

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

IN THE FEDERATION OF ST CHRISTOPHER & NEVIS

IN ST CHRISTOPHER CIRCUIT

CASE SKNHCR 2023/0067 & 0071

REX

V

TREVERN EDWARDS

APPEARANCES

The DPP Mr Adlai Smith for the Crown.

Mr Tim Prudhoe & Mr Craig Tuckett for the defendant.

2024: MAY 24

RULING

On joinder of two murders

- 1 **Morley J:** The Crown has made application for joinder concerning Trevern Edwards aka 'Scar', aged 33 (dob 10.11.91) facing two indictments:
 - a. SKBHCR2023/0067 for the murder of Jesse 'BJ' Lee aged 29 (dob 14.06.92) on 18.11.21; and
 - b. SKBHCR2023/0071 for the murder of Arthur Ezekiel Henry aged 67 (dob 09.03.55) on 24.03.22.
- 2 Edwards is said a 'gangster', with access to at least two guns, and Lee had been an associate, while Henry had been the victim-witness in a prosecution of Edwards for armed robbery of him on 11.03.22: both were 'executed' with shots to the head.

- 3 If convicted by jury of both murders, the Crown will likely seek the death penalty, still available on St Kitts & Nevis under **s2 and s3 of the Offences Against the Person Act** cap 4.21, first passed in 1873.
- 4 Edwards has previous convictions for burglary, larceny, malicious damage, and being armed with an offensive weapon, for which he has been fined and received minor jail sentences.
- 5 Coming up as paper committals from the Magistrates, in the High Court the Henry murder first appeared in the list on 30.11.23 and the Lee murder on 19.01.24. Prosecution and defence written submissions on joinder were filed on 01.05.24, with argument on 02.05.24, and adjournment to today 24.05.24 for the ruling to be in writing.
- 6 There are three civilian witnesses common to both cases:
 - a. Janayah Ryner, now 19 (dob 30.10.04) who made a statement common to both dated 05.04.22;
 - b. Skadeaj Dickenson now 25 (dob 26.03.99), who made a statement concerning Lee on 01.04.22 and concerning Henry on 05.04.22; and
 - c. Alandre Williams now 21 (dob 30.09.02), who made a statement on 02.04.22 mostly concerning Lee, but also reporting being with Edwards during the robbery of Henry on 11.03.22.
- 7 Concerning the murder of Lee, the prosecution statements distill the essential evidence as follows:
 - a. Tilano Archibald was Lee's girlfriend and mother of his two children. On 18.11.21 at 21.00, she saw Lee with a gun, dressed in black with black sneakers and a jansport pack, get into a rental car with Edwards together to steal marijuana. She never saw him again. Calling Edwards next day, he told her three gunmen had shot at them both and they had separated. Local searches by family, purportedly assisted by Edwards, did not find Lee.
 - b. Janayah Rhyner was Edwards' girlfriend. In October 2021, he told her of a plot to kill him, but he would strike first, and in later days showed her a photo on his phone of a

body not named by him face-down, wearing as described of Lee, implicitly him. He added days later during searches for Lee he had lied to police others had shot at them.

- c. Chelsea Selkridge was also Edwards' girlfriend. She spent time with him on her birthday 18.11.21, when he confessed he had just killed someone, who was 'BJ', he was serious, she was not to repeat this or he would send folk to kill her, showing the photo of the body face-down on his phone (as shown to Rhyner), adding the person killed had been planning to kill him and had a gun. He added later he and Skadeaj Dickenson had moved the body.
- d. Officer Charmaine Audain reported Edwards telling her on 19.11.21 he had been with Lee on 18.11.21 but dropped him at Cedar Grove, showing a path they had taken, and in formal interview later said he and Lee had been shot at by gunmen, (as above, said a lie to Rhyner).
- e. On the night of the killing, 18.11.21, Alandre Williams aka JJ was taken by Edwards with Skadeaj Dickenson to the body of BJ, dressed as described, to help move it, seen to have been shot twice in the head. Later Edwards said to him he had lied to police another had shot at him and BJ. At a further later time, Edwards then asked for help to move the body again, which in decomposition he had placed in a 'crocus' bag.
- f. On the night of the killing, 18.11.21, Skadeaj Dickenson aka DJ, per his statement of 01.04.22, was taken by Edwards with Williams to help move the body of BJ; then on 01.04.22, he pointed out to police where Lee's body was buried at Baysford mountain, bones being recovered, identified by dna.
- g. On 10.12.21, Edward's phone was seized, and on later analysis inter alia there is a photo timed at 00.59 on 19.11.21 of a body lying face-down dressed as Archibald described Lee, implicitly Lee, and shown to others as described.
- h. On 10.05.22, Edwards being already in custody on other matters (concerning Henry), he was formally interviewed and charged concerning the murder of Lee.

8 Concerning the murder of Henry, the prosecution statements distill the essential evidence as follows:

- a. Mabel Morton last saw Henry in church on 23.03.22 and did not answer on 24.03.22 when she called on him.
- b. Henry had reported Edwards on 12.03.22, who he has known since a child, making police statements on 14 and 15.03.22, that on 06.03.22 Edwards had asked for a 'crocus' bag (which may link to hiding Lee, as above), and on 11.03.22 Edwards and

Williams had threatened him with respectively an uzi and pistol, tying him up, warning he would be shot in the head, and ransacking his home for money.

- c. Officer Nalie Joseph conducted a search for Edwards and guns on 12.03.22, finding neither.
- d. Officer Shaun Straker arrested Williams on 15.03.22, charging him with assault on Henry with intent to rob on 16.03.22, but could not find Edwards, who surrendered to police on 31.03.22, then on 02.04.22 being similarly charged as Williams.
- e. Janayah Rhyner received messages in March 2022 from Edwards on facebook he was wanted for robbing Henry, and would 'deal' with him for talking to police, later confirming he had 'dealt' with him, Henry had punched him, saying further he and Dickenson had hid his body, and when Rhyner next saw Edwards on 26.03.22, who she knew had two guns, he had a swollen face.
- f. Skadeaj Dickenson, per his statement of 05.04.22, described being present when Edwards murdered Henry, together visiting Henry's home at 08.00 on implicitly 24.03.22. Edwards fought with Henry for talking to police, who bloodied his nose, angry he pulled out his gun, ordering him to the floor, tying his hands behind, then ordering him to walk through an abandoned estate to the forest by a big tree, where he shot him point blank in the face; Dickenson then refused to help with the body, later showing police on 05.04.22 where the shooting had occurred, leading to recovery of the body.
- g. Dr Caronette Frank on 05.04.22 reported the decomposing body of Henry was recovered from a shallow grave at Fountain estate, later identified by dna.
- h. David Joseph spoke with Edwards on 23.03.22 who wanted to see Henry to 'deal' with him, and around 14.00 on 24.03.22, Edwards said he had fought with Henry, known as 'karate-man', his nose had been damaged, he had shot Henry once in the head, watching smoke rise from the wound, killing him so he would not be a witness against him, and had moved his body to Black mountain.
- i. Tia Thompson is another girlfriend of Edwards who on about 25.03.22 saw he had a damaged nose and he explained he had 'dealt' with a man.
- j. Edwards surrendered to custody on 31.03.22 over the robbery of Henry, but as the investigation evolved, after Henry's body was found on 05.04.22 he was charged with his murder on 13.04.22.

- a. Lee was executed by Edwards with two shots to the back of the head on 18.11.21 because believed plotting to kill him, but not being found until 01.04.22 was merely missing.
- b. Edwards, with Williams, was later wanted for the armed robbery of Henry on 11.03.22, reported by Henry on 12.03.22.
- c. Williams was arrested on 15.03.22, but Edwards could not be found.
- d. Edwards executed Henry with a single shot to the front of his head on 24.03.22 for talking to police.
- e. Edwards confessed
 - i. to killing Lee to girlfriends Chelsea Selkridge and Janayah Ryner, and
 - ii. to killing Henry to David Joseph, and to girlfriends Tia Thompson and Janayah Rhyner.
- f. Edwards was seen by Skandaej Dickenson to execute Henry on 24.03.22, who had also helped on 18.11.21 move the body of Lee with Williams.
- g. The bodies, being concealed at Baysford mountain and the Fountain estate, were proximate.
- h. Edwards surrendered to police on 31.03.22 as wanted for the robbery of Henry, but then on 01.04.22 Dickenson pointed out the body of Lee, and on 05.04.22 pointed out the body of Henry, leading to Edwards being charged with the Henry murder on 13.04.22 and the Lee murder on 10.05.22, the detailed investigation into the two murders taking place after Edwards' arrest on 31.03.22 for robbing Henry, who may have thought on surrendering he ought soon to be released as Henry could not be found, while Lee had not been, but under intense police work his associates Dickenson and Williams told on him, and three girlfriends plus Joseph to whom he had confessed.
- i. The heart of the Crown case is Edwards, playing murderous gangster with an uzi and pistol, had built around him what he thought was a body of loyal criminals and supporters, but who turned.

10 In argument, Counsel Smith distils his argument for joinder at para 45:

...in the cases of Jesse Lee and Arthur Henry, the striking parallels in how the crimes were executed—ranging from the choice of firearms to the involvement of Skandaej Dickenson in the disposal of each body, the burial of the bodies in relatively geographically proximate locations and the method of execution by shooting in the head—significantly diminish the objective improbability of these events occurring independently of one another. The evidence thus interlinks not merely by chance but

forms a cohesive and coherent narrative that robustly supports the allegations of Edwards' consistent criminal modus operandi.

- 11 By strong reply, Counsel Prudhoe argues, taking each one point one at a time, none individually raise features of such similarity as to justify the prejudice created by trying two separate murders in one trial, noting the use of a gun, or proximate locations, or both victims being missing, or the involvement of Dickenson in both, each of themselves do not justify joinder, and therefore should not be tried together.
- 12 Of note, during discussion on 02.05.24, Counsel Prudhoe appeared to concede joinder was here permissible under the indictment rules, but argued the counts should then be severed in the court's discretion to preserve a fair trial.
- 13 Reviewing the purported facts, the following features between the murders of Lee and Henry are more than merely similar, but are of incrementally striking similarity:
 - a. Each offence is of murder.
 - b. Each killing is with a gun.
 - c. Each shooting intends to kill.
 - d. Each shooting is to the head.
 - e. Each shooting is a cold-blooded 'execution' with no resistance being offered by the victim.
 - f. Each killing, being only five months apart, is in isolated forest area, proximate to each other.
 - g. Each body is concealed.
 - h. Each body is then sought moved by others at the direction of Edwards, Dickenson being common to both.
 - i. Though a lesser feature, each murder is confessed by Edwards to two girlfriends, arguably to impress and intimidate, Rhyner being common to both.
- 14 Moreover, under the doctrine of similar fact evidence, the one murder is arguably permissible to prove the other, where the similarities strongly suggest the same person committed both, while the evidence comes from some of the same witnesses, linking the murders, making it more likely if guilty of one he is guilty of the other, so that they should be tried together.

- 15 The power on St Kitts & Nevis to join counts is found in the **Indictments Act** cap 4.14 at **sections 5, 6, and rule 4**:

Joinder of charges in the same indictment.

Section 5. Subject to the provisions of the Rules made under this Act, charges for more than one felony or for more than one misdemeanour, and charges for both felonies and misdemeanours, may be joined in the same indictment, but where a felony is tried together with any misdemeanour, the jury shall be sworn and the person accused shall have the same right of challenging jurors as if all the offences charged in the indictment were felonies.

Orders for ...separate trial....

Section 6. (3) Where, before trial, or at any stage of a trial, the Court is of opinion that a person accused may be prejudiced or embarrassed in his or her defence by reason of being charged with more than one offence in the same indictment, or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the Court may order a separate trial of any count or counts of such indictment.

Joining charges in one indictment.

Rule 4. Charges for any offences, whether felonies or misdemeanours may be joined in the same indictment if those charges are founded on the same facts, or form, or are a part of a series of offences of the same or a similar character.

- 16 This legislation is practically identical to what has been the UK **Indictment Act 1915** on which there is much learning, where UK **s5** and **r3** are the same as here **s6** and **r4**.
- 17 As to **r4**, on reading its plain words, it is unarguable the two murders '*are a part of a series of offences of...a similar character*'. Here, there can be no hesitation in finding joinder legally permissible, noting a '*series*' can be two offences, per **R v Kray 1970** 1QB 125, and between the offences there is a '*nexus*', as required by **Ludlow v MPC 1971** AC29, being a feature of such similarity [as above in para 13] which in all the circumstances of the case enable the offences to be described as a series, and are so connected that the evidence of one would be likely admissible to prove the commission of the other in accordance with the rules on similar fact evidence, though noting for joinder this is not essential, per **Blackstones 2023 para D11.70**.
- 18 The real question is, should there be discretionary severance under **s6**, because Edwards '*may be prejudiced or embarrassed in his defence...or that for any other reason it is desirable [he] should be tried separately*'?

- 19 The question of prejudice asks whether the prejudicial effect of the jury hearing two murder accusations would outweigh the probative value of the evidence to be offered. Edwards was indeed involved in both; the answer is no, as the probative value of the evidence on each is strong and appears mutually supportive, as strikingly similar, and arising from within a close knit community, where three witnesses are common to both offences, making the probative value outweigh the prejudicial effect. While all probative evidence is prejudicial, it must be remembered a balancing act is required, to assess which outweighs which, and here on the face of the prosecution materials, the probative value weighs most.
- 20 The question of embarrassment asks whether to defend one murder Edwards must weaken his defence of the other. This can arise for example where a defendant on allegations of rape might argue consent on one and on the other it did not happen, possibly weakening the latter if admitting to sexual activity on the former; or where a defendant on burglaries might argue on one allegation he did not do it, and on another broke in to take items he already owned, weakening the former if admitting to break-in in the latter; or where a defendant on allegations of drug importation might say of one quantity of drugs he did not know they were in his bag, and on another he was acting under duress, weakening the former if admitting importing in the latter.
- a. Moreover, while such examples may show embarrassment, it does not follow severance must then occur;
 - b. Further, in any event nothing of this nature emerges so far in the case as there is no obligation on St Kitts & Nevis for the defendant to sign a defence statement, as occurs in the UK which might set out if embarrassment arises;
 - c. This may mean if there is clarity offered as to Edwards' defence in relation to each murder, so that the defences can be shown mutually exclusive, then the question of severance might be revisited, but as of now failing any positive defence case other than 'it wasn't me', the counts can be properly tried together.
- 21 As to whether there is any other reason it is '*desirable the counts are tried separately*':
- a. It is no answer to argue he has a better chance of acquittal if each murder is separately tried, though this may be desirable to Edwards: a trial is about presenting evidence permissibly, it is not a sport to make the contest more evenly balanced;

- b. Moreover, it might be argued there will be scandal raised in so small a community as St Kitts he faces two allegations, but direction from the judge will make clear each count is to be weighed separately, being a familiar feature of jury trials, and any scandal may equally apply in the opposite, namely once tried on one allegation it may be difficult to try him later on another owing to notoriety, meaning scandal arises either way, cancelling each other out.
- 22 Finally, if the counts can be joined permissibly, there is a presumption they should be jointly tried, not severed, where per **Blackstones 2023 para D11.88** it is stated, *'the authorities indicate that the decision whether to grant severance is one within the discretion of the trial judge and that the decision should be in favour of joint trial unless the risk of prejudice is unusually great'*, which as above this court finds not so.
- 23 For the above reasons, I find the two counts of murder can be permissibly joined under the **Indictment Act** and in my discretion I will not sever the counts for separate trials: there will be one trial of both counts together.

The Hon. Mr. Justice Iain Morley KC

High Court Judge

24 May 2024