and fired his friend, Marcia Brooks because they were discovered being intimate by Mr. Ramtallie. We have said enough, we think to show that

Banks' statement fully implicated him in the commission of the murders.

Although counsel found no other ground which he thought he could successfully put forward, we perceive in recent decisions of the Privy Council a view that the court must nonetheless diligently scrutinize the facts and circumstances for weaknesses in the case to see whether the directions fall short in any way or convey false impressions or prejudices an accused person in the eyes of the jury and deal with them. This is our perception in light of **Bernard v The Queen** (unreported) P C 24/92 delivered 26th April 1994 where the arguments before the Board proceeded or were developed "on a wider front." In the event, their Lordships were persuaded to allow the appeal and duly quashed the conviction for murder. It is right to observe that this court in the past has in addition to its consideration of the grounds filed, gone on to see whether any other point could be urged in the applicant's favour.

Mindful of our perception, we have looked at the facts. Confessions or admissions are always a matter for concern. The statement of Williams was taken in the presence of a Justice of the Peace to whom no complaint was made as to his being ill-treated. In fact, what was suggested was that she was absent when he affixed his signature. The jury did not accept that the Justice of the Peace was lacking in integrity. She agreed she did not examine him but he did not appear to be in pain. With respect to the other statement by Banks, no Justice of the Peace was present: it was taken by a police officer of senior rank. There is no requirement in law, for the presence of a Justice of the Peace. The evidence was that none was available at the relevant time. But their presence, it is plain, does not guarantee that suggestions of third-degree methods will not be advanced by counsel at the trial.

The trial judge gave, in our view, adequate and proper directions on the matter of those statements. We cannot see where he conveyed any false impressions or said anything which was other then fair and correct. We detect no weaknesses in the case that called for particular treatment by the trial judge. The value of the statements is that they contained damning evidence against the maker but it would be naive to accept them as accurate autobiographical accounts of the events. We are not able to detect any weaknesses in the case or failings on the part of the trial judge who gave adequate, correct and fair directions.

We now consider the question of sentence in respect of which we heard submissions from Mr. Williams and Mr. Hines. The position with regard to Williams, we are satisfied that he participated in a capital murder but there is no evidence that he killed either of the Ramtallies. His conviction is to be classified as non-capital murder but he has been convicted of two murders which occurred at the same time. See section 3(1A)(b) of the Offences against the Person Act as amended. In the event, the sentence of death is maintained.

Mr. Hines in respect of Banks, conceded that he was guilty of capital murder in relation to each count. At all events, he too was guilty of multiple murders for which the mandatory sentence of death is prescribed.

In the final result, the applications for leave are refused. The sentences imposed are for the reasons stated, maintained.