

IN THE COURT OF APPEAL OF BELIZE, A.D. 2004

CRIMINAL APPEAL NO. 6 OF 2004

STANLEY COLEMAN

APPELLANT

v.

THE QUEEN

RESPONDENT

BEFORE:

The Hon. Mr. Justice Mottley	-	President
The Hon. Mr. Justice Sosa	-	Justice of Appeal
The Hon. Mr. Justice Carey	-	Justice of Appeal

Mrs. Antoinette Moore for Appellant.
Mr. Kirk Anderson, Director of Public Prosecutions, for Crown.

8 & 18 June 2004.

CAREY JA

1. On 8 June, we allowed this appeal, quashed the conviction of manslaughter, set aside the sentence and ordered a retrial. This came about because the Director of Public Prosecutions brought to our attention that the verdict returned was a nullity in that the

verdict returned occurred less than four hours after the jury retired to consider its verdict.

2. The circumstances were these:

the jury retired at 11:55 a.m. to consider its verdict on the indictment which charged murder and on which the issue of manslaughter had been left by the trial judge. The jury returned at 3:00 p.m. at which time the jury intimated to the court that they had not reached a verdict in respect of the charge of murder, but as regards the issue of manslaughter they were divided in the proportion that did not allow him to accept the verdict.

3. The judge advised them, incorrectly, that they had 45 minutes left for consideration, when indeed it would have been 55 minutes, and directed them to retire for further consideration. The jury returned 40 minutes later and stated that they remained unable to return a verdict as respects the charge of murder, but were agreed 11 to 1 to return a verdict of guilty of manslaughter.

4. The court noted:

“Court accepts the verdict of guilty to manslaughter by a majority of 11 to 1 and convicts Mr. Stanley Coleman for manslaughter contrary to ss: 108 and 116 of the Criminal Code, Cap. 101, Laws of

Belize. The Court acquits Mr. Stanley Coleman of murder contrary to ss: 106 and 117 of the Criminal Code.”

5. We note that the trial judge “acquitted” the appellant on the charge of murder and observe in passing, that it is only the jury that can return a verdict of acquittal. As this does not affect the outcome of this appeal, we say no more about it.
6. The relevant provision with which we are concerned is section 21(1) of the Juries Act, Cap. 128, Laws of Belize. It enacts as follows:

“21.-(1) For the trial of the issue in every criminal cause in which the accused person is arraigned for an offence punishable with death, the jury shall consist of twelve persons and the verdict of that jury shall be unanimous, nevertheless on an indictment for murder that jury may, on or after the expiration of four hours from the time when it retired to consider its verdict, return a verdict of manslaughter if it considers that crime proved, whenever it is agreed in the proportion of eleven to one or ten to two, and that verdict when so delivered shall have the same effect as if the whole jury had concurred therein.”

7. The provision stipulates a minimum period which will enable a court to accept a majority verdict in the proportion 11 to 1 or 10 to 2 in respect of the issue of manslaughter left to the jury where the charge on arraignment is an offence punishable with death. In the instant case the verdict was returned fifteen minutes under the minimum time requirement of four hours. The judge should have directed the jury as to the four hour requirement and indicated the

need to retire for another fifteen minutes. The Director acted quite properly in bringing this regrettable fact to our attention. The result is that neither verdict could be allowed to stand and we were constrained to quash them and make the order stated at the beginning of this judgment.

8. Finally we wish to remind of comments made by this Court in **Cecil Gill v R (CA 1/03)** 26 June 2003, (paragraph 7) which, we trust, have been noted.

MOTTLEY, P.

SOSA, J.A.

CAREY, J.A.