

**IN THE SUPREME COURT OF BELIZE, A.D. 2022  
CRIMINAL JURISDICTION**

**CENTRAL DISTRICT**

**Indictment No. C101 of 2019**

**THE QUEEN**

**v.**

**MR. ORWIN QUETZAL**

**- Murder**

**BEFORE**

Honourable Justice Mr. Francis Cumberbatch

**APPEARANCES**

Mr. Cecil Ramirez SC– Counsel for the Crown  
Mr. Leeroy Banner – Counsel for the Accused

**TRIAL DATES**

27<sup>th</sup>, 28<sup>th</sup>, and 29<sup>th</sup> of January 2021; 3<sup>rd</sup>, 8<sup>th</sup>, 10<sup>th</sup>, 12<sup>th</sup>, 15<sup>th</sup>,  
18<sup>th</sup>, and 19<sup>th</sup> of February 2021; 2<sup>nd</sup>, 4<sup>th</sup>, and 15<sup>th</sup> of March  
2021.

**DECISION**

{1} The Accused is indicted for the offense of murder for that he on the 5<sup>th</sup> of October 2016, at Benque Viejo, murdered Luis Alberto Camal (‘the Deceased’). To this indictment the Accused entered a plea of not guilty, hence, a trial was held by a judge alone pursuant to the provisions of section 65A of the *Indictable Procedure Act*.

{2} At the close of the Crown's case Defence Counsel Mr. Banner submitted as follows:

- That pursuant to the particulars of the offense of murder in the indictment the Crown must prove that it was the Accused who inflicted injuries that caused the death of the Deceased.
- There is not a scintilla of evidence that it was the Accused who inflicted the injuries which caused the death of the Deceased.
- Mr. Banner relied on the first ground in the decision of *R v Galbraith*.

{3} Crown Counsel in response at first stated that the Crown makes no reply to the submissions of Defence Counsel but later conceded to the submissions made by the Defence.

{4} It is common ground that the Crown's case was based on the evidence contained in the statements of two witnesses namely: Eric Manolo Alvarez and Erin Yacab. The witness, Manolo Alvarez, from all appearances from the time he commenced his testimony seemed to be adverse to the Crown. The Court accordingly held a *voir dire* to determine whether this witness did indeed make a statement to the police from which he is now seeking to resile pursuant to the provisions of sections 71 to 73 of the *Evidence Act CAP 95* of the Laws of Belize.

- {5} After hearing testimony from witnesses for the Crown and submissions by Crown Counsel and Defence Counsel this Court in a written decision found that the Crown's evidence adduced in the *voir dire* was incapable of satisfying the evidential burden required herein to prove that the statement purportedly made by Manolo Alvarez was in fact made by him.
- {6} The Crown later called the witness Erin Yacab who was absent. The Crown sought to have this witness statement pursuant to the provisions of section 105 of the *Evidence Act CAP 95* of the laws of Belize.
- {7} A *voir dire* was held to determine whether the Crown had satisfied the requirements of subsections (2) and (3) of section 105 of the *Evidence Act* aforesaid. The court heard testimony from witnesses called by the Crown and heard submissions from counsels for the Crown and the Defence.
- {8} In a written decision this Court found that the Crown had failed to satisfy the Court that it complied with the requirements of subsection 2(c) of section 105 of the *Evidence Act* aforesaid, to wit: *that all reasonable steps have been taken to find the person who made the statement but that he cannot be found.*
- {9} Accordingly that application was denied.
- {10} In *R v Galbraith* the Court held *inter alia*:

“How then should a judge approach a submission of no case?”

*(1) If there is no evidence that the crime has been committed by the defendant, there is no difficulty. The judge will of course stop the case...”*

{11} The decision of *Galbraith* is regarded as the *locus classicus* on the principles of law to be applied in the determination of a submission of no case to answer made at the close of the Crown’s case.

{12} The submissions made by Defence Counsel were not challenged by the Crown as no submissions were made to appraise the Court of admissible evidence on the record that identifies the Accused as the person who shot the Deceased on that fateful night thus causing his death.

{13} In the circumstances, the submission is upheld, and the Court will not call upon the Accused to lead a defense to the charge in the indictment herein. Accordingly, a verdict of not guilty will be entered and the Accused is dismissed.

Dated this **15<sup>th</sup> day of March 2021.**

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Honourable Justice Mr. F M Cumberbatch  
Justice of the Supreme Court  
Central Jurisdiction  
Belize C.A.