

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

IN THE ST CHRISTOPHER & NEVIS CIRCUIT

IN ST CHRISTOPHER

CASE SKBHCR 2023/0017

REX

V

ANTHONY ADAMS

APPEARANCES

Mr Tessaun Vasquez & Ms Greatess Gordon Hazel for the Crown.

Mr Craig Tuckett for the defendant.

2024: DECEMBER 09

VERDICT

On attempted murder, wounding with intent, and armed robbery

- 1 **Morley J:** Under the provisions the **Judge Alone Trials Act 2024**, (JATA) in force since 30.09.24, I have conducted a 'first' trial without a jury as judge-alone on the issue of guilt in criminal proceedings during 8 days, 18, 19, 20, 21, 22, 25, 26.11 and 02.12.24.
- 2 The defendant is Anthony Adams (dob 31.07.92), aged 32, of good character, charged with four counts arising from events on 18.06.19:
 1. Attempted murder of Hannah Adamson, contrary to **s10 Offences Against the Person Act** cap 4.21 (OAPA);
 2. Wounding with intent of Hannah Adamson, contrary to **s17 OAPA**;
 3. Wounding with intent of Jasandeep Ghuman, contrary to **s17 OAPA**;

4. Robbery (with a firearm) of Jasandeep Ghuman, contrary to **s31(1)(a) Larceny Act** cap 4.16 (LA).

3 Adams made a first appearance in the High Court on 12.06.23, pleading not guilty on 29.06.23. Delays arose owing to the press of court work, and then illness on the part of a witness. Application for judge-alone trial was filed on 11.10.24, and decided on 18.10.24, there being no opposition as inter alia the offences, properly joined as arising on the same facts, include armed robbery contrary to the **LA**, which under **s4 JATA** is a scheduled offence for which judge-alone trial is mandatory if sought by the Crown.

4 During the trial, there were the following features.

a. 7 witnesses were called during 18, 19, 20, 21, 22, and 25.11.24:

1. Jasandeep Ghuman,
2. Tracy Jeffers,
3. Officer in the case (OIC) Dexter Lawrence,
4. OIC Judith Sampson,
5. Forensic scientist (FS) Jonathan Bevan,
6. Defence witness - Tahitia Douglas,
7. Defence witness - Sherema Warner;

b. There were 9 exhibits:

1. 1 picture of Chad Depsusoar, aka 'Chaddo',
2. Blue coverall,
3. Glock 17 pistol with ammunition,
4. 1 picture of the Chimney Bar,
5. The statement of 29.01.20 of FS Bevan,
6. The previous convictions of Chaddo,
7. 11 pictures of the crime scene, with bullet recovered,
8. 17 pictures of the Glock and where it was found,
9. 18 pictures of the home of Adamson and of the injuries.

c. On 20.11.24, there was a visit to the locus in the evening.

d. On 22.11.24, there were 8 headings of agreed facts offered, and an unsuccessful submission of no case to answer.

e. On 25.11.24, the defendant did not give evidence, as is his right.

- f. On 26.11.24, speeches were made by counsel to the instant judge, with verdict reduced to writing for delivery today, 09.12.24.

5 The allegation was on 18.06.19 around 23.15hrs at West Farm, near the Chimney Bar about 60m distant, a robber in a blue coverall came to Jasandeep Ghuman and Hannah Adamson, kissing, who were in Ghuman's car PB1897 parked outside Adamson's home, both being early-twenties US veterinary students at the Ross University, and with a firearm demanded the car and its contents.

- a. Earlier, around 20.00hrs, Ghuman and Adamson had been in the company of a man they had met at the Chimney Bar in a blue coverall who had helped them return an injured lamb to a sheep pen.
- b. The robber looked similar to the lamb-man, opening the doors, pointing the gun at their heads, and insisting on taking Adamson's phone, pressed the gun into the back of her neck, forcing down her head to her knees while she was seated in the passenger seat, and in frustration she would not do as required, shot her as she wriggled, missing her head, the bullet going through the right foot of Ghuman on the driver's side, while grazing her neck, with the muzzle leaving burn marks from being pressed on the nape. Ordering them out, he took the keys from Ghuman and drove off in the car, taking from him a laptop, ipad, cash, pants, shoes, boxing gloves, shin guards, and phone, to the combined value of \$5529ec.
- c. The incident was reported to police around 23.30 on 18.06.19.
- d. On 19.06.19, in the afternoon PB1897 was recovered from Lavington village.
- e. On 20.06.19, Tracey Jeffers, Adams' former girlfriend, reported in a police statement Adams had worn a blue short-sleeved coverall at around 17.00 on 18.06.19 and she believed she had seen him with Chaddo at around 22.00 in the Chimney Bar.
- f. On 20.06.19, Adams was arrested in Lamberts, denying involvement.
- g. On 21.06.19 at 18.00, a blue coverall with short sleeves (ex 2) was found in Sandy Point.
- h. On 23.06.19, Adams gave a saliva sample, before being released pending further enquiries.
- i. On 01.07.19, the Glock with ammunition (ex 3) was found wrapped in a white tshirt in Boyds village, and the bullet recovered at the scene was later forensically shown by CSI investigator Damien Challenger to have been ejected from it, thereby linking the Glock to the crime.

- j. On 30.07.19, Chaddo as a suspect gave a saliva sample.
- k. On 06.09.19, FS Bevan reported finding a full profile of the dna of Adams on the coverall collar.
- l. On 12.09.19, Ghuman gave a saliva sample.
- m. On 23.10.19, FS Bevan reported finding a full profile of the dna of Ghuman in blood on the left leg of the coverall.
- n. On 12.11.19, Adams was apprehended in Anguilla.
- o. On 15.11.19, after return under escort to St Kitts, while Adams continued to deny involvement, when OIC Lawrence told him his dna was on a coverall with dna from Ghuman, linking the coverall to the crime, he denied he owned any coverall.
- p. In his overarching witness statement of 29.01.20 (ex 5), FS Bevan noted in addition:
 - i. There was no forensic evidence to link Adams to PB1897 or the Glock (ex 3) or to its white tshirt.
 - ii. A dna profile of an 'unknown male 1' was found on the white tshirt, not being any other person in the enquiry, including not being Chaddo, while there were also low-level results from at least two other individuals.
 - iii. Concerning the Glock, a low-level mixture of dna from at least 4 individuals was found, including from at least one male, who could be 'unknown male 1', but not any other person in the enquiry, including not being Chaddo.
 - iv. Concerning the coverall (ex 2), in the swab on the collar in which was found the dna of Adams, there was not any indication of 'unknown male 1', but there was a low-level result from at least three other individuals, and the results could match those in the dna profile of Chaddo, though it is not possible reliably to determine whether or not Chaddo may have contributed this dna.
- q. Chaddo aged 38 (dob 28.08.86) has previous convictions (ex 6) including for dishonesty and violence, including several short sentences, and one of 5 years for wounding with intent in 2006.

6 The trial issue was identification, the above material setting the stage for its exploration, noting there had been no formal identification of the robber by Ghuman or anyone else, there having been no identification procedure, like a parade, or use of photos, so that the argument it was Adams was circumstantial, recalling the Crown must prove its case so the tribunal is sure of guilt.

- 7 In particular, the court had to consider whether the Crown could prove so the tribunal is sure, variously:
- a. There was a robbery of Ghuman on 18.06.19;
 - b. When firing the shot, the robber intended to kill Adamson, and by the shot wounding her neck, and going on to wound Ghuman, he intended to cause really serious harm to her, and also to Ghuman under the doctrine of transferred malice;
 - c. The coverall (ex 2) was worn by the robber;
 - d. The coverall was owned by Adams;
 - e. The coverall was worn by Adams at 17.00 on 18.06.19, seen by Jeffers;
 - f. Adams had helped Ghuman and Adamson with the lamb at 20.00;
 - g. Adams was in the Chimney Bar at about 22.00 on 18.06.19, seen by Jeffers;
 - h. The appearance of Adams fits the description of both the lamb-man and the robber given by Ghuman;
 - i. Adams denied ownership of the coverall on 15.11.19 as a lie to hide guilt;
 - j. Adams had not given Chaddo the coverall, nor anyone else, so that the Crown can exclude Chaddo and any other was the robber; and therefore
 - k. Adams was the robber.

Counts 1 to 4

- 8 A first issue is, whoever was the assailant, to establish what offences occurred at West Farm at 23.15 on 18.06.19.
- 9 Ghuman gave evidence by zoom from California on 18.11.24. He was the only witness to describe what happened at the scene. I found him to be an honest and reliable witness.
- 10 Concerning counts 1 to 4:
- a. I am sure Ghuman was robbed of his car and contents by a gunman with the recovered Glock, using force to steal, and so whoever was the gunman is guilty of count 4.
 - b. I am sure the robber intended to kill Adamson at the sudden moment when the shot was fired, in irritated temper because he had become, per Ghuman's testimony, '*frustrated*' she would not hand over her cellphone, he was '*pretty wrapped up*', '*wanting things to go his way*', and '*significantly elevated*', being under the influence of some substance, with '*big eyes*', '*excitable*', the trigger being '*back half way*' when

threatening with the Glock, *'having no care'* for their lives, then pressing it into her neck, evident from the scorch marks on the nape in Ex 9, shooting with the gun in that murderous position.

- i. I do not accept perhaps Adamson wriggling caused the gun to go off as an accident.
- ii. I am sure the trigger was deliberately pulled with the gun to her neck, being already half way back, so whoever was the robber is guilty of counts 1 and 2, of unlawfully wounding Adamson's neck intending to kill her by shooting, which is an attempted murder, and which in parallel is at least intending her really serious harm.
- iii. I am sure the robber is also guilty of wounding Ghuman's right foot intending at least serious harm to Adamson, so that the malice evinced toward Adamson can be transferred to Ghuman, even though he was not the target, meaning the robber is also guilty of count 3.

Was Adams the robber?

- 11 It follows the pivotal question in the case is who was the robber, and specifically can the Crown make the tribunal sure it was Adams, who will be guilty of all four counts if so.
- 12 It is necessary to divide the case into the evidence first during the prosecution case, and then afterwards during the defence case.
- 13 The significant witnesses during the prosecution case on the issue of identification were Ghuman, Jeffers and Bevan.
- 14 Concerning Ghuman, offering descriptions he said:
 - a. The lamb-man was *'very similar'* to the robber in that: the lamb-man was of moderate stature 5/6-5/10, lean, muscular, dark skinned, short hair, in worker boots with blue coveralls where the sleeves were to wrist and the leg down to boots, being with Ghuman for about 15mins; and the robber was 5/6-5/10, thin, lean, toned, with short hair, he was wearing dark coveralls, believed blue, to the wrist and to construction boots.

- b. This description of either lamb-man and robber evidently could fit Adams from his appearance in court.
- c. Notable issues were:
 - i. The sleeves were said to the wrist, while the coverall was short-sleeved.
 - ii. The robber had short hair, not described as plaits, whereas Adams had plaits.
 - iii. Ghuman saw the face of the robber for 3-4 secs before he put on a mask to his nose bridge, yet he did not positively assert he was lamb-man.

15 Concerning Tracey Jeffers, she gave evidence on 19 and 21.11.24 by zoom from Basseterre police station and I am sure she was an honest and reliable witness.

- a. She was permitted to give her evidence remotely as Adams was her former partner, May 2018-May 2019, and if she had been required to be in the same small courtroom with him, without a screen, able to see him directly across a close distance of 15ft, her discomfort may have affected her focussing on her evidence, which is nowadays not an uncommon facility afforded appropriate witnesses through the Commonwealth and Caribbean.
- b. Defence counsel Tuckett attacked her honesty by suggesting she was determined to punish Adams for leaving her for another, Tahitia Douglas, and so was not telling the truth about him, while also she was embellishing her evidence to please police who had arrested her at 23.00 on 19.06.19, searching for Adams, keeping her overnight in a cell, not releasing her until the afternoon of 20.06.19, and only after she had made a statement they deemed useful. Having observed Jeffers, I reject this attack. I am sure she was doing her best to tell the truth, and the only issue is whether in some of her evidence she might be honestly mistaken.
- c. Specifically, I accept her evidence as follows:
 - i. Adams owned a blue coverall with short sleeves and zipper, which he would wear casually 3 times a month, which she had not worn, nor had she ever seen him lend to others to wear.
 - ii. Adams would often wear a stocking or durag on his head, where his hair was in plaits.
 - iii. Adams used to lime often at the Chimney Bar.
 - iv. On 18.06.19, at about 17.00, from her veranda she saw Adams in daylight walking up the hill toward the Chimney Bar, being 150m further up, Adams

being 75m to the left of her home, wearing his blue coverall, with head stocking, in particular turning to her, so she saw his face, smiling.

- v. On 19.06.19, she saw Adams in company with Chaddo at a petrol station where Adams was putting gas into Chaddo's car.
- d. Jeffers also said at about 22.00 on 18.06.19 as she was being driven in the passenger seat by her nephew at perhaps 15mph, past the Chimney Bar, slowing to turn left 80m further on to be taken home, she saw Chaddo's car, and looking left at a distance of about 3 feet from the sidewalk she saw the faces of Chaddo and Adams seated in the bar area, illuminated by dim streetlighting 20m away, and perhaps car headlamps. She did not see what they were wearing.
 - i. While her observation is likely correct, if I focus on it alone, without contemplating any other evidence (including later defence evidence), I cannot be sure she saw Adams, recalling the long-established courtroom fear an honest witness may be mistaken, particularly in matters of identification, recalling what she says she saw was in a moving car in the dark looking left.
 - ii. However, while from what she alone has described I cannot be sure of her Adams was present, Jeffers has suggested Chaddo was there, and his car, and if this may be true, and of advantage to the defendant, I should proceed on the basis Chaddo was there, though strictly on her evidence I must hesitate to be sure Adams was with him, (but will revisit this analysis later in light of what happened during the defence case).

16 Concerning FS Bevan, who I found to be honest and reliable, to distil his evidence given on 22.11.24, he reported the full dna profile for Adams found on the collar was consistent with more exposure of Adams to the garment, though it was possible Chaddo had worn it, even if briefly, though also possible any findings consistent with Chaddo were chance, while in addition it was possible others had worn it.

17 Concerning Chaddo, it was evident from his picture (ex 1) he is not dissimilar in appearance and build to Adams, both being lean and toned, where OIC Lawrence said Chaddo was about 5ft10, and Adams about 5ft7.

Submission of no case to answer

- 18 At the close of the prosecution case, on the evidence so far, the Crown could make an intelligent argument:
- a. The robber wore the coverall, ex 2.
 - b. Adams owned the coverall, being recovered discarded by the robber from Sandy Point with Ghuman's blood on it, and on inspection it can be seen is the same as Jeffers described, being blue, with short sleeves and a zipper, with Adams dna on the collar showing long exposure to the garment, associated with owning it.
 - c. If the coverall was used by the robber, then Ghuman was simply mistaken in the dark to think it was long-sleeved, when ex 2 is short-sleeved.
 - d. Though Adams had his hair in plaits, yet he was on 18.06.19 wearing a stocking on his head, per Jeffers, which would mean he could be the robber said to have short hair, by Ghuman mistaking in the dark short hair for the stocking.
 - e. Adams frequented the Chimney Bar.
 - f. Adams was in the coverall at 17.00 on 18.06.19 heading toward the Chimney Bar;
 - g. Adams fits the description of lamb-man in a coverall found by Ghuman at the Chimney Bar at 20.00 on 18.06.19;
 - h. Adams fits the description of the robber by Ghuman at West Farm at 23.15 on 18.06.19;
 - i. Adams lied about having a blue coverall to distance himself from the crime; so that
 - j. Inferentially Adams was the robber in his own coverall.
- 19 However, equally, the defence could make the following intelligent argument, even if the coverall belonged to Adams:
- a. Chaddo was or may be the robber,
 - i. as he knows Adams,
 - ii. being together next day on 19.06.19,
 - iii. and whose dna cannot be ruled out as being on the coverall possibly because he wore it,
 - iv. when he was seen at the Chimney Bar by Jeffers around 22.00 on 18.06.19, 60m from the scene of the crime, an hour before the crime,
 - v. while Adams may have been at the Chimney Bar earlier, seen by Jeffers heading in its direction at 17.00 on 18.06.19,

- vi. wearing the coverall, which he may then have given to Chaddo at the bar,
 - vii. but meaning Adams was therefore not the robber,
 - viii. recalling Ghumman had seen lamb-man for 15mins, who may have been Adams, but did not positively identify lamb-man as the robber, despite briefly seeing the robber's face,
 - ix. when Chaddo though taller with a lighter complexion has a similar build to Adams,
 - x. so that it is reasonable Chaddo cannot be ruled out as the robber,
 - xi. where the court had no information to implicate Adams as involved, like his attitude to the offence, Chaddo having his coverall, and what he did or did not say to others afterward (about which there will be more below after the defence case was presented);
 - xii. meaning Adams must be acquitted.
- b. Some other person may have been the robber, as there are two other persons with trace dna on the coverall.
 - c. And overall, it simply cannot be proved beyond reasonable doubt Adams was the robber or culpably involved, where there was no formal identification of the robber, and there is no reliable evidence Adams was at the Chimney Bar around 22.00 and close to the time of the crime.

20 On 22.11.24, a submission of no case to answer was made by Counsel Tuckett.

21 I decided there was a case to answer, distinguishing between how there could be a conviction, not would be. Specifically, I found there was a rational route to a conviction, as above at para 18, though pointed out it was a route competing with other possibilities, using an analogy of having to go through one of ten doors, where one led to conviction, but nine not. In my mind after reflection, it was clear if a jury trial, the case would be left to the jury, as there was a bare possibility of conviction taking the prosecution case reasonably at its highest, though it was weak as to whether a notional jury finally would be sure.

22 The test on a submission of no case is best enunciated in **R v Galbraith** 73 Cr.App.R.124 case.

(1) If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty - the judge will 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 its strength or weakness depends on the view to be taken of a 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.

23 Put simply, in a no-case submission in a judge alone trial, it is not for the judge to decide there is no case to answer if not sure there will be a conviction, that being the wrong test; the correct test is whether there is a rational route to a legally possible conviction, as there was here.

24 However, it ought to have been apparent to Counsel Tuckett the case was weak as to the tribunal being sure Adams was the robber, observing the difficulty the court had in making the decision, even though the case had survived the no-case submission. He was asked if he would call any defence evidence, the court noting it is often said *'the high-water mark of a defence may be the prosecution close'*, encouraging him to think on matters over the weekend.

25 Then on 25.11.24 he called two witnesses who unarguably made the case for Adams far worse, and the question now arises whether the effect of Counsel Tuckett's conduct of the trial has been to convict his client.

26 By way of background, Counsel Tuckett, though a well-known figure on St Kitts & Nevis, in middle-age, after re-sitting various bar exams during the period 2014-2022, is just two years' call, being called on 05.12.22. He has very little court experience, though appears to think during regular exchange in court he knows quite enough and it may be in over-confidence he does not examine himself. His calling defence evidence in this case has been a strategic mistake, likely foreseeable to anyone more able and experienced.

27 First, he called Tahitia Douglas. I am sure she was wholly unreliable and in places deeply dishonest.

- a. She pretended not to be in a relationship with Adams, having met him in the Don Carlos nightclub, though he would sleep in her bed from May 2019, being disingenuous with the court, in what seemed an effort to bolster her credibility if there was nothing sexual in their connection, while in parallel she was locked in a tension with Jeffers, who she said had accused her (it seems rightly) of upsetting her relationship with Adams but which she would not acknowledge.
- b. She offered an alibi for Adams, saying he had been playing PS3 with her son in his bedroom, then aged 19, Dinaldo, now in the Bronx in the US, *'at mins to 12, almost midnight'* on 18.06.19, her waking up to assist another son aged 7 to the toilet, but in a witness statement dated 21.06.19, she had told police she saw Adams *'about after midnight'* which is vague enough to be any time, with no clarity as to timing nor where in the house, and with no reference to Dinaldo.
- c. What Counsel Tuckett had not anticipated was Doulgas could now be asked questions about her interaction with Adams after the crime and in particular what she and he did and did not discuss.
 - i. Doulgas told the court her house was raided by 4/5 police looking for a firearm, at about 19.00 on 20.06.19, while she had to keep her sons calm, aged 7 and 14, being told Adams had been involved in an altercation. She did not ask any questions of police about what happened.
 - ii. Next day, on 21.06.19, she had made a police statement at work, being vague as above about when she saw him, and did not ask police what happened.
 - iii. Adams came back to her after release on 23.06.19, staying with her, and she did not ask him what had happened, notwithstanding there had been a police raid on her home and then officers at her work.
 - iv. Douglas was then party to Adams moving to his father in Anguilla, though in speaking with the father, did not discuss what had happened.
 - v. On Adams being returned to St Kitts in November 2019, she saw him in jail, and again did not ask him what had happened.
 - vi. This lack of discussion with a person in an intimate connection, staying with her, tells me she suspected something had happened and did not want to know what, and this thoroughly undermines the alibi, so I am sure it is not true, and has been designed to cover for Adams.
 - vii. More, and far worse, Doulgas told the court Adams said nought to her, ever, in all their interaction since 23.06.19, up to the present, other than to tell her for

the incident he was at her home, appearing by doing this to set up the alibi, and at no point protested his innocence in any details, at all, like discussing where he had been, at what time, what he had been wearing, whether he had interacted with Chaddo, whether Chaddo may be responsible, or some other, bearing in mind assuming him innocent, charged with a most serious offence, common sense suggests overwhelmingly they would have talked about little else every time they met.

viii. Finally, and devastatingly, Adams has said nothing to Douglas about a blue coverall, knowing from November 2019 his dna was on ex 2, along with blood from Ghuman, when you would expect him to ruminate endlessly with her on how he could have his full dna profile on what the robber wore if it was all nothing to do with him.

d. In sum, his silence to his 'special friend' Douglas is deafening, being strikingly indicative he did the crime, no matter his terse denial to police.

28 Then Counsel Tuckett called Sherema Warner on 25.11.24. I have found her to be generally honest, but in places mistaken so that she was not always reliable.

a. Not having learned the scale of his blunder by calling Douglas, Counsel Tuckett next called Warner as like a 'big sister' in the life of Adams, knowing him 20 years, acting as his hairdresser, to give alibi he could not have been seen by Jeffers at 17.00 on 18.06.19, being instead at work at the JNF hospital where she worked as an orderly and him in security. However, she could not say definitively when he began work, seeing him at 10am, and later around midday for lunch and cannot say when he finished.

b. She said Adams does not have boots, like Timberland boots, though the court has daily seen him wearing such.

c. She said Adams does not wear a stocking or durag, nor had a blue coverall, though I find this unreliable in the face of the evidence of Jeffers who for a time knew him better and saw him daily as he was living with her.

d. Finally, again devastatingly, knowing he had been arrested, Warner said she had talked with Adams since 23.06.19, and his family as he moved to Anguilla, and he has said nought, she was even wholly unaware at court of what was the allegation, she has never asked as it was for him to tell her if he chose, and while he has never admitted any offence, she told the court he has not denied it either.

- e. In sum his silence to his sisterly friend Warner is again deafening, being indicative he did the crime, bearing in mind if innocent as common sense it can be expected he will have talked to her about the profound wrong of the allegation, his movements, who may have done it, and how his dna mysteriously ended up on the robber's coverall.

29 This silence of Adams to his intimates can be held against him. It is not to be confused with the right to say nought to police, or court, and where a suspect was cautioned, 'you do not have to say anything but what you say may be given in evidence'. There can be no adverse inference for silence in the face of accusation by the authorities. But silence to your family, to those a person trusts most, in appropriate circumstance can create an adverse inference the silence strongly suggests guilt, there being here a most serious allegation Adams shot and robbed Ross students when on his case it was nothing to do with him as he was elsewhere. This flows from the old authority of **R v Christie 1915 AER 63**, well known in law school, where inter alia Lord Atkinson observed the manner of a denial may be incriminating, noting it may be:

in such a manner and under such circumstances as may lead a jury to disbelieve him, and constitute evidence from which an acknowledgment may be inferred by them.

30 In short, the Crown contend the evidence put forward by Counsel Tuckett can now carry their case over the line to secure a conviction.

Guilty or not guilty

31 I turn now to weigh the evidence as a whole, bearing in mind the materials called by both prosecution and defence.

32 I remind myself the case is circumstantial, which means it relies on pieces of evidence which in combination say the prosecution, when analysed and taken together leave no doubt Adams was the robber. A circumstantial case is not automatically weaker than an eye-witness or confession case. Many come before the court. This case depends for its persuasiveness on the vanishing unlikelihood of coincidence, working cumulatively in geometrical progression eliminating innocent possibilities. The question for me when looking at these various pieces of evidence is, am I sure I can exclude all reasonable possibilities consistent with the defendant's innocence. If I cannot exclude all reasonable possibilities he may be innocent, I must acquit.

33 I set out below my assessment of the facts:

- a. I am sure the blue coverall (ex 2) was owned by Adams, because Jeffers describes his owning and casually wearing 3 times monthly a short sleeved blue coverall with zipper, as is exactly ex 2, described in her police statement before it was found, and which has his full dna profile on the collar, suggestive of long exposure from wearing it, not momentary inadvertent secondary transfer.
- b. I am sure Adams was wearing ex 2 on 18.06.19 at about 17.00hrs, because he was seen to do so by Jeffers, who knows him well, to whom he faced and smiled, elicited by Counsel Tuckett, at a distance in daylight of 75m heading toward the Chimney Bar.
- c. I am sure ex 2 was used by the robber at 23.15hrs on 18.06.19, because it has the blood of Ghuman on it, and Ghuman described the robber wearing a blue coverall, while it does not matter mistakenly he thought it long-sleeved, as ex 2 with his blood on it is plainly short-sleeved.
- d. I am sure the robber committed armed robbery, attempted murder and wounding with intent and is guilty of all four counts.
- e. In the context of the above facts, I am further sure if Adams knew nothing of these serious offences, and was wholly innocent, he would after release on 23.06.19 have remonstrated vociferously to his intimates, being those he trusted most, in particular to his 'special friend' Douglas whose home had been raided by police on 20.06.19 in search of a firearm, and to his 'big sister friend' Warner who would plait his hair, and to both of whom I am sure he spoke after release on 23.06.19, and spoke even more with Douglas after remand from 15.11.19, thumpingly protesting he had been wrongly accused, with importantly many details of what was the allegation, where he had been, with who, how he might prove this, and most significantly of all would have explained to whom on 18.06.19 after 17.00hrs he had given his coverall and why, it being I am sure later used by the robber and he knows this.
- f. It follows I am sure either Adams was the robber, or in the alternative Adams gave his coverall to another who he knows was the robber, and knew would commit an armed robbery, and is protecting him, which then explains his keeping quiet to Douglas and Warner so as not to inculpate another while exculpating himself.

34 From this position, I now look to conclude the case:

- a. I am not sure on the evidence of Ghuman alone lamb-man found by him at the Chimney Bar at 20.00hrs was Adams, though I am sure he is similar, and as Adams was heading toward the bar at 17.00hrs, I conclude it probably was him.
- b. I am not sure on the evidence of Jeffers alone, Adams was at the Chimney Bar at 22.00hrs on 18.06.19 as I cannot be sure she is correct in her identification of Adams while passing in a vehicle in the dark; however, I am sure Chaddo's car was there, seen by Jeffers, so it is likely Jeffers is right Chaddo was there, and given I am sure Adams was in his company next day putting gas in the car, and Jeffers believes she saw Adams at 22.00hrs, I do consider Adams and Chaddo were probably together at the bar at 22.00hrs.
- c. Now considering the wider context, while Adams probably was lamb-man at 20.00hrs, and was probably at the Chimney Bar at 22.00hrs with Chaddo, and also being sure Adams was wearing the coverall at 17.00hrs used by the robber at 23.15hrs, pointedly later saying nought to his intimates, lying to police he had ever owned a coverall in order to avoid from the crime rather than out of panic or mistake, this wider context makes me sure Adams was in the dark at 22.00, with no bar lights, waiting with Chaddo for them to return to Adamson's home 60m from the bar, where Adams discussed a plan with Chaddo to use a gun to rob Ghuman and Adamson, having met them earlier.
- d. Given Adams has no previous convictions and Chaddo does, while also both are similar in build, I am not sure it was Adams who was the robber, as it is just possible it was Chaddo, wearing Adams' coverall given to him for disguise, agreed by Counsel Vasquez during submissions on 02.12.24, Chaddo being an experienced criminal, and about which Adams later kept quiet to intimates.
- e. It must be stressed this is not a finding Chaddo probably was the robber, but instead is an analysis it is logically a possibility he was, so this is not a finding against Chaddo.
- f. I also note the car PB1897 was recovered from Lavington, with Adams appearing at the home of Douglas sometime after midnight, when there are no buses, and infrequent cabs, strongly suggesting there was a second car involved, to give the robber a lift, which by inference was likely Chaddo's car seen by Jeffers at the Chimney Bar at 22.00.
- g. What all this means is I am sure Adams played a part in what happened that night, where he was probably the robber as principal, or possibly as accomplice gave Chaddo his coverall to be the robber.

- 35 If Counsel Tuckett had not added to the case against Adams, carrying it over the line, I would not have been able to find I am sure Adams was involved; and more, if there had been evidence of a single striking definitive dissimilarity between the robber and Chaddo, more than merely being a bit taller with lighter skin, so I could be sure to exclude Chaddo, I would be sure Adams was the robber and so would convict him of all 4 counts as the principal.
- 36 As things stand, being sure Adams is either the (probable) principal or a (possible) accomplice, I must then give him the benefit of here slight doubt it is just possible he was an accomplice, so that conviction should be on the factual matrix most favourable to him, namely as an accomplice. On 02.12.24, there was discussion in which both counsel agreed this approach, and that if the accomplice, he would be inescapably guilty of count 4.
- 37 Further, concerning mens rea for the violence, in counts 1, 2, and 3, if an accomplice, applying the principles of joint enterprise in the case of **R v Jogee 2016** UKSC 8, I cannot be sure Adams contemplated the robber would intend to kill or cause really serious harm, but being involved in an armed robbery Adams can be inferred to have been reckless as to some harm arising in the hands of robber, so at the very least he would be not guilty of count 1, but on counts 2 and 3, guilty of unlawful wounding, being the lesser offence embraced within wounding with intent.
- 38 It follows therefore, as an accomplice, I find on the indictment, Adams is at the very least:
- a. Not guilty of attempted murder on count 1;
 - b. Guilty of unlawful wounding of Hannah Adamson on count 2;
 - c. Guilty of unlawful wounding of Jasandeep Ghuman on count 3; and
 - d. Guilty of armed robbery on count 4.
- 39 If an accomplice, why is he guilty as above: because he gave his coverall as a disguise, knowing to assist an armed robbery, reckless as to some harm arising.
- 40 I repeat however, he is probably the robber.
- 41 There may be an argument the court has been unsure he was the robber and so should acquit, thinking it merely probable, and has been unsure he was an accomplice, and so

should acquit, thinking it merely possible, and so he is not guilty of anything, though the court is sure he was one or the other. I reject this argument, though logical, as sophistry and absurd. Adams is just lucky he has not been convicted as the robber.

42 Finally, it is obvious in the background, though of course inadmissible, and not uttered, there has likely been an informant suggesting Adams did the robbery, which led to his being wanted so quickly, then arrested on 20.06.19, also drawing attention to the coverall found in Sandy Point, which I have put out of mind, I hope demonstrable by this analysis.

43 I add I am most grateful to the Crown for its eminently fair presentation of the admissible evidence.

The Hon. Mr. Justice Iain Morley KC

High Court Judge

9 December 2024