

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CRIMINAL APPEAL NO: 48/94

COR: THE HON MR JUSTICE WRIGHT J A
THE HON MR JUSTICE GORDON J A
THE HON MR JUSTICE PATTERSON J A (AG)

R v PETER ROWE

Miss Paula Llewellyn, Deputy Director of Public Prosecutions
for the Crown

Applicant unrepresented

October 18 & December 12, 1994

GORDON J A

On the 12th day of February 1993 a party of policemen under the command of Superintendents Garnet Daley and Donald Brown discovered the dismembered head and limbs of a man in a bag in bushes off Lady Musgrave Road in St. Andrew. Although in a state of decomposition the body parts, particularly the head, were recognized as parts of the body of Dr. Cliff Lashley, an executive of the Eagle Group of Companies. Dr. Lashley had been reported missing since Friday 5th February 1993. The police party was led to this gruesome find by the applicant who had been taken into custody as the prime suspect in the murder of Dr. Lashley.

On 11th February 1993 when he was arrested by the police at the Norman Manley International Airport, the applicant was found driving Dr. Lashley's motor vehicle, a white Suzuki Jeep, he had the keys for the vehicle, keys to Dr. Lashley's apartment and he possessed the victim's credit cards. He said the vehicle was his uncle's. On that night Det. Inspector Kelso Small went to the home of the applicant and took possession of articles including an Omega watch, a key ring, a passport cover with documents marked Cliff Lashley, an Amart bag with articles of

clothing and a pouch. Some of these articles belonged to the deceased and others were purchased by use of the credit cards on a date subsequent to the deceased's death.

In a cautioned statement given to the police the applicant said he had taken Dr. Lashley to the Norman Manley International Airport to take an American Airlines Flight bound for Miami at 1.00 a.m. on the 6th February 1993. He had seen the deceased go through immigration to take his flight. Evidence adduced by the prosecution proved that no flight from any airline operating out of that airport left at the hour claimed by the applicant. In the statement the applicant also said he had done work for Dr. Lashley at his apartment and a friendship had developed between them whereby they were in frequent contact by telephone and otherwise. On his leaving for Miami the deceased had left his credit cards and jeep with him for his use. He further told of speaking with Dr. Lashley by telephone on Sunday 7th February 1993 when he called from Miami.

After the statement was completed Supt. Daley told the applicant he did not believe his story as investigations had led them to know that Dr. Lashley had not left the island. The applicant then said "Me kill him and throw the body over Dyke Road." This led to a fruitless search in St. Catherine which was abandoned at 3.00 a.m. on the 12th February 1993 and resumed at 7.00 a.m. and continued to 4.00 p.m. that day. Thereafter the applicant told the officers "Mi naw tell you no more lies. Come mek me show yuh de body up at Lady Musgrave Road."

Evidence of identification of the head by Stanley Thomas, a security Consultant was confirmed as to its accuracy by Dental records. Dr. Royston Clifford, Government Pathologist found that the hands of the deceased were traumatised by ante mortem blows. The dismemberment had been done by the use of a sharp instrument and in Dr. Clifford's opinion death had occurred between the 5th

and 7th February, 1993. He was unable to determine the cause of death.

The applicant gave evidence denying what the police averred he said. The statement he signed was done in order to cause the physical abuses he was receiving at the hands of the police to cease. It was not a voluntary statement freely given and he was unaware of its contents. He denied assisting the police in their search. Dr. Lashley he said had become his **benefactor** and friend. "He treated me like a father." He said that 8.00 a.m. on Sunday 7th February, 1993 in the morning Dr. Lashley told him he was going abroad that night. He also told him that Bryan and Lawrence would take him to the airport. Dr. Lashley gave him the keys for his vehicle, then he entered another vehicle with Bryan and Lawrence and left. That was the last time he saw Dr. Lashley. He did not see Dr. Lashley on the Friday night, he did not kill him.

The Crown's case against the applicant was anchored on admissions and circumstantial evidence. If the jury accepted the Crown's evidence that he gave the cautioned statement voluntarily and that he likewise admitted voluntarily that he killed the deceased, if they accepted that he led the police to the remains that were uncovered in bushes off Lady Musgrave Road then the verdict was inevitable.

The circumstantial evidence is found in his possession and use of the deceased's motor vehicle, his possession and use of the deceased's credit cards, his possession of the deceased's watch and other personal articles and the different accounts he gave which on the evidence were proven lies. On the cautioned statement which was not per se a confession, he was the last person known to the Court to have seen the deceased alive. Even in his evidence he was the last person that saw the deceased alive but on this version it was others and not the applicant, who drove to the airport with the victim.

Interest or motive he had because he was not pleased that the good relationship he once enjoyed with the victim had cooled. Opportunity to commit the crime was his on his statement that he was with the deceased shortly after he was last seen alive by others, and his conduct subsequent to the disappearance of the victim sealed his guilt. The evidence of Carol Murdock was that in early February 1993 he saw the applicant driving the jeep acknowledged to be the victim's, and the applicant told him the vehicle would soon be his, he was waiting on the papers.

The prosecution presented an overwhelming case from an array of 21 witnesses. We have examined with care the summation of the learned trial judge and find same to be clear, fair and comprehensive. We have found no flaw that could challenge the validity of the verdict of the jury. Indeed if any existed we would have been obliged to apply the proviso. The application thus being unmeritorious is refused.