BRITISH VIRGIN ISLANDS

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CRIMINAL)

CASE NO. 5 OF 2009

BETWEEN:

THE QUEEN

-vs-

JAHNOY WALTERS

Appearances:

Mrs. Grace McKenzie, Principal Crown Counsel and Ms. Christilyn Benjamin, Crown Counsel for the Prosecution
Mr. Stephen Daniels of Vernon Malone & Co. for the Accused

2009: March 26
2009: March 27

Submission of no-case to answer –assisting offenders – no direct evidence connecting accused – weak circumstantial evidence – essential ingredient of offence missing – no case submission upheld

RULING ON NO CASE SUBMISSION

Introduction

[1] HARIPRASHAD-CHARLES J: On 10 March 2009, the Director of Public Prosecutions preferred an amended indictment containing two counts against the Accused, Jahnoy Walters. The first count charges him with the offence of robbery and the second count, of assisting offenders.

[2] On his arraignment, Walters pleaded not guilty and a jury was duly empanelled to try the case. The case proceeded to trial. The Prosecution called 9 witnesses. At the close of their case, Learned Counsel, Mr. Daniels who appeared for Walters made a submission of no-case to answer.

[3] Perhaps, I could dispose of the charge of robbery with some expedition as the Learned Principal Crown Counsel Mrs. Grace McKenzie quite properly made no submission on this charge. We are therefore concerned with Count 2 which charges Walters with assisting offenders contrary to section 318(5) of the 1997 Criminal Code (No. 1 of 1997) of the Laws of the Virgin Islands. The particulars of the offence are that Seantroy Hanley, Selroy Hanley and John Hanley having committed an arrestable offence, namely the robbery of BVI Communications and Jahnoy Walters, knowing or believing that Seantroy Hanley, Selroy Hanley and John Harvey had committed the said offence or some other arrestable offence and without lawful authority or reasonable excuse, on 15th September, 2008, at Purcell Estate in the island of Tortola in the Territory of the Virgin Islands, did an act to impede the apprehension or prosecution of the said Seantroy Hanley, Selroy Hanley and John Harvey.

The test to be applied

[4] It is common ground on both sides that the proper judicial approach to a submission of "no case to answer" is to be found in the test propounded by Lord Lane CJ in the landmark case of R v Galbraith[1]. In the course of his judgment, Lord Lane CJ (at p 1042B-D) said:

> "How then should the judge approach a submission of 'no case'? (1) If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The Judge will of course stop the case. (2) The difficulty arises where there is some evidence but it is of a tenuous character, for example because of inherent weakness or vagueness or because it is inconsistent with other evidence. (a) Where the judge comes to the conclusion that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submission being made, to stop the case. (b) Where however the prosecution evidence is such that the strength or weakness depends on the view to be taken of the witness's reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury..." [Emphasis added].

[1] [1981] 1 WLR 1039.

[5] The learned authors of Blackstone's Criminal Practice 2009[2] advanced the following propositions as representing the position that has now been reached on determining submissions of no case to answer:

> a) If there is no evidence to prove an essential element of the offence, a submission must obviously succeed.
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> b) If there is some evidence which, taken at face value, establishes each essential element, the case should normally be left to the jury.
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> c) If, however, the evidence is so weak that no reasonable jury properly directed could convict on it, a submission should be upheld. Weakness may arise from the sheer improbability of what the witness is saying, from internal inconsistencies in the evidence or from its being of a type which the accumulated experience of the courts has shown to be of doubtful value.
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> d) The question of whether a witness is lying is nearly always one for the jury, but there may be exceptional cases (such as *Shippey* [1988] Crim LR 767) where the inconsistencies are so great that any reasonable tribunal would be forced to the conclusion that the witness is untruthful, and that it would not be proper for the case to proceed on that evidence alone."

[6] These principles have been applied by the Judicial Committee of the Privy Council in a litany of cases from the region. In Daley v R[3], an appeal from Jamaica, the Privy Council acknowledged (at p 90) that it has for many years been recognised that "the trial judge has power to withdraw the issue of guilt from the jury if he considers that the evidence is insufficient to sustain a conviction." The Board recognised that while the judge had the power to intervene on his own motion, more commonly a formal submission on this basis is made by counsel for the defence at the close of the prosecution case, as occurred in the present case.

[7] In Taibo v the Queen,[4] a case emanating from Belize, the Privy Council found that there were serious weaknesses in the case for the prosecution but they were not necessarily fatal. The Board also found that the case against the appellant "was thin and perhaps very thin." Nonetheless, the Board opined that the criterion to be applied

[2] See D15.57, pages 1728-1729.
[3] [1993] 4 All ER 86, PC
[4] (1996) 48 WIR 74

by the trial judge is whether there is material on which a jury could, without irrationality, be satisfied of guilt; if there is, the judge is required to allow the trial to proceed.

[8] In Crosdale v R,[5] a Jamaican case, Lord Steyn at page 285 stated that:

> "A judge and a jury have separate but complementary functions in a jury trial. The judge has a supervisory role. Thus the judge carries out a filtering process to decide what evidence is to be placed before the jury. Pertinent to the present appeal is another aspect of the judge's supervisory role: the judge may be required to consider whether the prosecution has produced sufficient evidence to justify putting the issue to the jury. Lord Devlin in Trial by Jury, The Hamlyn Lectures, (1956, republished in 1988) aptly illustrated the separate roles of the judge and jury. He said (at page 64):-
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> > "…there is in truth a fundamental difference between the question whether there is any evidence and the question whether there is enough evidence. I can best illustrate the difference by an analogy. Whether a rope will bear a certain weight and take a certain strain is a question that practical men often have to determine by using their judgment based on their experience. But they base their judgment on the assumption that the rope is what it seems to the eye to be and that it has no concealed defects. It is the business of the manufacturer of the rope to test it, strand by strand if necessary, before he sends it out to see that it has no flaw; that is a job for an expert. It is the business of the judge as the expert who has a mind trained to make examinations of the sort to test the chain of evidence for the weak links before he sends it out to the jury; in other words, it is for him to ascertain whether it has any reliable strength at all and then for the jury to determine how strong it is…The trained mind is the better instrument for detecting flaws in reasoning; but if it can be made sure that the jury handles only solid argument and not sham, the pooled experience of twelve men is the better instrument for arriving at a just verdict. Thus logic and common sense are put together."

[9] Recently, in the BVI case of Director of Public Prosecutions v Varlack[6], the Privy Council reiterated the Galbraith principles. At paragraph 21, Lord Carswell, in reading the judgment of the Court said:

> " The basic rule in deciding on a submission of no case at the end of the evidence adduced by the prosecution is that the trial judge should not withdraw the case if a reasonable jury properly directed could on that evidence find the charge in

[5] (1995) 46 WIR 281
[6] [2008] UKPC 56.

question proved beyond reasonable doubt. The canonical statement of the law, as quoted above is to be found in the judgment of Lord Lane CJ in *R v Galbraith* [1981] 2 All ER 1060, [1981] 1 WLR 1039, 1042. That decision concerned the weight which could properly be attached to testimony relied upon by the Crown as implicating the Defendant, but the underlying principle, that the assessment of the strength of the evidence should be left to the jury rather than being undertaken by the judge, is equally applicable in cases such as the present, concerned with the drawing of inferences."

[10] Our courts have applied the principles set out in Galbraith on many occasions: see Attorney General v Spicer,[7] The Queen v Roy Smith,[8] The Queen v Willis Todman[9], The Queen v Berton Smith[10], The Queen v Lorne Parsons et al[11] and The Queen v Brian Walters.[12]

[11] In Attorney General v Spicer [supra], Singh JA outlined the evidence that was led by the Crown in respect of one of the appellants, Spicer. The evidence related to (1) his friendly association with the deceased and the other accused, (2) the fact that they all socialized together, (3) that they were together on the night of the murder, (4) they left together to meet someone that night in the general area where the deceased was found and about the same time she was killed, (5) that sand associated with his shoes was, according to Professor Pye, highly probable to have come from the general area where the deceased body was found, (6) that there was a blood spot on the shirt that he admitted wearing on the night of January 14 2000, (7) that he was in charge of a house where unused tampons were found similar to the brand of the tampons found in the deceased hand bag, a house that Lois McMillen would visit. (8) that he was part of a discussion with Benedetto to make taxi driver "Solo" unavailable for police investigation (9) that his fingernails were cut low (10) that he told a lie to the police as to why his shoes were wet and sandy and (11) that despite his close association with the deceased family, he made no contact with them upon hearing of the death.

[7] Criminal Appeal No. 6 of 2001 (BVI) Judgment delivered on 14 January 2001.
[8] BVI Criminal Case No. 10 of 1997, Judgment delivered on 2 December 1997
[9] BVI Criminal Case No. 8 of 2003, Judgment delivered on 11 July 2003.
[10] BVI Criminal Case No. 18 of 2003, Judgment delivered on 17 December 2003.
[11] BVI Criminal Case No. 9 of 2005, Ruling delivered on 23 June 2006.
[12] BVI Criminal Case No. 3 of 2008, Ruling delivered on 30 May 2008.

[12] Singh JA also considered the forensic evidence that was adduced at the trial. One Forensic Scientist found tiny or miniscule blood stains on the appellant's shirt but two other forensic Scientists found that the stain proved negative for presence of blood. DNA may not have been related to the blood at all and what was detected could have been transferred by mere touching and the evidential strength of the finding was extremely limited. A biological examination of the appellant's shoes showed nothing associated with the deceased and only a mere speck of sand was found inside one of his shoes.

[13] The Court of Appeal held that:

> "Taking the evidence at its highest, I agree with the conclusion of Benjamin J. The forensic evidence of the Blood and Sand did not reach the standard required in a criminal case, and, without that evidence, the other circumstances became meaningless in the context of the offence ….. For these reasons I conclude that Benjamin J carried out a proper filtering process and did not err when he upheld the submission of no case to answer."

[14] In R v Roy Smith, Moore J upheld a no case submission made by Dr Archibald QC. He concluded that the evidence led at the trial established the essential ingredient of the offences charged in the indictment and the case should in normal circumstances be left to the jury. He then stated that he had a residual duty to consider whether the evidence is inherently weak or tenuous. He further concluded that the evidence in the case was so weak and tenuous that no reasonable jury properly directed could convict on it. The weakness of the evidence arises from sheer improbability of what Brewley (the complainant) had said, from the internal inconsistencies in his evidence and from it being of the type which the accumulated experience of the Courts has shown to be of doubtful value. He added that the case for the prosecution therefore fails the Galbraith test.

The standard of proof

[15] On a no case submission, the question to be decided by the trial judge is whether a properly directed jury could convict on the evidence adduced by the prosecution at the close of their case. The judge does not have to find at this stage that the prosecution

have established the ingredients of the offence beyond a reasonable doubt. This is never a determination for a judge to make on an indictable trial. It remains the function and prerogative of the jury, who is the tribunal of fact.[13]

[16] In The Queen v Lorne Parsons and others,[14] Joseph-Olivetti J had this to say:

> "The judge does not have to consider whether the Crown have proved the case beyond a reasonable doubt as if the judge is required to do so then that will amount to an usurpation of the jury's functions which, it follows, is strictly to be guarded against. "The real question is to decide whether there is sufficient evidence on which a reasonable jury properly directed might convict." Per Chancellor Massiah in R v Mitchell [1984] 39 WIR 185 quoted by Singh JA in William Labrador".

The case for the prosecution

[17] In their opening address, the Prosecution submitted that their case is based wholly on circumstantial evidence. They contend that there is sufficient evidence on which Mr. Walters' guilt can be proved, in whole or in part, by the drawing of certain inferences from circumstantial evidence.

[18] It is clear that where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury.[15] The prosecution at this stage are not required to show that the jury could not reasonably reach any alternative inference contended for. The question is whether it is properly open to the jury to reach the inferences contended for by the prosecution.

[19] What is the circumstantial evidence that the Prosecution is relying upon to show that one strand might be insufficient to sustain the weight but a number of them stranded together may be quite of sufficient strength?"[16]

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[13] Commonwealth Caribbean Criminal Practice and Procedure by Dana S. Seetahal
[14] BVI Criminal Case No. 9 of 2005, Judgment delivered on 23 June 2006.
[15] See 2007 Blackstone Criminal Practice Paragraph D 15.62
[16] See Pollock CB in DPP v Kilbourne [1973] AC 729 per Lord Simon at p 758.

[20] Essentially, the prosecution is relying on the evidence of Officer Francia James that the three robbers, Seantroy Hanley, Selroy Hanley and John Harvey have pleaded guilty to an arrestable offence. In addition, they are relying on the evidence of Mr. Jeremy Cobb, the owner of BVI Communications that his store was robbed and that the three robbers took away a number of items. Officer Sebastien deposed that two of the items were found in the bedroom of one of the robbers.

[21] Thereafter, the Prosecution are relying on the witness statement as well as tape-recorded interview of Walters to show that the jury can properly reach the inferences which they contend.

The witness statement

[22] Stripped to its bare essentials, in the witness statement, Walters said that he knew Seantroy and Antroy (Selroy) Hanley for the past 15 years. The Hanleys grew up in the Purcell area, lived in the C & F area and later on, in the green building which is Connie's apartment. Walters knows their parents and he also knows a young man by the name of John (Harvey) for about a year now. Harvey lives in Purcell Estate and is of Spanish descent. Walters knows him through Seantroy and Antroy. They are all friends.

[23] Walters said that he remembered Monday, 15th September 2008. At about 8.00 a.m. he was awaken from his sleep. He later dropped his mother to work in her Mitsubishi Lancer PV 12505. After that, he went to the ghetto. He had a drink and was talking to persons who were present. He then went back to Purcell Estate. He went to the basketball court. He saw a rastaman and another fellow smoking. He joined them. About 10 a.m. Antroy came to the basketball court and asked him for a ride at around 10.30 a.m. to his home. He agreed to meet Antroy at the C & F area. When he realized that it was about 10.30 a.m. he went to where Antroy told him to meet him. He waited there for about three minutes. While he was there waiting, he saw Antroy, Seantroy and John came and they entered his car. John was seated in the front passenger's seat and Seantroy and Antroy at the back. He observed that John had a

black plastic garbage bag and Antroy and Seantroy had a bag pack each. When they entered his vehicle, he drove off in the direction of Free Bottom towards the Quomar building leading to the Belle Vue area.

[24] While he was driving, he overheard one of the Hanley brothers saying "that was so easy." He then observed John taking off his long sleeved shirt. He told him to put it on back because he did not want him to perspire on the seat. He noticed that John was perspiring a lot and his appearance looked different and suspicious.

[25] Walters said that whilst driving, he heard John say that he got a DVD player and one of them asked him whether he wanted it and he replied "no" because he said that he became suspicious of their behaviour. He then dropped them at Belle Vue around the area where they live. They left the car and took their bags with them.

[26] After dropping the three young men to their home at Belle Vue, he went back to town and eventually returned home. He began washing his mother's car because he had to check a girl around 12 0'clock. While he was there washing the car, the police came and told him that he is a suspect because something had just happened. The car was searched in his presence and it was taken to the police station for forensic testing. He was also taken by the police for questioning. At the police station he made this witness statement. In it, he said that he was not involved in any robbery with these three young men nor did he plan to rob BVI Communications.

The taped interview

[27] Later on that same day, Walters gave an interview. It was tape-recorded. Essentially, he maintained his account of what he had earlier said the police. He said that when he was at the basketball court, Antroy came and asked him for a ride home. He picked him and two others up where they told him and he carried them home.[17] He maintained that all he did was to drive these three young men to their home as

[17] See page 2 of the Record of Interview.

requested (which he has done before) and he had no part to play in the robbery nor was he a getaway driver.

[28] The only evidence against Walters is that he drove the three young men to their home at Belle Vue. There is no evidence to show that he was part of the confederacy relied upon by the Prosecution.

[29] Taken as a whole, at its highest, the Jury will be faced with the dilemma of satisfying themselves to the requisite standard beyond reasonable doubt that in giving these young men a ride to their home and because they were behaving in a suspicious manner is sufficient to establish that he assisted them in committing the robbery by being the getaway driver, as alleged by the Prosecution.

[30] In R v Colin Shippey et al,[18] Turner J in considering the second limb of Galbraith assessed the evidence as a whole and took the view that taking the prosecution's case at its highest did not mean picking out the plums and leaving the duff behind. His Lordship did not interpret Galbraith as intending to say that if there are parts of the evidence which go to support the charge then no matter what the state of the rest of the evidence that is enough to leave the matter to the jury. The present case against Walters is inherently tenuous. The jury would be left to wander in a minefield of speculation; there being no framework within which to place the evidence within the Prosecution's case.

[31] In Director of Public Prosecutions v Varlack [supra], Lord Carswell referred to the passage from the judgment of King CJ in the Supreme Court of Australia which their Lordships regard as an accurate statement of the law. At paragraph 22, it was stated:

> "… I would re-state the principles, in summary form, as follows. If there is direct evidence which is capable of proving the charge, there is a case to answer no matter how weak or tenuous the judge might consider such evidence to be. If the case depends upon circumstantial evidence, and that evidence, if accepted, is capable of producing in a reasonable mind a conclusion of guilt beyond

[18] [1988] Crim L.R. 767.

> reasonable doubt and thus is capable of causing a reasonable mind to exclude any competing hypotheses as unreasonable, there is a case to answer. There is no case to answer only if the evidence is not capable in law of supporting a conviction. In a circumstantial case that implies that even if all the evidence for the prosecution were accepted and all inferences most favourable to the prosecution which are reasonably open were drawn, a reasonable mind could not reach a conclusion of guilt beyond reasonable doubt, or to put it another way, could not exclude all hypotheses consistent with innocence, as not reasonably open on the evidence." [emphasis added]

[32] It is my firm view that the case against Walters is less than thin even taking the individual bits of circumstantial evidence at their highest. It is also my view that even if all the evidence for the prosecution were accepted and all inferences most favourable to the prosecution which are reasonably open were drawn, a reasonable jury, properly directed, could not reach the conclusion of guilt beyond reasonable doubt. Therefore, I am of the view that the case against Walters on the charge of assisting offenders is not sufficient to go to the jury. Accordingly, I will uphold the submission of Mr. Daniels.

[33] In the event that I am wrong to come to that conclusion, I will proceed to look at the ingredients which are necessary to constitute the offence of assisting offenders.

The ingredients of the offence of assisting offenders

[34] As I reiterated earlier, Galbraith states if there is no evidence to prove an essential element of the offence, a submission of no case must obviously succeed. Such cases might arise where an essential prosecution witness has failed to come up to proof or where there is no direct evidence as to the element of the offence and the inferences which the prosecution ask the court to draw from the circumstantial evidence are inferences, which, in the judge's view, no reasonable jury could properly draw. However, judges should take care to avoid taking into account defence evidence which is yet to be called and potential defences which have not yet been made out in assessing this limb of the test.[19]

[19] See Blackstone's Criminal Practice, 2009, D15.54.

[35] Section 318 (1) of our Criminal Code defines the offence. It states:

> "Subject to subsections (2) and (3), where a person has committed an arrestable offence (as defined by section 320), any other person who, knowing or believing him to be guilty of that offence or of some other arrestable offence does, without lawful authority or reasonable excuse, an act to impede his apprehension or prosecution, commits an offence and is said to be an accessory after the fact."

[36] An arrestable offence is defined in section 320.

[37] In this case, the ingredients that the prosecution must prove are as follows:

[1] Requirement that arrestable offence has been committed: see B14.54 of Blackstone's Criminal Practice 2009.

[2] Knowledge of or belief in the guilt of the person assisted: see B14:55 of Blackstone.

[3] Intent to impede apprehension or prosecution –this is an ulterior intent. It is not necessary that the person assisted should have benefited from the defendant's actions; indeed, they may be wholly unsuccessful and lead unwittingly to his immediate arrest: see B14:56 of Blackstone.

[4] Lawful Authority or reasonable excuse: the legal burden of proving absence of lawful authority appears to rest on the prosecution: Brinkley [1971] 2 QB 300. But the prosecution need not do so unless there is evidence before the court sufficient to raise the issue: see B14.57 of Blackstone.

Impeding the apprehension or prosecution of arrestable offenders

[38] Even if I were to positively find that the Prosecution have proved that :(1) an arrestable offence has been committed; (2) Mr. Walters had knowledge of or belief in the guilt of the three robbers and (3) the prosecution have proven the absence of lawful authority or reasonable excuse, the prosecution also has to prove that Mr. Walters had the intention to impede the apprehension or prosecution of Seantroy Hanley, Selroy Hanley and John Harvey. The evidence relied upon by the Prosecution is that Mr. Walters was the getaway driver in that after the commission of the robbery, he waited for the three young men in the near vicinity and then, drove them home. The Prosecution say that he knew or ought to have known that these three men committed

an arrestable offence because of the manner in which they were behaving and also, because they offered him a DVD player which he refused.

[39] Learned Counsel for Mr. Walters correctly submitted that in order to establish the requisite of an intention to impede the apprehension of prosecution, the prosecution must prove more than the fact that Mr. Walters was giving the young men a ride to their home and their suspicious behaviour. In support of his submission, he alluded to the case of The Queen v Jay Archibald.[20] In that case, the defendant In that case, Archibald housed some fugitives for one night only as a favour to his friend and thereafter, when he found that the fugitives were wanted for murder, declined to assist any further.

[40] In the case of R v Julian Charles Elfes,[21] (a judgment delivered by the English Court of Appeal on 26 October 2006), the appellant was convicted of assisting an offender knowing him to be guilty of murder and sentenced to 5 years imprisonment. The victim of the murder was shot. The appellant had arranged accommodation for a murderer near Heathrow airport and had provided him with funds to live on. The trial judge passed sentence on him on the basis that he had been a close associate of the murderer who had rendered essential assistance in the immediate aftermath of a planned criminal execution.

[41] In R v Martin Meldrum Morgan,[22] the appellant was convicted of assisting offenders. He had knowledge that a murder has occurred and provided or arranged a hideout for the murderers where the police eventually found them.

[42] In R v Robinson,[23] the appellant pleaded guilty to assisting offenders. The offence arose out of an armed robbery at a travel agency which resulted in the death of a woman police constable and injury to her colleague. One of the fugitives was a school

[20] Criminal Case No. 18A of 2007 [unreported] British Virgin Islands – Judgment delivered on 6 November 2007.
[21] [2007] 1 Cr. App. R (S) 118.
[22] {1972} 56 Cr. App. R. 181
[23] [2007] EWCA Crim. 3120 –judgment delivered on 3rd December 2007).

friend of the appellant. He contacted the appellant and the appellant took him to South Wales to another man, Gordon where they lived together in hiding at Gordon's address. The appellant was seen on occasions leaving the flat to purchase food. They moved to another flat when it became apparent that the police might discover their address.

[43] In the local case of The Queen v Desmond Alphonso,[24] the defendant, knowing that the fugitives were wanted in connection with a murder, there being wanted posters, inveigled one, Jay Archibald to let the men spend the night at his (Archibald's) home which was then unoccupied. The next morning, Archibald discovered that the men were wanted in connection with the murder and he told the defendant that the men had to leave his house. Archibald suggested that the police be called but the defendant said no as he had concerns that the men would turn against him. The defendant, accompanied by Archibald, then drove the fugitives to the home of another man who refused to take them in. Eventually, the defendant took the fugitives to an abandoned house at Fish Bay in the immediate vicinity of the defendant's residence/business.

[44] In a nutshell, the evidence adduced against Walters is that he met the three young men by the C & F Restaurant and drove them to their house at Belle Vue in his mother's motor car. The men had black plastic bags and bag packs. He observed that they were acting suspiciously as though they had raid a patch.

[45] There was no evidence to show that Walters evaded the police, used a different road to get the men to their home or was evading the police in any manner. Does driving the robbers to their home amount to impeding the apprehension or prosecution of these young men? I think not.

[24] Criminal Case No. 18 of 2007 – Judgment on sentencing delivered on 29th July 2008.

[46] In my opinion, I believe that the Prosecution will be faced with an insurmountable task of satisfying the jury of this legal element and would be inviting them to travel into a speculative world based on the evidence.

Conclusion

[47] What is clear from the authorities is that the judge at this stage must only be satisfied that there is a prima facie case for Mr Walters to answer. Applying the principles enunciated in Galbraith and having considered the prosecution evidence in its totality, I am of the view that there is insufficient evidence for Walters to lead a defence to the charge of assisting offenders.

Indra Hariprashad-Charles
High Court Judge