

**COMMONWEALTH OF THE BAHAMAS
IN THE COURT OF APPEAL
Criminal Appeal No. 29 of 2002**

DELANO DONAHUE CLARKE

Appellant

V

R E G I N A

Respondent

**Before: The Hon. Mrs Justice Sawyer, President
 The Hon. Mr Justice Ganpatsingh, JA
 The Hon. Mr Justice Osadebay, JA**

Appearances: Mr Milton Evans for the Appellant

**Mr Bernard Turner, Mr Edmond Turner with him
for the Respondent**

Dates: 3, 23 March 2004; 13 April, 2004

J U D G M E N T

1. At the appellant's first trial in the Supreme Court at Freeport, Grand Bahama on charges of murder, attempted murder and armed robbery, the jury disagreed.
2. At his re-trial before Moore J and an eleven-member jury, the appellant was purportedly convicted of murder, attempted murder and armed robbery. He appealed those convictions to this court. We necessarily allowed the appeal because in The Bahamas, whatever may be the law elsewhere, a person can only be convicted of murder by the vote of all twelve jurors – see section 24(1) of the Juries Act (Ch 59) and *Ras Behari Lal v King-Emperor* (1933), L. J. P. C. 144. In light of the evidence in the case, we ordered a re-trial.
3. At his third trial on those same charges of armed robbery, murder and attempted murder before Marques, Senior J and a jury, the appellant was convicted of armed robbery, attempted murder and manslaughter. He was sentenced to a total of 16 years imprisonment.
4. He appeals to this court against his conviction on three main grounds. The first ground is that in all the circumstances, the conviction is unsafe and unsatisfactory because the verdicts of the

jury on the counts for murder and attempted murder are inconsistent. Secondly, the learned judge did not properly put the appellant's case to the jury. Thirdly, the summing-up, looked at overall, was unbalanced.

5. The events out of which the charges arose were these:

6. On the night of Sunday, 27 October 1996, at Grand Bahama, two masked men, armed with handguns, who had been waiting in the shadows near his home, accosted Mr Locksley Knowles as he returned home from his place of business. According to Mrs Harriet Knowles (the widow of Mr Locksley Knowles), the shorter of two men, who was standing to the right of Mr Knowles, was demanding that he hand over a blue bag containing the day's takings from the business. Mr Knowles resisted but eventually that man was able to take the bag. Mrs Knowles also testified that the taller of the two men, who was to the left of Mr Knowles, demanded the keys to Mr Knowles' jeep, which he also eventually got. The appellant was arrested two days later on 29 October 1996 and he had in his possession some \$865.00.

7. Before the incident on the porch of her house, Mrs Knowles was in the house waiting for her husband when she heard him utter sounds of distress and she went to open the front door. As she was going towards that door, she was able to look out through the glass panel in the door and she saw the two masked men on either side of her husband. She opened the door and tried to pull her husband inside.

8. Mrs Knowles testified that at some point in the incident, the taller of the two masked men, had pulled his mask up about to his chin and back down. Mrs Knowles also said that taller man, after obtaining the keys from Mr Knowles, turned as if to leave but then turned back and she saw the flame of the first shot from his gun and then heard two more shots. Her exact words, during her examination in chief, as recorded by the court reporter at page 190 of the transcript are:

“...He snatched the keys. He turned as if making two running steps. He turns back around and I saw fire coming out of the gun as he shot me and my husband for a total of three shots. ...

I saw him on the porch when I came out. I saw him there when he was struggling for the keys and I saw him when he started to go away, but turned back around and shot us.”

9 Mrs Knowles was not able to identify the men who accosted her husband that night. If there was any difference in the heights of the appellant and Johnny Hepburn, the jury who would have been able to see both of them and would have been able to decide which of them was in fact taller. We therefore say no more about that.

10. Johnny Hepburn, was arrested on 31 October 1996. Hepburn confessed his participation in the offences to the police but blamed the appellant for the actual shooting of Mr and Mrs Knowles. Both Mrs Knowles and Hepburn described the masked man who took Mr Knowles' keys as the person who fired the three shots that night. The

only real difference between Hepburn's and Mrs Knowles' evidence is that while Mrs Knowles described the shooting as being continuous, Hepburn said that the first shot was fired when Mrs Knowles opened the door and that at that point he saw Mr Knowles stagger. As Hepburn was running away from the house, he said he heard two more shots.

11. The prosecution relied on two strands of evidence to identify the appellant as one of the assailants at the Knowles' house that night. First, they relied on the sworn evidence of Johnny Hepburn who had already been convicted and sentenced for his part in that incident. Second, the prosecution relied on two oral statements allegedly made by the appellant the appellant denied making those statements. Those statements contained inculpatory as well as exculpatory matters. The learned judge held a voir dire as the appellant not only denied making those oral statements but also alleged that the police beat him. The learned judge considered the matter very carefully and concluded that the appellant made the statements voluntarily. He therefore admitted them in evidence.

12. In the first oral statement allegedly made by the appellant on October 29 1996, the appellant, in answer to questions put to him by the police during an interview said -

“Sergeant McCoy, I didn't kill that man nor shoot that woman, but I was on that play with Pepe. He knows where the man lives and say he have plenty money. Shawn drop us in Lucaya by

Thompson real Estate and then we walk to the house. On our way, Pepe give me a .9 millimetre with no clip and blue tam to wear and he had a .380 pistol and black tam.

When we got to the house he said the man wasn't home because the white jeep wasn't there. So they (sic) hide in some trees up from the front door of the house and an hour later a white jeep pull up and Pepe said 'he reach'. They (sic) rush him and Pepe ask him for the money and they start struggling for the bag he had and Pepe fired two shots. As the man stumbled in the house a lady came to the door screaming. Pepe fired another shot. Then we roll out in the man jeep. We left it in Mayfield Park. Then we went by Pepe house after." (Emphasis added).

13. That statement placed the appellant on the scene and portrayed him as a participant in an armed robbery with firearms. It also showed that he knew that "Pepe"(Johnny Hepburn) had a firearm and that he too was armed although he says that the firearm, which Pepe had given him, was incapable of discharging a bullet since it had no "clip". If the jury believed that the appellant made that statement and that it was substantially true, then the factual issue of his intention with regard to the shooting of Mr and Mrs Knowles had to be decided by them. While the jurors were clearly directed by the learned judge that the question of the intention to kill was important for both the murder and attempted murder charges, he did not instruct them that their verdicts on those two counts should be consistent with each other if they believed that the shooting of both persons was part of the same incident.

14. In the second statement that the appellant allegedly made to the police on 30 October 1996, he allegedly admitted that the 9 mm gun and a blue tam were items that Hepburn had given him, and which he had worn and held during the robbery. A prosecution witness also testified that the appellant pointed out to the police the route he and Hepburn had taken from the Knowles' house to the place where the police found Mr Knowles' jeep the morning after the incident.

15. The appellant's alleged accomplice *vel non*, Johnny Hepburn, gave sworn evidence against the appellant. Hepburn's credibility was a serious issue for the jury to decide because he had said under oath at his earlier trial for the same matter, that the police had beaten him to get him to make a statement. At the appellant's trial, Hepburn admitted that that was not true and that the police had not beaten him.

16. Hepburn also testified that he had not had the .380 pistol which was identified as the weapon from which the bullets that killed Mr Knowles and wounded Mrs Knowles had been fired. He testified that it was the appellant who had had that weapon and who had fired all the shots at the Knowles' house that night. However, the police found only Hepburn's fingerprints on the clip for that .380 pistol. The explanation for Hepburn's fingerprint being found on the clip for the .380 pistol, as stated by Hepburn, is that his fingerprint might have gotten on the clip when he unloaded it the day after the shooting.

17. While that is a possible explanation, it may appear singularly fortuitous that the appellant's fingerprint was not also found on that clip, if, as Hepburn testified, the appellant was the one who had the .380 pistol which was in fact loaded and who handed him the .9 mm gun without a clip.

18. Three things can be said about Hepburn's evidence: first, he admitted telling an untruth under oath and secondly, the explanation for how his fingerprint got onto the clip for the .380 pistol was at least inexplicably fortuitous. Thirdly, while Hepburn had nothing further to fear in respect of this matter, as an accomplice he may still have had an interest to serve, because his story is that he was not that familiar with the appellant yet he said that the appellant planned and he assisted in executing an armed robbery of a man at that man's house. The appellant also accepted that he and Hepburn were not close friends and relied on that fact to bolster his defence that he was not the second man at the Knowles' house that night.

19. Hepburn said that the first shot went off when Mrs Knowles opened the front door and two other shots after he, Hepburn had run. Mrs Knowles also described the shooter as having taken two steps as if to leave and then turning around and firing three shots at her and her husband. Since these are all matters that came out in evidence at the trial, it was open to the jury to believe or disbelieve or entertain a reasonable doubt about Hepburn's evidence in whole, or in part.

20. What is clear is that on his own evidence, Hepburn was an accomplice of whoever carried out the assaults on Mr and Mrs

Knowles. The learned judge however, gave the necessary clear warning about that evidence and what other evidence could amount to corroboration of Hepburn's evidence if the jury accepted Hepburn was in fact telling the truth. If the jury accepted Hepburn's evidence as true their different verdicts in respect of the death of Mr Knowles and the shooting of Mrs Knowles may be explained by the fact that Hepburn spoke of a gap between the shooting which may have caused Mr Knowles' death and the shooting which wounded Mrs Knowles.

21. Johnny Hepburn's evidence amounted to this; that although the appellant discharged three shots that night, one of which killed Mr Knowles, there was an interval of time between the first shot and the other two shots. If the jury believed Hepburn's evidence about the time and manner of the shooting – as Mrs Knowles opened the front door - the stagger by Mr Knowles after that shot was fired and a short time later two other shots were fired, they could reasonably have concluded that the first shot went off unintentionally and may have been the fatal shot and that the two shots fired afterwards must have been fired intentionally and that one of those later shots must have injured Mrs Knowles, hence the verdict of guilty of attempted murder of Mrs Knowles, and guilty of manslaughter in respect of the death of Mr Knowles.

22. The jury's differing verdicts may also be explained if they accepted the appellant's oral statement that there was a struggle between Hepburn and Mr Knowles over the blue and that Hepburn

was the person who fired two shots in the course of that struggle and who also fired a third shot, a short time later, when Mrs Knowles came screaming towards the door as Mr Knowles stumbled into the house. They may well have concluded that there was no intention to kill Mr Knowles as the gun may have gone off unintentionally during the struggle but that the firing at Mrs Knowles was intentional and they could not have reasonably inferred a greater intention in the appellant than may have appeared to be the case of the actual shooter..

23. The learned judge did not deal with the matter in exactly those terms. As indicated above, however, he did direct the jury on the need for them to find an intention to kill before they could convict of murder or attempted murder and that they must consider the evidence in respect of each count separately and return a verdict in respect of each.

24. In this case, what we have to consider is whether, if the evidence revealed that there was a gap between the possibly unintentional firing of the first shot and the firing of the other two shots, (Hepburn's version) or a gap between the possibly unintentional firing of the first two shots and the third shot (the appellant's version) that would be a readily discernible reason for the difference in the verdicts of manslaughter in the case of the death of Mr Knowles and attempted murder in the case of Mrs Knowles.

25. The evidence of the pathologist was that Mr Knowles was shot three times – once in the leg (two wounds – entrance and exit), once

in the lower arm – a slight graze running downwards, and once in the abdomen. The last mentioned wound was the cause of death as the bullet severed the vena cava leading to massive haemorrhaging and death. Mrs Knowles was shot in the right upper thigh. The trajectory of the wounds in Mr Knowles's case was from left to right and downwards while the trajectory of the wound on Mrs Knowles' outer right thigh was from right to left and downward.

26. In his summing-up, the learned judge directed the jury to consider the charge of murder with the possibility of manslaughter if the jury were not sure that there was an intention to kill; attempted murder with the possibility of the lesser offence of wounding if the jury were sure that there was an intention to kill; and armed robbery. He explained to the jury that in order to convict the appellant of murder and attempted murder they would have had to feel satisfied so they felt sure that he had the specific intention to kill or that he participated with the knowledge that the other person had the intention to kill.

27. The appellant's defence at the trial was an alibi. Counsel for the prosecution cross-examined him at length about not having given the magistrate at the preliminary inquiry any notice of alibi and of not having given the Attorney General notice of alibi within 21 days after the conclusion of the preliminary inquiry. The appellant's answer was to the effect that he had told the police when he was first arrested and questioned about the incident of 27 October 1996, that he had spent that night with the mother of his child at her address which he had also given the police.

28. On that state of the evidence the learned judge suggested to the jury, among other things, that if they found that the appellant did not have an intention to kill Mr Knowles, but that he either shot Mr Knowles or was a participant in the shooting with knowledge of the armed robbery but not the intentional shooting of Mr Knowles, that they could return a verdict of guilty of the lesser offence of manslaughter. We can find no fault with that direction.

29. A similar direction in relation to the charge of attempted murder was also given by the learned judge; he told the jury that they could return a verdict of guilty of the lesser offence of wounding on the count of attempted murder if they found that there was no intention to kill Mrs Knowles. I can find no fault with that direction.

30. Mr Evans submits that the verdicts of the jury, in finding the appellant guilty of manslaughter – presumably on the basis that there was no intention to kill Mr Knowles - and the same jury in finding the appellant guilty of the attempted murder – presumably on the basis that there was an intention to kill Mrs Knowles - are inconsistent and both convictions should be quashed on the ground that they are unsafe or unsatisfactory.

31. Section 13(1)(a) of the Court of Appeal Act (Ch. 52) of the 2002 Edition of the Statute Laws of The Bahamas which was added to the Act by section 2 of the Court of Appeal (Amendment) Act (No 26 of 1996) provides:

“13. – (1) After the coming into operation of this section the court on any such appeal against conviction shall allow the appeal if the court thinks that the verdict should be set aside on the grounds that –

**(a) under all the circumstances of the case it is unsafe or unsatisfactory.”
(Emphasis added)**

32. In Regina v Drury (1972) 56 Cr App R 104, the Criminal Division of the Court of Appeal in England, held that **“There is no general rule that the mere fact that a jury has returned inconsistent verdicts on counts in an indictment means that the Court of Appeal is obliged ex necessitate to quash the convictions.”** Their Lordships went on to say, at page 105, that **“There are cases, which in our view can arise when it would be proper for this Court to say that, notwithstanding the inconsistency, the conviction or convictions must stand. It all depends on the facts of the case”.** (Emphasis added).

33. In R v Andrews Weatherfoil, Ltd and Others (1972) 56 Cr App R 31 Eveleigh J gave the judgment of the Court of Appeal (Criminal Division) England in a case of inconsistent verdicts by two juries. At page 40 of the report he said:

“...If the inconsistency shows that that single jury was confused, or self-contradictory, its conclusions are unsatisfactory or unsafe and neither verdict is reliable. Very often, however, an apparent inconsistency reflects no more than the jury’s strict adherence to the judge’s direction that they must

consider each case separately...” (Emphasis supplied).

This is a case in which three verdicts by the same jury are said by Mr Evans to be inconsistent with each other.

34. The learned Director of Public Prosecutions submits that they are not for here there are two guilty verdicts – manslaughter in the case of Mr Knowles and attempted murder in the case of Mrs Knowles. Mr Evans, on the other hand, emphasises that here there is a not guilty verdict on murder count - an offence requiring a specific intent – the intention to kill – and a guilty verdict of attempted murder which, a fortiori, requires a specific intent – the intention to kill. If the prosecution’s case was that this was a single incident and that the shooting of these two persons was a single occurrence – that is, there was no time lag between the first shot and two later shots – then the verdicts of not guilty of murder and guilty of attempted murder would be inconsistent and the verdict of guilty of attempted murder and manslaughter would also be inconsistent for manslaughter could only have been found by the jury if they found that there was no intention to kill Mr Knowles. The learned judge did not leave the issue of manslaughter to the jury on any other basis.

35. In our judgment, bearing in mind that the actual words of the subsection requires us to have regard to “**all the circumstances of the case**” in deciding whether a conviction is unsafe or unsatisfactory, we think that it is not in every case where the verdict of a jury appears to be inconsistent that we would be obliged to

quash two different verdicts on the ground that they are unsafe or unsatisfactory.

36. Counsel cited a number of decisions to us and referred us to passages in Archbold where a number of other decisions are cited; some of those decisions went one way while others went another way. An examination of each of those cases, shows that each decision depended on the circumstances of the particular case.

37. The Director of Public Prosecutions emphasised that the appellant was convicted of manslaughter, which is the lesser offence implicit in a charge of murder. The learned Director also submitted that it was open to the jury to return a verdict of guilty of manslaughter for the death of Mr Knowles by simply following the clear direction of the trial judge that they were to consider the evidence in respect of each charge separately and return a verdict on each charge separately. The learned Director also submitted that there was evidence before the jury, which, if they accepted it, or even if they had a reasonable doubt about its truth, to the effect that the first shot was fired some time before the second and third shots or that two shots were fired first and a third shot sometime afterwards, and at the time the first two shots were fired, there was a struggle going on between Mr Knowles and the appellant or between Mr Knowles and Hepburn and that there was no struggle between the assailants and anyone at the time when Mrs Knowles was shot. These were all matters, the learned Director submitted, which were raised by the defence at the trial.

38. Alternatively, the learned Director suggested that this court may exercise its discretion to substitute a verdict of guilty of wounding in respect of Mrs Knowles. The learned Director drew our attention to the decision of the English Court of Appeal, Criminal Division in the case of *R v McKechnie, Gibbons and Dixon* (1992) 94 Cr App R 51. The facts of that case are not on all fours with the facts of this case so we need not recite them here. In that case, the English Court of Appeal found that there had been a material non-direction by the Recorder on the issue of the alleged joint venture. That court refused to speculate as to why the jury came to the starkly inconsistent verdicts in that case and quashed both inconsistent verdicts in respect of McKechnie's co-accuseds. We also refuse to speculate on the reasons for the jury returning verdicts of guilty of manslaughter and guilty of attempted murder in this case. We also hesitate to substitute a conviction for wounding for the conviction for attempted murder.

39. While it is correct that the charges of murder and attempted murder arose out of the same incident, as indicated earlier, there was evidence in both Hepburn's sworn testimony and the appellant's first oral statement to the police, to suggest that Mr Knowles may have been shot unintentionally in the course of his resisting one of the masked armed robbers while Mrs Knowles may have been shot deliberately as an unexpected witness to the shooting of her husband.

40. On the totality of the evidence in this case, while we agree with what was said in R v Durante (1971) 56 Cr App R 708 by Edmund Davies LJ, in giving the judgment of the English Court of Appeal at pp 714 –715, we cannot say that we are satisfied that no reasonable jury who had applied their minds properly to the facts in this case and the directions on the law as given by the learned judge could not have arrived at the verdicts of not guilty of murder, but guilty of manslaughter and guilty of attempted murder.

41. We find the decision in the case of R v Kevin McCluskey (1994) 98 Cr App R helpful. In that case, the appellant was charged with murder and affray, both counts arising out of the same incident. His defence to the murder charge was self-defence. The judge directed the jury clearly that if they found that the appellant had acted in self-defence, they must acquit him of murder, but that if they found him not guilty of murder on some other basis then they had to consider manslaughter. The judge also directed the jury that if they convicted the appellant of murder or manslaughter, there was no defence to the count of affray. One of the grounds of the appellant's appeal in that case was that the verdicts were inconsistent. In that case, Henry J, in giving the judgment of the English Court of Appeal (Criminal Division) at page 220 of the report said:

“...In this case, these verdicts are clearly inconsistent. Might the reason for that have been that the jury was confused and/or adopted the wrong approach? The appellant says that that might have been the case. The submission is that as the only basis for acquittal on the affray charge is that the

appellant was not acting unlawfully because he was acting in self-defence, so the jury must have believed that self-defence only reduced murder to manslaughter, rather than offering a complete defence.

The appellant has not satisfied us that that is a possibility. The jury here were trying the most serious crime of the calendar. Central to that was self-defence. They had had the direction on self-defence three times, put in the clearest terms. To emphasise the point, the last time was in the passage last quoted above – a plain and unambiguous answer to the jury’s specific question. It is inconceivable that they misunderstood it.

The matter can be approached in another way by testing that conclusion against what other explanations there may be. Here, this jury, having taken time, acquitted of murder and convicted of manslaughter. They could justifiably have felt that they had then reached the only important decision in this case and that all that followed, namely count 2 affray, was academic – as in reality it was. A consecutive sentence would have been wrong as all arose out of the same incident. We regard the acquittal on the relatively minor charge of affray as reflecting no more than that. Certainly that acquittal goes no way to persuading us that this jury misunderstood the main issue on the murder charge. To make such a finding on so slight a basis would be an insult to the jury.”

42. Bearing in mind all the assistance we have been able to glean from various decided cases, we ask ourselves whether the appellant has discharged the burden upon him to show that the verdicts of guilty of manslaughter and guilty of attempted murder on the totality

of the evidence in the case are so inconsistent with each other that they ought not to be allowed to stand. In other words, on the evidence in the case and the clear directions of the trial judge on the issue of the specific intent in both the murder and the attempted murder charges, does it appear to us that the jury was confused or adopted a wrong approach to its consideration of the evidence and the directions given by the learned judge. Here is a case in which, as Mr Evans submits, the jury would have had to find a specific intent in order to return guilty verdicts on the murder and attempted murder charges. But it is also a case in which it appears, from the sworn evidence of Hepburn and the oral statement of the appellant to the police, that there was a time lag between the firing of the first shot and the other shots.

44. In his oral statement to the police, the appellant said that he did not shoot Mr and Mrs Knowles and that it was Hepburn who really fired all three shots although the appellant was on “that play” with Hepburn. The jury could well be saying by their verdict that they were not satisfied so they felt sure that the appellant, while present and armed had any intention to kill Mr Knowles because of the circumstances in which that shooting occurred, but that they were satisfied so they felt sure that the shooting of Mrs Knowles was deliberate.

45. They could equally be saying that having seen and heard Hepburn who was already convicted for these offences, they were not

sure that the appellant is the one who in fact fired the gun that night; but that would be speculating about the jury's reasoning.

46. We must look at the evidence and the directions of the trial judge and decide whether those verdicts are reasonable ones bearing in mind all the evidence in the case as well as the directions given by the trial judge.

47. We have done so, and it appears to us that those verdicts are easily explained by the nature of the evidence adduced in the case and depended on the views the jury formed of the appellant and Hepburn, as to their truthfulness. We cannot now say that any of those verdicts are unsafe or unsatisfactory in light of the evidence that we have outlined above.

48. We do not think the appellant has discharged the obligation upon him to satisfy us to the standard required that the verdicts of guilty of manslaughter and guilty of attempted murder in this case ought not to be allowed to stand. We therefore dismiss the appeal against the conviction for manslaughter and attempted murder since we do not have a lingering doubt about their safe and satisfactory nature.

49. With regard to the appeal against the conviction for armed robbery, Mr Evans submits that the learned judge did not adequately put the appellant's defence to the jury. The appellant's defence was that he was not the taller man at the Knowles's home and that in fact, he was at the home of the mother of his child when this incident must

have occurred. The appellant consistently denied giving the oral statements attributed to the appellant by the police. The prosecution was able to show that he had not told the magistrate at the preliminary inquiry that he had an alibi after the magistrate had read to him the alibi warning nor had he notified the Attorney General that he intended to rely on an alibi as required by the statute and the notice. The learned judge repeatedly warned the jury that even if they did not believe the appellant's alibi, they could not convict him on that basis alone but that they had to consider the evidence which the prosecution had led and see whether that evidence satisfied them so that they felt sure that he was the second man at that house that night. An example of the learned judge's direction is at p 893 of the record where he told the jury – **“The accused, remember, has nothing to prove. It is the Crown's evidence you will look at to see whether, indeed, the Crown has proven its case beyond a reasonable doubt in all the ingredients.”** Again at page 894, the learned judge reminded the jury that **“...it is not the weakness of the accused case, as I said, you are concerned with. You are concerned with the strength of the prosecution's case.”** In our view, the learned judge set out in detail the appellant's case to the jury and while he may not have used the same kind of language that another judge may use (and we accept that a summing-up is supposed to be crafted to fit the actual case and is not to be a regurgitation of everything in the judge's note book nor is it expected to use only certain words to convey certain things) we do not think there is any merit in this ground of appeal and it fails. With regard to the defence that the appellant was not the second man that night, the

jury clearly did not believe his alibi nor did they have a reasonable doubt about whether he was telling the truth about that alibi; because if they had they would have acquitted him of all the charges.

50. We therefore dismiss the appeal against the conviction for armed robbery and confirm that conviction.

51. The appellant had also appealed against his sentence on the ground that it was harsh and excessive. Mr Evans indicated at the outset of the hearing before us that if he were to be successful in persuading this court that the convictions for manslaughter and murder could not be sustained in the circumstances of this case, then he would not pursue the appeal against sentence. Mr Evans has not been successful in convincing us to set aside any of the guilty verdicts in this case. We see no error of principle in the sentencing by the learned judge and we affirm the sentences.

J A Sawyer, P