[2021] JMCA Crim 50

JAMAICA

IN THE COURT OF APPEAL

BEFORE: THE HON MISS JUSTICE P WILLIAMS JA
THE HON MRS JUSTICE FOSTER-PUSEY JA
THE HON MRS JUSTICE DUNBAR GREEN JA

SUPREME COURT CRIMINAL APPEAL NO 91/2018

GLENFORD STEELE v R

Ian Stephenson for the appellant

Miss Natallie Malcolm for the Crown

26 October and 17 December 2021

FOSTER-PUSEY JA

[1] Mr Glenford Steele, the applicant was charged on an indictment for the offences of illegal possession of firearm and illegal possession of ammunition. On 16 November 2018, he was convicted on both counts by B Morrison J ('the trial judge'), sitting without a jury, in the High Court Division of the Gun Court held at Black River in the parish of Saint Elizabeth. On 29 November 2018, the applicant was sentenced to serve five years' imprisonment at hard labour for the offence of illegal possession of firearm (count 1) and three years' imprisonment for the offence of illegal possession of ammunition (count 2), with the sentences to run concurrently.

[2] By an application for leave to appeal filed on 29 November 2018, the applicant sought permission to appeal his convictions and sentences. He set out three grounds of appeal. These were that: the trial judge erred in law in failing to give directions as to the heavy burden cast on the Crown in order to secure a conviction on oral admission alone, there were material defects in the case which rendered the verdict unsafe and the

sentences imposed were manifestly excessive. On 5 May 2021, a single judge of this court refused the applicant leave to appeal his convictions and sentences. As is his right, he renewed his application before the court.

[3] We heard this renewed application for leave to appeal on 26 October 2021. Counsel for the applicant, Mr Ian Stephenson, informed us that the applicant was neither appealing his conviction for illegal possession of ammunition nor the sentences imposed for both offences. Learned counsel, however, advanced arguments challenging the conviction in respect of the conviction for illegal possession of firearm. After hearing the submissions of counsel we made the following orders:

i. The application for leave to appeal conviction in relation to count 1 is refused.

ii. The convictions and sentences are affirmed.

iii. The sentences are reckoned to run from 29 November 2018.

We promised to provide reasons for our decision and now do so.

The ground of appeal

[4] We granted permission for counsel to abandon the grounds originally filed, and to pursue the single ground of appeal which was outlined in the written submissions he filed on behalf of the applicant, in respect of the conviction for illegal possession of firearm. The ground of appeal was "The learned judge erred in law in failing to give a direction as to the special need for caution before relying on the evidence of oral admissions to convict".

Background

The prosecution's case

[5] Sergeant Joseph Wilson testified that on 8 August 2016, at about 3:40 pm, he was on mobile patrol in the New Market police area. He was accompanied by Woman Corporal Howard and Constable Fisher. At that time, he was the sub-officer in charge of the New Market Police Station in the parish of Saint Elizabeth. While on patrol, he received information which led him and the team to proceed to Bloomsbury District in the New Market Police area.

[6] On arriving at a shop marked Shanna's Shop HQ, he saw a grey Toyota Fielder motor car, licensed PF 2168, parked in front of it. No one was seated in the car. Sergeant Wilson contacted police control by radio and requested information on the license plate. He received information about the motor car. After enquiring from persons in the vicinity about the whereabouts of the driver of the motor car, he and Constable Fisher walked to a house to the back of the shop. Corporal Howard remained with the police vehicle.

[7] On their arrival at the house, Sergeant Wilson and Constable Fisher saw a lady and a gentleman, the latter individual identified as the applicant, sitting on the verandah. They appeared to be asleep. Constable Fisher shook the shoulder of the applicant, awakening him. When the applicant awoke he said "Mi a police", and identified himself as Glenford Steele, attached to the Above Rocks Police Station. Sergeant Wilson noticed that the applicant had two magazines in his waist belt. The lady gave her name as Miriam Ferguson.

[8] Sergeant Wilson asked the applicant about the motor car at the shop, and asked him, as well as Miss Ferguson, to accompany him to it. The applicant opened the driver's door. Sergeant Wilson informed the applicant that the motor car had been reported as stolen two weeks before. The applicant told him that he had rented the motor car to take his mother and sister to Bloomsbury District. When Sergeant Wilson asked the applicant if he was a licensed firearm holder he said yes, and stated that he had left the firearm in

the glove compartment of his brother's vehicle. Sergeant Wilson noticed that the applicant was holding two bags - one, a burgundy one-strap bag and the other a blue and white 'baby bag.' The applicant placed both bags on a table in front of the shop.

[9] A marked police unit came on the scene with Woman Corporal Nicola Allen-Gayle and two other constables. Sergeant Wilson instructed the applicant to board the unit, and they left heading in the direction of Black River. Corporal Allen-Gayle gave evidence that, while travelling to Black River, she noticed that the applicant had a pouch with two Glock pistol magazines on his side. She searched the applicant and realized that he did not have a firearm with him. She asked him to indicate the location of the firearm and whether he was a licensed firearm holder. The applicant told her that he was a licensed firearm holder, and that his brother had taken the firearm from the glove compartment of a CRV and had placed it in his mother's bag. Corporal Allen-Gayle contacted Sergeant Wilson by telephone after hearing this.

[10] After receiving the telephone call from Corporal Allen-Gayle, Sergeant Wilson went to the table at the shop on which the bags were left, searched the burgundy one-strap bag and discovered in it, a black Glock 17 pistol. He then took the bag and Miss Ferguson to the Black River Police Station.

[11] Corporal Allen-Gayle and her team, along with the applicant, arrived at the Black River Police Station. She asked the applicant whether he knew the serial number for the gun. He gave the serial number as AAEU934. She examined the gun and confirmed that the serial number which the applicant gave was correct. Woman Corporal Allen-Gayle asked the applicant for his firearm license, however, he said that he did not have it with him, and had left the booklet for his licensed firearm at home.

[12] Sergeant Wilson contacted Area Three police control by telephone to find out if the applicant was in fact a licensed firearm holder. That office was not able to assist, as their system was not working at the time.

[13] The applicant was taken into the office of Detective Inspector Bruce Higgins, the crime officer for the parish. Detective Inspector Higgins asked the applicant whether he had a licensed firearm and whether the firearm found in the burgundy one-strap bag was his, the applicant answered yes to both questions. Detective Inspector Higgins also asked the applicant when he was issued with a firearm licence. At first, the applicant told him that the licence was issued in 2008, then he corrected himself and stated that it was issued to him in 2011 by the Firearm Licensing Authority at its office at Old Hope Road. The applicant followed this up by stating "Yuh can goh check it". Detective Inspector Higgins testified that the applicant's statement raised his suspicions. He asked that the applicant be removed from his presence, and then made inquiries of the Firearm Licensing Authority. He spoke with an individual there who gave him certain interim information. He followed up by sending a formal request letter which was written on 9 August 2016.

[14] In cross-examination Detective Inspector Higgins stated that in his initial contact with the applicant on 8 August 2016, he had not cautioned the applicant when he interviewed him. He stated that there was no need to caution the applicant, as he ceased to question him when he indicated that he was the holder of a firearm and where it was issued to him. Inspector Higgins insisted that the applicant had, on more than one occasion, told him that he was issued with a firearm license.

[15] On 9 and 10 August 2016, Sergeant Wilson received further information relating to the applicant from Detective Inspector Higgins. On 10 August 2016, Sergeant Wilson spoke with Miss Tamara Greene, attorney-at-law. Then, on 16 August 2016, he attended a question and answer session held with the applicant. The applicant was cautioned and was represented by his attorney-at-law, Miss Greene who was present. Inspector Higgins was also present at the question and answer session.

[16] The question and answer document was admitted into evidence as Exhibit 1. The applicant answered "no" to all of the following questions (see page 28 of the transcript):

> "Are you the holder of a Firearm User's Licence?"

"Where is your firearm fee license card?"

"Where is your firearm certificate?"

"Is Glock pistol AAEU934 registered to you?"

He also gave 'no answer' to the following questions (see pages 28-29 of the transcript):

> "You told the police, on the 18th[sic] of August, 2016, that Glock pistol AAEU934, is yours. How did you come in possession of that Glock pistol?"
>
> "How long have you owned this Glock pistol?"
>
> "You told the police on Monday the 8th of August 2016, that Glock pistol, AAEU934 was issued to you by the Firearm Licence Authority in 2011…Where is your certificate to confirm this?"
>
> "Do you know Whitcliff Scott?"
>
> "Can you account for how Glock pistol serial number AAEU934 which was robbed from Mr. Whitcliff Scott when he was killed came in your possession?"

[17] At the end of the question and answer session, Sergeant Wilson charged the applicant with the offences of illegal possession of firearm, illegal possession of ammunition and two counts of impersonating police. The applicant did not make any statement after his arrest and charge.

[18] Miss Letine Allen, Director of Special Projects at the Firearm Licencing Authority, testified at the trial that on 29 August 2016, having received the formal request, she checked the authority's database. She found that Glock pistol serial number AAEU934 was not registered to the applicant, but instead to Whitclif Scott. In addition, she did not find any information on their database reflecting the applicant as having applied for, or having been issued with, a firearm license. Miss Allen had provided this information to the Jamaica Constabulary Force.

[19] Detective Corporal Derrick Taylor testified that he took the gun, 9mm cartridges and two magazines to the Institute of Forensic Science and Legal Medicine. The burgundy bag, the gun and the magazines were tendered as exhibits in the trial.

[20] Counsel for the applicant made a no-case submission, however, it was not upheld.

The case for the defence

[21] The applicant gave an unsworn statement. He stated that on 8 August 2016, his mother-in-law, Miriam Ferguson, asked him to take her and some other relatives to Saint Elizabeth. He rented a car and journeyed down to their destination. He parked beside a shop and then headed to a house a little behind the shop. He sat on the verandah and fell asleep. He was awakened by the touch of a hand, and saw a gun close to his face and two police officers. He also felt a hand feeling around his waistband. He told them his name, and, when asked, stated that he had driven the motor car parked in front of the shop. He accompanied one of the police officers to the motor car and was informed that either the motor car, or the plates on it, were stolen. The police officer asked him to accompany him to the police station. The applicant stated that he did not, at any time, claim to be a police officer.

[22] The police took him to the Black River Police Station where he sat in the Detention and Lockups for a number of minutes. At pages 167-169 of the transcript, the following is reflected:

> "ACCUSED GLENFORD STEELE: A uniformed officer in brown, two bars on his shoulder asked me if I had a firearm, I replied, "No". He showed me the table were Miriam was sitting. Around that table, m'Lord, I saw what appeared to be a gun. Several questions were thrown to me.
>
> HIS LORDSHIP: Several questions?
>
> ACCUSED GLENFORD STEELE: Were thrown to me in relation to that firearm. But at no point, m'Lord, I could give any information about that firearm or the whereabouts of where it was coming from.

…

ACCUSED GLENFORD STEELE: Brought to another office. In this office, m'Lord, I observed three persons, one of whom I know before. He asked me to take a seat and that he wanted to have a conversation with me…Several questions again were asked about what appeared to be the firearm, m'Lord. We had a back and forth conversation, m'Lord.

…

ACCUSED GLENFORD STEELE…Yes, m'Lord, me, along with the three officers, m'Lord. But at no point in that conversation, I admit to having that gun or having any magazines along my waistband, m'Lord. M'Lord, I did not have a gun…and I did not have any magazines…along my waistband. The allegations…are false and I stand clear in total denial…of the said allegations."

[23] The defence and prosecution agreed to admit the statement of Miriam Ferguson into evidence. Miss Ferguson stated that on 8 August 2016, the applicant drove her and other family members to the family home in Bloomsbury District, St Elizabeth. She sat on the verandah and hung her burgundy handbag on a plastic chair there. She then fell asleep and awakened to see police officers standing on the verandah. They questioned the applicant as to whether he was the driver of the motor car and asked him whether he knew that it was a stolen motor car. The applicant left with the police. Her sister who accompanied her on the trip took the bags from the verandah of the house to a domino table at the shop. Shortly afterward a police jeep returned and police officers stated that they needed to search the bags on the table. Miss Ferguson identified her burgundy bag to a police officer, who then removed a black-looking gun from it. The police officer asked her to whom the gun belonged and she told him that she did not know, but it was her handbag. Miss Ferguson told the police that she did not give anyone permission to put a gun in her burgundy handbag, she did not put the gun there and she was not a firearm holder or police officer.

Submissions on behalf of the applicant

[24] Counsel for the applicant, Mr Stephenson, submitted that the case for the Crown rested solely, or substantially, on three oral admissions made by the applicant, without which the applicant could not have been found guilty. He referred to the fact that when Corporal Allen-Gayle saw the applicant with the magazines, she asked him if he was a licensed firearm holder and he said "yes". The applicant also told her that his brother had taken the firearm from the glove compartment of his CRV and had placed it in his mother's bag. Counsel referred to the fact that the applicant gave Corporal Allen-Gayle the serial number of the firearm which was removed from the burgundy strap bag, and that the applicant, when asked again whether he was a licensed firearm holder, said "yes". Counsel submitted that although the applicant was seen holding the burgundy bag in which the gun was found, the oral admissions which the applicant made were needed to form the nexus between him and the burgundy bag.

[25] Counsel stated that the applicant's third admission was made to Detective Inspector Higgins when he told him that the firearm license had been issued to him in 2008, and then corrected himself to say that it was issued in 2011 at Old Hope Road. According to counsel, both the second and third admissions were corroborated by Sergeant Wilson. Counsel highlighted the trial judge's summary of the applicant's case, which was that there was "a conspiracy of sorts between Sergeant Wilson, Allen-Gayle and Detective Higgins to put into the mouth of [the applicant] all those voluntary admissions of him being the owner of the firearm…" (see page 228 of the transcript).

[26] Counsel also submitted that the only evidence of any record made of any of the three admissions, came from Dectective Inspector Higgins, who, when challenged in cross- examination that the applicant had not told him that he was the holder of a licenced firearm, stated that the information was supported by his notes. When asked whether the applicant had signed the notes, Detective Inspector Higgins stated that they were his notes. Mr Stephenson submitted that there was no evidence to suggest that the appellant

accepted the notes made by Detective Inspector Higgins as an accurate representation of the admissions which he had made.

[27] Counsel submitted that a trial judge should give a robust direction pointing out the heavy burden that is cast on the Crown in order to secure a conviction based solely on oral admissions. He urged that the trial judge should therefore have directed himself as to the special need for caution before he relied on the admissions which the applicant had made. Counsel argued that this failure by the trial judge rendered the applicant's conviction for illegal possession of firearm unsafe. He relied on **Deenish Benjamin and Deochan Ganga v The State of Trinidad and Tobago** [2012] UKPC 8, **Frankie Boodram v The State** (unreported) Court of Appeal, Tinidad and Tobago, Magistrate Court Criminal Appeal No 17/2003 (judgment delivered 17 February 2004) and **Vincent Leroy Edwards and Richard Orlando Haynes v The Queen** [2017] CCJ 10 (AJ).

[28] Mr Stephenson was asked to comment on the case of **R v Osbourne, R v Virtue** [1973] 1 QB 678 on which the Crown relied. He submitted that the question as to whether a caution was required under the Judges' Rules did not form the crux of the ground of appeal which he was pursuing. Counsel argued that whether or not the police administered a caution does not take away from the fact that the applicant said certain things which buttressed the case against him and amounted to oral admissions.

Submissions on behalf of the Crown

[29] Miss Malcolm submitted that the alleged "oral admissions" made in this case were very peculiar because, unlike the usual cases involving admissions, they were not incriminating. Counsel noted that the applicant told the police that he was a licensed firearm holder, gave the serial number for the firearm and stated where it was located. Counsel disagreed with the submissions made by counsel for the applicant that the Crown's case rested on admissions which the applicant made. Counsel argued that had the Crown relied on what the applicant told the police officers, it would have had no case. It was only when the police made checks with the Firearm Licensing Authority that it was discovered that the applicant was not telling the truth. In addition, the Crown's case was

buttressed by evidence from the applicant's own witness, Miriam Ferguson. The applicant had also been observed carrying the burgundy bag in which the firearm was found.

[30] Counsel submitted that there was no need for the police to have administered a caution on the occasions about which the applicant's counsel complained, as the police were still in the course of their investigations in respect of a stolen motor car. Counsel stated that the trial judge was correct in law when he referred to that legal principle.

[31] Turning to the cases on which counsel for the applicant relied, she submitted that in all three cases the police officers were required to administer and in fact administered cautions, while there was no need for cautions in the instant case. Counsel relied on **R v Osbourne, R v Virtue**.

Discussion

[32] The question to be determined is whether the trial judge was under a duty to warn himself as to a special need for caution before relying on the statements which the applicant made.

[33] Counsel for the applicant referred to "admissions" which the applicant made, and the trial judge also used the term "voluntary admissions" at one point in his summation (see page 246 of the transcript). In our view, the use of the terms "admission" and "voluntary admission" were incorrect in relation to the statements the applicant made and which his counsel has highlighted. Counsel for the applicant referred to the occasions when the applicant stated that he was in fact a licensed firearm holder, gave the serial number for the firearm and stated that he was issued with a license in 2011 at the office of the Firearm Licensing Authority on Old Hope Road. In our view, these statements which the applicant made were not incriminatory so as to provide the basis on which he could be charged for the offence of illegal possession of firearm. Apart from the applicant providing the correct serial number for the firearm, the other statements were untruthful. As an aside, at least on the prosecution's case, it appears that when the applicant said "Mi a police", he had expected that his statements would have been accepted without

more. In our view, therefore, it is not correct to view the statements the applicant made, as admissions.

[34] In addition, we agreed with the submissions made by counsel for the Crown, that the prosecution would not have been able to mount a successful prosecution if it had relied solely on the untruthful statements which the applicant made. It was only after the police contacted the Firearm Licensing Authority, and received information that the firearm was owned by Mr Whitclif Scott who had been killed, and the applicant had not been issued a firearm license, that the police were able to caution the applicant and charge him.

[35] It appears that similar submissions as have been made before us, were made to the trial judge, as to whether the applicant ought to have been cautioned at the time when he was claiming that he was a licensed firearm holder. After referring to two occasions on which the applicant had stated that he was the holder of the firearm license, that the firearm was his and when the license had been issued to him, at pages 193-194 of the transcript the trial judge is recorded as saying:

> "Let me at once point out here what is the significance of this evidence, because it was elicited in circumstances which the defence has challenged, to say that no caution was administered to the accused man before he gave these responses. As far as I am aware, Judges' Rules which govern the interaction between a police officer and a suspect, because there is nothing in the evidence so far to indicate that [the applicant] was being treated as a person who was charged. The Rules say where a police officer trying to determine whether and by whom a crime is being committed, there is no obligation on the part of the police officer to administer words of caution, none. The time to do that is when he has sufficient evidence so that he can charge the accused. That is the time when he is obliged to administer words of the caution. Submissions made to the contrary based on laws emanating out of the Caribbean Court of Justice and other jurisdictions which have encoded the Judges' Rules in statute, do not apply to this jurisdiction in the manner as suggested, hence, whatever might have been the case for the

> Caribbean Court of Justice is inapplicable in situations which is at hand here. I just thought I should say that from now."

[36] Later on, at page 214 of the transcript, the trial judge again stated:

> "When an officer is in the investigative stage of any crime and is merely trying to seek, to determine, whether, and by whom, an offence has been committed, he is not obliged to administer any caution at all."

[37] The trial judge was correct in his statement and application of the law. In **R v Osbourne, R v Virtue**, Lawton LJ, in delivering the judgment of the court, stated at page 688:

> "…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."

[38] It must be emphasized that in the instant case, the applicant could not be said to have made voluntary admissions. He was, instead, making untruthful statements. The applicant told them that he was a police officer and that he was a licensed firearm holder.

[39] We agree with the submissions of counsel for the respondent that the cases to which the applicant's counsel referred are distinguishable. It was also somewhat confusing for the applicant's counsel to have relied on those cases, which all involved the administering of cautions, while insisting that the issue of the giving of cautions was irrelevant to his arguments.

[40] In **Deenish Benjamin and Deochan Ganga v The State of Trinidad and Tobago**, an appeal to the Privy Council from Trinidad and Tobago, the appellants were convicted of the murder of Sunil Ganga. Mrs Ganga, his wife, went to the police station the day after his murder, named the two appellants as his killers, and gave an account of what they had done to her husband. As a result, they were arrested. When Deochan

Ganga was interviewed by a police officer, Inspector Phillip, later that day, he stated "after caution", "I was deh but is Deenish who kill Sunil". A written statement was taken from him in the presence of a justice of the peace and Deochan signed it. That same evening Benjamin was also interviewed by Inspector Phillip. After being cautioned, he said, "I only help hang up Sunil". He also made a written statement in the presence of a justice of the peace. On their trial, the appellants applied to have their confession statements excluded, and denied that they had made the statements attributed to them. Benjamin and Ganga said Inspector Phillip had obtained their signatures to the statements by beating them among other things.

[41] Benjamin complained that the trial judge failed to warn the jury of the dangers of convicting him on the basis of an unsupported oral admission, namely the statement, "I only help hang up Sunil".

[42] In **Frankie Boodram v The State**, a decision of the Court of Appeal of Trinidad and Tobago, the appellant was charged for larceny of a motor vehicle and receiving stolen property, knowing the same to have been stolen. The stolen property was seven parts from a motor vehicle belonging to Clint Batchasingh, namely the back suspension, four tyres, rear bumper, the back cab, the rear door, the back windscreen glass and the door glass. Mr Batchasingh's car was stolen on 22 April 2000 while he was attending an international cricket game.

[43] On 25 April 2000, P C Bruce swore to an information and obtained a warrant to search the premises of Speedway Auto Supplies, San Juan. He went to the premises with two other policemen. They met the appellant who, after being cautioned, took them to a building at Champs Fleurs. That building was closed and the appellant said that he had forgotten the keys. All parties went back to Speedway Auto Supplies. On the way back, the appellant is alleged to have said to the officers, "officers let us settle this here. I was trying to help a soldier who van get bounce, all yuh call a figure". The police officers again cautioned the appellant.

[44] On arrival at Speedway Auto Supplies, the appellant pointed to a rear suspension of a van and said "this is all I have for the van". He was again cautioned and he replied "boss help me please, this could involve my family and my business". The police officers searched the garage and found several other motor vehicle parts which they seized and marked, and to which they drew the appellant's attention, whereupon he stated, "all yuh don't do me that, you could give me a chance".

[45] At his trial, the appellant denied that he made the oral incriminatory statements ascribed to him by the prosecution. In that case, the State conceded that the utterances made by the appellant were the kernel of the prosecution's case, without which they could not have secured a conviction.

[46] At the trial the judge had given the following direction (see page 11):

> "But you must bear in mind that confessions, especially of the oral type, are easy to fabricate.
>
> There will be case [sic] in which persons do make confessions. Some people may make a confession as soon as they are confronted. Others may confess when they see that 'water more than flour.' Some people don't ever confess. Some people have done nothing, so there is nothing for them to confess to. What you have to decide in this case is, first of all, did the accused say these things?"

[47] Sharma CJ in delivering the reasons of the court, stated that the directions which the judge gave were not robust enough or adequate. At page 13 of the judgment, Sharma CJ recommended that in cases where the State's case depends substantially or exclusively on oral admissions, it would be advisable for the police officers investigating to make contemporaneous notes of them which should be read to the accused who would be asked to sign them.

[48] In the case at bar, as has been explained, the applicant had not made any oral admissions or confessions so as to require this court to consider whether it is a requirement, or ought to be a requirement, that police officers make notes of oral

admissions and ask suspects or persons under investigation to affix their signatures to those notes.

[49] **Vincent Leroy Edwards and Richard Orlando Haynes v The Queen**, is a case determined by the Caribbean Court of Justice (CCJ) on an appeal from the Court of Appeal of Barbados. Mr Justice Winston Anderson, at paragraph [1] of the judgment, helpfully outlined the question that arose for the decision of the court in that appeal. This was:

> "… Given the provisions of the Evidence Act of Barbados, may a person charged with an offence be properly convicted in circumstances where the only evidence against him is an unacknowledged, uncorroborated, oral confession allegedly made to investigating police officers whilst in police custody but which he denies making?"

[50] The introductory words of the excerpt speak for themselves. The CCJ was examining that question in the context of specific legislation in Barbados. Furthermore, the issue related to an oral 'confession'.

[51] Having outlined the facts in **Deenish Benjamin and Deochan Ganga v The State of Trinidad and Tobago** and **Frankie Boodram v The State**, it is clear that those matters were quite different from the case at bar, and are distinguishable, as the appellants made oral incriminating statements after caution.

[52] In the case at bar, the statements to which the applicant's counsel referred were not incriminating, and could not be described as admissions or confessions. Instead, the applicant made exculpatory statements which, if accepted, could not have led to his conviction, but instead would have left the police officers believing that he was entitled to possess the firearm in question. No question of the trial judge giving himself special warnings before referring to the applicant's untruthful statements could properly arise.

[53] It was for the above reasons that we made the orders outlined at paragraph [3] above.