

BARBADOS

[Unreported]

**IN THE SUPREME COURT OF JUDICATURE
HIGH COURT
CRIMINAL DIVISION**

Indictment No. 102 of 2014

BETWEEN:

DEON DACOSTA MAYNARD

APPLICANT

AND

THE QUEEN

RESPONDENT

Before the Honourable Madam Justice Margaret A. Reifer, Judge of the High Court

**Dates of Hearing: 2015: June 9th, 17th
October 1st**

Appearances:

The Applicant in person

Mr. Anthony Blackman in association with Ms. Rhea Drakes Attorneys-at-Law for the Respondent

**RULING RE APPLICATION OF UNREPRESENTED
ACCUSED DEON MAYNARD**

Background to this matter

[1] Accused Deon Maynard was charged together with another Accused on the 31st August 2011 with the murder of Arthur Frederick Chadderton and Gerhard Stock. He was remanded to Her Majesty's Prison where he has

remained awaiting the trial of his case. His co-accused has pleaded guilty to the offence of manslaughter and has already been sentenced by the Court.

- [2] In this Application, unrepresented Murder Accused Deon Maynard has made an application to this Court in the following terms: that his constitutional rights to a fair and timely trial under sections 13(3)(b) and 18(1) have been violated by the delay of over 4 years in bringing his case to trial; he should not be charged with the offence of murder as the DPP has made it clear that any unlawful death in the course of robbery or burglary is not murder but manslaughter and that by charging him with murder will prejudice him in the mind of anyone hearing the initial indictment; that this case commence immediately or be discarded due to dereliction; he has always been prepared to conduct the case and that there was no reason for delay by the prosecution.

Issues Arising Therefrom

- [3] This Application has raised four (4) main issues for the consideration of this Court as follows (it was made clear to the Applicant that the issue of what offence he should be charged with was a matter for the Director of Public Prosecution and not for this Court):
1. The first issue is procedural and goes to whether an application of this nature (that is, an allegation that the Fundamental Rights and Freedom Provisions of the Constitution have been breached) can be

- dealt with other than by way of formal constitutional motion for redress under **section 24(2) of the Constitution**.
2. Whether there has been a breach of the Applicant's right to personal liberty as found in **section 13 of the Constitution** as a result of his remand on these murder charges.
 3. Whether the Applicant's right to a fair hearing within a reasonable time by an independent and impartial court established by law as guaranteed by **section 18 of the Constitution** has been infringed.
 4. Whether the Court should order a permanent stay or dismissal of these charges should it find that there has been a breach of the Applicant's right to be tried within a reasonable time.

[4] In response, counsel for the Crown Mr. Blackman made a very thorough and reasoned response on the law and the factual background, in opposition to the said Application.

Issue #1

- [5] The first issue is procedural and goes to whether an application of this nature (that is, an allegation that the Fundamental Rights and Freedom Provisions of the Constitution have been breached) can be dealt with other than by way of formal Constitutional Motion for redress under **section 24(1) and (2) of the Constitution**.
- [6] This issue is answered simply by reference to the case of **DPP v Tokai (1996) 48 WIR 376** a Privy Council decision from Trinidad, the rationale of which is here adopted and applied. In that case the Privy Council held that where there is no express right to a speedy trial or trial within a reasonable

time guaranteed in the Constitution, common law principles would be applicable in determining whether a trial was unfair. In such circumstances, it was for the trial judge (in the criminal courts) to decide whether criminal proceedings should be stayed, and not a court in constitutional proceedings.

- [7] The late Dana Seetahal in her text **Criminal Practice and Procedure 3rd ed** at page 18 weighs in on the issue: whether constitutional issue or trial court as follows:

“It is therefore apparent that in Trinidad and Tobago, an application for a stay of proceedings on the basis of delay should be made before the trial court. The argument ought to be grounded on ‘the discretionary power of the court to ensure that there should be a fair trial according to law, which involves fairness to both the defendant and the prosecution’ (AG’s Reference (No. 1 of 1990) per Lord Lane)”.

- [8] In **Bell v Director of Public Prosecutions and Another [1985] AC 937** **Lord Templeman** at page 322 gives clear recognition to the fact that these common law rights exist side by side with the constitutional rights when he states as follows:

“In the present case, in determining whether the appellant was afforded a fair hearing within a reasonable time by an independent and impartial court established by law, the practice and procedure of the courts established by law prior to the Constitution must be respected.”

- [9] It is the view of this court that an application such as this can be raised by way of constitutional motion under **section 24(1) and (2)** or alternatively before the trial judge, both before or after the trial, but before verdict, pursuant to the exercise of the Court’s discretion in ensuring a fair trial.

Given the proviso to section 24(2), an application to the trial court should be the first port of call. On a more practical note, it avoids the perpetuation of the delay were a court to insist on the filing of a Constitutional motion which would have to be heard by the Court in its Civil Division.

[10] This Court pauses here to note however, that there is a distinction between the constitutional right to a trial within a reasonable time and the constitutional right to a fair trial. This distinction, however, has no impact on these particular circumstances.

Issue #2

[11] Whether there has been a breach of the Applicant's right to personal liberty as found in **section 11 of the Constitution** as a result of his remand on these murder charges.

[12] It is axiomatic that the fundamental rights and freedoms of the individual are not without limit; these rights being "subject to respect for the rights and freedoms of others and for the public interest...": **sections 11 and 13 of the Constitution.**

[13] Counsel for the prosecution also submitted that the rights of the Accused under section 11 must also be balanced against the wider rights provided by section 12 of the Constitution, namely, protection of the right to life.

[14] There is no factual basis in these circumstances grounding this submission and it is accordingly dismissed.

Issue #3

[15] Has there been a breach of the Applicant's right to a fair hearing within a reasonable time?

[16] **Section 18(1)** guarantees a person charged with a criminal offence the right to a fair hearing within a reasonable time in the following terms:

“If a person is charged with a criminal offence, then, unless, the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.”

[17] There are several notable cases of regional (including local) and commonwealth origin which have explored the constitutional concept of the *'Reasonable Time Guarantee'*, most notable among them being: **Bell v Director of Public Prosecutions** (supra); **DPP v Tokai (1996) 48 WIR 376**; **Prakash Boolell v The State [2006] UKPC 46**; **AG's Reference (No. 1 of 1990) [1992] 3 WLR 9**; **Flowers v Q [2000] 1 WLR 2396**; **Dyer v Watson [2004] 1AC 379**; **Frank Gibson v The Attorney General [2010] CCJ 3**; **Grazette v Attorney-General and Director of Public Prosecutions No. 2016 of 2006 (Court of Appeal decision delivered January 2007)**; **Elvis Alexander v Q Criminal Appeal No. 14 of 2007, Unreported Decision delivered June 2014.**

[18] In **Bell**, an appeal from Jamaica, the Privy Council held that the criteria for determining whether delay in bringing an accused to trial constituted a breach of his right to a fair trial within a reasonable time under **section 20 (1)** (the equivalent of **section 18 (1) of the Barbados Constitution**) of the Constitution are: the length of the delay, the reasons alleged to justify it, the responsibility of the accused for asserting his rights , and any prejudice to the accused (four factors identified, adopted and applied by **Powell J.** of the Supreme Court of the United States in **Barker v Wingo, 407 US 514 (1972)** and followed by **McDonald J.** in the Alberta Queen’s Bench Court in **R v Cameron [1982] 6 WWR 270.**).

[19] **Lord Templeman** who delivered the decision of the Board made the following statement which has provided a basis for much discussion:

“But ... by considering whether a reasonable time has elapsed, consideration must be given to the past and current problems which affect the administration of justice in Jamaica.”

[20] And later:

“Their Lordships accept the submission of the respondents that, in giving effect to the rights granted by section 13 and 20 of the Constitution of Jamaica, the courts of Jamaica must balance the fundamental right of the individual to a fair trial within a reasonable time against the public interest in the attainment of justice **in the context of the prevailing system of legal administration and the prevailing economic, social and cultural conditions to be found in Jamaica** (my emphasis). The administration of justice of Jamaica is faced with a problem, not unknown in other countries, of disparity between the demand for legal services and the supply of legal services. Delays are inevitable...”

- [21] See also Lord Carswell in **Prakash Boolell v The State** (supra) and the Trinidad and Tobago Court of Appeal in **Sookermany v DPP et al (1996) 48 WIR 346** (following **AG's Reference** case reference above).
- [22] They held further, that the fact that the appellant did not lead evidence of specific prejudice as a result of the delay did not mean that the possibility of prejudice should be wholly discounted (three elements of prejudice being identified as follows: (i) to prevent oppressive pre-trial incarceration; (ii) to minimize anxiety and concern of the accused, and (iii) to limit the possibility that the defence will be impaired).
- [23] In **Dyer v Watson [2002] UKPC D1**, Lord Bingham examined the criteria material to determining the reasonableness of the time taken to complete the hearing of a criminal case, and in so doing identified three areas as calling for particular inquiry. Firstly, the complexity of the case as ...

“It is recognized, realistically enough, that the more complex a case, the greater the number of witnesses, the heavier the burden of documentation, the longer the time which must necessarily be taken within reason to prepare it adequately for trial and for appellate hearing. The second matter to which the court has routinely paid regard is the conduct of the defendant. “A defendant cannot properly complain of delay of which he is the author...” Thirdly, the Court must routinely and carefully consider the manner in which the case has been dealt with by the administrative and judicial authorities. “It is plain that contracting states cannot blame unacceptable delays on a general want of prosecutors or judges or courthouses or on a chronic under-funding of the legal system. It is, generally speaking, incumbent on contracting states so to organize their legal systems as to ensure that the reasonable time requirement is honoured. But nothing in the Convention jurisprudence require courts to shut their eyes to the practical realities of litigious life even in a reasonably well-organized legal system.”

- [24] In **Tan v Cameron [1993] 2 All ER 493**, the Privy Council in applying **AG's Reference** adverted to the fact that a heavy burden always rests on a defendant who seeks a stay on the grounds of delay, the essential consideration being whether the delay was such as to make the prosecution unfair.
- [25] All the above make clear that every case must be determined on its own peculiar circumstances and that a Court must consider an amalgam of factors before reaching a conclusion as to whether there has been a breach of the 'reasonable time provision'. In other words, it must not just look at one factor; it is obliged to look at the whole picture.
- [26] The Applicant submits that to adduce clear and adequate testimony is one of the reasons trials should be commenced in a reasonable time, and to do otherwise, as is being done now, would prejudice an accused's chance of a fair and truthful hearing. In other words, the cogency and accuracy of the testimony would be compromised by this four (4) year delay.

Issue #4

- [27] Whether the Court should order a permanent stay or dismissal of a charge purely for breach of the right to be tried within a reasonable time?
- [28] Dana Seetahal in her text *Commonwealth Caribbean Criminal Practice and Procedure*, 3rd ed. at page 16 speaks to the inherent power of the Courts to

stay proceedings where they are so oppressive as to constitute an abuse of process. Significant and unjustifiable delay by the prosecution in charging or trying a case can result in an exercise by a Court of its power to stop a prosecution.

[29] In **Gibson v The Attorney General BB 2010 CA 20** (*supra*) the appellant Gibson argued that his '*Reasonable Time Guarantee*' had been infringed and that further proceedings on the charge of murder should be permanently stayed or dismissed on account of the overall delay that had occurred to date. Their Honours posed this very question for their own consideration as follows: "Is it appropriate for a Barbados court, in a fit case, to order a permanent stay or dismissal of a charge purely for breach of the right to be tried within a reasonable time?" (paragraph 53)

[30] Their Honours wisely distinguished **Attorney General's Reference No. 2 of 2001** (*supra*) as having been decided against the backdrop of the provisions of the Human Rights Act of the United Kingdom and the European Convention, while the above question must be answered in the context of the provisions of the Barbados Constitution itself.

[31] The gravamen of their response to the question posed is, that permanent stay or dismissal is not the automatic recourse when there has been a breach of the constitutional provision of a fair trial before an independent and

impartial tribunal established by law. At paragraph 55 of their judgement they state as follows:

“... unless the charge is altogether withdrawn or dismissed, it will normally be possible to convene a new trial on conditions that are fair or to hold one before a proper tribunal as the case may be. It is possible, so to speak, to re-set the clock so as to grant the accused the full measure of the right in question...
... Once there has been excessive delay in trying an accused, a court may issue orders aimed at expediting the trial or provide some form of relief to the accused but there is nothing that the court can do to remedy the breach that has occurred in a way that will undo the past delay and its effect on the accused and the society. It is not possible to wipe the slate clean and revert to the *status quo ante*.”

[32] At paragraph 57 their Honours consider appropriate redress where the accused has been in custody, unconditional release or upon reasonable conditions to ensure his appearance at a later date for trial. They stated that:

“A permanent stay or dismissal of the charge cannot be regarded as the inevitable or even the normal remedy for cases of unreasonable delay where a fair trial is still possible... Having an inevitable permanent stay or dismissal of the charge as the single sanction for breach of the ‘*Reasonable Time Guarantee*’ may well reward the guilty, who escape being brought to justice, even if it does little or nothing for the innocent who cannot regain the time they have lost suffering under a cloud of suspicion or worse, being remanded in custody.... The fundamental objective of the ‘*Reasonable Time Guarantee*’ is not to permit accused persons to escape trial but to prevent them from remaining in limbo for a protracted period and to ensure that there is efficient disposition of pending charges. The guarantee is an incentive to the State to provide a criminal justice system where trials are heard in a timely manner.”

[33] And at paragraph [63]:

“... section 24(1) of the Constitution affords the court flexibility, power and a wide discretion in fashioning a remedy that is just and effectively taking into account the public interest and the rights and freedoms of others... Given the high level of public interest in the determination of very serious crimes, however, it will only be in exceptional circumstances that a person accused of such a crime will be able to obtain the remedy of a permanent stay or dismissal for the breach only of the ‘*Reasonable Time Guarantee*’. Of

course, such a remedy will be readily granted in cases where the delay has rendered it impossible to hold a fair trial.”

The Chronology of Events

[34] The above principles can only be applied against the backdrop of the chronology of events between 2011 and 2015. Counsel for the prosecution wisely and usefully, provided such a chronology in his written submissions, the accuracy of which was not challenged in any material way by the Applicant.

[35] This chronology is set out hereunder:

A. Proceedings in the Magistrate’s Court

The Proceedings in the Magistrate’s Court are provided below:

- 1) 31/08/2011 - The accused was taken into police custody. He was subsequently charged with another person with two (2) counts of the arrestable offence of murder.
- 2) 5/09/2011 - The accused appeared in the District ‘A’ Magistrate’s Court, Bridgetown, to answer the charges and was remanded to HMP Dodds to appear at the District ‘B’ Magistrate’s Court on 14th September 2011.
- 3) 14/09/2011 - The accused appeared at the District ‘B’ Magistrate’s Court at Boarded Hall and was remanded to reappear on 12th October 2011.
- 4) 12/10/2011 - The accused appeared with his co-accused. Mr. Babb, attorney-at-law, appeared for the accused. The matter was adjourned to 9th November 2011.
- 5) 9/11/2011 - Both accused were present. The matter was adjourned to 7th December 2011.
- 6) 7/12/2011 - According to charge sheet, there is no record of what transpired on that date.
- 7) 1/01/2012 - Both accused were present. Mr. Gordon, attorney-at-law, appeared for the co-accused. Paper committal requested by Mr. Gordon. The matter was adjourned to 1st February, 2011.

- 8) 1/02/2012 - Both accused were present. Ms. Edwards, attorney-at-law, entered an appearance for the accused. Pre-trial documents to be prepared and sent to the office of Ms. Edwards. The matter was adjourned to 29th February, 2012.
- 9) 29/02/2012 - The accused was present. Ms. Edwards, attorney-at-law, sought and was granted leave by the Court to withdraw from the case. The matter was adjourned to 28th March 2012.
- 10) 28/03/2012 - The accused and co-accused were present. Mr. Gordon for the accused. Mr. Watts for the Office of DPP. The co-accused was committed to the Supreme Court. Mr. Boardi, attorney-at-law, for the accused Maynard. The matter was adjourned to 25th April 2012.
- 11) 25/04/2012 - The accused was present. Mr. Boardi enters an appearance for the accused. The matter was adjourned to 23rd May 2012.
- 12) 23/05/2012 - The accused was present. No evidence was led. [Explanation can be provided] The matter was adjourned to 20th 2012.
- 13) 30/06/2012 - There was no magistrate. The matter was adjourned to 18th July 2012.
- 14) 18/07/2012 - The accused was present. Mr. Boardi was present. No evidence was led. The matter was adjourned to 15th August, 2012.
- 15) 15/08/2012 - The accused was present. Mr. Boardi appeared for the accused. The accused requested a long date on remand. The matter was adjourned to 12th September, 2012.
- 16) 12/09/2012 - Inspector Husbands was present to testify. The accused was not transported from HMP Dodds to the Court. No evidence was led. The matter was therefore adjourned to 10th October 2012.
- 17) 10/10/2012 - The prosecution led evidence. Photographer testified. The matter was adjourned to 7th November 2012. The accused agreed to a long adjournment. The matter was adjourned to 8th January 2013.
- 18) 08/01/2013 – The prosecution led evidence. Inspector Husbands, firearm examiner, testified. Cross-examination was reserved by Mr. Boardi. The accused served notice to his intention to fire his attorney. The matter was adjourned to 5th February 2013.
- 19) 5/02/2013 - The accused advised the prosecutor that he wanted his matter to proceed by way of paper committal. The process was explained to him by

the prosecutor. The accused gave notice of his intention to write the Director of Public Prosecutions and request the same. The matter was adjourned to 5th March 2013.

- 20) 5/03/2013 - The accused was present. It is unclear what transpired on that date. The matter was adjourned to 14th March 2013.
- 21) 14/03/2013 - The accused told the Court that he wanted his matter to proceed by way of paper committal. The matter was adjourned to 28th March 2013.
- 22) 28/03/2013 - Mr. Boardi appeared in association with Ms. Moore for the accused. The matter was adjourned to 25th April 2013.
- 23) 25/04/2013 - Mr. Boardi was absent since he had to make an appearance at the Supreme Court. The prosecution witness Sgt. Farrell and Constable Griffith were present. The matter was adjourned to 13th May 2013.
- 24) 13/05/2013 - The accused was present. Witnesses were present. The matter was adjourned to 10th 2013.
- 25) 10/06/2013 - Sgt. Farrell and Dr. Dupuis, pathologist, testified. The matter was adjourned to 8th July 2013.
- 26) 8/07/2013 - Evidence was led. Constable Griffith tendered by prosecution for cross-examination. The matter was adjourned to 12th August 2013.
- 27) 12/08/2013 - two (2) witnesses, Sgt. Lindo and widow present. Matter adjourned to 26th September 2013 with the consent of the accused.
- 28) 11/09/2013 - The accused was brought down (before the adjourned date) by the prosecution in an attempt to expedite the matter. Evidence was led. Five (5) witnesses testified. The matter was adjourned to 1st October 2013.
- 29) 01/10/2013 - The prosecution led evidence. The matter was adjourned to 25th October 2013 for the District 'F' Magistrate's Court.
- 30) 25/10/2013 - No evidence was led. The matter was adjourned with consent of the accused.
(Note: There was no magistrate for some time. This was attributed to Her Worship Mrs. Smith-Bovell taking up duties as acting Registrar of the Supreme Court from 25th October 2013.)
- 31) 12/12/2013 - The accused were present. The matter was adjourned to 13th January 2014.

- 32) 23/06/2014 – Mr. Moseley, attorney-at-law, appeared for the accused. Mr. Applewhaite appeared for the Director of Public Prosecutions. An application was made for committal. The accused was accordingly committed without objection by him (the accused) or his counsel Mr. Moseley to stand trial at the Supreme Court to answer to two (2) counts of the arrestable offence of murder. The accused was remanded.

B. Proceedings in the High Court

The Proceedings in the High Court are provided below:

- 1) 24/07/2014 – The matter was called in Court No. 5. The DPP, Mr. Leacock QC and Mr. Anthony Blackman appeared for the Crown. The accused was present. The accused indicated to the Court that he had everything he needed for the trial. The Court advised the accused that it was in the middle of a trial and that the matter could not start before September. The matter was adjourned to 16/09/2014.
- 2) 16/09/2014 – Ms. Delaney held for the DPP, mention date set for 6/10/2014. The judge indicated that she had several small trials that could come off on that date and so she would adjourn to the 17th October 2014. The accused reminded the Court of his intention to represent himself.
- 3) 17/10/2014 – Ms. Delaney appeared for the DPP. The judge told the accused that there were several other matters fixed for trial and so the matter would be adjourned to 17th November 2014. The judge, in answer to the accused as to whether or not the matter would start on that date, advised the accused that it may or may not be because there were several matters that were **‘double booked’**. She then adjourned to 17th November 2014. The accused told the judge that whenever he came to Court there was always some kind of adjournment.
- 4) 17/11/2014 - Accordingly to the transcript nothing came on the 17th November. No explanation as to why Ms. Delaney held for DPP.
- 5) 20/11/2014 - Mr. Applewhaite appeared for the Crown. Matter adjourned to 6th January 2015.
- 6) 13/01/2015 - Matter called in Court No. 2. Mr. Leacock QC appeared for the Crown and informed the Court that the Crown was ready to proceed. He asked that a trial date be fixed. The accused advised the judge that he was prepared to represent himself. He said he had his depositions but then he told the Court that he might have misunderstood her when the word depositions was used. He did tell the Court that he had not received them yet because he had asked for a paper committal. Discussion followed. He then told the Court that he was not in possession of the witness statements in the matter.

The accused admitted that he had been served with the Indictment. Mr. Leacock QC advised the Court that he was prepared to give the accused his (Mr. Leacock's) papers. The matter was stood down to allow such. After a discussion with the Judge and the Director, the matter was adjourned to 16th January 2015.

- 7) 16/01/2015 - Ms. Burke appeared for the Crown. Accused served a set of documents as contained in a bundle and which were promised on the 13th January 2015 by the learned DPP. The accused confirmed that he was representing himself. The accused was urged by the Court to prepare himself for trial and if there was the need for clarification in relation to any document, he should come prepared to raise such since on the 18th January 2015 a trial date would be set. Discussion followed with respect to the receipt of mail in prison and return addresses. A brief outline of the court procedure given to the accused. Matter adjourned to 18th January 2015.
- 8) 18/02/2015 - Mr. Leacock QC appeared for the Crown. There was discussion as to who would present the Crown's case. The matter was '**double booked**' for 13th April 2015 with the case of R v Middoni Scantlebury. The accused indicated that he had not received station diaries and other items. The matter was adjourned to 13th April 2015.
- 9) 13/04/2015 - Ms. Burke appeared for the Crown. Ms. Burke advised the Court that the travel arrangements for the overseas witnesses had not yet been finalized and that she requested an adjournment for same to be arranged and finalized. The accused was advised that the date would be a mention date and that a trial date would be fixed afterwards.
- 10) 13/05/2015 - Mr. Applewhaite appeared for the Crown. The accused complained about the amount of adjournments in the case. He said four (4) years had passed. Mr. Applewhaite informed the Court that Ms. Burke was home sick. The matter was adjourned to 27th May 2015.
- 11) 27/05/2015 - The Court did not sit due to a Bar Association seminar.
- 12) 1/06/2015 - Ms. Burke appeared for the Crown. Inspector Franklyn spoke about the station diaries. Ms. Burke asked for the matter to be traversed. She indicated that she would be on holiday for a month and there was the possibility that the Court would not be sitting. The accused advised the Court that his constitutional rights had been breached because the case had been delayed too long. The matter was adjourned to 5th June for submissions by the accused man.
- 13) 05/06/2015 - Ms. Delaney advised the Court that Ms. Burke asked for an adjournment. She said Ms. Burke was unwell. The accused had an

opportunity to inspect the requested station diaries. The matter was adjourned to 9th June 2015.

14) 9/06/2015 - the accused submitted to the Court.

[36] This chronology shows quite clearly that this matter has consistently been before the Courts (both magistrate and criminal courts) when every attempt has been made to progress the matter. It also shows that a significant part of the 'delay' (such as it was) can be attributed to the conduct of the Applicant/Accused, specifically the change of attorney on five different occasions.

Disposal

[37] At the heart of this application is the issue of the '*Reasonable Time Guarantee*'. While it is possible for a breach of the '*Reasonable Time Guarantee*' to yield a permanent stay or dismissal of charge, it is also clear that such redress should be reserved for those circumstances where trial will be unfair or cause prejudice. **See Gibson v The Attorney General** (supra). The grant of a permanent stay is exceptional and such an application places a significant burden on a defendant.

[38] Such circumstances do not obtain here.

[39] The Applicant has not satisfied this Court that there has been a breach of the '*Reasonable Time Guarantee*'.

[40] Having examined the factual circumstances of the delay in this matter, the reasons advanced to justify it and the possibility of any prejudice to the Applicant/Accused, this application is denied, and it is ordered that this matter be set down for trial as soon as is reasonably possible given the fact that arrangements have to be made for material witnesses to be brought from overseas.

MARGARET A. REIFER
Judge of the High Court