

GRENADA

IN THE COURT OF APPEAL

CRIMINAL APPEAL NO.13 OF 2003

BETWEEN:

LODERICK NOEL

Appellant

and

THE QUEEN

Respondent

Before:

The Hon. Brian Alleyne, S.C.
The Hon. Michael Gordon, Q.C.
The Hon. Hugh Rawlins

Chief Justice [Ag.]
Justice of Appeal
Justice of Appeal [Ag.]

Appearances:

Mr. Cajeton Hood for the Appellant
Mr. Christopher Nelson, Director of Public Prosecutions

2005: March 4.

JUDGMENT

- [1] **GORDON, J.A.:** In this appeal, learned Director of Public Prosecutions quite properly, in my view, and he is to be commended for it, conceded that there were a number of significant misdirections in the trial. There was no direction on the issue of accident, nor in respect of upon whom the burden of proof lay. Secondly, the learned trial Judge, in relation to self-defence, never married the evidence to the law. Thirdly, there were variations and inconsistencies in the evidence led by the Prosecution, which were never pointed out to the jury. He conceded that these were material misdirections but urged that in the circumstances, the proviso should be applied.
- [2] We are not of the view that a jury, properly directed, would inevitably have come to the same conclusion of guilt. In the circumstances, the proviso is inappropriate.

[3] The learned Director of Public Prosecutions urged that if we were to find, as we have, then the Court should order a retrial. Consistently with the case which we have done earlier this week, this incident took place over three years ago, and it is our view that the justice of the case would not be served by ordering a retrial. The evidence would be stale and the Appellant has spent a considerable time incarcerated. The appeal is allowed, conviction and sentence are quashed.

Michael Gordon, QC
Justice of Appeal