

TELECONFERENCE

TERRITORY OF THE VIRGIN ISLANDS

10th April 2012

APPLICATION AND APPEAL

Case Name: Franklyn Huggins v The Queen
[High Court Criminal Appeal No. 5 of 2010]

Coram / Before: The Hon. Sir Hugh A. Rawlins, Chief Justice
The Hon. Mde. Janice M. Pereira, Justice of Appeal
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

Appearances:

Appellant: Mr. Patrick Thompson

Respondent: Ms. Tiffany R. Scatliffe

Issue: Whether the Court should admit the phone records of a member of the jury in the appeal

Result / Order: [Oral delivery]
The application to produce the phone records is dismissed.

Reason: The applicant/appellant accused the forewoman of the jury of being outside the jury room, at the time of jury deliberations, on her cellular phone. The applicant/appellant is the only person who produced affidavit evidence alleging such.

The applicant/appellant made this accusation after the entire trial. He made no mention of the alleged sighting of the juror to his attorney before the jury brought back a verdict, before or after the sentencing hearing which took place a month later and he even waited some more months later before he raised the allegation. He ought to have raised the allegation and given his objection during the trial.

Due to his late allegation the trial judge had no opportunity to investigate and put questions to the juror, whose personal phone records are now being requested.

Relying on R v Thompson (Benjamin) 2010 EWCA Crim 1623 Lord Judge CJ said “if any complaint about jury deliberations is received by the trial court after verdict it is immediately referred to this court and whether the complaint has been received from the court of trial or by this court directly, the practice is to examine each case to see whether or not, exceptionally, further inquiries ought to be made...” The present case is not an exceptional situation and does not excite the Court to make further enquiries.