

**BARBADOS:**

**[Unreported]**

**IN THE SUPREME COURT OF JUDICATURE  
COURT OF APPEAL**

**Criminal Appeal No. 28 of 1999**

**BETWEEN**

**DENNIS ALPHONSO BECKLES**

**Appellant**

**AND**

**THE QUEEN**

**Respondent**

**Before: The Honourable Sir Denys Williams, Chief Justice, The Honourable Mr. Justice Colin Williams and The Honourable Mr. Justice Frederick L.A. Waterman, Justices of Appeal.**

**2000: October 6th.**

**Dr. H. Blackman for Appellant.**

**Mr. A. Blackman for Respondent.**

**DECISION**

On October 7, 1999 the appellant Dennis Beckles was convicted of sacrilege and sentenced to 7 years imprisonment. He has appealed on the following grounds:-

1. That the trial judge failed and/or neglected to put the defence adequately or at all, especially since the appellant was not represented by counsel.

2. That the trial judge erred in law when he failed to direct the jury in respect of the special need for caution before accepting identification evidence and of the reasons for the need for such caution, both generally and in the circumstances of the appellant's case.

3. That the trial judge failed and/or neglected to warn the jury adequately or at all that it should not find, on the basis of the identification evidence, that the appellant was the person by whom the offence was committed unless

(i) there were in relation to the identification evidence special circumstances that tended to support the identification; or

(ii) there was substantial evidence, not being identification evidence that tended to prove the guilt of the appellant and that it, the jury, accepted that evidence.

4. That the trial judge erred in law when he failed and/or neglected to direct the jury adequately or at all as to what constituted identification evidence, special circumstances and substantial evidence in relation to the appellant's case.

5. That the trial judge erred in law when he failed and/or neglected to exclude all of the identification evidence adduced by the prosecution.

6. That the verdict of the jury is unsafe and unsatisfactory and should be set aside.

7 .....

8. That the sentence imposed is excessive and should be set aside or reduced.

The case against him rested squarely on the evidence of Daphne Lawrence, a member of the Mount Calvary Holy Church of America, who had a key to the church premises at Golf Club Road, Christ Church and cleaned and looked after the church. She testified that on February 15, 1999 she entered the church about 1 p.m. and saw the appellant inside. In her words:-

"When I got there I went up to the altar to take up the keys to open thw

rought iron gates. I had entered through the front door with a different key. The wrought iron gate is solid with wide open bars. As soon as I go to open the wrought iron door I saw the back door open. I stand still because there was something wrong. Then I saw someone holding over. I stood there a good time and saw the person hold up and it was the accused. The lighting was clear. It was around 1.30 p.m. in the day. He was about 20 feet from me. This is not the first time I had seen him. I had known him two to three years. By seeing him ride past where I live. I accustom seeing him do that. I know him as the Beckles boy or Skinny. I looked at him in the church for about two minutes. Then he left and I went out to see if I see him. I went round to the front of the church and saw him facing Golf Club Road. He was riding a bicycle and I holler at him "hey". He had a brown bag over his shoulder. When I holler he rode off."

Lawrence testified that she then went back into the church and looked around. The lock to a big press in which the church kept things was missing, as were the things themselves. The lock to the back door had been pushed off and was on the ground inside the church. She informed the pastor.

Pastor Browne testified that he received information from Lawrence, went to the church and confirmed what she had discovered. The press had been broken into and, according to the pastor, twelve special plates and twelve knives and forks that had been given to the church were missing, as was a set of sterling silver. He testified that the missing items were the property of the church.

The appellant denied that he had been in the church as Lawrence alleged and told the police "I ain't brek no church". At his trial he elected to give sworn evidence and testified that on February 15, 1999 he was at Paradise Village working at a house with a guy called Samba. He was building a window from the foundation. It was a very difficult job and at no time on that day did he leave Paradise Village. He admitted that he knows where the church is, that he knows Mrs. Lawrence and that she knows him. She was cross-examined by him and testified

"I saw you many many times, walking along the road, riding a bicycle, with a bag on your shoulder".

It was essentially a question for the jury and the learned judge dealt with it on that basis. At p.2 of the summing up he said:-

"Now the crucial element in this case is the issue of identification.

Where a case depends wholly or substantially on the correctness of an identification which the defence alleges is mistaken, I must warn you of the special need for caution before convicting in correctness of the identification and the reason for that warning is that experience had shown the possibility that a mistaken witness can be a convincing witness.

You must therefore examine very closely the circumstances in which identification came to be made. You must consider, for example, did that witness who identified the accused know him before, because obviously if you know someone before, it is going to be easier to identify them than if you are having a fleeting glance of somebody for the first time in your life. So you must consider that question, did the witness, and in this case the witness is Daphne Lawrence, did she know the accused before? You must consider how long before incident she knew the accused. You must consider the length of time that she had the accused under observation. You must consider at what distance and in what light she had the accused under observation".

He put the appellant's side of the story at p.8:-

So he says 'it is not me'. He did not break the church. Daphne Lawrence is either mistaken or lying. She did not see him in the church because he wasn't there. He was in Paradise Village all day on the 15th, and he doesn't have to prove anything. He doesn't have to prove he was in Paradise Village. The Crown has to prove that he broke the church so he doesn't have to prove anything. So he doesn't have to prove that it was not him. The prosecution has to prove that it was him. He doesn't have to call any witnesses. He doesn't have to say anything at all. He doesn't have to prove anything. The burden of proof rests squarely on the prosecution. The prosecution must prove that he committed the offence".

The verdict of the jury indicates an acceptance of Lawrence's evidence and a rejection of the appellant's denial that he went to the Church. This court can see no reason or justification for rejecting the verdict, there being ample and substantial testimony connecting the appellant with the offence. It was a positive identification of the appellant in broad daylight by someone who had known him for two to three years and who had had a good look at him. It was no fleeting or passing glance. With respect to sentence, the appellant's record supports the sentence imposed by the Court.

The appeal is dismissed and the conviction and sentence are affirmed, the sentence to run from 19 December, 1999.