

27, 1970

IN THE PRIVY COUNCIL

No. 37 of 1969

ON APPEAL
FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N:

ERIC JAMES

Appellant

- and -

THE QUEEN

Respondent

R E C O R D O F P R O C E E D I N G S

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
6 - DEC 1971
25 RUSSELL SQUARE
LONDON W.C.1

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INDEX OF REFERENCE

No.	Description of Document	Date	Page
1.	<u>In the Home Circuit Court</u> Indictment <u>Prosecution Evidence</u>	13th October 1967	1
2.	Elsada Hall	29th February 1968	2
3.	Dr. Noel Clinton March	29th February 1968	62
4.	Gladstone Grant	29th February 1968	76
5.	Osbourne Robinson	29th February 1968	77
6.	Gladstone Grant (Recalled)	29th February 1968	78
7.	Elsada Hall (Recalled)	29th February 1968	79
8.	Linda Lue	1st March 1968	94

No.	Description of Document	Date	Page
	<u>Prosecution Evidence (contd.)</u>		
9.	Stanley Hohn	1st March 1968	114
	<u>Defence Evidence</u>		
10.	Eric James	1st and 4th March 1968	135
11.	Summing-Up	4th March 1968	175
12.	Verdict	4th March 1968	209
13.	Character Evidence	4th March 1968	210
14.	Sentence	4th March 1968	212
	<u>In The Court of Appeal</u>		
15.	Grounds of Appeal	7th March 1968	213
16.	Supplementary Grounds of Appeal	16th April 1968	214
17.	Judgment	27th February 1969	216
	<u>In the Privy Council</u>		
18.	Order Granting Special Leave to Appeal to Her Majesty in Council in forma pauperis	28th November 1969	221

E X H I B I T S

Exhibit Mark	Description of Document	Date	Page
6.	Deposition of Dr. John Sanguinetti	7th May 1967	223

DOCUMENTS TRANSMITTED BUT NOT REPRODUCED

Description of Document	Date
<u>In the Home Circuit Court</u> List of Exhibits <u>In the Court of Appeal</u>	
Notice of Appeal	7th March 1968
Particulars of Trial	13th March 1968
Declaration of Shorthand Writer, Vinivette Downie	13th March 1968
Declaration of Shorthand Writer, Constance M. Cupidon	13th March 1968
List of Exhibits	Undated

1.

IN THE PRIVY COUNCIL

No. 37 of 1969

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FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N:

ERIC JAMES Appellant

- and -

THE QUEEN Respondent

R E C O R D O F P R O C E E D I N G S

NO. 1
INDICTMENT

In the Home
Circuit Court

10

The Queen v. Eric James
In the Supreme Court for Jamaica
In the Circuit Court for the parish of Kingston

No. 1
Indictment
13th October
1967

IT IS HEREBY CHARGED on behalf of Our Sovereign
Lady the Queen:

Eric James is charged with the following offence:-

STATEMENT OF OFFENCE:

Rape.

PARTICULARS OF OFFENCE

20 Eric James, on the 18th day of April, 1967, in the
parish of Saint Andrew, had sexual intercourse
with Elsada Hall without her consent.

At the time of the commission of the said crime the
said Eric James was armed with a gun and a knife.

(Sgd) E.A.Sinclair,
for Director of Public Prosecutions,
13th October, 1967

In the Home
Circuit Court

R E G I N A v. ERIC JAMES

Prosecution
Evidence

Trial Judge: Mr. Justice Robinson
Crown Counsel: Mr. I. X. Forte
Defence Counsel: Mr. W. B. Brown

No. 2

29th February
1968

Elsada Hall
Examination

NO. 2
ELSADA HALL

29th February
1968

EXAMINATION OF ELSADA HALL BY CROWN COUNSEL,
MR. FORTE

Q: Is your name Elsada Hall? A: Yes. 10

Q: Is that the right pronunciation?

A: Yes, Elsada.

Q: Are you a domestic servant?

A: Yes I was, but not now.

Q: What is your occupation now?

A: I am a student.

Q: Where are you a student?

A: Salvation Army Training College.

Q: Miss Hall, will you kindly speak loudly so that I don't have to repeat your answers. You see, the jurors have to hear you, the accused man and his counsel have to hear you. 20

HIS LORDSHIP: Salvation Army Training College.

Q: And that is where?

A: 174 Orange Street.

HIS LORDSHIP: On the 18th of April last year you were working at 10 Coolshade Drive, and you lived there then? A: Yes, sir.

CROWN COUNSEL: May I proceed now? Now, on the 18th of April last year at about 10.30 at 30

night did you return home to 10 Coolshade Drive? In the Home
 A: Yes, sir. Circuit Court

Q: From where were you coming?

Prosecution
 Evidence

A: I was coming from Soldiers Council in Jones
 Town.

No. 2

Q: Is that connected with the Salvation Army?

Elsada Hall

A: That is a meeting held for all the members of
 the Salvation Army on Tuesday night specially.

Examination

29th February
 1968

10 Q: I see. Now, what part of the premises at 10
 Coolshade Drive did you live?

(continued)

A: At the eastern direction at the back of the
 main building.

Q: The back to the eastern side of the building?

A: (Witness nods)

Q: And is there a step leading up to your room?

A: Yes, sir.

Q: Now, when you returned home that night as you
 were about to go up to the step did you see
 any one in the yard?

20 A: Yes, sir - no, there was nobody at first in
 the yard, sir, but just as I was about to
 approach the step I saw a man and he wasn't
 wearing any shirt at all. He had on a dark
 pants, one foot rolled up and the other foot
 was down.

HIS LORDSHIP: You mean one trousers foot rolled
 up and one down? A: Yes, sir.

30 HIS LORDSHIP: You say as you were about to
 approach the step you saw a dark man with no
 shirt and one trousers foot rolled up and one
 down?

A: Yes, sir.

Q: When you saw this man where was he?

A: He was coming from behind the wall of the house.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

HIS LORDSHIP: Behind the wall of the house that you lived in?

A: Yes, sir, the room that I lived in.

Q: Tell me, the room you lived in, is that actually - does it adjoin on to the rest of the house?

A: Yes, sir, it adjoin on.

Q: Now, Miss Hall, when you saw the man how far from you was he?

A: Well, he was just about like from here to here.

10

Q: To the end of this table?

A: Yes, because the step is not far from the corner of the house. The distance of the room - of where I was from where the man was was about from the end of that table to where I am standing up.

HIS LORDSHIP: About how many yards or feet you would say?

A: About two and a half feet.

20

HIS LORDSHIP: About two and a half feet from you?

A: Yes, sir.

Q: Did that man have anything with him at all?

A: Yes, sir, he had a revolver in his right hand and a ratchet knife in his left hand.

Q: When you saw him there did he speak?

A: Yes, him facing me like this, and he said "If you scream out, I kill you."

Q: Tell me, when he said that to you, how did you feel?

30

A: Well, I was frightened, for from the moment I saw the man I was frightened because I didn't expect him.

Q: After he said that, did he do anything?

A: Well, he put the revolver in his pocket and he hold the knife in his right hand and then he come and he hold me around my waist.

HIS LORDSHIP: Yes, he come and hold you around your waist.

Q: Well, he held you with one hand or two hands?

A: One of his hand because the other hand was facing me like this. (demonstrating). He used the left hand and held me around like this and the right hand held the knife and facing me like this. (demonstrating).

Q: Was it pointing towards what part of you?

HIS LORDSHIP: About here? The knife pointing to your right breast?

A: Yes, sir.

Q: When he did that, was he standing in front of you, beside you?

A: He was standing behind me.

Q: Will you kindly keep your voice up loudly as I am speaking.

A: He was standing behind me. When he stick me up he was standing in front of me and then he put the revolver in his pocket and then he come round like this and hold me, that means he turned around after he stick me up and held me backway.

Q: Now, did you say anything to him?

A: I asked him what he want.

Q: Did he answer?

A: "Shut up", that is what he said.

Q: Was that his answer? A: Yes, sir.

Q: After he said that, did you do anything?

A: No, I did not do anything at all.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

10

20

30

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination
29th February
1968

(continued)

Q: What happened next?

A: He hold me just the same, in the same position, and he carry me right up the step and stand in front of the door.

HIS LORDSHIP: You said he held you in the same position and carried you up in front of the step?

A: Up the step and we stood in front of the door. We went right up the step and we stood in front of the door.

10

HIS LORDSHIP: What you mean by carried you?

A: I didn't want to go.

HIS LORDSHIP: What you mean by he carried you?

A: I did not want to go; I walked, but he was the person who led me. I walked, but I did not want to go up with him.

HIS LORDSHIP: You say by carried you, you didn't want to go up with him but you walked?

A: I didn't want to go up with him but I go up with him because the knife was pointing towards me, so I followed him.

20

Q: Now you stood in front of the door. Did he say anything to you?

A: "Let me see what is in your hand."

Q: That is what he said? A: Yes, sir.

Q: Did you show him what was in your hand?

A: Yes, sir.

Q: What was there?

A: A three-pence, a key for the door, a song book, a Bible and a pen.

30

Q: After you showed him these things, did he say anything?

A: "Open the door now."

HIS LORDSHIP: Oh, he said to you, "Open the door now"?

A: Yes, sir.

Q: Miss Hall, do you see that man now here at all?

A: There he is.

Q: Where is he?

A: There he is. (Pointing to the accused)

HIS LORDSHIP: The accused is the man?

10 A: Yes, sir.

Q: After he said, "Open the door now" did you do anything?

A: I opened the door, sir.

Q: Why?

A: Pardon me?

Q: Why did you open it?

A: Well, he tell me to open it and if he had the knife I had to open it.

Q: After, you said, you opened the door?

20 A: Yes, sir.

Q: After you opened it, did he do anything?

A: Well, he started to go in first and was pulling me in with him.

Q: Did you say anything to him when he was pulling you?

A: I said, "Where are you going?"

Q: Did he answer?

A: He said, "If you make any noise I shot you."

Q: Where was the knife at that time?

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

A: The knife was still in his right hand.

Q: Right hand? A: Yes, sir.

Q: Was he doing anything with it then?

A: The knife was still pointing on me all the time.

HIS LORDSHIP: The knife was still in which hand?

A: The right hand.

Q: After he said, "If you make any noise I shot you", did you do anything?

A: I went inside.

10

Q: And he was inside then?

A: Yes, he started to go in first, that mean he reach inside before me, but he was still holding me.

Q: Now, when you got inside, did he say anything again.

A: "Put down your books."

Q: And after he said that, did you do anything?

HIS LORDSHIP: Well, did you put the books down?

A: Instead of putting down the books I stretch over the bed and switch on the electric light.

20

Q: Why did you turn on the light?

A: Because I wanted to see him.

Q: Well, did you?

A: Pardon me.

Q: Did you?

A: Yes, I turned it on.

Q: After you turned on the light, did you see him?

A: Well, as quick as I turned around I only get a slight glance of his face, so I did not see him properly in the night. I did not get to recognise his face plainly in the night the said time when I turned on the light.

Q: Why is that?

A: Pardon me?

Q: Why is that?

10

A: Because he quickly turned off the light and said, "What you noticing me for?"

HIS LORDSHIP: He quickly turned off the light?

A: Yes, sir.

HIS LORDSHIP: And said, "What you noticing me for?"

A: Yes, sir.

Q: After he said that, did he say anything else to you?

A: He said, "Turn around! Sit down!"

Q: Did you sit down?

A: Yes, I sat down.

20

Q: Where?

A: On the bed.

Q: And after you sat down, did he say anything to you?

A: Well, I wasn't looking at him at the moment because I just sat down like this (witness holds head down) and I heard him say, "Now give me all the money you have."

Q: When you heard him say that, did you look at him?

30

A: Yes, sir, I looked up at him.

Q: And did you see him with anything?

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

A: He had the revolver back in his right hand and the ratchet knife in his left hand pointing at me.

Q: And did you answer him?

HIS LORDSHIP: Just a minute.

A: I told him I

HIS LORDSHIP: Just a minute.

Q: Well, was the revolver pointing at you too?

A: It was pointing at me.

Q: Both revolver and ratchet knife?

10

A: Yes, both of them were pointing at me.

Q: Did you answer when he said give him all the money you had?

A: I told him I only had three-pence left from my bus fare.

Q: When you told him that, did he do anything?

A: He took it away from me and then he gave it back to me.

HIS LORDSHIP: This three-pence? A: Yes, sir.

Q: After he gave it back to you, did he say anything to you?

20

A: "Take off your clothes now!"

Q: When he told you that, did you - what did you do?

A: Well, I hesitated for a moment.

Q: You hesitated? A: Yes, sir.

Q: While you were hesitating, did he do anything?

A: Well, he point up the revolver and knife nearer to me, and said, "Well, is either one thing or the other."

30

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

Q: After this, did you do anything?

A: Well, I just started to pull down the zip on my dress back slowly.

Q: Why were you pulling down the dress?

A: Because I saw knife and gun standing over me, and I was afraid of it.

Q: Now, while you were pulling down your zip slowly, did he do or say anything?

10 A: He roughly draw it down and take down the dress and

HIS LORDSHIP: He did what?

A: Pulled down the zip and dropped the dress down.

Q: Did he say anything?

A: He said, "I can't wait on you." He pulled off the dress and draw up my slip because I only had on a half-slip.

HIS LORDSHIP: Pulled down the dress and drew up the half-slip? A: Yes, sir.

20 Q: Did he do anything else with your garment?

A: He take off my panties. He pulled down the Zipper, and then he just dropped it right down because it dropped right down to my foot.

HIS LORDSHIP: After he said he can't wait on you, he pulled the zip and dropped the dress down?

A: He take it off like this. (demonstrating)

HIS LORDSHIP: Where the dress was?

A: Right around my waist part here.

30 HIS LORDSHIP: Your dress was dropped to your waist? A: Yes

A: Yes, sir, because I was sitting on the bed.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall
Examination

29th February
1968

(continued)

HIS LORDSHIP: You say he did what with the half-slip?

A: He pull up the half-slip.

HIS LORDSHIP: Where the dress was, at your waist?

A: The dress was at my waist and when he said, "Ease up", and when I east up he draw down the dress and panty at the same time and they were all off.

HIS LORDSHIP: He said, "Ease up", and you eased up and he took off everything?

10

A: Yes, sir, except the slip.

HIS LORDSHIP: Both dress and?

A: And panty.

HIS LORDSHIP: And half-slip?

A: No, sir, the half-slip was left up here, because he drew it up.

HIS LORDSHIP: He pulled off the dress and panty leaving the half-slip at your waist?

A: It was further up than my waist because he drew it up around here. (demonstrating)

HIS LORDSHIP: There would that be?

20

A: Underneath my bust.

Q: After he did all this, did you see the knife or the revolver?

A: The knife and the revolver was in his right hand.

Q: Both of them was in his right-hand?

A: Yes.

HIS LORDSHIP: At this time? A: Yes, sir.

Q: Did you then see him do anything with either the knife or the revolver?

30

A: He put the revolver on the bedside table because I have a table beside my bed.

HIS LORDSHIP: After he take off his clothes?

A: After he take off my clothes. He did not take off his clothes.

HIS LORDSHIP: He put the revolver?

A: On the bedside table.

HIS LORDSHIP: On the bedside table, yes.

Q: And did he do anything after that?

10 A: Yes, he came over me and say, "Lie down now."

Q: Where was the knife at that time?

A: Still in his right hand.

Q: You said he ordered you to lie down?

A: Yes, sir.

Q: Did you?

A: Yes, sir.

Q: And after you did that, did he do anything?

20 A: Yes, he sat at the edge of the bed with the knife still pointing on me and then he used his left hand and take off his pair of water-boots he was wearing.

Q: The knife in his right hand, he used his left hand to take off the pair of waterboots he was wearing?

A: Yes, sir.

Q: After he took off his water-boots, did he do anything else?

A: Yes, he stood up at this moment and he just came right over me on the bed.

30 HIS LORDSHIP: He stood up and then came over you on the bed? A: Yes, sir.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February

1968

(continued)

In the Home
Circuit Court

No. 2

Elsada Hall
Examination

29th February
1968

(continued)

Q: Yes?

A: The knife was still in his right hand, he used his left hand to zip down his pants front.

HIS LORDSHIP: The knife still in what hand?

A: His right hand. He held it beside my neck.

HIS LORDSHIP: He used the left to pull down the zip of his pants? A: Yes, sir.

Q: When he zipped down his pants, did he do anything?

10

A: Yes, sir, he used his left hand and take out his penis and put it in my vagina.

Q: When he had his penis in your vagina where was the knife? A: Beside my neck.

Q: He still had the knife? A: Yes.

Q: And what was he doing with the knife?

A: Well, he held it beside my neck. I don't know what for.

Q: And did he do anything when his penis was in your vagina?

20

A: Yes, he had sex with me.

Q: He had sexual intercourse with you? A: Yes, sir.

HIS LORDSHIP: What was the duration of this?

Q: How long did he have sex with you?

A: About half an hour.

Q: And after - Miss Hall, will you hold your head up please? After he had intercourse with you, what did he do?

A: He got up and use the corner of the sheet to wipe his penis.

30

Q: After he did that, did he say anything to you?

A: Yes, he said, "Get up and put on your clothes."

Q: After he told you that, did you do anything?

A: Well, I put on back the panty I had on and draw down my half-slip.

Q: After you did that were you standing up or sitting down? A: I was sitting down. Where? A: On the edge of the bed.

HIS LORDSHIP: Who was that? A: Myself.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

10 HIS LORDSHIP: You were sitting on the edge of the bed? A: Yes, sir.

Q: When you were sitting at the edge of the bed where was he?

A: He was standing in front of me with the revolver in his right hand and the knife in his left hand.

Q: Did he then say anything?

A: No, he stood over me all night with the revolver in the same position and the knife and was pointing it at me.

20 HIS LORDSHIP: You said he stood over you all night in the same position with the revolver and knife pointing it at you? A: Yes, sir.

Q: Now, while he stood there were you looking at him all the time?

A: Well, sometime I take a glance up; sometimes he appears to be sleeping because sometimes his eyes are closed and sometimes they are open looking down at me.

Q: Did he eventually leave your home?

30 A: When it was about ten minutes after five o'clock on Wednesday morning the other morning.

HIS LORDSHIP: When it was about five ten a.m. next day.... A: Yes, sir.

HIS LORDSHIP:that what happened?

A: That he left the home, but before he left.....

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

Q: But he left at about?

A: About that time.

HIS LORDSHIP: But before he left?

Q: May I just - when he left was it daylight or night time still?

A: Well, it was partly daylight because you could see anything at all in the room at that moment.

Q: Could you see him properly then? A: Yes, sir.

Q: And you said you could see him properly then? 10

A: Yes, sir.

Q: Before he left, did he do anything?

A: Yes, he held the knife in his right hand with the revolver at this moment, the revolver and knife in his right hand.

HIS LORDSHIP: Before he left he held the revolver and knife in his right hand? A: Yes, sir.

Q: And did what?

A: Used his other hand to put on his waterboots.

Q: After he put on his waterboots, did he speak to you? 20

A: Yes, he was pointing the weapons at me still and he said, "If you scream out or tell anyone I will come back and kill you."

Q: And after that he left?

A: Yes, he left the room.

Q: Before he left, did you get a good look at him?
A: Yes, I saw him.

Q: After he had gone, what did you do?

A: Well, during the time he left the room, I did not hear him going down the step, so during that while I was putting on my dress. 30

Q: Tell me, after he left, did he leave the door open or close or locked?

A: No, the door was closed.

Q: Pardon me?

A: He shut it when he left.

Q: Did you do anything with the door after he left? A: I locked it.

Q: You said you didn't hear him?

10

A: I didn't hear him go down the step, so I stood still in the house and just put on my clothes.

Q: Did you eventually hear anything?

A: Yes, it was about fifteen minutes after.....

Q: When you said you heard, what you heard?

A: The footsteps - the waterboots clapping on the step like that going down.

HIS LORDSHIP: You heard the waterboots going down the step? A: Yes, sir.

20

Q: Apart from hearing him go down the step, did you hear any other sound?

A: I hear him go around to the front of the yard, but after that I did not hear anything at all.

Q: After you heard that, did you do anything?

A: I waited a little and then I got up and go and tell Mr. and Mrs. Lue.

Q: When was that - where were they?

A: They were inside their house.

HIS LORDSHIP: They occupied the main building?

A: Yes, sir.

30

Q: They were your employers at the time?

A: Yes, sir.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall
Examination
29th February
1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

Q: And was the police called?

A: Yes, we called the police.

Q: And did you say the police were called, and the police came?

A: Yes, it was at the moment Detective Simpson who came and he told us that he was off duty.

Q: No, don't tell us what the Detective told you.

A: Yes, the police came.

Q: And did you hand over anything to the police when they came? A: Yes, sir.

10

Q: You know Detective Stanley Hohn? A: Yes, sir.

Q: Was he one of the police who came?

A: He came after because there were no police on duty.

HIS LORDSHIP: You say the police was called and came? A: Yes.

HIS LORDSHIP: Did Hohn come at that time or did he come after? A: He came after.

HIS LORDSHIP: He came after?

A: You see, that police man who came did not take any statement at all, he just came to let us know.

20

HIS LORDSHIP: Police came there and went away and then Detective Hohn came there? A: Yes, sir.

Q: Detective Hohn came. Did you make a report to him? A: Yes, sir.

Q: And did you give him anything? A: Yes, sir.

Q: Can you remember what you gave to Detective Hohn?

A: I gave him the white panty I had on, the pink half-slip.

30

HIS LORDSHIP: Just a minute.

Q: Did you give him anything else?

A: I gave him a pink striped floral sheet.

Q: Anything else?

A: And a coloured spread. It is blue, green, yellow. The sheet has a lot of colours, some of them are blue, green, yellow and red.

Q: The sheet or the spread? A: The sheet.

HIS LORDSHIP: You said you gave him a coloured spread? A: Yes, sir.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

10 HIS LORDSHIP: Just a minute.

Q: Will you describe the spread that you said you gave to Detective Hohn?

A: It is coloured, it is floral, the colour.

HIS LORDSHIP: The spread or the sheet that you are describing?

A: That is the sheet.

HIS LORDSHIP: Is that what you call the coloured sheet?

(Sheet shown witness)

20 A: Yes, sir.

Q: I have asked you, Miss Hall, to describe the spread that you gave to Detective Hohn.

A: It is a pink striped floral spread.

HIS LORDSHIP: You also gave him a spread then? A: Yes, sir.

HIS LORDSHIP: A pink striped spread? A: Yes, sir.

Q: Will you look at this? (Spread shown to witness) A: Yes, this is the spread.

30 Q: I beg to tender it as Exhibit 1, sir. Could you describe this sheet that you gave to Detective Hohn?

A: It is also coloured, floral, but they are red,

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall
Examination

29th February
1968

(continued)

yellow, blue and green.

Q: Will you look at this sheet? Is that the sheet.....

(Sheet shown to witness)

A: Yes, sir.

Q:that you gave to Detective Hohm?

A: Yes, sir.

Q: May it be tendered as Exhibit 2, My Lord. Miss Hall, will you look at this panty and slip?

10

(Panty shown to witness)

A: Yes, this is the panty.

Q: Those are the pair of white panties?

A: Yes, sir.

Q: Is that the panty you gave Detective Hohn?

A: Yes, sir.

Q: I beg to tender and mark it as Exhibit 3, My Lord. Will you look at that pink half-slip?

(Half-slip shown to witness)

20

A: Yes, sir.

Q: That is the slip? A: Yes, sir.

Q: May that be tendered and marked Exhibit 4. Take them away now. Miss Hall, on the 19th of April, were you examined by Dr. Sanguinetti? A: Yes, sir.

HIS LORDSHIP: That is the following day?

A: Yes, sir, the same day, the 19th.

HIS LORDSHIP: The 19th of April you were examined by Dr. Sanguinetti? A: Yes, sir.

30

Q: At about quarter to five in the afternoon of the 19th of April, were you standing at the back verandah of the main building at Coolshade Drive? A: Yes, I was facing.....

HIS LORDSHIP: At about what time?

A: About four forty five.

HIS LORDSHIP: In the afternoon? A: Yes, sir.

HIS LORDSHIP: You were standing on the back verandah?

CROWN COUNSEL Facing where?

A: Fairfax Drive.

HIS LORDSHIP: On the back verandah of where you lived?

10 A: 10 Coolshade Drive facing Fairfax Drive.

Q: From where you stood on Coolshade Drive you could see into Fairfax Drive?

A: It is just about two chains away.

HIS LORDSHIP: Two chains away from Fairfax Drive?

A: Yes, sir.

HIS LORDSHIP: And you could see into Fairfax Drive? A: Yes, sir, I was facing Fairfax Drive.

20 Q: Were you then looking into Fairfax Drive?

A: Yes.

Q: Did you see anything on the road?

A: I saw three men walking down Fairfax Drive.

Q: When you saw these three men, did you recognise any of them as anybody you had seen?

A: I recognised the one at the back that he was the one man.....

Q: He was the one man?

A: The man who attacked and raped me the night before.

30 HIS LORDSHIP: You said that man is the accused?

A: Yes, sir.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall
Examination
29th February
1968

(continued)

Q: Now, was there anybody else at 10 Coolshade Drive when you saw this man?

A: Yes, Mr. Lyn was there, and I called to him and pointed out.....

HIS LORDSHIP: Mr. who? A: Mr. Lyn.

Q: Mr. Lyn lived at 10 Coolshade Drive?

A: Yes, he was a boarder there.

HIS LORDSHIP: You said you spoke to him?

A: Yes, sir.

Q: And after you spoke with Mr. Lyn, did you go anywhere? 10

A: Yes, I ran down Coolshade Drive and then I turned round and went out in Fairfax Drive.

Q: You ran? A: Yes, sir.

Q: Where you ran?

A: Down Coolshade Drive and there is just a short little piece of road, Avon Place, and then I ran on Avon Place, just the end of the road, and then into Fairfax Drive.

Q: When you got to Fairfax Drive, did you see the three men? 20

A: Two was in front and one was behind, and I looked at the man like this, and then at the said time Mr. Lyn came down in his car and he told me to come into the car and I went into the car.

HIS LORDSHIP: You said you looked at the men before going into the car or was it after?

A: Before going into the car.

HIS LORDSHIP: The same three men? 30

A: Yes, because they were still walking at that time.

Q: I think you already told us the accused was the one behind? A: Yes, sir.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

Q: You said you went into Mr. Lyn's car?

A: Yes, sir.

Q: And when you went into Mr. Lyn's car, how far was the car from the accused?

A: A little farther from where you are standing.

Q: A little farther than from you? A: Yes, sir.

Q: What Mr. Lyn did? What happened next?

A: When I went into the car I told Mr. Lyn, that is the man.

10 Q: Don't tell us the conversation you and Mr. Lyn had. A: Mr. Lyn looked at him.

Q: And spoke to him?

A: Yes, but he drive the car up and drive right beside him.

HIS LORDSHIP: In front of the accused? A: Yes, sir.

Q: And you said Mr. Lyn spoke with the accused?

A: Yes, sir.

Q: What he said to the accused?

20 A: He asked him if he know this girl that he was speaking to.

HIS LORDSHIP: Asked him if he knew you?

A: Yes, sir.

Q: Did he answer Mr. Lyn?

A: Yes, he looked at me and he was stammering and he said, "No, sir, is the first I see her, sir."

Q: The accused said anything else?

A: He looked at me and he asked me if I knew him and I told him yes.

30 HIS LORDSHIP: Who asked you?

A: The accused, Your Honour.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall
Examination
29th February
1968

(continued)

HIS LORDSHIP: The accused asked you if you knew him? A: Yes, sir.

HIS LORDSHIP: You told him yes?

A: I told him yes.

Q: What happened after that?

A: He asked me when last I have ever seen him.

HIS LORDSHIP: The accused?

A: Yes, sir, asked me that.

HIS LORDSHIP: When last you have ever seen him?

A: Yes, sir.

10

Q: Did you answer that?

A: Yes, sir, I told him it is all right.

Q: And did Mr. Lyn ask him anything else?

A: Yes, Mr. Lyn asked him his name and where he lived.

Q: Did he give his name and address to Mr. Lyn?

A: Yes, sir.

Q: Do you remember what those were?

A: Yes, he said 181 Border Avenue.

Q: And he gave his name as? A: Eric James.

20

Q: After that did Mr. Lyn drive off the car?

A: Yes, we drove around until we found.....

Q: And you left the accused there and drove where?

A: Right around until we found 181 Border Avenue, and when we found it we went right back up to the house and get Mrs. Lue because she came down.....

HIS LORDSHIP: And thereafter you went back home?

Q: You went back home to 10 Coolshade Drive?

A: Yes, sir.

30

- Q: And did you go anywhere after that?
 A: Right to Constant Spring Police Station.
 Q: And there you made a report? A: Yes, sir.
 Q: To? A: Detective Hohn.
 Q: After you made a report to Detective Hohn, did you leave the Constant Spring Police Station?
 A: Yes, we left there.
 10 Q: And went where? A: Went back to 181 Border Avenue.
 Q: Was Detective Hohn with you this time?
 A: Yes, he was there.
 Q: When you got to 181 Border Avenue, did you see the accused? A: Yes.
 Q: Where was he? A: He was just in the middle of the yard with a green hose in his hand.

HIS LORDSHIP: In the middle of premises 181?

A: In front of the house.

- 20 HIS LORDSHIP: With a water hose in his hand?
 A: Yes, sir.
 Q: And did you point him out to Detective Hohn?
 A: Yes, sir.
 Q: And in the presence and hearing of the accused, did you make a report to Detective Hohn?
 A: Yes, sir.
 Q: That report related to what had happened to you the night before? A: Yes, sir.
 30 Q: You told him exactly what had happened?
 A: Yes, sir.
 Q: And the accused could hear? A: Yes, he heard.
 Q: Did the accused say anything?

In the Home
 Circuit Court

Prosecution
 Evidence

No. 2

Elsada Hall
 Examination
 29th February
 1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Examination

29th February
1968

(continued)

A: Yes, he said, "No, no, you must be a mad woman, for is the first I see you."

Q: Did he say anything else?

HIS LORDSHIP: Just a minute. He said, "No, no, you must be a mad woman, for it is the first I see you"? A: Yes, sir.

Q: Did he say anything else?

A: He looked at Detective Hohn and he said, "Officer, this girl tek me for the wrong person yah sah. Me sleep a me bed whole night."

10

Q: And did Detective Hohn then take him into custody? A: Yes, sir.

Q: Did you consent for the accused to have sexual intercourse with you? A: No, sir.

CROWN COUNSEL: Nothing further.

Cross-
examination

CROSS-EXAMINATION OF ELSADA HALL BY DEFENCE COUNSEL
MR. BROWN

Q: Lady, if you don't mind telling me, how old are you?

20

A: Well, I am nineteen at the moment - now nineteen plus.

Q: Were you nineteen last year April?

A: No, at the time I was eighteen but on the fourth of October last year I was nineteen years of age.

Q: And I take it that the 18th of April last year was your first blush of sex? A: No, sir.

HIS LORDSHIP: You said you were 18 years as of April last year. What you are being asked is whether the 18th of April, 1967, was your first blush of sex?

30

Q: The first time you were having sex?

A: I said no, sir.

In the Home
Circuit Court

Q: You were quite familiar with sex activities:
A: I was not very familiar because I only had sex
once before.

Prosecution
Evidence

Q: Only once before? A: Yes, sir.

Q: How long before? A: Well, it was over
two years.

No. 2

Elsada Hall

Q: When you were sixteen? A: Yes, sir.

Cross-
Examination

Q: Was that before you entered the faith of the
Salvation Army? A: Yes, sir.

29th February
1968

10 Q: When did you enter the faith of the Salvation
Army, at what age?

(continued)

A: Well, definitely I was a Christian long before.

Q: I am not talking about Christianity, I am
talking about the Salvation Army.

A: It was the fourth - the 16th of October, 1966.

Q: Enrolment? A: The 16th of October, 1966.

Q: Shortly after.....

HIS LORDSHIP: Just a minute.

Q: Shortly after your 18th birthday: A: Yes, sir.

20 Q: Now lady, this gentleman, Mr. Lyn, he was a
boarder at that house? A: Yes, sir.

Q: You got on quite well with him, didn't you?

A: Yes, sir.

Q: Up to the 19th of April at any rate?

A: Yes, sir.

HIS LORDSHIP: Since the 19th do you not get on
with Mr. Lyn? A: Well, unless I go up to visit.

HIS LORDSHIP: Do you still get on the same way?

A: Yes, sir.

30 Q: Do you see him often? A: No, sir.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
Examination

29th February
1968

(continued)

Q: When last have you seen, Mr. Lyn, the boarder? A: About November last year.

Q: Where? A: At his home at Coolshade Drive, 10 Coolshade Drive.

Q: You saw him.....

HIS LORDSHIP: You saw him about November last year at 10 Coolshade Drive? A: Yes, sir.

HIS LORDSHIP: Where you used to work? A: Yes, sir.

HIS LORDSHIP: You don't work there any more?
A: No, sir.

10

Q: When did you cease to work at 10 Coolshade Drive?

A: On the 25th of September last year.

Q: So you paid a visit? A: Yes, sir.

Q: In November? A: Yes, sir.

HIS LORDSHIP: She says she still visits there.

Q: So you paid a visit to the home? A: Yes, sir.

Q: At 10 Coolshade Drive in November of 1967, when you saw Mr. Lyn for the last time?
A: Yes, sir.

20

Q: Was that in the day or the night, lady?

A: In the day.

HIS LORDSHIP: This is then, you saw him when you visited there in November last year?

DEFENCE COUNSEL: And it was in the day time, M'Lord. Now, lady

Q: Now lady, see if you can remember the 19th of April last year. The people that you worked with, wife and husband, were they at home that day?

A: No, Mrs. Lue stayed home part of the day, but Mr. Lue went to work.

30

HIS LORDSHIP: The 19th of April last year.

In the Home
Circuit Court

Q: What about Mrs. Lue now, did she leave home?

Prosecution
Evidence

A: She didn't leave home because I came up back and find her.

Q: Mrs. Lue - listen to me carefully. You told us earlier on that you made a report to Mrs. Lue around 6.00 o'clock that morning, the 19th of April? A: Yes, sir.

No. 2
Elsada Hall

Cross-
Examination

10 Q: About what was supposed to have happened. Now did Mrs. Lue leave the house at any time after that during the day? A: No, sir.

29th February
1968

(continued)

HIS LORDSHIP: You said Mrs. Lue then was at home all day of the 19th? A: All day, sir.

Q: A while ago when you were answering me, didn't you say something about Mrs. Lue leaving part day, but Mr. Lue being at work the whole day? Didn't you say something like that?

20 A: I said she stayed a part of the day alone by herself there because I wasn't there. I said she stayed a part of the day.

Q: I heard you. Now Mr. Lyn, he was at home all day?

A: No, he went to work, but he came home early the evening, sir.

Q: I am not talking about evening. Let us concentrate on the 19th of April. What time did he come home on the 19th of April?

30 A: I definitely couldn't say the time because I came after it was - after 3.00 o'clock when I returned back from the doctor.

HIS LORDSHIP: You returned from the doctor after three? A: Yes, sir.

HIS LORDSHIP: You say you don't know what time Mr. Lyn got home? A: No, sir.

Q: But he was there when you got back at 3.00 p.m.? A: Yes, sir, he was there.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada. Hall

Cross-
Examination

29th February
1968

(continued)

HIS LORDSHIP: You said Mrs. Lue was alone at home for part of the day until you got back home?

Q: But she can't say that, M'Lord, with respect.

HIS LORDSHIP: She said she already said that to you.

Q: Lady, you don't know who and who was at home when you were away at the doctor?

A: Mr. Lue went to work.....

Q: I am asking you a question. You don't know what was happening at 10 Coolshade Drive while you were away at the doctor, you can't tell?

10

A: No, sir.

Q: You wouldn't know if Mrs. Lue went out to the shop whilst you were away, lady?

A: Just a minute, Mrs. Lue, she didn't go anywhere because she has to stay there with the baby, because I am in charge of the baby, and she didn't go anywhere at all.

Q: Lady, you never take out the baby walking yet?

20

HIS LORDSHIP: You say Mrs. Lue has to look at the baby, her baby? A: Yes, sir, it is her baby.

HIS LORDSHIP: You said you were then in charge of the baby? A: Yes, sir.

Q: The baby has a pram? A: Yes, sir.

Q: You ever take out the baby in the pram on the street? A: I always do.

Q: And I suppose the mother does that at times?

A: Yes, sir, sometimes she do, but just to the gate, because she goes to work every day; she is only at home on Sundays.

30

Q: Except on Sundays. Where does she work?
A: Cremo Ltd.

Q: And sometimes when she is at work you and Mr. Lyn are left at home alone? A: No, sir.

Q: Never? A: Of course not.

Q: Why of course not?

A: Because he has his own business place and he has to be there.

Q: Right, let us test that. On the 19th of April you came home at 3.00 p.m. and found him at home?

10 A: Yes, he came home from work.

Q: He wasn't at his business place at 3.00 p.m. that day? A: No, he wasn't.

Q: And other days he has come home early? A: Yes, sir.

Q: Isn't that so? A: Yes, sir.

HIS LORDSHIP: You say some days Mr. Lyn comes home early? A: Yes, sir.

Q: But those days Mr. and Mrs. Lue would be at work? A: Yes, sir.

20 Q: So, you will agree with me now that on those occasions both of you are at home a part from the baby? A: With explanation.

Q: Lady, answer my question.

A: I don't want to tell you something and you misunderstand me.

HIS LORDSHIP: Just a minute; give the witness a chance to reply.

30 Mr. Lyn will come home and get ready and go off to the show and he leaves me there, and it is not all the time he is there with me. I did not tell you he came in and there all the time with me. He comes in and he gets a bath and he dress and he goes to the show.

Q: But sometimes both of you are there alone, isn't that so? A: No.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

Q: While Mr. and Mrs. Lue are at work before he bathes and dresses and goes to the show?

A: On Sundays when everybody is at work, if he is not there he is gone up to Barbican with his girlfriend.

Q: Lady, I am talking about work days - I am not talking about Sundays - when he comes home early from work and Mr. and Mrs. Lue are still at work.

A: He goes out.

10

Q: Before he goes out, lady, before his bath to go out, isn't it you and he alone at home?

A: Yes, he is in his room, I am busy cooking the dinner.

Q: But the two of you are alone in the house?

A: Yes, sir.

Q: Now lady, you had any special reason why you went in Mr. Lyn's car on that evening?

A: No, sir.

Q: Where you went? You were driving all around from what you told us?

20

A: Yes, you see, because we go down - we didn't know whether the man was speaking the truth or not, so I went into the car. In other words, Mr. Lyn said come in the car, he told me to get in the car when I went and looked at the man. I stood up and looked at him. While I was looking Mr. Lyn came up and stopped right at my foot and he said come in the car and I went in.

30

Q: A very simple question I asked you lady, "Why....."

HIS LORDSHIP: I didn't hear that, I don't think the jury heard when you dropped your voice.

Q: Sorry, M'Lord. I asked you why you went into the car and you gave a long thing.

A: Well, I had to explain to you.

Q: And you still have not answered me.

CROWN COUNSEL: I think the witness has answered.
She said she went in because Mr. Lyn told her
to come in the car.

In the Home
Circuit Court

Prosecution
Evidence

Q: Has Mrs. Lue got a motorcar?

A: No, not of her own. Sometimes she drives Mr.
Lue's and sometimes she gets a car from Cremo.

No. 2

Elsada Hall

Cross-
examination

Q: Does she drive? A: Yes, sir.

Q: Did she have a vehicle there that day?

A: No, sir.

29th February
1968

(continued)

Q: You reported to Mrs. Lue in the morning what
had happened? A: Yes, sir.

Q: You didn't report to Mr. Lyn what had happened?

A: Yes, because everybody was in the house.

Q: No lady.....

HIS LORDSHIP: You said you reported.....

A:to Mr. and Mrs. Lue.

HIS LORDSHIP: Everybody was in the house?

A: Yes, sir, because I was crying and I was
speaking loud and Mr. Lyn came in and asked
what is the matter. That is how he got to
hear.

Q: But you are not employed to Mr. Lyn?

A: No, sir.

Q: Right. And you made your report to your
employers? A: Yes, sir.

Q: Not to Mr. Lyn? A: No, sir, he came in and
asked, and he was told.

Q: Just a minute. Now, when you saw the accused
on Fairfax Drive, wasn't Mrs. Lue at home?

A: Yes, sir.

HIS LORDSHIP: You left her at home when you went

10

20

30

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

down to Fairfax Drive?

A: Yes, sir, she was there.

Q: When you took your eyes on the back verandah and looked into Fairfax Drive and saw the three men, including the accused, was Mrs. Lue then inside your home?

A: No, she was at the gate with the baby.

Q: Where was Mr. Lyn at that time in relation to Mrs. Lue?

A: He was sitting right at the dining table, next door to the door where I was standing, right at the verandah. 10

Q: Why didn't you call to Mrs. Lue at the gate?

A: Because Mr. Lyn was the quicker one that I could call, because by the time Mrs. Lue leave the baby and come the man would gone.

HIS LORDSHIP: Mr. Lyn was closer to you?

A: Yes, sir.

Q: But lady, you told us earlier on that having spoken to Mr. Lyn when you were on the back verandah, you ran down Coolshade, on Avon Place into Fairfax? A: Yes, sir. 20

Q: So, you were the quicker, you got there before Mr. Lyn did so?

A: Excuse me, sir, I was at the back of the building and there is no road through the back of the building.

Q: Lady, you heard the question I asked you? Didn't you reach up to where the men were before Mr. Lyn reached there in his car? A: Yes, sir. 30

Q: So you were quicker than Mr. Lyn to get there? A: Yes, sir.

Q: Much obliged. What I am now suggesting to you, you see, lady, that the reason why you spoke to Mr. Lyn at that stage and not to Mrs.

Lue was because there was an intimate relationship existing between Mr. Lyn and yourself.

In the Home
Circuit Court

A: Of course not, sir, and because I am a Christian and I don't indulge in keeping boyfriends.

Prosecution
Evidence

CROWN COUNSEL: M'Lord, I hope that these suggestions will be supported by some evidence at a later stage.

No. 2

Elsada Hall

Cross-
examination

29th February
1968

10

HIS LORDSHIP: Do you propose calling evidence in this court?

DEFENCE COUNSEL: The authorities say if she denies it I have to accept her answer.

(continued)

HIS LORDSHIP: But you are putting these questions to her because you propose to support them, about the sexual relationship?

DEFENCE COUNSEL: She having denied it -

HIS LORDSHIP: I just want to know if you are going to support them?

20

DEFENCE COUNSEL: Yes, M'Lord. Now, do you know a Postman from Constant Spring Post Office by the name of Guy Brodie, the Postman that serves your area at Coolshade Drive? A: No, sir.

Q: The regular Postman who was serving that area in April last year, Guy Brodie?

A: I don't know him, sir. There are so many Postmen that came that I don't know which of them.

30

Q: You might not know his name. See if you can remember this. After this man was arrested, do you remember having a conversation with a Postman from Constant Spring Post Office about this case? A: No, sir.

HIS LORDSHIP: You say you don't remember, or are you saying you didn't have any conversation?

A: I didn't have it, Your Honour, sir.

Q: You don't recall saying to the Postman.....

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

A: Excuse me, sir.

Q: Just one minute. Listen to my question first. You don't recall saying to the Postman that you mek a mistake and you sorry, referring to having identified this fellow?

A: I couldn't recall what I did not say, sir.

Q: I just.....

A: What I didn't say.....

HIS LORDSHIP: She said she can't recall what she didn't say. 10

Q: What were you about to say when I stopped you?

A: You were asking me about - I was just going to tell you that I didn't have any conversation with any Postman because that is not my part of business.

Q: You never spoke to a Postman in your life?

A: I mean when they came.....

HIS LORDSHIP: You never had any conversation with any Postman about this matter?

A: Yes, sir, that is what I say. 20

HIS LORDSHIP: And you never told any of them that you made a mistake in relation to the accused?

A: No, Your Honour.

Q: But you agree though that when you made the report to Detective Hohn in the presence of the accused on the 19th of April last year, the accused said right away that is a mistake you are making?

HIS LORDSHIP: She is not saying she agrees to that, she is saying that is what happened. 30

A: That is what he said.

Q: That is what I am asking you. A: He said it.

Q: You agree? A: I don't agree that he didn't do it.

Q: I didn't ask you that.

HIS LORDSHIP: You said he said it wasn't him, but you don't agree it wasn't him? A: Yes, sir.

Q: Now, at what time on the 19th of April were you examined by Dr. Sanguinetti?

HIS LORDSHIP: What time of the day?

DEFENCE COUNSEL: What time of the day, by the clock?

10 A: I didn't look on the clock because I didn't notice if there was any clock in the doctor's office, but I would just say about 2.00 o'clock or maybe a little after.

Q: All right, lady.

HIS LORDSHIP: 2.00 o'clock in the day, 2.00 p.m.?

A: I was at the doctor's office about that time, but I didn't look around to see any clock, and I didn't have a watch on my hand.

20 Q: To assist you, you told us already that you got back home at around 3.00 o'clock and saw Mr. Lyn at home. A: Yes, sir.

Q: I accept that. But how long after you were examined that you got home?

A: Well, I said I got home about 3.00 o'clock. It was about 3.00 or a little after three when I got home, because I didn't look at any time.

Q: How long after you were examined did you reach home?

30 A: After I had the doctor's examination, we went in the car - Detective Hohn dropped me in the car and he went back to Constant Spring.

Q: I don't know where the examination took place.

A: In the doctor's office, sir.

Q: It took over a minute or what? All right, between 2.00 o'clock and 3.00 o'clock, you

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

In the Home
Circuit Court

—
Prosecution
Evidence
—

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

agree; between 2.00 o'clock and 3.00 o'clock?

A: I didn't say that, sir, I say I was examined about 2.00 o'clock.

Q: Much obliged, about 2.00 p.m. Now, lady, when you first saw the person who held you up that night at around 10.30 was the person taller than you?

HIS LORDSHIP: The man that came in and held you up, you are being asked whether he was taller than you.

10

A: I just guess his height when the Policemen asked me, but I didn't look to see whether he was taller or not, but I looked on everything else, because he was standing over me in the daylight and I was able to picture him.

Q: Lady, to assist you so that you don't have to guess when you first saw him, both of you were standing up, weren't you? A: Yes, sir.

Q: You said he stuck you up like this, face to face. Look at me, lady, please. Wasn't his face above your face so you have to kind of look up to him? The man looked just like me in height?

20

A: I wouldn't say he looked just like you. I was facing the man.

Q: In height? A: I cannot say, sir, I guess his height to the police.

Q: I don't want to know what you told the police, I want to know what you are telling me now.

A: I did not look whether he was taller or not than me.

30

Q: Was he shorter?

A: I didn't look down. Just as I am facing you, and I am sure if I stand in front of you....

HIS LORDSHIP: You said when he faced you, you were facing him? A: Yes, sir.

HIS LORDSHIP: And you didn't notice?

- A: I didn't look whether he was taller than I am or not, Your Honour. In the Home Circuit Court
- Q: Was he a very slim man: A: Not very slim, sir. Prosecution Evidence
- Q: He was fat? (No answer) That is not good enough for me, lady. I want you to give me a detailed description of the man. It is not good enough to point at this man because he is in court. I want you to describe accurately the man that you saw. No. 2
Elsada Hall
Cross-examination
- 10 A: I saw a very black man. The Police have a description. 29th February 1968
- Q: This description that you gave the police, give it to me now. (continued)
- A: Very black man; he has round face; his hair needed cut at the time.
- Q: What you mean by that? He looked like a Rasta?
- A: He was not looking like a Rasta. If I had my hair like that and if I was a man, I would try to brush off a little at the top.
- 20 HIS LORDSHIP: You said he needed a cut at the time as far as you see? A: Yes, sir.
- Q: But his hair was as long as yours, lady?
A: No, sir.
- Q: Look at mine.
- A: It was longer than that, sir, because I wouldn't say you wanted a trim.
- Q: I dont. Was the man's hair very high?
- A: Not very, very high, sir, but he needed a trim.
- 30 Q: According to your way of thinking. What else you noticed about him?
- A: He had on no shirt, sir.
- HIS LORDSHIP: A very black man; round face; hair needed a cut at the time; he had on no shirt; anything else? A: He had on a dark trousers.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

HIS LORDSHIP: Tell the court what you had told the Police.

A: He was wearing a dark trousers, one foot rolled up. I told them that his face was skinny because it wasn't fat. That part was not in the statement, sir, I just told them that his face was skinny.

A: Because it wasn't fat, that is what you just said. And what else? Did you tell the police anything else? 10

A: I am just telling you, sir, can you just give me a minute, thank you? He asked me his height, I told him I don't know, and he asked me to guess, because he was just about five feet nine and a half inches, because he was not such a tall man. Because he was not a tall man, I was just guessing then.

Q: About how tall are you, lady?

A: I definitely could not say, sir.

HIS LORDSHIP: Before you go on to that, is there anything else you gave as a description of this man? A: I don't remember, sir. 20

HIS LORDSHIP: You don't remember.

Q: Let me see if I can assist you then, lady. Did you mention anything about his footwear?

A: I said he was wearing a waterboots, a pair of waterboots.

Q: Long waterboots? A: A short waterboots.

Q: Catch him down to where:

A: Up to there. (demonstrating)

Q: Above the ankle? A: Just above the ankle. 30

Q: Then how far up was the pants foot rolled up; was it rolled up to his knee?

A: No, not as far as up to his knee, but a little below the knee.

Q: Now, when you first saw the accused on

Fairfax Drive, you were about how far from him, standing on your verandah? A: About two chains.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

Q: Was it the side of his face or the back of his head that you first saw?

A: The man was walking down the street and he was looking up like this (demonstrating) and then he goes on.....

10 Q: A simple question I asked you, lady? You heard my question? What part of his body you first saw, lady?

Q: I saw all - just right here, the whole of this point. (demonstrating)

HIS LORDSHIP: You mean from his hip up?

A: Because the people next door, they have the willow tree planted high at the hedge but I couldn't see his feet, but I saw from his wrist here come right up.

Q: Right up to how far? A: Right up to the top of his head.

Q: Did you first of all see the side of his face, the front of his face:

A: Yes, sir, because he was looking right over there, he was looking right over there.

Q: Looking right over to where you were standing?

A: Looking right over there, and that is the time I said, "Mr. Lyn, that is the man."

HIS LORDSHIP: Just a minute, and it was at that time you said, you said something to Mr. Lyn?

30 A: Yes, Your Honour.

Q: Then you ran around and got into Fairfax Drive? A: Yes, sir.

Q: So, you more or less, ran up to where the three men were? A: No, sir.

Q: By which time he was behind.....

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

A: Listen, I turned back, passed Mr. Lyn through the door and went around through the gate, while I am not living far from Avon Place....

HIS LORDSHIP: You had to go through the front gate because you couldn't go through the back?

A: Because there are other people's houses and there are no where.....

Q: I am not quarrelling.....

A: I am just explaining to you, sir.

Q: All I am asking you, lady, when you were approaching him where he was - you were running - you ran towards him? A: Yes, sir. 10

Q: And then the motorcar came up also, right up?

A: Excuse me, just a minute. I did not go straight facing the man, I turned back and I go through the front door and go through the gate, and then I turned down Coolshade Drive and on Avon Place and on Fairfax Drive.

Q: When you got on Fairfax Drive and then get up to where you can take your eyes at close quarter and see the man - 20

A: I ran right up and looked at him.

HIS LORDSHIP: You ran right up and looked in his face.

Q: Why you peeped in his face if you were so certain? A: To be well certain.

HIS LORDSHIP: Just a little louder, lift your voice. The jury must hear.

Q: I asked you why you went up and peeped in his face. A: I was certain of him. 30

Q: Why you go up and peeped in his face then, Lady? Why you had to go and look at his face if you are already certain of his face from two chains away.

A: I just go and look to be yet more certain.

Q: Did the accused have on pants with one foot rolled up when you saw him?

In the Home
Circuit Court

A: At this time when I went down Fairfax Drive?

Prosecution
Evidence

Q: That is the time I am asking about?

A: I would have to explain.....

No. 2

HIS LORDSHIP: When you saw him in Fairfax Drive, when you ran around and looked at him, did he have on trousers with the foot rolled up?

Elsada Hall

Cross-
examination

29th February
1968

10

A: He was wearing a dark pants at the moment, but the two feet were down.

(continued)

Q: Did he have on any waterboots when you saw him on Fairfax Drive?

A: No, sir, he was wearing a pair of brown shoes.

Q: He had on a shirt too? A: Yes, sir.

Q: What colour shirt?

A: He was wearing a Terrydene shirt more or less the colour of this wall up here.

Q: The top of the wall? A: Yes, sir.

Q: Now, try to remember this.

20

HIS LORDSHIP: Just a minute.

Q: Did he have on a hat or a cap? A: No, sir.

Q: Are you certain?

HIS LORDSHIP: He had on nothing on his head?

A: Nothing at all on his head.

Q: But the hair looked better than the man you saw the night? A: It was just the same, sir.

HIS LORDSHIP: His hair was just the same as the night before? A: Yes, sir.

30

Q: What I want to know, lady, is this, are you saying that the accused's hair looked just

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall
Cross-
examination
29th February
1968
(continued)

like the condition of the hair of the man that was with you the night before?

A: He was the same man, sir.

HIS LORDSHIP: The accused was the same man?

A: Yes, sir, and his hair was just the same.

Q: You said, lady, - you told us earlier on when My learned friend was examining you, that the accused asked you if you know him?

A: Yes, sir.

Q: And what was your answer to that?

10

A: It is all right.

Q: What in this dear world does that mean, lady?

A: Well, listen.....

HIS LORDSHIP: Just a minute.

Q: I want to know that.

HIS LORDSHIP: The question you are answering is, when the accused asked you if you knew him and you said it was all right, what did you mean.

A: I just say that because I did not want to tell him everything at the said moment because probably he would run away and I wouldn't get to catch him at all.

20

Q: But, lady, Mr. Lyn's car was right there.

A: He is not a policeman, him can't rush the man.

Q: Lady, I did not ask you any such thing, I asked you if Mr. Lyn's motor car wasn't there. Isn't it a M.G. motor car? A: No, sir.

Q: It is not a M.G.? A: It is a TR.

Q: How you spell that? A: It is a Triumph.

30

Q: You see, I don't drive expensive cars, you see. Now, lady, when you went up and looked in his face he never made any attempt to run?

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

A: No, sir, him just turned around and looked at me like this.

Q: He never looked frightened or anything like that? A: Of course he looked frightened, because he just see somebody come and peeped in his face like that.

Q: You would expect to be frightened if somebody just come and looked in your face like that? A: Eh?

10 Q: You would expect to be frightened if a person just come up and look in your face like that?

A: Definitely, when they know that they have something to be frightened about.

HIS LORDSHIP: You are not having a personal conversation with Mr. Brown; you must look this way and pitch your voice this way. Think of what Mr. Brown says and then give the answer to the jury loud enough. When you looked in his face was he frightened?

20 A: Yes, sir.

Q: So, did he look frightened or did he not look frightened? A: Pardon me, sir.

Q: Did he look frightened or did he not look frightened? A: Yes, sir, he looked frightened.

Q: Now, when Mr. Lyn spoke to him, Mr. Lyn asked him for his name and address, didn't he? A: Yes, sir.

Q: Did he still look frightened? A: Yes, sir, and.....

30 Q: One minute - and what?

A: He didn't give his name and address at the same moment because he was enquiring, "what is the matter, what you want my name for?"

Q: Quite right, you are entitled to do that. Did Mr. Lyn.....

HIS LORDSHIP: Just a minute - because he was enquiring what is the matter you say?

A: Yes, sir.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall
Cross-
examination

29th February
1968

(continued)

Q: Did Mr. Lyn tell him what is the matter?
A: No, sir.

Q: Mr. Lyn told him? A: He didn't say anything, he only asked him, "May I have your name and address?" Mr. Lyn just said, "I only want you to tell me your name and where you live."

Q: Right. So, he repeated the question, in other words, for his name and address?
A: Yes, sir.

HIS LORDSHIP: He said, "I only wanted to know your name and where you live." A: Yes, sir. 10

Q: And that was still on Fairfax Drive?

A: Yes, we was still on Fairfax Drive.

Q: And then the accused gave the name Eric James? A: Yes, sir.

Q: Is that correct? A: Yes, sir.

Q: Good. And he gave the address 181 Border Avenue, is that correct? A: Yes, sir.

Q: Good. Then you and Mr. Lyn drove away in search of 181 Border Avenue, is that correct? A: Yes, sir. 20

Q: And not only did you find 181 Border Avenue, but you also found the accused at 181 Border Avenue with a hose in his hand?

A: Yes, sir, that is where the policeman - that is when the policeman came.

HIS LORDSHIP: Yes.

Q: So, by the time the policeman comes and you come back to 181 Border Avenue you were then satisfied that the accused had told you the truth about his address 181 Border Avenue? A: Yes, sir. 30

Q: Because we have found him? A: Yes, sir.

Q: He didn't look like he was hiding when you went? A: When he looked and he saw the policeman he was frightened.

HIS LORDSHIP: At 181?

Q: You say when he saw the policeman he looked frightened? A: Yes, sir.

Q: Was the policeman in uniform? A: No, sir.

Q: You don't feel frightened when you see a policeman? A: If I.....

Q: You don't feel frightened when you see a policeman?

A: No, sir, because I have not done any act.

10 Q: And you then discovered later on that he also gave you his correct name, Eric James; it wasn't any false name he gave you?

A: Well, I don't know until now because I just understand that he is Eric James.

Q: In other words, the same name he gave you from the start is the same name he is called by?

A: Yes, sir.

Q: So, he didn't give any bogus name?

A: I don't know.

20 Q: You are saying here it is the same name?

A: Just the same name.

Q: And he gave you the correct address where to find him? A: Yes, sir.

Q: And tell me something, lady, after you left him at Fairfax Drive, didn't you speak to him again near to 181 Border Avenue, both you and Mr. Lyn? A: No, sir.

Q: Before you went to the police? A: No, sir.

Q: Try and remember.

30 A: We passed him on the way, because we turned back on Avon Place and we go back to the bottom of Coolshade Drive, and passing 181 coming up he was just a little above the gate and we just slow down and look and Mr. Lyn drove off, but we didn't say a single thing to him.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

Q: But you passed him about to go into the gate?

A: Up to the time we didn't go into the gate.

Q: The accused turned into his gate?

A: Id didn't see him when he turned into the gate.

HIS LORDSHIP: You said when you left the accused on Fairfax Drive, the car turned and you passed the accused on what Avenue? A: On Border Avenue.

HIS LORDSHIP: That is before you went for the police? 10

A: Yes, before I went for the police.

HIS LORDSHIP: Then you are on your way home to go for the police? A: Yes, sir.

Q: In other words, you checked on the number, having found the number you see him coming towards the number? A: Yes, sir.

Q: But you say that you don't stop and talk to him? A: No, sir.

Q: You didn't remember any time that day asking him if he is a married man? Try to remember that now. A: That day, sir? 20

Q: Do you remember asking the accused if he is a married man? A: What time, sir?

Q: Any time lady. A: No, sir.

HIS LORDSHIP: What is being put to you, lady, is that the car stopped when you came back upon him at Border Avenue and you spoke to him. You said you didn't speak to him. It is being put to you, did you ask him if he was a married man. 30

A: No, Your Honour.

Q: Did you at any time that day, lady, ask the accused if he is a married man? A: No, sir.

Q: You don't remember asking him if he has any

children? A: No, sir, I didnot, sir, I....

In the Home
Circuit Court

Q: So, you didn't ask him if he was a married man; you didn't ask him if he had any children? A: No, sir, I did not ask him anything apart from what I told you.

Prosecution
Evidence

Q: Do you remember him telling you that he was married? A: He didn't tell me.

No. 2
Elsada Hall

Q: But his wife was not living in Kingston with him:

Cross-
examination

29th February
1968

10 A: He didn't tell me that, sir, because I did not go into business to ask him questions.

(continued)

Q: I am asking you a simple question at this stage: did he when you asked him or not, did he tell you? A: No, sir.

HIS LORDSHIP: Tell her that what?

A: That he was married but his wife was not living in Town with him, she was living in the country.

HIS LORDSHIP: Oh, I see. That didn't happen?

20 A: No, Your Honour.

Q: And I am putting it to you that you also asked him how long he was married.

A: I did not, Your Honour.

Q: I am not Your Honour. A: I am sorry, I don't say so, sir.

Q: And that you went on to ask him how many children he has and he told you four.

A: Not me, sir, I did not.....

30 Q: Now, did you see a room entered at 181 Border Avenue by the Detective? A: Yes, sir.

Q: Did you go into that room along with him?

A: I stood right at the door; I did not enter.

HIS LORDSHIP: The Detective went into a room at 181 Border Avenue? A: Yes, sir.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

HIS LORDSHIP: And you stood at the door?

A: Right at the door, sir.

Q: Did you see a pair of pants on the bed?

A: The Detective came out with it in his hand.
I did not see it on the bed because they were
inside.

Q: The Detective came out with a pair of pants?

A: Yes, sir.

Q: What colour was it? A: A dark pants.

Q: What you call dark? A: Something like brown. 10

Q: Like your jacket here? A: I wouldn't say
this is dark.

Q: What is it? A: This is navy blue.

Q: You call brown dark?

A: Something next to brown; I wouldn't
definitely call brown dark.

Q: Is it a dark brown? A: Probably dark brown.

Q: You know colours? A: I don't know every
colour.

Q: You know brown shoe different from black? 20
A: Yes, sir.

Q: You know you have dark-brown polish?

A: That is not assisting me, sir, because I
can't understand what you are saying.

Q: All right, lady.

HIS LORDSHIP: You said Detective came out with a
pair of dark pants, maybe something next to
brown in colour?

DEFENCE COUNSEL: May I call it a dark brown, sir.

A: If you would like to, sir. 30

Q: Would I be correct? A: I don't know, sir.

Q: Well, I will call it that then. Did that look like an old pair of pants torn at the knees? See if you can remember that then.

A: I know it was not a new pair of pants, it was rather old, but I don't remember seeing any holes in it.

Q: You mean at the knees?

10 HIS LORDSHIP: You say you don't remember seeing any holes in it? A: No, Your Honour.

Q: You mean at the knees. Did you say anything about that pants to the Detective in the presence of the accused?

A: I looked at the pants and then there was one foot that was mashed up as if it was rolled up, and I said, "That is the pants."

Q: You looked at the pants?

HIS LORDSHIP: "I looked at the pants and there was one foot..."

20 A: Mashed up as though it was rolled up.

Q: Now, lady, you are quite sure that that is the pants that the person had on in the room when they had sex with you on the night of the 18th, quite sure?

30 A: Well, definitely, I looked at the pants and the way in which the pants shaped I must say it is the pants, because the pants was dark that he wore and the morning it was looking just the same, and one of the foot was rolled up and one foot of the pants from the knee right up was mashed up and the other knee was straight out.

Q: You identified it as the pants that the man had sex with you in that night? A: Yes, sir.

Q: And you are quite sure that that was the pants, is that so lady? I want it from your lips.

A: Well, definitely I have to say yes.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

HIS LORDSHIP: Just a minute.

Q: Are you as sure about the identity of the pants as you are about the face of the accused?

A: I have to say so, sir, because the police asked him where was the pants - "Which pants was the pants were you wearing all day?" and he said, "This one" sir.

HIS LORDSHIP: The accused said that he was wearing that pants all day the day before?

10

A: Yes, sir.

Q: And both by the appearance of the pants and by the answer of the accused to the policeman, you say that you are sure that this is the pants that the man had on? A: Yes, sir.

Q: So now, I ask you again, are you as sure about the pants as you are sure about the face of the accused?

A: The face of the man is different from the pants because the man - because the pants resembles the one he had on and he says that was the one, and you could see it had the same appearance, one foot rolled up and one foot down, because it was all mashed up you see.

20

Q: Lady, when you saw the man on Fairfax Drive you went and you looked in his face to make sure is him? A: I know it is him but to be more sure.

Q: And after you tek a look you say you sure? A: Yes, sir.

30

Q: When you looked at the pants in the Detective's hand you saw how one foot crumple up and then you heard what the accused said about the pants and that make you feel sure? A: Yes, sir.

Q: So, you agree with me then that you are just as sure about the identity of the pants as you are about the face?

A: Excuse me, sir, the man is different from

the pants, because I look at the man because I know him, and you can't compare the man with the pants.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

Q: You didn't look at the pants?

A: I looked at the pants, and he said he wear the pants all day, one foot rolled up and one foot down and I found the pants in the same position, but I am definitely sure the accused is the man.

10 HIS LORDSHIP: You say you are sure the accused is the man? A: Yes, Your Honour.

Q: Lady, you didn't take a good look on the pants?

A: I was in darkness, I couldn't make it out in the dark. I could only see a glare of the light when I looked at him outside. I know he was in a dark pants.

Q: You don't get a light coming from the Fairfax Drive into your room? A: Yes, sir, a light coming from there.

20 Q: And by that light you can see a face - f - a - c - e?

A: If it is white picture, but if you are brown I could not see much of you.

Q: And if you are black you can't see it at all?

HIS LORDSHIP: If it is a white person you could see the face better than if it is a brown person?

A: If a brown person or a dark you couldn't picture the difference one from the other.

30 HIS LORDSHIP: If a white person is in the room, is in your room..... A: Yes, sir.

HIS LORDSHIP: You can see that person's face better? A: Yes, Your Honour.

HIS LORDSHIP: But if a brown or dark person.....

A: That is at night, sir.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

Q: Didn't you.....

HIS LORDSHIP: What you were asked at the beginning was whether when this man was having sexual intercourse with you you saw his face?

A: Yes, Your Honour, I looked in his face but I couldn't definitely know the man. If I had only had that look and I didn't see him in the morning I wouldn't know the man at all.

HIS LORDSHIP: You looked in his face when he was having sexual intercourse with you, but what? 10

A: But I did not picture it as plainly as I did in the morning.

Q: But with face to face, and he was having sex with you? A: Yes, sir.

Q: His face was resting against your face?
A: Yes, sir.

Q: Kissing you? A: His face wasn't down on mine.

Q: Where was it? A: He held away his face.

Q: So he could see you better? A: He didn't tell me that. 20

HIS LORDSHIP: His face wasn't resting on yours when you were having intercourse, his face was held up above yours? A: Yes, sir.

Q: So he was able to see you better? A: He didn't tell me that, sir.

Q: You were then in a better position to make out his face?

A: If it was only the look at night I would not have any claim, I would just have to go about and make a statement to the police and nothing else, but I am sure of seeing him in the morning. 30

Q: Now lady, you scratch him or anything like that? You didn't try to resist him in any shape or form?

A: No, sir, I couldn't because the knife was right at my neck.

In the Home
Circuit Court

—
Prosecution
Evidence
—

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

Q: And it went on for half an hour, lady?

A: I didn't say half an hour, I said about half an hour. I didn't have a watch.

Q: But it was a long time though? A: Yes, sir, quite a long time.

Q: Did you enjoy.....

HIS LORDSHIP: Br. Brown, next question.

10

Q: Well, all right, Have you got any reason why you didn't try to bawl out seeing that he didn't have the revolver with him, it was aside on the table?

A: Yes, sir, the knife was right on my neck and that was the reason, because he rested it right on my neck.

HIS LORDSHIP: That was the reason why?

A: Why I didn't bawl out, sir.

Q: Then, lady.....

HIS LORDSHIP: That is while he was having inter-course with you? A: Yes, sir.

20

Q: But the revolver was out of the way?

A: It was on the table.

Q: Your bedside table? A: Yes, sir.

Q: You could see the revolver in the darkness?

A: Yes, sir.

Q: But you couldn't see his face in the darkness?

A: I saw the revolver from outside.

Q: It was a white handle revolver? A: No, sir.

Q: Dark handle? A: The revolver was all dark.

30

Q: Then how you see it and it is only white things you can see in that room?

A: Outside was much clearer and I saw it from outside.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

Q: No, lady, get my question quite clear. You have told us you saw him put down the revolver on the bedside table that is in your room; it is a dark revolver.....

A: And he didn't take it up after.

Q: One minute, lady, not so fast. How you see a dark object in your room but can't see a dark face in your room? Explain that to me.

CROWN COUNSEL: M'Lord, the witness has not said she can't see a dark face. She says she can see a face but she can't distinguish one from the other. I think the shorthand writer read that out to you. 10

HIS LORDSHIP: Yes.

Q: Anyhow, lady, the whole time that he, the person, was having sex with you, the person never took off the pants at all.

A: No, him never tek it off, sir.

HIS LORDSHIP: She already said that he used the left hand to take off the pants. 20

A: Zip down the pants.

DEFENCE COUNSEL: No, M'Lord, she is correcting you now, M'Lord, with respect. I am not talking about her pants you know, M'Lord. He pulled the zip with his left hand, took out his penis in his left hand?

HIS LORDSHIP: Just a minute. "Before he left he held the revolver and the knife in his right hand and used his other hand to put on his waterboots." I am sorry, that is the bit of evidence I had in mind. 30

Q: Much obliged. So, lady, the whole point is this, the only thing he took off was his waterboots? A: Yes, sir.

Q: And he comes into bed? A: Yes, sir.

Q: He uses his left hand to pull the zip; uses his left hand to take out his penis; uses

his left hand to insert the penis into your vagina; then he stays there for over half an hour with both of you lying in the middle of the bed or the end of the bed?

A: In the middle of the bed.

Q: But that time your half-slip was not resting beneath any part of your bottom?

A: A part of it come down.

Q: The back part? A: Yes, sir.

10 Q: But the front part was up to your breast?

A: He drew up everything, but my lying down on the bed, a part of it come down.

Q: Only the back part then? A: Yes, sir.

Q: What kind of dress you had on, a straight dress..... A: Yes, sir.

Q:or a blouse and skirt?

A: A straight dress.

Q: Now, lady, so.....

20 HIS LORDSHIP: Just a minute. You said he drew up everything but by lying down a part of it came in the area of your buttocks? A: Yes, sir.

Q: Do you remember seeing whether he had on - the person had on an underpants beneath his pants?

A: He never tek off his trousers for me to see his underpants.

Q: So, in other words, you didn't actually see his pants front?

30 A: He zipped it down like this, sir.
(Demonstrating)

Q: But you didn't see the opening then, put in that way?

A: Why not, sir? The zip is shine, sir. I definitely see it.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall
Cross-examin-
ation
29th February
1968
(continued)

Q: All that I am asking you, when he pulls down the zip, did you actually see when the zip open, when the pants front open to see what was behind? A: I never see what was behind.

Q: So you don't know whether he had on a pair of underpants? A: No, sir.

Q: One thing you are certain of is that the person had sex with the pants on? A: Yes, sir.

Q: And would you be able to say whether the person had emission? You know what I mean? 10

A: No, sir.

Q: Whether the man discharged? A: Yes, sir.

HIS LORDSHIP: What is the answer?

DEFENCE COUNSEL: She said, yes.

HIS LORDSHIP: You mean he discharged in you?

A: Yes, sir.

Q: And you say he wiped off his penis on the sheet? A: Yes, sir.

Q: Does anybody else use your bed, lady, and your linen beside you? A: No, sir. 20

Q: And did you have any sexual relationship with any other men during that week?

A: Of course not, and I told you I had sex over two years ago, sir.

Q: It is my job to ask you.

A: But if I told you you must remember, sir.

Q: It is my job. A: How can you ask me a question twice?

Q: I can ask you ten times till the Judge tells me..... A: Well, no, sir, no sir. 30

Q: That is how we do things here.

HIS LORDSHIP: You say - what is the question you asked, Mr. Brown?

DEFENCE COUNSEL: If she had sexual intercourse with any other man.

HIS LORDSHIP: During that week?

DEFENCE COUNSEL: During that week, in that bed. Now, lady, just one last thing before we go to lunch.

HIS LORDSHIP: Just a minute.

10 Q: You say that the gentleman, the accused finished, take his left hand, put on his waterboots, goes, tells you if you shout or tell anybody he will come back and shoot you or kill you or something like that; and he goes outside, he shuts your door behind?
A: Yes, sir.

Q: But he has on the waterboots? A: Yes, sir.

Q: Waterboots don't make plenty noise when you are walking? A: Of course, sir.

Q: Does it? A: Yes, sir.

Q: The short one? A: Both long and short.

20 Q: Leave out the long.

HIS LORDSHIP: The question is if those waterboots that night.....

A: The one he had on make noise, but I don't know about the rest that other people have.

Q: The short waterboots make noise?

A: Yes, sir, because I heard it.

HIS LORDSHIP: Make a noise when you walk in it?
A: Yes, sir.

30 Q: And you locked the door after he shut it?
A: Yes, sir.

Q: So, you are safe inside now, right? He is outside, you lock your door, you are safe inside now.

A: I don't know whether I was safe or not.

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 2

Elsada Hall

Cross-
examination

29th February
1968

(continued)

Q: In other words, you locked him out then,
isn't that correct? A: Yes, sir.

Q: Why didn't you give the alarm then?

A: Because I was still afraid and frightened of
what took place right during the night and
having the man keeping beat duty over me from
ten until five.

Q: Lady, lady, he was keeping beat duty?

A: Is only policeman I know because when my
brother goes on a

10

Q: Policeman don't fall asleep on the job?
A: I don't know.

Q: You say him shut him eyes and fall asleep?

A: Sometimes when I look up - I hang down my
head like that, because he says I must not
look at him. Sometimes when I hang down my
head and sometimes I look up at him and some-
times they are closed and sometimes I fell
asleep.

Q: And sometimes you fell asleep too? A: I
never sleep all night.

20

Q: What were you waiting for? A: To see if
he was playing a trick.

Q: Seriously, that man fall asleep?

A: Couldn't you ask him for me what he was waiting
there for? Q: I don't know the man.

HIS LORDSHIP: She can't tell you what he was
waiting for, she has not got his mind.

DEFENCE COUNSEL: Not him, M'Lord, I am asking
the witness M'Lord, Lady, why didn't you when
him sleeping try to go out? A: Me, sir, no.

30

Q: You. A: No, no, because although his
eyes were closed sometimes the revolver and
the knife is still pointing like that.
Listen, I did not say he had his head up in
the air, his head was just like this.
(demonstrating). He stood up just like this,

his head was steady. Sometimes I looked at him like this. (demonstrating)

In the Home
Circuit Court

Q: Even when he is sleeping he still has it pointed at you? A: Just the same.

Prosecution
Evidence

Q: And you still stayed when he was sleeping?

No. 2

A: I don't know if he was sleeping or he was trying to play a trick.

Elsada Hall

Q: He never tried to have sex with you for the whole six hours? A: He stood up there.

Cross-
examination

29th February
1968

10 Q: Lady, tell me one thing.....

(continued)

HIS LORDSHIP: Just a minute.

Q: Are you seriously telling this court that the same man who switched off your light quick, quick to prevent you from seeing him face stayed there on beat duty, according to you, until daylight so you can see him face good, good?

20 A: Yes, sir, because it appears that man was drinking some rum because his mouth smell like green bush and rum, when you burn green bush, and it smell of rum, because I told the policeman that.

Q: You drink rum?

HIS LORDSHIP: Just a minute.

CROWN COUNSEL: M'Lord, it is well after 1.00 o'clock now. I wonder if this is an appropriate time now.

HIS LORDSHIP: Mouth smell of rum and also like when you burn green bush? A: Yes, sir.

30 HIS LORDSHIP: Mr. Brown, this may be a convenient spot. We return at ten past two by this clock.

LUNCHEON ADJOURNMENT

1.08 p.m.

In the Home
Circuit Court

Prosecution
Evidence

No. 3

Noel Clinton
March
Examination

ON RESUMPTION

2.20 p.m.

CROWN COUNSEL: M'Lord, the cross-examination of the complainant has not yet ended, but Dr. March is present in Court and my learned friend has agreed, with your Lordship's permission to have Dr. March's evidence now.

NO. 3

NOEL CLINTON MARCH

EXAMINATION OF DR. MARCH BY CROWN COUNSEL,
MR. FORTE 2.21 p.m.

10

Q: What is your full name, Doctor?

A: Noel Clinton March.

Q: Doctor, are you the Government Pathologist in charge of the Government Forensic Laboratory?

A: Yes.

Q: Doctor, on the 20th of April last year, did you receive certain sealed envelopes and parcels from Detective Acting Corporal Hohn?

A: Yes.

Q: Doctor, did you examine the contents of those envelopes and parcels?

20

HIS LORDSHIP: Just a minute. On the 20th of April, 1967 you received eight sealed envelopes and parcels? A: Yes, sir.

Q: Did you receive a sealed envelope marked "A"?

A: Yes. Am I permitted to refer to my notes?

HIS LORDSHIP: Yes. Any objection, Mr. Brown?

DEFENCE COUNSEL: No, M'Lord.

Q: Did you receive a sealed envelope marked "A"?
A: Yes.

30

Q: What did it contain?

A: It contained a vaginal swab taken from Elsada Hall and vaginal smears from the same person. The swab was examined and found to have traces of human blood and semen and

spermatozoa. The smears were examined and found to have a few red blood cells, some pus cells and spermatozoa.

In the Home
Circuit Court

Prosecution
Evidence

No. 3

Noel Clinton
March

Examination
(continued)

Q: Doctor, for the benefit of the Court, can you say what a swab is?

A: A swab is a piece of cotton wool put on to a holder, most likely a bit of wire or a bit of wood. This is used to obtain specimens from any part of the body which is available to the external.

10

Q: And a smear?

A: Smears are the same swabs smeared on to glass slides and those slides are taken - special type of stains - and examined, for as a precaution you take both the swab and smear because the swab might dry before it reaches the laboratory, so the doctor does the smear to make sure.

20

Q: Did you receive, Doctor, a sealed envelope marked "B"?

A: Yes. It contained one multi-coloured floral sheet.

Q: Did you examine that sheet? A: Yes.

Q: Would you look at this sheet, Doctor? This is Exhibit 2.

(Sheet shown to Doctor)

Is that the sheet that you received in the sealed envelope, Doctor? A: Yes.

Q: That is the one you examined? A: Yes.

30

Q: Can you tell the Court what were your findings?

A: Blood was present in pale brown stains near the middle, human blood, this area is circled in blue pencil. Semen was also present near the middle and near to one end and spermatozoa was found. That is circled in red.

Q: The area to which you point now, Doctor, is

In the Home
Circuit Court

Prosecution
Evidence

No. 3

Noel Clinton
March

Examination
(continued)

that the middle? A: Yes, about the middle
of the sheet.

HIS LORDSHIP: Semen also found near the middle?

A: Yes, sir, and to one end, yes, sir.

HIS LORDSHIP: And to one end? A: Yes, sir.

Q: Would you show us, Doctor, what end?

A: A piece taken out there for examination
(demonstrating).

Q: Those holes, Doctor, that are now in the
sheet they were not there when you received
it? A: No, no, I took them out for
examination. 10

HIS LORDSHIP: You made the holes to get samples
for examination?

A: Yes, sir, the semen.....

HIS LORDSHIP: Doctor, before you go on what is
the relation of spermatozoa with the
ejaculation of a man say on his having
intercourse?

A: Most males over the age of thirty will produce 20
the male seed or semen or spermatozoa -
sorry, sir, the fluid in which the
spermatozoa lives, comes out with the
spermatozoa, is called semen.

HIS LORDSHIP: Spermatozoa lives in the semen.
When you found spermatozoa it must have come
from semen?

A: Yes, sir. We define both because sometimes
we don't find the spermatozoa but we get the
semen. 30

HIS LORDSHIP: So, there must have been semen....

A: to have the spermatozoa.

Q: And, of course, both must come from the male?

A: Yes.

Q: You wouldn't find the female having
spermatozoa or semen: Nor semen. The semen

from this sheet was grouped and found to be group O.

In the Home
Circuit Court

Q: Doctor, did you also receive a sealed envelope marked C? A: Yes.

Prosecution
Evidence

Q: What did that contain? A: One old pink striped floral spread.

No. 3

Q: Will you look, doctor, at this spread? This is exhibit 1 M¹Lord. Is that the spread that you got in the sealed envelope, doctor? (Spread shown to doctor). A: Yes.

Noel Clinton
March

Examination
(continued)

10

HIS LORDSHIP: That is exhibit?

CROWN COUNSEL: 1 M¹Lord. And did you examine that sheet? A: Yes.

Q: Can you tell the Court your findings?
A: Blood was present in serosanguineous stains, that is, very diluted blood almost yellow brown on areas marked here in blue pencil. Semen was present near the middle and spermatozoa was found over that area marked with red pencil.

20

Q: That is the area marked in red? A: Yes.

HIS LORDSHIP: Semen was present near the middle.
A: And spermatozoa was also present in the semen. The semen was of group O.

Q: Doctor, before we go on, can you just show us where these blood stains were found?
A: That is one large area there, you see these stains there, and little patches and another here near this end (demonstrating).

30

Q: That is right at the end? A: Yes.

HIS LORDSHIP: What was found there? A: Blood sir.

HIS LORDSHIP: And one was to the corner of the spread? A: Yes, sir.

Q: Did you also receive a sealed envelope marked D? A: Yes.

Q: What did that contain? A: It contained a

In the Home
Circuit Court

Prosecution
Evidence

No. 3

Noel Clinton
March

Examination
(continued)

pair of white panties.

Q: Is this that pair of panties? That is
exhibit 3 M'Lord. A: Yes.

Q: Is that the panties you examined doctor?

A: Yes, semen was present on the crutch.

HIS LORDSHIP: That is exhibit?

CROWN COUNSEL: 3. A: And spermatozoa was found.
No blood was found, no blood was detected.

HIS LORDSHIP: Spermatozoa was found in that
semen? A: Yes, sir. No blood was
detected, sir. It is the area surrounded by
red. 10

Q: Did you also receive a sealed envelope
marked E? A: Yes, containing one pink
half-slip.

Q: Will you look at this half-slip, doctor?
(Half-slip shown to doctor). A: Yes.

HIS LORDSHIP: That is exhibit?

CROWN COUNSEL: 4 M'Lord. That is, doctor, the
slip that you examined? A: Yes. 20

Q: Can you tell the Court your finding? A: Blood
was present in serosanguineous stains and
pale brown stains on the lower back and front.
They are all circled in blue pencil.

HIS LORDSHIP: Lower back and front, that is the
area in blue pencil? A: In blue pencil.

Q: That is human blood? A: Human blood, yes,
and semen was present in the lower left back
and front which is there marked with red
pencil. This semen was group O. 30

HIS LORDSHIP: In the area in red pencil?
A: Yes, sir, group O.

HIS LORDSHIP: And the semen was group O? A: Yes,
sir, and spermatozoa was found.

HIS LORDSHIP: In the semen? A: Yes, sir.

Q: Doctor, did you also receive a parcel marked F? A: Yes, containing a pair of dirty old brown trousers.

In the Home
Circuit Court

Q: Are those the trousers? (Trousers shown).

Prosecution
Evidence

A: Yes. Neither blood nor semen was found.

No. 3

Q: You examined it? A: Yes, neither blood nor semen was found on it.

Noel Clinton
March

CROSS-EXAMINATION OF DR. MARCH BY DEFENCE COUNSEL
MR. BROWN:

Examination
(continued)

10 Q: Doctor, did you also receive a sealed envelope marked G? A: Yes.

Cross-
examination

Q: Containing? A: A pair of cream underpants.

HIS LORDSHIP: Just a minute. A: I examined it and found neither blood nor semen.

Q: And you also received an envelope marked H? A: Yes, containing a pair of dirty grey underpants torn in the middle of the front.

Q: On examination? A: Examination revealed neither blood nor semen.

20 Q: In other words, doctor, on the three male garments that you examined you found no trace of semen nor blood? A: That is right,

Q: Now, doctor, in respect of the panties you have not mentioned any grouping. Was it insufficient for grouping? A: Yes, it was insufficient.

Q: The semen present on the crutch was insufficient for grouping? A: Yes.

Q: Am I correct in saying, doctor, that the seminal fluid, semen, is grouped in like fashion as blood is grouped? A: Yes.

HIS LORDSHIP: Just a minute. Doctor, what you say was insufficient for grouping? A: The semen on the crutch of the white pantie in my exhibit here, D, sir.

HIS LORDSHIP: Eh? A: D.

In the Home
Circuit Court

Prosecution
Evidence

No. 3

Noel Clinton
March

Cross-
examination

29th February
1968

(continued)

HIS LORDSHIP: Oh, I see.

Q: Likewise, from the vaginal swab, the envelope marked A? A: Yes.

Q: This was not sufficient? A: For grouping of the semen.

Q: But the floral sheet, the floral spread and portions of the half-slip, back and front, all had traces of group O semen? A: They had group O semen, yes.

Q: But, doctor, you have not been afforded the opportunity to ascertain the seminal grouping of the accused? A: No.

10

HIS LORDSHIP: In other words, you don't know the grouping of the accused? A: No, sir.

Q: One last thing, doctor, the spermatozoa, unlike the semen, cannot be grouped? A: No.

Q: The seed cannot be grouped? A: No.

HIS LORDSHIP: Is it semen that is grouped?
A: Yes, sir, it is semen that is grouped.

Q: But you can carry out scientific tests to determine the age of spermatozoa found?
A: Yes, sir.

20

HIS LORDSHIP: In other words, the age of spermatozoa can be ascertained by experiments?
A: Yes, but it is subject to so many other things, the presence of bacteria, exposure and so on. They age pretty rapidly and break up.

Q: After about three days existence they fragment, they tend to fragment.

HIS LORDSHIP: After about three days.... A: They tend to fragment.

30

Q: Now, do your notes assist you in determining the age, approximate age of spermatozoa found? A: No, we never attempt to. Most of the garments we get are generally very much soiled. It is for purposes of laboratory experiments if they are voided in your presence. In clean dressers we can

follow the age through them but when they are on garments which are soiled they do disintegrate at different rates depending on the amount of contamination there is.

In the Home
Circuit Court

Prosecution
Evidence

No. 3

Noel Clinton
March

Cross-
examination

29th February
1968

(continued)

HIS LORDSHIP: So, what you are saying doctor, is that you never attempt to ascertain the age of spermatozoa because they disintegrate according to the amount of.....

10 A: It is really an experimental thing. If you can collect them in a sterile jar and keep them at body temperature and you follow them through and see the breakdown, but with contamination they break down very rapidly.

Q: So, put it this way, doctor, you are not able to assist us as to how long before your examination of those garments the spermatozoa got on those garments? A: No, I can't.

Q: Could they have been up to a week before?

A: Could have been.

20 HIS LORDSHIP: In other words, you cannot say when the spermatozoa got on the articles then? A: No, sir.

Q: It could have been up to a week before? A: It could have been.

HIS LORDSHIP: Up to one week before examination? A: Yes, sir.

Q: The only thing that you can say with complete accuracy is the person whose seminal fluid it was is of what grouping? A: Yes.

30 HIS LORDSHIP: And it is a man.

Q: Is only men have it. But O group semen is not an unusual type? A: No, there are over 50% of O group people in Jamaica.

Q: So, it is possible that this O group semen on the three garments examined could have come from different men who coincide with the same grouping? A: Yes, sir.

Q: Much obliged.

In the Home
Circuit Court

RE-EXAMINATION of DR. MARCH BY CROWN COUNSEL,
MR. FORTE:

Prosecution
Evidence

No. 3

Noel Clinton
March

Re-examination

29th February
1968

Q: Dr. you told us before that you received these envelopes on the 20th of April?
A: Yes.

Q: Were the garments examined on that same day?

A: They were examined on the same day for specimen to be taken.

HIS LORDSHIP: On the same day? A: Same day, sir.

Q: With the test done, did you come to your conclusion on that same day? A: Yes, the same day as we received them.

Q: You told my Friend that after three days existence the spermatozoa tend to fragment.

A: In ideal conditions, laboratory conditions, sir, that is to say, if you collect them in a sterile jar and keep them at the right temperature.

Q: Now, doctor, bearing in mind the garments you examined and the spermatozoa found, if they had got there on the night of the 18th of April, would you have expected to find them in the condition that you saw them on the 20th?

A: I am assuming that it was voided on the 18th.

Q: Yes, by void what do you mean? A: Supposed to have been soiled.

Q: Put on the garment on the 18th? A: Yes, sir. No, I wouldn't expect the same condition in the sperms.

HIS LORDSHIP: You wouldn't expect the same condition in the sperms on the 20th? A: If I got them on the 18th, if I examined them on the 18th.

Q: That is not the question. I thought we might have misunderstood each other. If the spermatozoa came on the garment on the night of the 18th, would you have expected to find

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20

30

them in the condition that you found them on the 20th? A: Yes.

In the Home
Circuit Court

Q: So, it was possible from your examination.....

Prosecution
Evidence

A:that they were voided on the 18th, yes.

Q: And, doctor, you told my friend.....

No. 3

HIS LORDSHIP: It is possible that the spermatozoa got on the garments or voided as you say on the 18th? A: Yes, sir.

Noel Clinton
March

Re-examination

29th February
1968

10

Q: And, doctor, I think you said the less sterile the garments the more rapidly it would disintegrate? A: Yes.

(continued)

Q: So then, would it be more likely, doctor, that what you found must have been voided within two days rather than a week as My Friend put to you? A: With the exception of the panties. The other garments were reasonably clean. The slip and the sheet and covering were reasonably clean.

Q: Well, let us take the panties then, doctor.

20

HIS LORDSHIP: It seems to me that what Crown Counsel wants to ask you is whether the sperm got on the garments or were voided on the 18th than say a week before.

A: Speaking of the panties, yes, because the panties were really grubby and had a lot of secretion on it.

30

HIS LORDSHIP: So, it could have got there within two days. A: It is more than likely that it was there within a few days rather than several days. I would not say the same of the sheet.

HIS LORDSHIP: It is more likely that the spermatozoa got on the panties.....

A:within a few days rather than several days.

HIS LORDSHIP: Of your seeing them? A: Yes, sir.

Q: And, doctor, you say on a sterile garment they

In the Home
Circuit Court

Prosecution
Evidence

No. 3

Noel Clinton
March

Re-examination
29th February
1968

(continued)

fragment within three days? A: They start to go apart in a sterile atmosphere with the right temperature within three days.

Q: And, doctor, you were examining these garments two days after the 18th, is that right?

A: Two days after the supposed act, yes.

Q: Nothing further.

HIS LORDSHIP: You said you wouldn't say the same for the spread? A: The spread and the sheet, sir, they were much cleaner.

10

HIS LORDSHIP: That is in relation to disintegration? A: The rate of disintegration would be slower on the sheet and on the spread.

HIS LORDSHIP: Yes, I suppose you want to be released, doctor?

DEFENCE COUNSEL: M'Lord, before you release the doctor, I was served this morning, with notice of additional evidence which indicates that Doctor Sanguinetti who gave the medical evidence in this case will not be brought back from Canada to give physical evidence here. Following upon the pattern used in this Court recently in this term and so as to save the doctor being brought back, I would seek leave of the Court, through My Friend, for the doctor to interpret just one term used by Dr. Sanguinetti in the deposition.

20

HIS LORDSHIP: You might have brought it up when you were cross-examining the doctor.....

30

DEFENCE COUNSEL: It would not have been proper, Your Lordship.....

HIS LORDSHIP:at the end of your cross-examination.

DEFENCE COUNSEL:as it did not arise.

HIS LORDSHIP: At the end of your cross-examination you could have done this.

DEFENCE COUNSEL: This concerns another witness, M'Lord, but it would save time bringing back

this doctor to interpret Dr.Sanguinetti's.....

HIS LORDSHIP: You are seeking the right to cross-examine the doctor?

DEFENCE COUNSEL: And to assist the Court, because I would be forced to make the application later on if I do not do it now.

HIS LORDSHIP: All I am saying is, why didn't you make it at the end of your cross-examination?

In the Home
Circuit Court

Prosecution
Evidence

No. 3

Noel Clinton
March

Re-examination

29th February
1968

(continued)

10

DEFENCE COUNSEL: It would not have been proper M'Lord.

HIS LORDSHIP: And what is the word in Dr. Sanguinetti's deposition?

DEFENCE COUNSEL: Dr. Sanguinetti says, "I examined Elzada Hall....."

HIS LORDSHIP: I am asking the word.

20

DEFENCE COUNSEL: "Negative", sir. When a doctor says his examination was negative, I would just like that interpreted by another medical practitioner before he goes as we won't have the benefit of any other expert.

HIS LORDSHIP: Doctor, Dr. Sanguinetti examined a particular person - he examined Elzada Hall on the 19th of April, 1967, and he said the physical examination was negative. A: Yes, sir.

HIS LORDSHIP: You are asked to interpret the word 'negative'.

30

A: It means that he found no signs of injury which could be attributable to signs of resistance by the complainant.

HIS LORDSHIP: No signs of injury.....

A: Injury.....

HIS LORDSHIP:that could be what?

A: Attributable to resistance made by the complainant.

In the Home
Circuit Court

Prosecution
Evidence

No. 3

Noel Clinton
March

Re-examination
29th February
1968

(continued)

DEFENCE COUNSEL: Patient or complainant?

A: I said complainant.

HIS LORDSHIP: Yes.

DEFENCE COUNSEL: Would that finding also negative
the existence of recent intercourse - would
that also negative the existence of recent
intercourse?

HIS LORDSHIP: That he found no signs of
resistance, would that negative.....

DEFENCE COUNSEL: Negative examination, would it
also indicate that when that term is used? 10

A: That he saw no signs of intercourse?

DEFENCE COUNSEL: Recent intercourse.

A: Well, it is difficult, if the person is
non-virginal and non-resisting for some reason
or the other, to find signs of recent
intercourse.

DEFENCE COUNSEL: Thank you, Doctor.

A: Except for a swab which can be of several
hours duration. 20

HIS LORDSHIP: You say it is very difficult if the
person is?

A: Is non-virginal or did not resist for one
reason or the other. One would rely on a
swab but that would be of several hours
duration.

DEFENCE COUNSEL: Regarding the swab, you rely on
the swab for what?

A: For signs of intercourse over the past several
hours, not immediately. 30

DEFENCE COUNSEL: Much obliged.

HIS LORDSHIP: Anything you want to ask him?

CROWN COUNSEL: Yes, M'Lord.

FURTHER QUESTIONS OF DR. MARCH BY CROWN COUNSEL,
MR. FORTE

In the Home
Circuit Court

Prosecution
Evidence

No. 3

Noel Clinton
March

Further
examination

29th February
1968

Q: So, Doctor, just following upon what you said, if on that swab semen and spermatozoa is found, would that indicate that sexual intercourse had taken place within hours as you say? A: Yes.

HIS LORDSHIP: If on the swab spermatozoa was found this indicates that intercourse may have taken place within? A: Within hours.

10

Q: Hours of the swab being taken? A: Yes.

Q: And if spermatozoa is found on a smear that is taken at the time of the examination would that also indicate that sexual intercourse had taken place within hours? A: Yes.

HIS LORDSHIP: A similar position is related to smears? A: To smear, because smears are taken from that swab.

HIS LORDSHIP: Yes.

20 CROWN COUNSEL: Nothing further.

HIS LORDSHIP: Well, I take it we can release the Doctor. You think you will need this Doctor back any time, Mr. Brown or Mr. Forte?

DEFENCE COUNSEL: He will not be needed.

CROWN COUNSEL: He will not be needed. M'Lord, may I have the indulgence of the Court and of Mr. Brown? There is a police officer whose evidence is very short and I don't think he will be cross-examined. He has a lecture to attend this afternoon.

30

HIS LORDSHIP: What is his name?

CROWN COUNSEL: He is Constable Gladstone Grant, he appears in the notes of additional evidence, very short.

HIS LORDSHIP: Yes.

In the Home
Circuit Court

NO. 4

GLADSTONE GRANT, SWORN, EXAMINED BY CROWN COUNSEL,
MR. FORTE, 3.00 p.m.

Prosecution
Evidence

No. 4

Gladstone Grant
Examination

29th February
1968

- Q: Is your name Gladstone Grant? A: Yes, sir.
- Q: And are you a Constable of Police? A: Yes, sir.
- Q: Stationed at Halfway Tree Police Station in the parish of St. Andrew? A: Yes, sir.
- Q: On the 7th of September last year, were you present in the Resident Magistrate's Court at Halfway Tree? A: Yes, sir. 10
- Q: And was a preliminary examination held by His Honour Mr. E. A. Zacca a Resident Magistrate for the parish of St. Andrew? A: Yes, sir.
- Q: And that preliminary enquiry concerned a charge of rape against this accused man, Eric James? A: Yes, sir.
- Q: Did you hear and see Dr. John Sanguinetti give his depositions? A: Yes, sir.
- Q: Were those depositions given on oath? A: It was on oath, sir. 20
- Q: And was the accused present? A: He was present.
- HIS LORDSHIP: And it was taken down in writing, was it? A: Yes, sir, by His Honour, Mr. Zacca.
- Q: Was it read over to Dr. Sanguinetti? A: Yes, sir.
- Q: Did he sign it? A: Yes, sir.
- Q: Did you see him sign it? A: I saw him sign it.
- Q: Was the accused represented by a lawyer? A: I don't remember, sir. 30
- Q: Was he given an opportunity to cross-examine Dr. Sanguinetti? A: He had an opportunity to cross-examine him.
- Q: Will you look at that deposition? Are those

the depositions of Dr. John Sanguinetti?
A: Yes, sir.

Q: Did you see there where he signed it?
A: Yes, sir.

HIS LORDSHIP: You said the accused was present throughout the evidence? A: Yes, M'Lord.

HIS LORDSHIP: Did he cross-examine the doctor?
A: I don't remember.

10 CROWN COUNSEL: M'Lord, normally I would tender the deposition through this witness, but I have to lay some other foundation before I make the application to Your Lordship. Could it be marked for the time being?

HIS LORDSHIP: Marked what?

CROWN COUNSEL: Six, M'Lord. M'Lord, may it be tendered on the condition that the other evidence is available because when he is gone I don't know how I will tender it.

20 HIS LORDSHIP: Mr. Forte, it seems to me that this witness could be told to come back in the morning after the evidence of the complainant is complete, so I do not know - maybe we will have to bring him back in the morning.

CROWN COUNSEL: Your Lordship pleases. M'Lord, with the permission of the Court could I call the Immigration Officer. This witness is in Court, M'Lord, and I would very much like to have him.

30 HIS LORDSHIP: You are through with this one? You wish to cross-examine?

DEFENCE COUNSEL: No, M'Lord.

NO. 5

OSBOURNE ROBINSON

OSBOURNE ROBINSON, SWORN, EXAMINED BY CROWN COUNSEL,
MR. FORTE 3.08 p.m.

Q: What is your name? A: Osbourne Robinson.

In the Home
Circuit Court

Prosecution
Evidence

No. 4

Gladstone Grant
Examination

29th February
1968

(continued)

No. 5

Osbourne
Robinson

Examination

In the Home
Circuit Court

Prosecution
Evidence

No. 5

Osbourne
Robinson

Examination
(continued)

Q: You are Acting Corporal of Police attached to the Immigration Branch at Church Street, Kingston? A: Yes, sir.

Q: On Wednesday the 27th of December last year, were you engaged on immigration duties at the Palisadoes Airport? A: Yes, sir.

Q: On that day, did you embark Dr. John Sanguinetti? A: Yes, sir.

Q: He left the Island of Jamaica by 'plane? A: Yes, sir.

10

HIS LORDSHIP: You say you embarked Dr. John Sanguinetti on? A: Flight 400.

HIS LORDSHIP: Bound for? A: Miami, sir.

Q: And did you see that 'plane leave? A: Yes, sir.

Q: To the best of your knowledge has Dr. Sanguinetti returned to the Island? A: No, sir.

Q: He has not returned? A: He has not returned to the Island.

20

Q: Nothing further.

DEFENCE COUNSEL: No cross-examination, M'Lord.

CROWN COUNSEL: Thank you

No. 6

Gladstone Grant
(Recalled)

Examination

NO. 6

GLADSTONE GRANT (Recalled)

GLADSTONE GRANT, RECALLED, FURTHER EXAMINATION BY CROWN COUNSEL, MR. FORTE 3.09.p.m.

HIS LORDSHIP: You are still on your oath.

Q: You said those are the depositions Dr. Sanguinetti signed? A: Yes, sir.

30

CROWN COUNSEL: M'Lord, I am applying for the depositions to be tendered and read on the basis of the evidence.

HIS LORDSHIP: Yes, just a minute. Yes.

CROWN COUNSEL: May they be tendered, M'Lord, and marked Exhibit 6.

HIS LORDSHIP: Exhibit 6, yes.

CROWN COUNSEL: It is very short; the Registrar will read them.

REGISTRAR: "The deponent, John Sanguinetti, on his oath says the following:-

10

"I am a registered medical practitioner and Medical Officer for St. Andrew. On the 19th April, 1967, I examined Elsada Hall. Physical examination was negative.

"Vaginal swab and smears were taken and handed to Detective Constable Hohn in a sealed envelope"

"Not cross-examined."

"This is signed: 'John Sanguinetti.'"

20

CROWN COUNSEL: M'Lord, may this witness be excused from further attendance?

HIS LORDSHIP: You don't need him any more, Mr. Brown?

DEFENCE COUNSEL: No, M'Lord.

NO. 7

ELSADA HALL (Recalled)

ELSADA HALL, RECALLED, CROSS-EXAMINATION CONTINUES BY DEFENCE COUNSEL, MR. BROWN

30

Q: Before the luncheon adjournment was taken you told me that the person's breath smelt like burnt green bush and rum. You drink rum?
A: No, sir.

Q: I can't hear you, lady. A: No, sir.

Q: You are familiar with the smell of rum?

In the Home
Circuit Court

Prosecution
Evidence

No. 6

Gladstone Grant
(Recalled)

29th February
1968

(continued)

No. 7

Elsada Hall
(Recalled)

Cross-
examination
(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 7

Elsada Hall
(Recalled)

Cross-
examination

29th February
1968

(continued)

A: Not familiar but I know the smell of rum.

HIS LORDSHIP: You say you are not familiar, but you know the smell of rum.

Q: White? A: Yes, sir.

Q: White rum or coloured rum? A: I don't know, sir.

Q: Which one you know the smell of, lady?

A: Just rum.

Q: You know white rum?

HIS LORDSHIP: You know the smell of rum, you can't say whether white or coloured?

10

A: Yes, sir.

Q: You never see what you smell - you never see what you smell whether it is white or coloured?

A: Well, I saw it.

A: Was it white, the one that you smell?

A: I don't know the difference.

Q: That was in darkness too.

HIS LORDSHIP: You say you don't know the difference of the smell of dark and white or coloured?

20

A: I don't know the difference because I am not accustomed to it, but going around and talking to people drinking rum and I smell them.

Q: But you don't take a taste too? A: No, sir.

Q: But on the 19th in the afternoon at about quarter to five, the 19th of April, you went right up and looked in the face of the accused?

HIS LORDSHIP: On the 19th when you saw him on Fairfax Drive? A: Yes, sir.

30

Q: You went right up and looked in his face?

A: I looked in his face, I looked in every where.

Q: But you didn't smell any rum?

A: I don't go up as near to him.

Q: You didn't smell any rum, lady? A: No, sir.

HIS LORDSHIP: You say you didn't go near to his face, and you didn't smell any rum.

Q: How near did you go to his face? A: About four yards.

Q: Point out four yards in this court.

A: Just about to the end of that, see that little step beside you. Just where your hand is, your hand is right there (demonstrating).

10

HIS LORDSHIP: From there to where?

A: To where I am standing.

Q: That is how far you were? A: I did not tell him that I turned and looked up in his face, I said I went and looked at him.

Q: At that far distance, lady? A: Yes.

HIS LORDSHIP: Just a minute. You say four yards is about from the bench and counsel there to where you are? A: Yes, sir.

20

Q: You didn't bite the person that assaulted you that night? A: Pardon me, sir?

Q: You didn't bite the person or scratch him? A: No, sir.

Q: Nor did you at any time at all bawl out or attempted to bawl out? A: No, sir.

Q: Did you hear of other rapes in your - similar acts in your area just around that time, that other girls had been raped?

A: Excuse me, sir, do I have.....

30

Q: I am not asking you - just answer my question. Did you hear about any other rapes in your area around that fortnight?

CROWN COUNSEL: M'Lord, if my friend can assure me it is relevant.

In the Home
Circuit Court

Prosecution
Evidence

No. 7

Elsada Hall
(Recalled)

Cross-
examination

29th February
1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 7

Elsada Hall
(Recalled)

Cross-
examination

29th February
1968

(continued)

DEFENCE COUNSEL: It is very relevant, M'Lord.

HIS LORDSHIP: What is the relevance of that in
proving or disproving anything in this case?

DEFENCE COUNSEL: I would have to tell you outside
the hearing of this witness, M'Lord, because
it is right within her area, a similar
pattern, and that person, that other person
was taken.....

HIS LORDSHIP: Mr. Brown, what facts are peculiar
with one case has nothing to do with this
case.

10

DEFENCE COUNSEL: I will put my question in a
different way. Lady, did you go back to the
Police Station after this man was arrested,
did you go to the Police Station when he was
taken to the Police Station?

A: Yes, I went up there, yes, sir.

Q: All right. Whilst you were there were you
aware that a man answering the description
that you gave to the police was arrested and
brought into that police station whilst you
were there for rape in your area? A: I
don't know of such.

20

Q: You don't know that? A: No, sir.

Q: You heard though - and he escaped from the
station whilst you were there?

A: I went into the side.....

HIS LORDSHIP: Just a minute. What is the
relevance of this, that a man was arrested for
rape in the area and brought in answering the
description of the one she gave?

30

DEFENCE COUNSEL: Yes, M'Lord, the man that she
described.

CROWN COUNSEL: I object. I don't understand 'the
man that she described'. She has said the
man that she described is the accused.

A: Of course I said that, sir, I beg your pardon.

DEFENCE COUNSEL: You don't interfere with this, this is lawyer and lawyer talking.

HIS LORDSHIP: Yes.

DEFENCE COUNSEL: Lady, don't worry with that, you are not a lawyer. Just answer my questions.

A: Yes.

DEFENCE COUNSEL: And only answer it after I have asked the question, not after, as you are not a mind reader. Now lady, listen to my question carefully. Didn't you tell me this morning that you gave a description to the police of the man who raped you? A: Yes, sir.

10

Q: Good. And am I correct in saying that it was after you gave that description to the police that you pointed out this accused as being the man? A: Yes, sir.

Q: And am I also correct in saying that whilst you were at the Constant Spring Police Station after this man was arrested and was at the Constant Spring Police Station another man was brought in?

20

HIS LORDSHIP: She has answered that already. She says she does not know anything about that.

A: I don't know, sir.

DEFENCE COUNSEL: Your Lordship indicated.....

A: Can I say something, sir? I came here about my business, what that man has done to me.

HIS LORDSHIP: That is enough, you are not asked anything.

30

DEFENCE COUNSEL: I am here about my business, defending that man you see. Lady, did a prisoner escape to your certain knowledge whilst you were still.....

HIS LORDSHIP: How can she answer that?

DEFENCE COUNSEL: She can answer that.

A: I was a domestic servant at the time and not

In the Home
Circuit Court

Prosecution
Evidence

No. 7

Elsada Hall
(Recalled)

Cross-
Examination

29th February
1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 7

Elsada Hall
(Recalled)

Cross-
examination

29th February
1968

(continued)

a policeman. I don't work at the police station.

HIS LORDSHIP: Mr. Brown, you are bringing evidence as to this?

DEFENCE COUNSEL: Yes, M'Lord, and it is a Crown witness too. I just want to know.....

A: I don't know of anyone escaping.

HIS LORDSHIP: You were not asked if you heard of this, you were asked, did a prisoner escape from the station.

10

A: I don't know, sir.

Q: Whilst you were there. You have no knowledge of that?

A: No knowledge. I was just in the C.I.D. Office and nowhere else.

Q: So you heard no excitement whilst you were there? A: No, sir.

Q: Now lady, the person who had sex with you is a left-hander, he uses his left hand to do most things?

20

HIS LORDSHIP: Do you know whether the person who had sex with you is a left or right-hander?

A: No.

Q: Lady, please look at me now.

A: Well, Your Honour asked me a question and I had was to look at him.

Q: His Lordship finish with you now. Would you pay me a little attention, if you don't mind. You remember telling us this morning that when the person who had sex with you was about to pull the zip of the front of his pants he put the knife in his right hand? A: Yes, sir.

30

Q: And used his left hand to pull his zip? A: Yes, sir.

Q: Do you remember telling us that he used his

left hand to take off his waterboots?
A: Yes, sir.

In the Home
Circuit Court

Q: You remember telling us that he used his left
hand to put on back his waterboots? A: Yes, sir.

Prosecution
Evidence

Q: Have you told us in all of your evidence of
anything that he uses his right hand to do
just to hold the knife?

No. 7

Elsada Hall
(Recalled)

HIS LORDSHIP: That is a matter for the jury,
Mr. Brown.

Cross-
examination

10 DEFENCE COUNSEL: I am asking her.

29th February
1968

HIS LORDSHIP: We are not going through all that.

(continued)

DEFENCE COUNSEL: M'Lord, please do allow me I
implore you. This is very vital to my case.

HIS LORDSHIP: You expect the witness to go through
all she said, what the accused did with his
right hand?

DEFENCE COUNSEL: She did not say anything about
the right hand.

20 HIS LORDSHIP: That is not a matter for you, that
is a matter for the jury. Proceed.

Q: Lady, am I not correct in saying that the only
thing that you told us for the whole of the day
that the man did the night with his right hand
was to hold the knife and revolver in his right
hand? A: Yes, I told you that.

Q: All the other things were done with his left
hand, isn't that so, lady? A: Yes, sir.

30 Q: When the person was speaking to you the night
from the time he stuck you up outside your
door, how did his speech sound?

A: Soft, because at first when he told me - when I
asked him what he wanted and he hold me around
my waist he was whispering at the time. He
said that.....

HIS LORDSHIP: He was what?

A: He was whispering.

In the Home
Circuit Court

Prosecution
Evidence

No. 7

Elsada Hall
(Recalled)

Cross-
examination

29th February
1968

(continued)

HIS LORDSHIP: He spoke softly to you when he stuck you up outside the door? A: Yes, Your Honour.

Q: But you could make out what he was saying quite easily? A: Yes, sir.

Q: He didn't stutter? A: No, sir.

Q: He didn't stammer? A: No, sir.

Q: When he was asking you for the money: "Give me all the money you", he didn't stammer?

A: No, sir, just the same like a mighty man. 10

Q: And you gave him all that you had, your three-pence? A: Yes, sir.

Q: Which he kindly returned to you? A: Yes, sir.

Q: And then you say that self-same person then demanded sex of you? A: Pardon me, sir?

Q: That self-same person after returning your three-pence to you demanded sex of you?
A: Yes, sir.

Q: At the point of a revolver and a knife?
A: Yes, sir. 20

Q: Is that so? A: Yes, sir.

Q: Now, lady, when entering the room you told us this morning that he went in front. Is that true? A: Yes, sir, he went in front.

Q: And you followed, is that true? A: Yes, sir.

Q: While that was happening, where was the knife? A: The knife was in his right hand.

Q: Yes, as far as you are concerned, where was the knife?

A: In his right hand pointing right here on my right breast. 30

Q: He was walking in front of you?

HIS LORDSHIP: Just a minute.

A: I said he went in before me.

Q: Just a minute, I want to get it now. Did he walk? Did he walk backways to go into your room? A: Sideways.

Q: He walked sideways? A: Yes, sir, because he had to hold me around my waist and he couldn't turn backways.

HIS LORDSHIP: He was then holding you around your waist? A: Yes.

In the Home
Circuit Court

Prosecution
Evidence

No. 7

Elsada Hall
(Recalled)

Cross-
examination

29th February
1968

(continued)

10 Q: Sideways this time? A: Yes.

Q: With which hand, left or right? A: Left hand.

Q: And he brings around the right hand with the knife to stick it in your breast while embracing you?

A: If I have permission I can demonstrate and take someone through a door just how that man did, you see, sir.

Q: It is a matter for His Lordship not for me.

A: He holds me around my waist.

20 Q: His hand comes around from his back?

A: I can do it on any person.

HIS LORDSHIP: Will you come down and demonstrate using one of the Police Officers.

(Witness demonstrates to the Court)

A: This is my right breast, my right breast is right here, sir.

Q: And you go right in the room like this?
A: Yes, sir.

30 Q: Lady, I put it to you that the very first time in your life you ever saw this accused was 4.45 p.m. on the 19th of April, 1967, on Fairfax Drive? A: No, sir.

Q: If that is not so when the accused asked you on Fairfax Drive, "When is the last time you

In the Home
Circuit Court

Prosecution
Evidence

No. 7

Elsada Hall
(Recalled)

Cross-
examination

29th February
1968

(continued)

saw me", why didn't you tell him, "Last night when you raped me off."?

A: No, sir, because if I have done so he would have ran away and the police would have great trouble to see him:

Q: How you know?

A: I have sense, lots of people run away.

Q: Sometimes you interfere with people's business? A: Gleaners is all around and every day I get newspaper to read.

10

Q: So, you know about other rape cases?

A: I have read them in the paper.

Q: You read about some in your area too?

A: Not that I know of, I don't remember.

HIS LORDSHIP: You didn't say, "Last night when you raped me" because he might run away.

Q: But when he asked that question, Mr. Lyn was there with his motorcar, his Triumph?

A: Yes, he was right there.

Q: And the truth of the matter is at no time from the time you go up and look in his face to the time he was taken to the police station under arrest ever attempt to run? A: No, sir, but he was looking scared.

20

Q: Because police is there, right?

Q: But how can he know? There was not a policeman. Mr. Lyn is an ordinary Chinese man.

Q: Is Mr. Hohn an ordinary Chinese man too?

A: Mr. Hohn was not there, he was at the police station, because after that I went to the police station to get him.

30

Q: Lady, I am talking at 181 Border Avenue where the accused was arrested after you said in his presence that he is the man that raped you, he didn't run?

A: He never run because the policeman held his hand. In the Home Circuit Court.

Q: You are not a mind reader. Did he run?

A: No.

Prosecution
Evidence

Q: Did he attempt to run? A: The policeman held his hand so he couldn't make any attempt to do so.

No. 7

HIS LORDSHIP: "At 181 Border Avenue Detective Hohn was there and I told him what happened..."

Elsada Hall
(Recalled)

Q: But when you were telling your story.....

Cross-
examination

10 HIS LORDSHIP: ".....the accused didn't attempt to run. Detective Hohn was holding his hand," is that it? A: Yes, sir.

29th February
1968

(continued)

Q: But, lady, that is not true. Lady, just one minute before you answer.

HIS LORDSHIP: Mr. Brown would you put the question, don't give the evidence.

Q: I am suggesting to you, lady, that when you were making the report to Detective Hohn in the presence of this accused, Detective Hohn was not holding his hand. A: Why not, sir?

20

HIS LORDSHIP: At the time you were making the report?

A: Yes, sir, as I went up and told Mr. Hohn about it, he held on to the man hand, Your Honour.

Q: After you make the report.....

HIS LORDSHIP: Just a minute, Mr. Brown.

DEFENCE COUNSEL: I want to get it, M'Lord.

HIS LORDSHIP: You say, "As I went up and told Detective Hohn about it, Detective Hohn held his hand"? A: Yes, Your Honour.

30

Q: You agree with me then, lady, that you told Detective Hohn about it first then he Detective Hohn held this man's hand?

A: As I was going up I said: "This is the man, Mr. Hohn?"

In the Home
Circuit Court

Prosecution
Evidence

No. 7

Elsada Hall
(Recalled)

Cross-
examination

29th February
1968

(continued)

Q: Lady, will you answer my question?

A: I told him before I reached to the man because the man was standing with a hose in his hand before the house.

Q: Watering his garden? A: The water was only really coming from the hose and he had the hose in his hand and as soon as he saw us coming up, I said: "That is the man, Mr.Hohn" because I was walking right in front of him, and as soon as he is going up he held on the man hand so the man couldn't make any attempt to run because both of them would be on a race.

10

Q: But the main point, lady, you never saw him making an attempt to run at any stage neither before or after arrest? A: No, sir.

Q: And I put it to you that the reason why you didn't tell this man when you last saw him - when you last saw the accused was because you didn't know him at all?

20

A: Excuse me, sir, you know why? I did not want to go and give the policeman trouble to find him when I know he has done me something that was wrong, and I want to catch him because I want to get my right from that.

Q: How kind of you.

A: I want then just to hold him right as I was there.

Q: And I also put it to you - (to the accused) please stand up, come out there. Sorry, M'Lord, I should have asked your permission. Take a look at his height, you see what a diminutive he is? Would you call him about five foot nine and a half by any stretch of the imagination? About what height would you call him? A: About five feet five.

30

DEFENCE COUNSEL: Much obliged. Please go back.

HIS LORDSHIP: By the accused standing in the open court room you would say he is about five feet five, is that it? A: Yes, sir.

40

Q: So, do you now agree with me, lady that that couldn't be the same man that you described to the police as five foot nine and a half that assaulted you? A: Can I explain it to you?

In the Home
Circuit Court

Prosecution
Evidence

No. 7

Elsada Hall
(Recalled)

Cross-
examination

29th February
1968

(continued)

HIS LORDSHIP: Answer him.

A: Yes, sir. Go ahead?

HIS LORDSHIP: Go ahead.

A: The same man; I said yes, he is the same man.

10

Q: A five foot nine and a half man? A: That is the one that I described as that.

Q: "I am describing now"?

A: Listen, sir, I did not tell the policeman that he is exactly five feet nine and a half. They asked me to guess his height, so, I couldn't say what he was.

Q: So you guess up instead of down? A: I just say that that is it.

20

Q: I put it to you that it is a tall man who had sex with you and you go and make them lock up this man.

A: Of course he did have sex with me or else - I didn't in fact, I didn't bring him here, he brought himself.

Q: So Detective Hohn didn't hold him at all when he arrested him? You say he brought himself here.

A: I didn't bring him here this morning.

30

Q: I put it to you, lady, that is not this man who had sex with you that night? A: He did, sir. Of course he did.

Q: And the person who had sex with you is a person with 'O' group semen and a tall person. A: That is the man, sir.

HIS LORDSHIP: Mr.?

DEFENCE COUNSEL: It is a part of the case, M'Lord.

In the Home
Circuit Court

Prosecution
Evidence

No. 7

Elsada Hall
(Recalled)

Cross-
examination

29th February
1968

(continued)

A tall man about five foot nine and a half?

A: About doesn't tell you.....

Q: Answer to my questions and don't worry to argue with me. A: Yes, sir.

Q: And that you were not sure of the identity of the person who had sex with you that night that is why you went and looked in the man's face and still you weren't certain, and up to now you are not certain.

A: Why couldn't I pick and choose a next man from out of those three men that were walking down the street? 10

Q: You want me to answer that question?

A: He was the man.

HIS LORDSHIP: Don't argue, just answer the questions.

Q: You came back to 181 Border Avenue along with the Detective? A: Yes, sir.

Q: In the same car? A: Not Mr. Lyn's car, in a car from the station. 20

Q: In which vehicle you came back to 181 Border Avenue? A: In a Detective car from the station.

HIS LORDSHIP: From the police station you went to 181 Border Avenue in a Detective's car?

A: In the police car because I left Mr. Lyn at the police station.

Q: And he came down to 181 Border Avenue afterwards? A: Yes, with another Detective in the car. 30

Q: Then when you saw this accused with the hose at 181 Border Avenue, you saw him had on any waterboots?

A: No, because you see, he just came in, it is not long ago.

Q: Why you give a long explanation?

A: No.

Q: Yes or no? A: No, sir.

Q: Why you preaching to me? A: He had on no waterboots.

Q: And you have never seen waterboots since then, short or long? A: Yes, I have seen men passing with long waterboots but not the short one.

10

Q: Not Coolshade Avenue? A: Not definitely Coolshade but further up in Havendale, Constant Spring, back that way to the gully.

Q: He called you a mad woman?

A: Yes, he said, "You must be mad."

Q: Because is the first time he saw you and he told the policeman that you were making a mistake when you said that?

A: He said, "This girl tek me for the wrong person."

20

Q: That is right. And I put it to you that is exactly the position, that you took him for the wrong person.

A: No, sir.

HIS LORDSHIP: Any questions?

CROWN COUNSEL: No re-examination, M'Lord.

30

HIS LORDSHIP: Thank you. Mr. Foreman and members of the jury, could you come back at 10.00 o'clock in the morning. In the meantime you will not discuss this case with any one nor amongst yourselves. Adjourn the Court until 10.00 o'clock.

In the Home
Circuit Court

Prosecution
Evidence

No. 7

Elsada Hall
(Recalled)

Cross-
examination

29th February
1968

(continued)

A D J O U R N M E N T

3.21 p.m.

In the Home
Circuit Court

R E G I N A v. ERIC JAMES: 1st March, 1968
(2nd day of trial)

Prosecution
Evidence

10.45 a.m. - COURT RESUME. JURY ROLL CALL
ANSWERED.

No. 8

NO. 8

Linda Lue

LINDA LUE

Examination

LINDA LUE, SWORN, EXAMINED BY CROWN COUNSEL:

1st March 1968

- Q: Is your name Linda Lue? A: Yes, sir.
- Q: You are Mrs. Lue? , A: Yes, sir.
- Q: Are you a housewife? A: Yes, sir. 10
- Q: And do you live at 10 Coolshade Avenue in the parish of St. Andrew? A: Yes.
- Q: Is it Coolshade Drive or Avenue?
- A: I really don't know. It used to be Avenue and they have changed the sign to Drive, but most of the papers are listed in Avenue.
- Q: And do you know, Mrs. Lue, a lady by the name of Elsada Hall? A: Yes.
- Q: On the 18th of April last year was she employed to you as a domestic servant? A: Yes. 20
- Q: Did she live, Mrs. Lue, in a room at the back of your premises? A: Yes.
- Q: Do you remember if Elsada was at home on the 18th of April last year? A: Yes, during the day.
- Q: And did she leave the home that afternoon? A: Yes.
- Q: About 6 o'clock? A: Yes.
- Q: After she left home, Mrs. Lue, did you see her again for that night at all? A: No. 30
- Q: And, Mrs. Lue, were you at home the following morning? A: Yes.

Q: Did you hear anything that early morning of the 19th? A: Yes, I heard a knock on the door.

In the Home
Circuit Court

Q: A knock on your door? A: Yes, the back door.

Prosecution
Evidence

Q: About what time was that? A: Maybe between 6.30 to 7.00

No. 8

Q: When you heard the knock on the door did you open the door? A: Yes, I did.

Linda Lue
Examination
1st March 1968

Q: Did you see any one? A: I saw Elsada.

(continued)

10 Q: When you saw Elsada did you notice anything about her at that time? A: She was crying.

Q: And did either of you speak? A: Yes, I asked her what happened.

Q: Did she answer you? A: Yes.

Q: What did she say?

DEFENCE COUNSEL: I object, M'Lord. This cannot be voluntary. The lady having invited an explanation, it does not issue freely from the lips of the complainant to make it a voluntary recent report.

20

HIS LORDSHIP: Are you through, Mr. Brown?

DEFENCE COUNSEL: Yes, M'Lord.

HIS LORDSHIP: Yes, Mr. Forte?

30 CROWN COUNSEL: M'Lord, my submission is that this was not an invitation to say anything in relation to the report that followed. This was an explanation as to why the girl was crying. Her question was as to why she was crying. It is my submission that this is not an invitation to say anything that had happened to her. She might be crying for something entirely unrelated to this case, but my friend is relating it to the case where a young girl might be asked by her mother, why are you bleeding from your vagina, then the girl might say something. This is a different thing. What in effect she is being

In the Home
Circuit Court

Prosecution
Evidence

No. 8

Linda Lue

Examination

1st March 1968

(continued)

asked is why are you crying. I am submitting that is not an invitation to say anything, having regard to the fact that she came to Mrs. Lue and knocked on the door.

HIS LORDSHIP: Mr. Forte, there is a case - I don't recall the name of the book, and I haven't got it here.....

DEFENCE COUNSEL: Paragraph 1077, M'Lord.

HIS LORDSHIP: I am not speaking about Archbold now. A series of cases dealing with this matter. Are you through Mr. Forte?

10

CROWN COUNSEL: Yes, My Lord.

HIS LORDSHIP: I allow the answer to be given by this witness. You asked her what happened?

A: Yes, sir.

HIS LORDSHIP: And she answered, saying?

A. She told me of the incident that happened.

HIS LORDSHIP: Well, we want what she told you.

A: She told me when she came in the night, around 10 to 10.30, and she went around the back, approaching her room door someone came from the side of the building and stick her up with a knife and a gun and asked her to open the door and she did so. Then the person raped her.

20

HIS LORDSHIP: Anything more?

A: Well, she gave me a slight description of the person. She said the person was.....

CROWN COUNSEL: After she made this report to you did you telephone the Constant Spring police station? A: Yes, I did.

30

Q: And made a report? A: Yes.

Q: Did the police come to your home later that day? A: Yes, sir.

CROWN COUNSEL: Nothing further, M'Lord.

LINDA LUE CROSS-EXAMINED BY DEFENCE COUNSEL:In the Home
Circuit Court-----
Prosecution
Evidence
-----No. 8

Linda Lue

Cross-
examination

1st March 1968

Q: What you told us a while ago is all that Elsada Hall reported to you that morning of the 19th of April last year? A: Well, as far as I can recall.

HIS LORDSHIP: She said, Mr. Brown, if you didn't hear, she gave me a slight description of the person.

DEFENCE COUNSEL: I heard that, M'Lord.

10 HIS LORDSHIP: Yes?

DEFENCE COUNSEL: Now, we shall proceed to that aspect of her evidence. Now, lady, did you say that Elsada Hall gave you a slight description of the person? A: Yes.

Q: Could you assist this court by defining what you mean by slight?

HIS LORDSHIP: By telling the court what description she gave you. It is for the jury to say whether it is slight or not slight.

20 DEFENCE COUNSEL: With respect, M'Lord.

HIS LORDSHIP: The witness will do as I say, not as you say.

DEFENCE COUNSEL: May I cross-examine the witness, M'Lord?

HIS LORDSHIP: If you don't want the witness to answer the question that is another matter.

DEFENCE COUNSEL: Please answer His Lordship first.

HIS LORDSHIP: What description she gave you?

30 A: She said the person was short and dark. He didn't have on any shirt and his pants, one foot of his pants was turned up and the other was down.

DEFENCE COUNSEL: One foot was what?

A: Turned up - rolled up.

In the Home
Circuit Court

Prosecution
Evidence

No. 8

Linda Lue

Cross-
examination

1st March 1968
(continued)

Q: And what else? A: The other was down.

Q: What is the first word you used in the description, as to the height of the person. Did you say short or tall? A: Short.

Q: Did she give you any idea how short, as far as you can remember? A: I don't recall that.

HIS LORDSHIP: You don't recall her telling you how short? A: Yes, sir.

Q: Did she tell you anything else by way of description of the person? A: Well, I don't recall anything else she said.

10

HIS LORDSHIP: Speak a little louder Mrs. Lue.

A: I don't recall any more description that she gave me.

A: As far as you recall, madam, did Elsada mention anything about the hair on the head of the man that assaulted her? A: No.

Q: Did she mention anything about the colour of the trousers? A: I don't recall.

Q: Are you sure that she didn't tell you that it was a tall person? A: I am sure she said a short person.

20

Q: Do you recall her mentioning the height 5 feet nine and a half as the height of the person? A: No.

Q: And are you sure, lady, that it wasn't until about 6.30 to 7 o'clock that morning that Elsada knocked on your door? A: Well, I couldn't say.

HIS LORDSHIP: Just a minute. You say you couldn't say whether it was 6.30?

30

A: It was early, but it could have been 6.30 to 7.

Q: You have got a radio in your bedroom, haven't you? A: Yes.

Q: And are you a Roman Catholic? A: I am not.

Q: Do you turn on your radio before 6 o'clock in

the mornings as a rule? A: Sometimes, but not all the time.

In the Home
Circuit Court

Q: Do you recall ever hearing the Roman Catholic service at quarter past 6 in the mornings on the radio? A: Sometimes.

Prosecution
Evidence

Q: And you recall that that service is around quarter past 6 in the morning on the radio? A: Well, I couldn't really say so.

No. 8

Linda Lue

Cross-
examination

10 HIS LORDSHIP: You don't know how early is the service? A: No.

1st March 1968

Q: Have you ever heard the 6 o'clock news in the morning on the radio? A: Sometimes.

(continued)

HIS LORDSHIP: That particular morning, that is what the court wants to hear about.

Q: And now to come to that particular morning, do you recall? A: I don't think my radio was on that morning.

Q: You don't think your radio was on at all that morning? A: That morning.

20 Q: Am I correct in saying, madam, that it was the knock on the door that awoke you from your slumber?

A: Well, no, because around that time I get up in the mornings.

HIS LORDSHIP: You get up around 6.30 in the mornings? A: Yes, sir.

DEFENCE COUNSEL: The court is interested in that particular morning. A: No, it wasn't the knock that woke me.

30 Q: Well, how long before the knock were you awake that morning? Try to remember.

A: Well, it could be around half an hour or so.

Q: But you did not turn on your radio as far as you remember? A: No.

Q: Now, is your bedroom to the front of the premises or to the back? A: It is at the front.

In the Home
Circuit Court

Prosecution
Evidence

No. 8

Linda Lue

Cross-
examination

1st March 1968

(continued)

Q: Is that near to the front gate? In other words, lady, if someone is coming from the back - from the maid's room - to go out through the front gate they would have to pass via your room, in the yard? A: It depends which side of the building the person walks.

Q: If the person is coming from her bedroom?

A: If she walk to the right, according to the building, she wouldn't pass my room, but if she walked to the left she would pass my room. 10

Q: Are the steps to the right?

HIS LORDSHIP: Just a minute. You say depending on what side of the house the person walks coming from Elsada's bedroom, that person may or may not pass your bedroom? A: Yes, sir.

Q: Are there steps leading from Elsada's bedroom to the right side of the house? You understand me lady?

A: Well, her step is not to the right side of the bedroom, because her steps come right down to the ground. It doesn't turn right. 20

HIS LORDSHIP: Her steps leading from her bedroom? A: No. The moment she comes off she is on the ground outside the premises.

HIS LORDSHIP: Comes off what? A: The step.

HIS LORDSHIP: Which step? A: From her room.

HIS LORDSHIP: The moment she steps from her room she is on the earth? A: Yes, to the back of the building.

DEFENCE COUNSEL: A lot of steps before she reaches the earth, from her bedroom door? 30

A: No, just a matter of one.

Q: Only one step? A: Yes.

Q: So her bedroom is low down to the ground at the back? A: Well, I wouldn't say low down.

Q: It is only one step down and then she reaches

the ground at the back of the yard? Isn't that so? A: Yes.

In the Home
Circuit Court

Q: And from the end of her step, which goes down to the ground, where she steps down to the ground there is a path-way that will take her right to the front gate for her to go out?

Prosecution
Evidence

No. 8

A: Well, not specially a path-way, because it has a lawn, but you can walk there.

Linda Lue

Cross-
examination

1st March 1968

(continued)

HIS LORDSHIP: There is a lawn?

10 A: Right around the house.

DEFENCE COUNSEL: Is that to the right hand or the left hand side of the house? A: The lawn is right around the house.

Q: Right around the house? A: Right around.

Q: North, south, east and west it circles your house? A: Yes, we don't have any special path-way to walk.

20 Q: Now, have you got any paved path-way between the lawn and the house on any side - north, south, east or west?

A: Well, the drive-way to the car porte.

HIS LORDSHIP: That is from the front gate?

A: Yes, to the car porte.

HIS LORDSHIP: That is paved? A: Yes, that is the only paved way we have there.

DEFENCE COUNSEL: Now, is that.....

HIS LORDSHIP: Just a minute. You say the drive-way from the front gate to the car porte is paved? A: Yes.

30 DEFENCE COUNSEL: Now, is the driveway, or rather, is the car porte to the left or to the right of your house? A: Well, the way I am describing it now, I am talking facing the house, it would be to the right.

HIS LORDSHIP: Looking towards the street?

In the Home
Circuit Court

Prosecution
Evidence

No. 8

Linda Lue

Cross-
examination

1st March 1968

(continued)

A: It would be on the right.

HIS LORDSHIP: How many right sides your house has?

A: It have one, but it depends on what position you stand.

DEFENCE COUNSEL: You say it depends upon what side you walk from the maid's room, whether you pass your bedroom? A: Well, I am giving you description facing the road.

Q: Well, stick to that lady. When you say right you mean facing the road? A: Yes. 10

Q: Well, facing the road, we have only one right side. Is the car porte, facing the road, on the right or left side of the house? A: The right side.

Q: And is the maid's quarters towards the same side as the car porte? A: No, it is on the left side.

HIS LORDSHIP: Left side to the back? A: Yes.

Q: Is it shorter for the maid to walk from her room by the left side to get to the front gate, than to walk from the right side to get to the front gate? A: I think they are about the same distance. 20

Q: Did you hear any foot steps passing your room or going through your front gate before you heard the knock? A: No.

Q: You did not padlock your front gate that night? A: Well, I am not.....

HIS LORDSHIP: Do you use a padlock on your gate now? A: Well, we use it but it is always the last person that comes in close it. 30

DEFENCE COUNSEL: With the padlock? A: Yes.

Q: Do you happen to know who was the last person who came in on the night of the 18th of April? A: No.

Q: Was your husband in early? A: Yes.

HIS LORDSHIP: On what day?

DEFENCE COUNSEL: The 18th of April, M'Lord. Were you in early on the 18th of April? A: Yes.

Q: You have a Mr.Lyn as a boarder? A: Yes.

Q: Was he in early that night? A: Well, I couldn't say because we retired early in the night.

Q: You can't say about Mr. Lyn the boarder?
A: No.

HIS LORDSHIP: What is it you can't say?

10 A: Whether Mr. Lyn come in early.

HIS LORDSHIP: What is it you can't say?

A: If he came in very early that night.

DEFENCE COUNSEL: What time, madam, did you retire? A: Well, sometimes around eight.

Q: That night? A: Yes.

HIS LORDSHIP: What was your reply? A: 8 o'clock.

HIS LORDSHIP: What did you say, sometimes?

A: Yes. That night 8 o'clock.

20 HIS LORDSHIP: That night, the night of the 18th, you retired about 8 p.m.? A: 8 o'clock.

DEFENCE COUNSEL: And your husband retired along with you at the same time? A: Yes.

Q: And up to that time Mr.Lyn had not yet come in? A: Well, I don't recall that particular night if he was in at that time.

HIS LORDSHIP: You don't recall on that particular night whether or not Mr. Lyn was in? A: Yes, sir, at that hour.

30 DEFENCE COUNSEL: Do you generally prepare supper for that boarder? A: Yes, I do.

Q: And serve it to him? A: Yes, we do.

Q: Did you serve him with any supper that night? A: Well, we have supper around 6 o'clock.

In the Home
Circuit Court

Prosecution
Evidence

No. 8

Linda Lue

Cross-
examination

1st March 1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 8

Linda Lue

Cross-
examination

1st March 1968

(continued)

Q: Did you serve Mr. Lyn?

HIS LORDSHIP: What you mean? You had supper
around 6 o'clock? What about Mr. Lyn?

A: Yes.

HIS LORDSHIP: Well, he has supper with you
normally at around 6 o'clock? A: Yes, sir.

HIS LORDSHIP: What about this date, the 18th?

A: Around the same time.

DEFENCE COUNSEL: Did you serve and see Mr. Lyn
eat any supper on the night of the 18th of
April, madam? A: Yes.

10

A: At what time? A: Around 6 o'clock.

Q: In the evening? A: Yes.

Q: So, am I correct in saying that after having
-- after Mr. Lyn had his supper he changed,
and went out? A: Yes.

HIS LORDSHIP: You say he went out after having
supper? A: Yes.

DEFENCE COUNSEL: And up to when you retired at 8
p.m. on the 18th of April, 1967 Mr. Lyn had
not yet returned?

20

HIS LORDSHIP: She says she doesn't recall whether
on that particular night Mr. Lyn was in at
8 p.m.

DEFENCE COUNSEL: I should just like to get clarity
for the purpose of the jury, M'Lord. Eh,
madam? A: I don't recall that night that
he was in.

Q: Now, in the morning, after you got the report,
do you recall looking at your front gate to
see whether it was padlocked?

30

HIS LORDSHIP: Not that could she recall. Did
You look?

A: (No answer)

DEFENCE COUNSEL: Did you look, lady, at your
front gate after Elzada made this report to
you? A: No, I don't think so.

HIS LORDSHIP: You didn't look or you don't remember whether you looked or not?

A: Well, I didn't look.

Q: Did you go through that front gate that morning after Elsada made that report to you?

A: Well, I went through.

HIS LORDSHIP: Just a minute. Mr. Brown, that can mean any time up to 24 hours.

10 DEFENCE COUNSEL: I am keeping it as vague as that for the time being, M'Lord.

HIS LORDSHIP: You will not keep it as vague as that.

DEFENCE COUNSEL But.....

HIS LORDSHIP: Did you go through the gate that morning? A: Yes, I did.

DEFENCE COUNSEL: And at what time please, madam, if you can recall, that morning? A: Around 10 o'clock.

20 Q: Did either your husband or Mr. Lyn precede you through that gate that morning?

HIS LORDSHIP: You mean one walking?

DEFENCE COUNSEL: Precede means to go before, M'Lord.

HIS LORDSHIP: Just a minute. You mean one walking behind the other, or one went some time before?

DEFENCE COUNSEL: I mean in point of time, M'Lord. I presume this is an intelligent lady.

30 HIS LORDSHIP: But you will put the question so that the witness understands what time you are talking about.

DEFENCE COUNSEL: Who first left home that morning? A: My husband.

Q: What time he left? A: Around 8 o'clock.

Q: Who left second? A: Mr. Lyn.

In the Home
Circuit Court

Prosecution
Evidence

No. 8

Linda Lue

Cross-
examination

1st March 1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 8

Linda Lue

Cross-
examination

1st March 1968

(continued)

Q: Time, please, of departure? A: Around the same time.

Q: Who third left the yard? A: Well, I would be third, but I didn't actually go to work that morning.

HIS LORDSHIP: Beg pardon?

A: I was the third person.

HIS LORDSHIP: You say you didn't go to work that morning? A: No.

HIS LORDSHIP: That is the morning of the 19th of April? A: Yes, sir.

10

DEFENCE COUNSEL: You had any special reason why you didn't go to work lady? A: Yes.

Q: Would you mind telling me? A: Yes, because I had a young baby.

Q: How old? A: At that time he was around six months.

Q: Had you yet resumed work having had your baby? A: Yes.

Q: Is that the only day you stopped from work since you had that young baby? A: I can't recall that now, whether I stopped before on any occasion.

20

Q: In other words lady, was there any other reason, apart from the tender age of the baby, why you didn't go to work on that particular day of the 19th of April? A: Because of all that happened.

HIS LORDSHIP: What?

A: Because of what happened.

30

HIS LORDSHIP: That was another reason? A: Yes.

DEFENCE COUNSEL: And am I correct in saying that you work at Cremo Limited? A: Yes.

Q: And you left your home to go somewhere? About what time on the 19th of April, in the morning?

A: You asked me if I went through the gate. The only time I went through the gate was to open the gate for the policeman when he came.

In the Home
Circuit Court

HIS LORDSHIP: Was that at 10 o'clock when he came?
A: Yes.

Prosecution
Evidence

DEFENCE COUNSEL: Didn't you ever, lady, go through your front gate, out into Coolshade Avenue or Drive, on the morning of the 19th of April for any reason whatsoever in this dear world?
A: Well, I didn't go out.

No. 8
Linda Lue

Cross-
examination

1st March 1968
(continued)

10

Q: You didn't go? A: No.

Q: So you were not the third person. Did Elsada Hall go out through the front gate into Coolshade Drive to go anywhere at all on the morning of the 18th of April, 1967?

HIS LORDSHIP: 18th of April?

DEFENCE COUNSEL: The 19th of April. Much obliged, M'Lord. The 19th of April, 1967?

A: Not during the day. Not during the morning.

20 Q: So she didn't go out during the morning?
A: Yes.

Q: She was at home all morning? A: Yes.

Q: And so were you? A: Yes.

Q: Did she leave the premises, go through the gate out into Coolshade Drive, in the afternoon? A: Yes, she did.

Q: Did you see her go? A: Yes.

Q: What time did she go? A: It was about 2 o'clock.

30 Q: In the afternoon? A: Yes.

Q: What time did she return, madam?

HIS LORDSHIP: Having gone through the gate at 2 o'clock, when next did she come back through the gate? A: Around - maybe around five.

In the Home
Circuit Court

Prosecution
Evidence

No. 8

Linda Lue

Cross-
examination

1st March 1968

(continued)

DEFENCE COUNSEL: Around 5? A: Yes, sir.

Q: Those are your recollections? A: Yes.

Q: After she came home at 5 p.m., or around 5 p.m., do you remember seeing her pass you at your front gate and run down Coolshade Drive?

HIS LORDSHIP: Just a minute. Don't answer that. What is the question?

DEFENCE COUNSEL: Do you remember.....

HIS LORDSHIP: Bearing in mind the evidence, what is the question? 10

DEFENCE COUNSEL: I am bearing it in mind, M'Lord. Do you remember seeing Elsada Hall pass you at your front gate, and I now add, while you had your baby.....

HIS LORDSHIP: Coming out or going in?

DEFENCE COUNSEL: I am finishing the sentence, M'Lord. Pass you, go through the gate and go down Coolshade Avenue?

A: Is that the day of the 19th you are talking?

Q: Yes, the 19th of April. After she had come back home around 5 o'clock? A: No, I don't recall that on that day. 20

HIS LORDSHIP: You do not recall her passing you, running through the gate and going down Coolshade Drive? A: Yes.

Q: Lady, see if you can recall if Mr. Lyn was at home when Elsada Hall returned on the 19th of April around 5 p.m.?

HIS LORDSHIP: Well, do you remember? Was he there or was he not? 30

DEFENCE COUNSEL: If she can recall. That is the word I used.

HIS LORDSHIP: The word I use is remember.

A: Well, I don't remember.

Q: Now, see if you can remember this one. Do you remember seeing Elsada Hall leave your premises in Mr. Lyn's Triumph motor car sometime after 5 p.m. on the 19th of April, 1967, and either go up Coolshade Drive or down Coolshade Drive - Mr. Lyn and herself.

In the Home
Circuit Court

Prosecution
Evidence

No. 8

Linda Lue

A: No, I don't recall that.

Q: Did Elsada Hall say anything to you any time on the evening of the 19th of April, 1967 about this particular man? (Referring to accused).

Cross-
examination

1st March 1968

(continued)

A: No, I don't recall.

HIS LORDSHIP: You said about this particular man?

DEFENCE COUNSEL: And I pointed to the accused and made accused stand to remove all doubt.

HIS LORDSHIP: You say you don't recall Elsada saying anything to you on the afternoon of the 19th about the accused man? Is that it?

A: Yes, sir.

20 DEFENCE COUNSEL: Did you ever discover any time after the morning of the 19th of April, 1967 that this particular accused had been arrested for having raped Elsada Hall?

HIS LORDSHIP: Just a minute. Are you asking her whether she heard he was arrested or that she saw?

DEFENCE COUNSEL: No, M'Lord. The word I used, subject to change by you, was 'discover'.

30 HIS LORDSHIP: I wish you would ask the witness whether she heard or whether she saw.

DEFENCE COUNSEL: If I wanted to ask her that I would have, M'Lord.

HIS LORDSHIP: How is she going to say whether she heard or saw?

CROWN COUNSEL: Of course, if she heard, M'Lord, that would be hearsay.

HIS LORDSHIP: Did you know that the accused was

In the Home
Circuit Court

Prosecution
Evidence

No. 8

Linda Lue

Cross-
examination

1st March 1968
(continued)

arrested? Did you see the accused arrested?
A: No, M'lord.

HIS LORDSHIP: We can save a lot of time, Mr. Brown.

DEFENCE COUNSEL: You did not see the accused
arrested by the police? A: No, I did not
see.

Q: Did you offer any assistance in having him
arrested?

HIS LORDSHIP: Did she offer any assistance in
having him arrested?

10

DEFENCE COUNSEL: Yes, M'Lord.

HIS LORDSHIP: Just a minute. You said you
'phoned the police station? A: Yes.

HIS LORDSHIP: You made a report? A: Yes.

HIS LORDSHIP: Yes?

DEFENCE COUNSEL: Now, will you please answer my
question lady, before I put it pointedly to
you?

HIS LORDSHIP: Put it pointedly because it is very
vague, what you are asking her.

20

Q: Lady, did you have anything to do with this
particular man being arrested for this
particular offence? That is what I am
asking you. You understand my question?

A: Well, I don't get you clearly.

Q: Let me make it very clear to you. Now, I am
suggesting to you that you are the person that
told Elsada Hall, when she was in doubt as to
whether it was this man or not, that she should
say that she is sure it is this man, and that
is why they arrested this man?

30

A: No, I didn't.

HIS LORDSHIP: Just a minute. Mr. Brown, will
you put further particulars as to that
allegation? As to where this happened?
Time, place and so on.

DEFENCE COUNSEL: Your lordship asked me to put it precisely.

In the Home
Circuit Court

HIS LORDSHIP: Will you put further details as to where this is alleged to have happened? Time, place, and so on.

Prosecution
Evidence

DEFENCE COUNSEL: At your home, lady. In the sanctuary of your home. I can't go any closer than that. In the sanctuary of your home on the evening of the 19th of April, 1967, after this man was accosted on Fairfax Drive by Mr. Lyn and Elsada Hall. Do I make myself abundantly clear, lady?

No. 8
Linda Lue
Cross-
examination
1st March 1968
(continued)

10

A: Well, if I understand you.....

HIS LORDSHIP: I wish you would ask the question without comments.

WITNESS: I want to find out what he is saying, whether I told.....

20

HIS LORDSHIP: The question is, did you at your home, after the accused was pointed out by Elsada Hall, did you there tell Elsada, when she was in doubt, to say the accused was the man? A: No, I didn't.

DEFENCE COUNSEL: Did you at any time during the evening of the 19th of April, 1967 realise that Elsada Hall was in doubt as to the identity.....

CROWN COUNSEL: I am objecting to this question.

30

HIS LORDSHIP: Surely, Mr. Brown! What you are asking is, did she realise that Elsada was in doubt as to the identity of the accused on the 19th.

DEFENCE COUNSEL: I was not asking for an opinion, M'Lord. I was going to complete the question but my friend objected prematurely.

HIS LORDSHIP: Let us have the completed version.

DEFENCE COUNSEL: Lady, is Miss Elsada Hall still working with you? A: Not at present.

HIS LORDSHIP: What is the question?

In the Home
Circuit Court

Prosecution
Evidence

No. 8

Linda Lue

Cross-
examination

1st March 1968

(continued)

DEFENCE COUNSEL: Is Miss Elsada Hall still in your employ? A: Not at present.

Q: When did she cease to work with you, if you can remember? A: Sometime in September.

Q: September last year? A: Yes.

Q: The early part of September? A: Yes.

Q: Did you dismiss her. A: No, she left voluntarily.

Q: And finally, madam, you say that the description that Elsada gave you the morning of the 19th of April was what you described at first as a slight description of the person? A: Yes. 10

Q: But you went on to explain that to be short? A: Yes.

Q: Dark? A: Yes.

Q: No shirt? A: Yes.

Q: Pants, one foot turned up - rolled up - and the other one was down? A: Yes.

Q: And that is the full description that she gave you that you can remember? A: That I can remember. 20

Q: You don't remember any description in feet or inches as to his height? A: No, I don't recall that.

Q: For how long was Elsada working with you before she left your employ in September last year?

A: Well, I employed her at the beginning of February until she left in September.

Q: February last year? A: Yes. 30

Q: Was she allowed visitors while living on your premises? A: Well, yes, under certain circumstances.

Q: Male and female? A: Yes.

Q: To your certain knowledge, lady, did she ever have any there between February and September?
A: Yes.

Q: Male or female? A: Well, on about two or three occasions she had a girl friend.

Q: Any male visitors occasionally? A: Around once - her brother.

Q: What's his name? A: I really don't know, sir.

10 Q: How did you determine it was her brother?

A: She told me it was her brother.

Q: Oh! she told you. That is only once you saw a male visitor? A: Yes.

Q: But do you generally retire early in the nights? A: Yes.

HIS LORDSHIP: She retires at 8 o'clock, she says.

Q: Eight o'clock? A: Yes.

20 Q: When was the first time you saw this accused?
A: Well, I couldn't say if I had seen him before.

Q: Before what lady? A: Before the incident.

Q: Did you see him at the incident? A: No.

Q: When is the first time you took your eyes and saw this face? That is what I am asking.

A: When I gave a statement at Half-way Tree Court.

Q: At the preliminary enquiry? A: Yes.

Q: That is the very first time you saw him?
A: Yes.

In the Home
Circuit Court

Prosecution
Evidence

No. 8

Linda Lue

Cross-
examination

1st March 1968

(continued)

In the Home
Circuit Court

NO. 9
STANLEY HOHN

Prosecution
Evidence

STANLEY HOHN, SWORN, EXAMINED BY CROWN COUNSEL:

No. 9

Stanley Hohn
Examination

1st March 1968

- Q: Is your name Stanley Hohn? A: Yes, sir.
- Q: And are you a Detective Acting Corporal of police? A: Yes, sir.
- Q: Stationed at Constant Spring Police station in the parish of St. Andrew? A: Yes, sir.
- Q: On the morning of the 19th of April last year were you at the Constant Spring Police Station? A: Yes, sir. 10
- Q: Did you receive a report? A: Yes, sir.
- Q: About what time did you receive a report ?
- A: Approximately 8.45 a.m.
- Q: As a result of that report did you go to 10 Coolshade Drive? A: Yes, sir.
- Q: Did you see anyone there? A: Yes, sir.
- Q: Whom did you see? A: I saw Elsada Hall.
- Q: Did she make a report to you? A: Yes, sir.
- Q: Did she give you anything? A: Yes, sir. 20
- Q: What did she give you? A: A spread; a sheet.
- HIS LORDSHIP: She handed you?
- A: A spread, a sheet, a slip and a panty.
- Q: Now, is this the spread? (Exhibit 1 shown to witness). A: This is the spread.
- Q: Is this the sheet? A: Yes, this is the sheet.
- Q: Exhibit 2, M¹Lord. Is this the pair of panty that she gave you? A: Yes, sir. 30

- Q: Look at this slip. A: Yes, sir.
- Q: That is exhibit 4, M'Lord. And is this the panty? A: Yes, sir.
- Q: Panty exhibit 3. What did you do with these items? A: I took them - I made sealed parcels of these items which I subsequently took to the Government Pathologist.
- Q: At the Forensic Science Laboratory? A: Yes, sir.
- 10 Q: After Elzada made her report to you did you take her anywhere? A: I did, sir.
- Q: Where? A: I took her to the Hagley Park Clinic where she was examined by Dr. Sanguinetti.
- Q: And after she was examined by Dr. Sanguinetti did Dr. Sanguinetti hand you anything? A: Yes, sir.
- Q: What did he hand you? A: A sealed envelope with swab and smear.
- Q: Was that envelope marked "A"? A: Yes, sir.
- 20 Q: What did you do with the envelope?
- A: I took same to the Government Pathologist at Kingston.
- Q: At the Forensic Laboratory? A: Yes, sir.
- Q: Now, did you take Elzada from the doctor back home? A: Yes, sir.
- Q: And did you leave her at home? A: Yes, sir.
- Q: Did you see Elzada Hall that day again? A: Yes, sir.
- 30 Q: Can you say where you saw her? A: Yes, sir, at the Constant Spring police station.
- Q: Can you say about what time that was?
- A: After 5 p.m. sir. About 5.30 p.m., sir.
- Q: When you saw her there did she make a report

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn

Examination
1st March 1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn

Examination

1st March 1968

(continued)

- to you? Another report? A: She did, sir.
- Q: And did you go anywhere after she made that report to you? A: Yes, to 181 Border Avenue.
- Q: Did you travel to 181 Border Avenue alone or did you go with anyone? A: Elsada Hall.
- Q: Elsada Hall went with you? A: Yes, sir.
- Q: When you got to 181 Border Avenue did you see anyone there? A: I did.
- Q: Whom did you see? A: The accused, Eric James. 10
- Q: Where was he? A: He was on the lawn by the side of the house.
- Q: Did you go to where he was? A: I did, sir.
- Q: Was Elsada with you then? A: She was.
- Q: When both of you went up to him did anyone speak? A: Yes, sir.
- Q: Who spoke? A: Elsada spoke.
- Q: Was that in the presence and hearing of the accused? A: Yes, sir.
- Q: What did she say? A: She said, "This is the man who came to me room last night with a knife and a gun, force me into my room, pull off my clothes and had sex with me and stayed until about 5 o'clock in the morning he leave." 20
- Q: When she was saying this was she doing anything? A: Oh! yes, she was pointing directly at the accused, almost touching him.
- Q: After she said that did the accused say anything? A: Yes, sir, he said, "No, no. You must be a mad woman. Is the first time I ever see you. Listen Officer this girl is taking me for the wrong person." 30
- Q: After he said that did you do anything? A: I did, sir.

Q: What did you do? A: I cautioned him and then questioned him about the clothing he wore the night in question. He handed me a pair of brown trousers and a pair of gray underpants.

In the Home
Circuit Court

Prosecution
Evidence

Q: Will you look at this pair of trousers?

A: And he gave me the pair of cream underpants he was wearing at the time.

No. 9
Stanley Hohn
Examination
1st March 1968
(continued)

Q: Will you look at this pair of trousers. Was that the pair of trousers he gave you?

10

A: Yes, sir.

Q: M[']Lord, that was marked 5 for identity. May it now be marked exhibit 5, M[']Lord? Where did he take that from in order to give it to you? Did you see?

Q: What's that, sir?

Q: Did you see where he got it when he gave it to you? A: In his room, sir.

Q: His room was where? A: It's a little.....

20

Q: What I mean, was it on the same premises at 181 Border Avenue? A: On the same premises.

HIS LORDSHIP: The same 181?

A: Same 181, M[']Lord.

Q: And you say he handed you a pair of underpants?

A: Yes, sir.

Q: What colour? A: Gray.

Q: Look at this underpant. Is that the underpant he gave you when you asked him about the clothing he was wearing the night? A: Yes, sir.

30

HIS LORDSHIP: And that is the one you described as gray?

A: Yes, M[']Lord.

Q: May that now be tendered and marked exhibit 7. Did you make sealed parcels of the pants (exhibit 5).....

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn
Examination

1st March 1968
(continued)

HIS LORDSHIP: Is the cream one going in?

CROWN COUNSEL: M'Lord, the cream one is of no value in this case.

HIS LORDSHIP: Yes.

Q: Did you make a sealed parcel of the trousers he gave you and the underpants - the gray underpants? A: I did, sir.

Q: And did you take them to the Government Pathologist at the Forensic Laboratory? A: I did, sir.

Q: On that same day - the 19th of April last year - did you arrest the accused?

A: I arrested him.

Q: And charged him for? A: Rape.

Q: You cautioned him? A: Yes, sir.

Q: Did he say anything? A: Yes, sir.

Q: What did he say?

A: He said, "Is not me, sir! I sleep in my bed all night last night."

STANLEY HOHN CROSS-EXAMINED BY DEFENCE COUNSEL:

Q: Officer, you say you also took a cream underpants from the accused? A: Yes, sir.

Q: That was at 181 Border Avenue too, where you found him? A: Yes, sir.

Q: Was that the underpants that he was wearing when you went and found him there or an underpant taken from the bedroom - the cream underpant?

A: He was wearing the cream underpants.

Q: When you found him? A: Yes, sir.

Q: But the gray underpant, exhibit 7, was taken from his room? A: Yes, he handed it to me.

Cross-
examination

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Q: And he told you that he was wearing it on the night of the 18th? A: Yes.

Q: And likewise the brown pair of pants, exhibit 5? A: Yes, sir.

Q: He also told you.....?

A: That he was wearing that the night.

Q: Was that done in the presence of Miss Elsada Hall? A: I do not recall if she was present when he handed them to me.

10 Q: But was she shown the pant, in particular the brown pants? A: She was shown the pants.

Q: On the premises 181 Border Avenue? A: Yes, sir.

HIS LORDSHIP: You say you don't recall whether Elsada was present when the accused said he was wearing these two items on the night of the 18th? A: Quite right, M'Lord.

HIS LORDSHIP: And what is the next thing you were asked which you answered?

20 DEFENCE COUNSEL: I was about to ask him.....

HIS LORDSHIP: No, what he just answered.

A: If I showed her these items.

DEFENCE COUNSEL: Showed her exhibit 5, the brown pants. You showed her exhibit 5?

A: I showed her exhibit 5.

Q: Did she say anything about exhibit 5 when you showed her the brown pants? A: Yes, she did.

30 Q: What she said? A: She said it looks very much like the one he was wearing the night when he came into her room.

Q: Did she give any reason? A: Yes, sir.

Q: What she said? A: She said that it had a zip front.

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn

Cross-
examination

1st March 1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn
Cross-
examination
1st March 1968
(continued)

HIS LORDSHIP: She said -- did she say that at the time when she was shown this pair of trousers or did she tell you this some other time?

A: She told me when she made the report that the pants was brown and that it had a zip, and when I showed her.....

HIS LORDSHIP: Just a minute. When you showed it to her what happened?

A: When I showed it to her she described the similarity by the colour.

10

HIS LORDSHIP: She what?

A: She described the pants from the colour and similarity as the one the accused wore the night he came to her room.

DEFENCE COUNSEL: Did she make any comment about either of the two pants feet?

HIS LORDSHIP: What?

Q: Did she make any comments about either of the two pants feet? A: She did.

Q: What did she say? A: She said that the pants that the accused had, had the feet of the pants rolled up part way, and then there were some creases on this pants which gave the impression that they had been rolled up, which she pointed out to me.

20

Q: And it was after that, plus the report that she made in the presence of the accused, that you arrested the accused? A: Yes.

Q: Now officer, whilst she was making the report, and after that the pants were being shown, during all that time did you see a gentleman and a lady - Mr. and Mrs. Henry - with whom the accused lives. A: Yes

30

HIS LORDSHIP: Let me hear the question again.

Q: Whilst you were at 181 Border Avenue speaking with the accused in the presence of Elzada Hall, did you see Mr. and Mrs. Henry of 181 Border

Avenue? A: Yes, sir.

Q: They came near where you were? A: Oh, yes sir.

HIS LORDSHIP: Both? A: Yes, M'Lord.

HIS LORDSHIP: In other words, they came near where the three of you were? A: Yes, M'Lord.

Q: Did the accused tell you that he lived in the back room of Mr. and Mrs. Henry's premises?
A: Yes, sir.

10 Q: At Border Avenue there? A: Yes, sir.

Q: But did he tell you where he worked? A: Yes, sir.

Q: With one Mr. Keiz at 8 Highland Drive?
A: I do not remember.

Q: A Highland Drive address? A: I can't swear that it is Highland Drive address but it's not far away.

Q: In the Havendale area? A: In the Havendale area.

20 Q: Now, officer, from the time you entered the premises at 181 Border Avenue until the time you arrested the accused did he make any attempt to run? A: No, sir.

Q: And it was Elzada Hall who led you to 181 Border Avenue? A: Yes, sir.

Q: Did Mr. Lyn come along with her to the Constant Spring Police Station?

HIS LORDSHIP: Just a minute. What is the question?

30 Q: Did Mr. Lyn bring her, then, to the Constant Spring police station?

A: She was brought there by a Chinese gentleman, M'Lord. I do not know his name.

Q: In a Triumph motor car?

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn

Cross-
examination

1st March 1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn

Cross-
examination

1st March 1968

(continued)

HIS LORDSHIP: Just a minute. Yes, you were asked? Well, did you see her come in a car?

A: Yes, sir.

HIS LORDSHIP: You saw the car? A: Yes, sir.

DEFENCE COUNSEL: What kind of car?

A: It is a sports car looking like a Triumph. I did not look at the make.

Q: Did Mr. Lyn also make a report to you when Elsada made a report to you at the Constant Spring police station? This is just before you went to 181 Border Avenue.

10

A: I don't recall, sir.

Q: Eh? A: I don't recall him making a report to me, sir.

Q: But you took no statement from Mr. Lyn, the Chinese gentleman?

A: No. I didn't take any statement from Mr. Lyn.

Q: Now, let us just go back to 181 Border Avenue for a while. Whilst you were there questioning the accused - this is after Elsada made her report to you in the presence of the accused - did Mr. or Mrs. Henry say anything concerning the whole affair, expressing any surprise? A: Yes.

20

Q: Can you recall the gist of what was said and who said it?

CROWN COUNSEL: M'Lord, I am objecting to this. I don't know what relevance Mr. and Mrs. Henry have with the case. If they said something about the case they should be called as witnesses.

30

DEFENCE COUNSEL: If that is the only objection of my learned friend I can assure him most positively that I am calling Mr. Henry who was alive up to a while ago. I hope he has not died since then, but I must lay the foundation to get, through the Detective, what was said, so that it will not be said that

it was invented by the defence.

CROWN COUNSEL: My objection is also based on the fact that whatever Mr. or Mrs. Henry says is irrelevant to the case.

HIS LORDSHIP: What is passing through my mind, Mr. Brown and Mr. Forte, is that it may be a matter of defence what Mr. Henry may have said, and if it is a matter of defence, Mr. Brown, I will allow it. It is for you to decide in your mind if it is a matter of defence.

10

DEFENCE COUNSEL: It is a matter of defence M^rLord, that I was not there and I could not be there.

HIS LORDSHIP: I hope you understand me. I think you do.

DEFENCE COUNSEL: Yes, M^rLord.

CROWN COUNSEL: May I say, M^rLord, if it is as your lordship asks Mr. Brown, then I have no objection also, if it is a matter of defence.

HIS LORDSHIP: Yes, Mr. Brown.

20 DEFENCE COUNSEL: Well, to settle my learned friend's heart, Detective, try to remember what, if anything, was said by the accused or Miss Hall just before Mr. or Mrs. Henry spoke?

HIS LORDSHIP: Mr. Brown, that question is more than double-barrelled. Try to remember what this person said or that person said just before another person spoke?

30 DEFENCE COUNSEL: Alright, put it this way, Mr. Hohn, which might help: you said that both the Henrys spoke? A: Both Henrys spoke.

HIS LORDSHIP: Mr. and Mrs. Henry. A: Yes, M^rLord.

Q: What they said, did it concern the accused?
A: Yes, sir.

Q: What they said concerned the accused. Did it concern the night of the 18th of April, 1967 in relationship to what the lady had just said about the accused?

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn

Cross-
examination

1st March 1968

(continued)

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn

Cross-
examination

1st March 1968

(continued)

A: I don't recall what they said in respect of the night in question or if they said anything in respect of the night in question.

Q: You don't recall if what?

HIS LORDSHIP: He says he doesn't recall if they said anything and what they said.

A: And what was said about the night in question.

HIS LORDSHIP: The night of the 18th of April?

A: Yes, M'Lord.

Q: Now, do you remember which of the two Henrys spoke first? A: I don't recall which of the two Henrys spoke first.

10

Q: Do you remember what Mr. Henry said? A: Yes.

CROWN COUNSEL: I object.

HIS LORDSHIP: Mr. Brown, the evidence is, "I don't recall if they said anything and what they said about the night of the 18th of April concerning the accused." That is what he said.

DEFENCE COUNSEL: Yes, M'Lord.

20

HIS LORDSHIP: Now you are asking what did Mr. Henry say.

DEFENCE COUNSEL: Yes, M'Lord, but not about the night of the 18th.

CROWN COUNSEL: My submission is, if it doesn't relate to the night of the 18th, and the incident we are now trying, then it cannot be relevant to this case. The only way it can be relevant is if it had something to do with the night when he is supposed to have raped this girl.

30

HIS LORDSHIP: Yes, Mr. Brown?

DEFENCE COUNSEL: In reply, all that I can say is this, the crown has quite properly brought evidence about time, running from 10.30 the 18th of April, 1967 through the night

into 5.30, continuously to 4.45 on Fairfax Drive, continuously until arrest; so it per the night, percolates through the day, terminates on arrest. That is the whole res gestae as I understand it, M'Lord. May I be allowed the same ambit?

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn

Cross-
examination

1st March 1968

(continued)

HIS LORDSHIP: So what you are getting at now is concerning the 19th - the early morning of the 19th?

10 DEFENCE COUNSEL: Yes, M'Lord.

HIS LORDSHIP: Or the day of the 19th?

DEFENCE COUNSEL: Yes, M'Lord. What I am driving at is anything said by Mr. or Mrs. Henry concerning the accused as it affects from 10.30 the 18th - 10.30 in the night of the 18th of April - to the time that they were speaking around 5.30 on the 19th of April, 1967, must concern the res gestae, as has been related by the crown between yesterday and today. The crown cannot have the privilege and then to deny it to the defence.

20

HIS LORDSHIP: This witness has said he cannot give any evidence as to what either of these persons said in relation to the accused, touching the night of the 18th. The next question now is what did Mr. Henry say.

DEFENCE COUNSEL: Do you remember if Mr. Henry said anything concerning the 18th of April, the night of the 18th of April, or the day of the 19th?

30

HIS LORDSHIP: He has answered about the 18th already.

DEFENCE COUNSEL: Much obliged. About the day of the 19th April, that is from 1.00 o'clock in the morning until say 5.30 or 6.30 in the evening, as it relates to the accused?

A: He said the accused had been working.....

CROWN COUNSEL: I am objecting to what Mr. Henry said now.

40 DEFENCE COUNSEL: My friend cannot stop the witness

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn

Cross-
examination

1st March 1968

(continued)

from answering.

CROWN COUNSEL: Will you sit down and let me make my submission?

HIS LORDSHIP: The witness misunderstood.

CROWN COUNSEL: But I have to object before he blurts out the answer.

HIS LORDSHIP: What Mr. Brown is asking is, do you recall if Mr. Henry said anything in relation to the accused, touching the period of the early morning of the 19th - I think he said around 1 o'clock in the morning - onwards through the day. Do you remember if Mr. Henry said anything in relation to that period? A: Would you remind me of the hours, sir?

10

HIS LORDSHIP: The early morning of the 19th through the rest of the day.

DEFENCE COUNSEL: The same day that you arrested the accused. A: Yes, M'Lord.

Q: He did? A: Yes, sir.

20

HIS LORDSHIP: So Mr. Henry did say something relating to the accused in relation to the early morning of the 19th, to you?
A: Yes, M'Lord.

Q: What was that? A: He said that the accused had been doing some work.

HIS LORDSHIP: Is that all?

A: That is all I remember.

HIS LORDSHIP: When did you take this period to refer to doing some work when you said he spoke in relation to the early morning of the 19th?

30

A: In other words, Mr. Henry said, "From morning the fellow has been doing some work", but he didn't specify early morning. He said, "From morning."

HIS LORDSHIP: The accused had been doing some work?
A: Yes, sir.

In the Home
Circuit Court

DEFENCE COUNSEL: And actually when you went to the premises at 181 Border Avenue you saw the accused with a hose in his hand - a garden hose in his hand? A: Yes he was watering the garden.

Prosecution
Evidence

No. 9

Stanley Hohn

Cross-
examination

1st March 1968

(continued)

10

HIS LORDSHIP: You say he was watering the garden in the afternoon when you went there?
A: Yes, M'Lord.

Q: Detective, you didn't see him with any water boots, long or short? A: No, sir.

Q: Did you look for any water boots, long or short, in his room? A: I did.

Q: Did you find any? A: No, sir.

HIS LORDSHIP: You found none in his room?
A: No, M'Lord.

20

Q: Elsada Hall told you anything about water boots concerning the man who raped her?
A: Yes, sir.

Q: Did you look anywhere else for water boots?
A: Yes, sir.

Q: Where? A: In a building not very far away.

HIS LORDSHIP: You searched another building? You looked into a building you say? A: Yes, sir.

30

HIS LORDSHIP: Not very far? A: Not very far, M'Lord. That may be the Highland Drive that may have been referred to where he had been working. In other words, M'Lord, I got information that he was working on building in the neighbourhood.

HIS LORDSHIP: And you went to that building?
A: I went to that building, M'Lord.

DEFENCE COUNSEL: And there your search for water boots also proved fruitless? A: Yes, sir.

Q: Now, you told us that Elsada made mention of a

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn

Cross-
examination

1st March 1968
(continued)

knife and a revolver? A: Yes, sir.

Q: Did you ask the accused anything about knife
and revolver? A: I did, sir.

Q: What did he say?

HIS LORDSHIP: First of all, you asked the accused
about the knife and then the revolver?

A: Yes, M'Lord. He said he didn't have any
such weapons.

HIS LORDSHIP: He said he had no such weapons?

A: Yes, M'Lord.

10

HIS LORDSHIP: What about the revolver?

A: Referring to the knife and the revolver.

HIS LORDSHIP: Both revolver and knife?

A: Yes, M'Lord.

DEFENCE COUNSEL: Did you search for both revolver
and knife in accused's room? A: Yes, sir.

Q: Fruitless? A: Fruitless.

Q: Did you make a similar search at his work
place on Highland Drive? A: I did, sir.

Q: Similarly fruitless? A: Yes, sir.

20

Q: Now Officer, when Miss Elsada Hall first made
the report to you the morning of the 19th of
April did she give you any description of her
assailant? A: Yes, sir.

Q: Do you remember the description? A: Somehow,
yes sir.

Q: Could you give me your recollection as to the
description that she gave you? A: Black
complexion, medium built - 5 feet 8 or 9
inches tall - plus the wearing apparel -
wearing brown pants and water boots.

30

Q: Anything about shirt? A: I think she said
there wasn't any shirt. The person was
without shirt.

Q: Officer, see if you can recall or remember if

she said anything, by way of description, about the hair on his head? A: Oh! yes, sir. Black croppy hair, sir.

In the Home
Circuit Court

Prosecution
Evidence

Q: That is all she said about the hair on his head? A: As far as I can recall.

HIS LORDSHIP: Croppy? A: Yes, M'Lord. That means the usual type of low hair. Well, some people say croppy and some say woolly or knotty.

No. 9
Stanley Hohn

Cross-
examination

1st March 1968

(continued)

10 Q: And Officer, did she describe to you in her report, her first report, the nature of the rape? The way in which the rape was done? A: Oh! yes, sir.

Q: And am I correct in saying that the gist of what she told you was that she was held up at the point of a gun and knife outside her room, forced to open her room door, forced into her room, forced to have sex with the man, who having had sex kept watch over her for roughly six hours? A: Yes, sir.

20 Q: Until daylight? A: Yes, sir.

Q: Puts on his water boots, goes away, shuts the door behind him? A: Yes, sir.

Q: Now, apart from the vigil, that is the watching after sexual act, have you had reports of rapes of a similar pattern over the same period in the Havendale area? A: I can recall one of a similar pattern.

HIS LORDSHIP: You say there was a rape in the same area of a similar pattern? A: Yes, M'Lord.

30 Q: You remember how near to Coolshade?

HIS LORDSHIP: Just a minute.

DEFENCE COUNSEL: Sorry, M'Lord.

HIS LORDSHIP? Yes?

Q: And about how near would you say that was to Coolshade Drive where this particular case happened? Was it on Fairfax, which is the road behind?

In the Home
circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn

Cross-
examination

1st March 1968

(continued)

A: On Fairfax Drive. It was on Fairfax Drive.

Q: And would I also be correct in saying, officer, that the same afternoon, the 19th of April, when you arrested the accused, shortly after you arrested a man for the Fairfax Drive rape, or that same day?

A: I would rather say some days after.

HIS LORDSHIP: Some days after arresting the accused another man was arrested for the Fairfax Drive rape?

10

A: Which was committed after the one at Coolshade, M'Lord.

HIS LORDSHIP: After arrest?

A: I wouldn't use the term arrest, M'Lord. A man was brought to the station for investigation?

HIS LORDSHIP: You didn't take him there?

A: I was a member of the party.

HIS LORDSHIP: Who took him there? A: Yes, M'Lord.

Q: A few days after this one?

Q: It was after. Some days after.

20

Q: And am I correct in saying that this man that your party, including yourself.....

HIS LORDSHIP: What?

Q: That this man who was brought in to the station concerning the Fairfax Drive rape subsequently escaped from the Constant Spring police station and is still at large?

A: Yes, sir.

HIS LORDSHIP? Eh? A: That is correct, M'Lord.

Q: Now, officer, bearing in mind the description given by Elzada Hall, and bearing in mind the similarity in pattern of the rape, first of all, will you answer this question for me:

30

did the man who escaped also answer the description, especially by way of height of the man described by Elsada Hall?

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn

Cross-
examination

1st March 1968

(continued)

HIS LORDSHIP: Just a minute. You cannot just take one thing from the description. You have a million men who are five feet eight tall.

10

DEFENCE COUNSEL: I was not isolating that, M'Lord. That is why I said especially. In other words, he must take everything into consideration but concentrate on height; but to make it easier, M'Lord, leave out the height, just take the whole description and take the whole pattern of the rape and look at the man who escaped: could Elsada's case have fitted that man who escaped?

HIS LORDSHIP: I don't understand your asking if Elsada's case could have fitted that man.

DEFENCE COUNSEL: If that man could have raped Elsada. If he fitted the description.

20

HIS LORDSHIP: That is not for this witness to say. It is for the jury.

DEFENCE COUNSEL: If I have framed it badly I apologise. I will rephrase the question. The height of the man who escaped is at around 5 feet 8 or 5 feet 9? A: Yes, sir.

Q: Dark complexion? A: Yes, sir.

Q: Medium build? A: Yes, sir.

Q: Black croppy hair? A: Yes, sir.

30

Q: And the rape for which you arrested him, the man who escaped, was similar in pattern to the one described by Elsada Hall, except for the watching for six hours?

A: I didn't say I actually arrested him, sir.

Q: Detained him. The rape for which you detained that man who escaped is similar in pattern to that one described by Elsada Hall?

A: Yes, sir, except that no gun was involved.

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn

Cross-
examination

1st March 1968

(continued)

Q: What was involved in the Fairfax Drive rape?

HIS LORDSHIP: Just a minute. Yes?

Q: You say there was no gun involved in the case of the man who escaped? A: No gun.

Q: Now,

HIS LORDSHIP: You say no gun was involved in the case of rape on Fairfax Drive?

A: Only a knife.

HIS LORDSHIP: That was a case of rape on Fairfax Drive itself? A: Yes, M'Lord.

10

HIS LORDSHIP: On the road?

A: No, in a premises, M'Lord.

HIS LORDSHIP: Premises on Fairfax Drive?

A: Yes, M'Lord.

Q: And officer, in relation to the arrest that you made on the 19th of the accused, did you have any misgivings when this man subsequently escaped some days later?

CROWN COUNSEL: I am objecting, M'Lord. Whether the Constable has any misgivings or not is not relevant.

20

HIS LORDSHIP: Yes, Mr. Brown.

DEFENCE COUNSEL: I withdraw the question. Finally, officer, you have never been able to recover the revolver, knife or water boots of which Elsada Hall spoke? A: No, sir.

Q: And did you know the accused before the day of the 19th of April when you were taken to 181 Border Avenue? A: No, sir.

Re-examination

STANLEY HOHN RE-EXAMINED BY CROWN COUNSEL:

30

Q: Detective, have you had several reports, or any report at all about rape?

A: No, the last one is the Fairfax Drive rape.

Q: Have you had any offence of rape since Elzada Hall?

In the Home
Circuit Court

HIS LORDSHIP: He said the one on Fairfax Drive was afterwards.

Prosecution
Evidence

Q: Since you have had the report of rape on Fairfax Drive have you had any report of rape at all? A: No, sir.

No. 9

Stanley Hohn

Q: None at all? A: Not in that particular area.

Re-examination

Q: My question is, in any area at all?

1st March 1968

(continued)

10 DEFENCE COUNSEL: I object, M'Lord.

HIS LORDSHIP: The question is, Mr. Forte?

CROWN COUNSEL: Since the report on Fairfax Drive have you had any report of rape at all at Constant Spring police station? A: Yes, M'Lord, there have.

20 DEFENCE COUNSEL: I wish to record my objection, M'Lord, because that ambit is too wide. Just as how your lordship quite properly ruled me out, this cannot arise out of cross-examination because I confined myself to a particular area and particular description and personality.

HIS LORDSHIP: The question that Crown Counsel is seeking to ask is whether the witness had any reports of rape at the Constant Spring police station subsequent to the rape at Fairfax Drive. Isn't that the question?

CROWN COUNSEL: That is so, M'Lord.

30 DEFENCE COUNSEL: That could be any part of the island, so it cannot arise out of cross-examination.

HIS LORDSHIP: The question is allowed.

CROWN COUNSEL: What is your answer?

A: The answer is yes.

Q: This description that you speak about, complexion, medium build, black croppy hair, have you seen other people who meet that

In the Home
Circuit Court

Prosecution
Evidence

No. 9

Stanley Hohn
Re-examination
~~1st~~ March 1968
(continued)

description from time to time? A: It fits almost everybody, sir.

Q: Speak up. A: Yes, sir.

Q: What is your answer? A: It fits almost everybody.

HIS LORDSHIP: This man who escaped was about 5 ft.8 or 5 ft.9, medium build with black croppy hair, and you say that description fits a large number of persons? A: A large number of persons.

CROWN COUNSEL: Would you say whether or not it fits the accused? A: It fits the accused. 10

Q: Tell me, was the man who was brought to the Constant Spring police station ever identified by anyone at all. A: No, sir.

Q: Tell me, was the accused identified by anybody? A: Yes, sir.

Q: Who? A: The complainant.

HIS LORDSHIP: We will resume at 2 o'clock.

1.00 p.m. COURT ADJOURN.

2.30 p.m. COURT RESUME. JURY ROLL CALL ANSWERED. 20

CROWN COUNSEL: That, may it please you, M'Lord, is the case for the prosecution.

REGISTRAR: Eric James, you have heard the evidence against you, now is the time for you to make your defence. You may go into the witness box, give evidence on oath and be cross-examined like any other witness, and afterwards you may also, if you so choose, address the jury as well; or you may make a statement to the jury from where you stand; you are also entitled to call witnesses who you may desire in support of your defence; or you may say nothing at all. What do you wish to do? 30

DEFENCE COUNSEL: May it please you, M'Lord, the prisoner elects to give sworn evidence like every other witness in this case.

No. 10ERIC JAMES - EXAMINATIONIn the Home
Circuit CourtDefence
EvidenceNo.10Eric James
Examination
1st/4th
March 1968ERIC JAMES, SWORN, EXAMINED BY DEFENCE COUNSEL

- Q. Your name is Eric James? A. Yes, sir.
- Q. Your are a general labourer? A. Yes, sir.
- Q. And you live at 181 Border Avenue? A. Yes, sir.
- Q. Kingston 8? A. Yes, sir.
- Q. Whose place is that? A. Mr. & Mrs. Neville Henry, sir.

10

HIS LORDSHIP: What you are answering is that the property belongs to Mr. and Mrs. Neville Henry?

A. Yes, My Lord.

HIS LORDSHIP: Or Mr. and Mrs. Neville Henry live there?

A. Yes, my Lord.

Q. And you live in the back room of the premises occupied by Mr. and Mrs. Henry?

A. Yes, sir.

20

Q. Did you work at all on the 18th of April last year?

A. Yes, sir, I do work.

Q. Where?

HIS LORDSHIP: You are not asked if you do work, you were asked if you worked on the 18th of April last year.

A. Yes, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Examination

1st/4th
March 1968

(Continued)

Q. Where did you work? A. At No.8 Highland Drive, sir.

Q. Is that in the Havendale area? A. Yes, sir.

Q. With whom did you work? A. Well, the building was being constructed.

HIS LORDSHIP: With whom did you work?

A. Mr. Keiz, sir.

Q. Is he a Building Contractor? A. Yes, sir.

Q. And is it a building that was being built there? A. Yes, sir.

10

Q. New building being put up? A. Yes, sir.

Q. And what kind of work were you doing on the 18th of April last year in connection with that new building?

A. I was mixing mortar for the Mason, sir.

Q. What kind of pants did you wear that day?

HIS LORDSHIP: Trousers.

A. A little old pants, sir

Q. What colour? A. Gray, sir.

Q. Is it the same pants you wore when you were working on the 18th of April?

20

A. Yes, Sir.

HIS LORDSHIP: He said he wore a little old pants that day - a little old gray pants. You wore an old gray pants at work? A. Yes, sir.

Q. Now, the pants that you wore at work was it the same pants you wore to work?

A. No, sir.

Q. Now, the pants that you wore to go to work, what kind of pants was that?

30

A. A cocoa brown pants, sir.

Q. Please look at that pant for me. A. Yes, sir, I will.

Q. Is that the pants? A. Yes, sir, I wear that pants to work.

HIS LORDSHIP: To work?

A. I mean at work, and I wear it in the yard when I watering the garden.

HIS LORDSHIP: Just a minute. That was exhibit what, Mr. Brown?

10 DEFENCE COUNSEL: Exhibit 7, M'Lord. Is that what you call cocoa brown pants?

A. No, sir, not this one I did wear to work, sir.

HIS LORDSHIP: That is the pants, exhibit 7, you wore at work in the day, and you say you wore it when you watered the garden?

DEFENCE COUNSEL: What about that pants you have in your hand? Concerning the 18th of April, did you wear it on the 18th of April at all?

A. Yes, sir, I did have it on at work.

20 HIS LORDSHIP: You just said you wore it to work.

DEFENCE COUNSEL: Which is it, did you wear it to work or at work - the one in your hand?

A. At work, sir, to work into.

Q. But when you leave home to walk on the street to go to work, what pants did you have on? Was it that one?

A. No, sir, a cocoa brown pants, sir.

HIS LORDSHIP: Mr. Brown, you said that pant was exhibit 7, it is exhibit 5.

30 DEFENCE COUNSEL: Much obliged, M'Lord. Seven was the gray underpants.

HIS LORDSHIP: I wish you would be more accurate.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Examination

1st/4th March
1968

(Continued)

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Examination

1st/4th
March 1968
(Continued)

Q. Now, Mr. James, you told us that you went to work at Highland Drive on the 18th of April, 1967?

A. Yes, sir.

Q. Did you go back home when you finished working that day? A. Yes, sir, I went back home.

Q. You remember about what time you got home?
A. Well, sir, we generally finish.....

Q. No, I don't want generally. Do you remember what time you got back to 181 Border Avenue on the 18th of April, 1967?

10

A. Yes, sir, I remember, sir. About 20 to 6, sir, or quarter to, which one you want to call it.

Q. Not what I want to call it. About what time you say now?

A. About quarter to 6, sir.

Q. Did you leave your home again for that evening or night - that is the 18th of April, 1967?

A. No, sir, I never came back out until about 5.30 the other morning I pick up Mr. Henry's Gleaner.

20

HIS LORDSHIP: What time you picked up the Gleaner?

A. About 5.30, sir.

HIS LORDSHIP: You say you didn't leave your home for that afternoon or night, except for?

A. 5.30 the next morning the 19th, sir, the Wednesday morning that was, sir.

Q. Did you sleep the night of the 18th of April, 1967?

30

A. Yes, sir, I do.

Q. Where? A. At No.181 Border Avenue, sir, in my room.

Q. Did you sleep in your room alone on the night of the 18th of April, 1967?

A. Yes, sir.

Q. Do you occupy that room alone? A. Yes, sir, me alone.

Q. Are you single or married? A. I am married, sir.

Q. Any children? A. Yes, sir, I have four children.

10 Q. Where does your wife live?

A. In Mandeville, sir. Hatsfield, sir.

HIS LORDSHIP: Hatfield? Is that the name of the district?

A. Yes, sir, Hatsfield District and Hatsfield post office, My Lord.

Q. Is that where your children also live? A. Yes, sir.

Q. And do you visit your wife there sometimes? A. Yes, sir, every two weeks.

20 Q. Now, do you know where 10 Coolshade Avenue is? A. Yes, sir, by now I know.

HIS LORDSHIP: Just a minute. You say by now you know where 10 Coolshade Drive is?

A. Yes, my lord.

Q. You say by now. When did you first know where 10 Coolshade Avenue is?

A. Is about three weeks after I was being arrested, sir.

30 Q. Now, about how far is that 10 Coolshade Drive from where you live at 181 Border Avenue?

A. Well, roughly, sir, I would say about a little more than half mile, but not three-quarter mile.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Examination

1st/4th
March 1968

(Continued)

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Examination

1st/4th

March 1968

(Continued)

HIS LORDSHIP: Mr. Brown, you refer to this place as 10 Coolshade Avenue and also as 10 Coolshade Drive.

A. Is drive, sir.

DEFENCE COUNSEL: M'Lord, I was placed in confusion by the lady who lives there. They seemed to have changed the name.

HIS LORDSHIP: 10 Coolshade?

DEFENCE COUNSEL: I better call it Drive, M'Lord.

HIS LORDSHIP: How far is 10, Coolshade Drive from 181? 10

A. A little more than half mile, my lord.

Q. But not as much as three-quarter?

A. No, I don't think so, sir.

Q. You say that three weeks after you were arrested, for the first time you found out where 10 Coolshade Drive was?

A. Yes, sir.

Q. Can you now say whether you went into the premises of 10 Coolshade Drive any time on the night of the 18th of April, 1967? 20

A. No, sir; no, sir.

Q. What time did you go to bed on the night of the 18th of April, 1967?

A. At about quarter to 10, sir.

Q. And did you leave your bed at 181 Border Avenue any time between then and 5 o'clock next morning when you picked up the newspaper for Mr. Henry?

A. No, sir. I never come back out until the morning, sir. 30

Q. Now, you see that lady there? A. Yes, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Examination

1st/4th
March 1968

(Continued)

- Q. Miss Elsada Hall. A. Yes, sir.
- Q. Did you know her before the 19th of April, 1967? A. No. sir.
- Q. When is the first time in your life did you see her? A. On the 19th.
- Q. When is the first time you ever laid eyes upon Miss Hall? A. On the 19th, sir.
- Q. About what time? A. About quarter to 6, sir.
- 10 Q. In the evening? A. Yes, sir.
- Q. Where? A. I was coming home from work, sir, going home from work.
- Q. Go slowly and talk distinctly so that His Lordship can write. A. Yes, sir.
- HIS LORDSHIP: You were coming home from work?
- A. I was going home from work, my lord, and as I reach Avon Place which come across from - run across Morningside Drive and Coolshade Drive, my lord
- 20 Q. What happened?
- A. And come out to Fairfax Drive, sir, as I reach there, sir, I saw a sport car drove up, sir. I did not know which direction they were going, sir.
- Q. You said they?
- A. Yes, sir, a Chinese man and that woman there was in the car.
- Q. She was in the car? A. Yes, sir.
- Q. When it drove up? A. Yes, sir.
- 30 Q. Are you certain? A. Yes, sir.
- Q. She was in the car? A. Yes, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Examination
1st/4th
March 1968
(Continued)

HIS LORDSHIP: In the car there were two people - a Chinese man and Miss Elzada Hall? Is that it?

A. That is correct, my Lord.

Q. Miss Hall was in the car, and who else?

A. And the Chinese man, sir, which is Mr. Lyn.

Q. Yes?

A. Yes, Sir, and as I reach about a chain from Avon Place, going down to Fairfax I hear the car stop beside me.

10

HIS LORDSHIP: You hear the car stop beside you or you see the car stop?

A. I look around, my Lord, and see the car stop. Then when I look, sir, I see a Chinese man driving because it was right-hand drive, and she was on the left facing me, very near, sir.

Q. She was nearer to you?

A. Yes, sir, I was going down on the left, sir.

Q. Yes.

A. And the Chinese man say, "Good evening", and I said good evening. He then said, "Do you live in this area?" I said yes. Him say, "May I ask your name please?"

20

Q. Did you answer? A. Yes, sir, sure.

Q. What did you say? A. Eric James.

Q. Is that your right name?

A. Oh! yes, sir, Eric Augustus James. He then said, "Do you work in this area?"

Q. Did you answer? A. Oh! Yes, sir.

Q. What you said?

30

A. I said, "You see that building up there at No. 8 Highland Drive, is up there I work. Then he turn to me, sir, and say, "Do you know this girl?"

Q. Was he then pointing to anybody?
A. Pardon, Sir.

Q. When he asked if you know this girl was he pointing to any particular girl?

A. The same Elsada Hall that was sitting on the left-hand side of he, sir.

Q. And what did you say?

A. I said, No, sir, and him turn to she, "You ever seen this woman yet?"

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Examination

1st/4th March
1968

(Continued)

10 HIS LORDSHIP: He turned to her and said to you, "Do you ever see that woman there yet?"

A. Yes, sir, She said.....

HIS LORDSHIP: Elsada Hall?

A. Yes, sir. She have seen me somewhere but she can't remember where. I said, "Me!"

HIS LORDSHIP: What?

A. I said to her, "Me!" "You ever seen me!" Yes, my lord, at that point the Chineese man say, "Thank you", and then drove off down towards Fairfax Drive.

20

Q. So she didn't answer when you asked her if she had ever seen you?

A. Yes, sir, her reply was she see me somewhere but she can't remember where.

Q. You said that after she told you that you said to her, "You ever see me"?

A. Yes, sir, that is right.

Q. But she didn't talk after that?

A. No, sir, she didn't say a thing.

30

HIS LORDSHIP: He says that after he said, "Me! you ever seen me", at that point you said the Chineese man said, "Thank you"? A. Yes, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Examination

1st/4th

March 1968

(Continued)

Q. Without her speaking again? A. Yes, sir, she never spoke again.

Q. During all that conversation did you make any attempt to run?

A. Oh! no, sir, because I never know why him asking me. I thought is a address he wanted maybe, sir.

HIS LORDSHIP: You say during this time you didn't run because you say you thought he wanted an address?

10

A. Yes, sir, that is right, my lord.

Q. And in fact you did give him your address?

A. Oh! sure, sir, the right one.

Q. But before both of them drove away did either Mr. Lyn or that lady ask you anything about where you lived?

A. No, sir, they asked me that before and I give it to them, sir.

Q. You only told us about giving your name.

A. I tell them 181 Border Avenue, sir, and me name and where I work.

20

Q. Now, who you gave your address to as 181 Border Avenue?

A. Is Mr. Lyn was asking the question, sir.

HIS LORDSHIP: Mr. Lyn asked you what?

A. My name, address and where I work.

HIS LORDSHIP: And you told him 181 Border Avenue?

A. Yes, sir.

Q. Having told him your name and address, before Mr. Lyn and the lady drove away, did either of the two of them try to hold on to you?

30

A. No, sir, no.

- Q. No attempt at all? A. No, sir, no.
- Q. Were you frightened? A. No, sir, nothing whatsoever.
- Q. Now, did you see Mr. Lyn and that lady again that afternoon? A. Yes, sir.
- Q. Where? A. I proceed down Fairfax Drive, sir.
- Q. Going where? A. Going towards my home 181 Border Avenue, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Examination

1st/4th
March 1968

(Continued)

10 HIS LORDSHIP: You went down Fairfax Drive?

A. Yes, sir, and turn on Border Avenue.

HIS LORDSHIP: You were on your way to 181?
A. Yes, sir.

Q. So when you next saw them? Were you nearer to your home or far from your home?
A. About a chain from my gate, sir.

Q. Your gate at 181 Border Avenue? A. Yes, sir.

HIS LORDSHIP: What happened there, one chain from your gate?

20 A. The car stop beside me again over on the other side.

Q. Which car? A. The M.G. car Mr. Lyn was driving.

HIS LORDSHIP: The same car? A. Yes, sir.

HIS LORDSHIP: Stopped where?

A. Over on the other side, sir, which would be on the left-hand coming up.

HIS LORDSHIP: Stopped on the other side of the road then?

30 A. Yes, sir, on Border Avenue.

Q. How many people were in the car that time?
A. Two people, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Examination
1st/4th
March 1968

(Continued)

Q. The same two? A. Yes, sir, Eلسada Hall and Mr. Lyn.

Q. Anybody talk to you? A. Yes, sir.

Q. Who? A. Mr. Lyn call me again, sir.

Q. What he said to you? A. He said, when I went up to the car, sir, he said, "What did you say you name again?" I said, but don't you is the same gentleman I just meet up Fairfax Drive and I told you my name.

HIS LORDSHIP: Did he answer you to this?

10

A. No, sir, he only listening to me now. I said, I have told you my name is Eric James and see my gate down there, 181 Border Avenue where that mango tree is.

Q. Yes? A. And I work at 8 Highland Drive as I told you. Then he took a cigarette box out his pocket and wrote in down.

Q. Wrote down something? A. Yes, sir.

Q. What next happened? Anybody spoke again?
A. Yes, sir.

20

Q. Who? A. Eلسada Hall, sir.

Q. What she said to you. A. She ask me if I married, sir.

HIS LORDSHIP: At that time? A. Yes, sir.

Q. Did you answer her? A. Yes, sir.

Q. What you said? A. I said, Yes, I am married.

Q. Any more questions from her to you? A. Yes, sir.

Q. What was it? A. She asked me how many children I have, sir.

30

Q. Did you answer her? A. Yes, sir.

Q. What was your answer? A. My answer was four, sir.

HIS LORDSHIP: These questions were asked in the presence of Mr. Lyn?

In the Home
Circuit Court

A. That is right, my Lord.

Defence
Evidence

Q. Any more questions from the lady? A. Yes, sir.

No.10

Q. What? A. She asked me if my wife is living there with me, sir.

Eric James
Examination

Q. Did you reply? A. Yes. sir.

1st/4th
March 1968

Q. What was your reply? A. I said, no, sir.

(Continued)

10

Q. Yes? A. I said my wife is in Mandeville, sir, and I went over every two weeks. She then ask me, sir, who is the people that I am living there with.

Q. There where? A. 181 Border Avenue, sir.

Q. Did you answer her? A. Yes, sir.

20

Q. What you told her? A. I told her, sir, Mr. and Mrs. Neville Henry. Then at that time I say to the Chinese man if is a address he is looking for. He then said, "No, I am just trying to get some information." Then he said, "Thank you", and drove off.

Q. Both of them? A. Yes, sir.

Q. You went inside the yard? A. Yes, sir, I then went inside.

Q. Did you see them again for that evening?
A. Yes, sir.

Q. About how long after? A. About 20 minutes after, sir.

Q. What were you doing when you saw them, or where were you when you saw them?

30

A. In my yard, sir, at 181 Border Avenue.

Q. Doing what? A. I was there watering, sir.

Q. You have any waterboots? A. No. sir, no.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Examination

1st/4th
March 1968

(Continued)

Q. You ever wear waterboots in your life?
A. No, sir.

HIS LORDSHIP: You say about 20 minutes after you saw them again when you were in your yard at 181 Border Avenue watering? A. Yes, sir.

HIS LORDSHIP: You say you don't have a waterboots? A. No, my lord.

Q. And you weren't wearing any? A. No, sir.

Q. Did you wear any waterboots on the night of the 18th of April? 10

A. No, sir, I never wear any because I don't own one, sir.

Q. A policeman came along with her?
A. As I finish water, sir.....

Q. A policeman came along with her? A. Yes, sir.

HIS LORDSHIP: When you were watering and you saw them again a policeman was with Elzada Hall? A. No, my lord that part there is mixed up. 20

HIS LORDSHIP: Isn't that what you asked him?

DEFENCE COUNSEL: Yes, M'Lord.

A. No policeman didn't come with her, sir. The policeman came along in a Austin Cambridge.

HIS LORDSHIP: Who came when you were watering?

A. She alone, sir. She and Mr. Lyn came.

HIS LORDSHIP: You say when you were watering and you saw them again no policeman was with them? A. No, sir. 30

HIS LORDSHIP: The policeman came when?

A. Just as I finished water the police came.

Q. How many police? A. Three, sir. Three of them were in the car.

Q. In one Austin car? A. Yes, sir.

HIS LORDSHIP: You say just as you finished watering three policemen came in an Austin car? A. Yes, sir.

HIS LORDSHIP: And you say while you were watering you saw them again?

A. Did I say that, my lord?

10 HIS LORDSHIP: "About 20 minutes after I saw them again when I was in my yard at 181 watering".

A. Yes, my lord.

Q. By that you mean Elsada Hall and Mr. Lyn?
A. Yes, sir.

HIS LORDSHIP: When the policeman came you had finished watering? A. Yes, sir, just take off the hose and was screwing it up.

Q. Who came first? A. They came first.

20 Q. And the police after? A. Yes, sir.

HIS LORDSHIP: Elsada Hall and Mr. Lyn came first?

A. Yes, sir.

HIS LORDSHIP: Then the police came afterwards?
A. Yes, M'Lord.

Q. Did Miss Hall make a report in your presence to this Detective - Mr. Hohn? A. Yes, sir, yes, sir.

HIS LORDSHIP: He was one of the three policemen?

A. Yes, sir.

30 DEFENCE COUNSEL: M'Lord, can I lead as to the report that she made?

HIS LORDSHIP: Let him give the evidence. You were not there, he was there.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Examination

1st/4th
March 1968

(Continued)

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Examination

1st/4th
March 1968

(Continued)

Q. What did she say? A. The police came.....

Q. No. What did she say? A. She said,
"This is the man that come to my room last
night". I said, "Me!". I said, You must
be a mad woman. She said, yes. Then I said,
well let I go and call Mr. and Mrs. Henry,
and the three police, Mr. Lyn and she
followed behind me, and I then call Mr. and
Mrs. Henry. When they came out, sir,
Detective here say he is police.

10

HIS LORDSHIP: What?

A. Detective here that is in court here told
Mr. and Mrs. Henry that he is police.

HIS LORDSHIP: Told them what?

A. That they are police and is me them come for.
Mr. and Mrs. Henry say

HIS LORDSHIP: Only one person can speak at a time,
so just deal with one person at a time.

A. Mr. and Mrs. Henry say.....

HIS LORDSHIP: One person at a time.

20

A. Mr. Henry say, "For what". Elsada Hall
then came up.

HIS LORDSHIP: What?

A. Elsada Hall came forward and then tell her
story to Mr. Henry, sir.

Q. The same thing you told us a while ago?

A. Yes, sir.

HIS LORDSHIP: What was that story?

A. She said me come to her room, M'Lord, from
10.30 until 6 o'clock the morning before
I left there, sir. Mr. Henry said you are a
crazy woman; you must be mad; Eric is not the
type, and I am sure.....

30

HIS LORDSHIP: What?

A. And I am sure - that is Mr. Henry I am talking, my lord

HIS LORDSHIP: I am sure what?

A. He never left his room because he was out....

HIS LORDSHIP: Never left his room because what?

A. He was out, my lord.

Q. Who was out?

A. Mr. Henry, and came back at about 20 to 10, sir, and I was in my room. For Mr. Henry....

10 HIS LORDSHIP: What?

A. Mr. Henry.....

HIS LORDSHIP: Is that all he said, that you were in your room?

A. Yes, sir. He then said, sir.....

HIS LORDSHIP: What were you saying about Mr. Henry now?

A. Mr. Henry then call out to me after he came home.

20 HIS LORDSHIP: This is what happened while the police were there?

A. That was what he was telling the police.

HIS LORDSHIP: He was telling the police he called out to you when he came?

A. Yes, sir; yes, my lord.

Q. Yes? A. Not to forget to turn off the light.

Q. In your room? A. Yes, sir; before I go to bed. Then a little after I hear the T.V. inside.

HIS LORDSHIP: That is Mr. Henry still talking?

A. No, sir, me talking now.

In the Home
Circuit Court

Defence
Evidence

No.10
Eric James
Examination
1st/4th
March 1968
(Continued)

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Examination

1st/4th
March 1968
(Continued)

HIS LORDSHIP: This is what is happening
in front of the police?

A. Yes, sir.

Q. Now, Mr. James, what his lordship is trying
to find out from you is, have you finished
telling us of what Mr. Henry said?

A. Yes, sir.

Q. This thing about T.V. is it what Mr. Henry
said? A. No, sir, not what Mr. Henry said.

Q. What you are going to tell us about the T.V.
how that come in now? 10

A. A little after Mr. Henry come in I now hear
the T.V. said is quarter to 10, sir.

HIS LORDSHIP: You are saying that a little
after Mr. Henry came in the night before.....

A. On the 18th I am speaking about, M'Lord. That
is when the policemen them come.

HIS LORDSHIP: The police came to your house on
the 18th?

A. Yes, sir. Yes, my lord. 20

DEFENCE COUNSEL: Mr. James, this T.V. business --
are you talking about the T.V. business
happening the same day the police came or the
night before the police came?

A. Is the night when them came, sir, on the day
when them arrest me. That is what Mr. Henry...

Q. You said you heard the T.V. say quarter to 10.
On what day did you hear that?

A. That is the 18th, before I go to bed.

HIS LORDSHIP: That is what I was asking you.
It was on the 18th? 30

A. Yes, my lord, that is before I go to bed.

Q. So Mr. Henry finish talking then? A. Yes, sir.

In the Home
Circuit Court

Defence
Evidence

No.10
Eric James

Examination

1st/4th
March 1968

(Continued)

Q. What next happened to you, as far as the police and Elsada Hall were concerned?

A. The police said he would like to see in my room, sir.

Q. You took them to your room?

A. Yes, sir, I led the police to my room, sir, followed by Elsada Hall and the Chinese man, Mr. Lyn.

10

Q. Now, try to remember clearly, Mr. James, if you can: up to that time when you are leading the police to your room had Detective Hohn yet laid hands upon you?

A. No, sir, not at all, sir.

Q. Quite certain? A. I am quite certain, sir; he never touch me, sir.

Q. Who went into the room first? Who entered the room first, you or the police?

A. I went up to the door, switch on the light and stand aside.

20

HIS LORDSHIP: The light in your room? A. Yes, sir.

Q. And you stood aside? A. Yes, sir.

Q. Did they search? A. Yes, sir, all three policemen entered, sir, Elsada Hall and Mr. Lyn, and me and Mr. Henry.

Q. You are sure Elsada Hall came into your room? A. Yes, sir.

Q. She didn't just stand outside the door? A. No, sir.

30

Q. She came inside your room? A. Yes, sir.

HIS LORDSHIP: Three policemen entered, also Elsada and Mr. Lyn, and Mr. and Mrs. Henry?

A. Yes, sir. Mr. and Mrs. Henry and myself were by the door standing up by ourselves, sir, like this.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Examination

1st/4th
March 1968

(Continued)

Q. Yes? A. And they started to throw things from one end to the other.

Q. Searching? A. Yes, sir.

HIS LORDSHIP: They searched the room? A. Yes, sir.

Q. Did they take up anything belonging to you?
A. Yes, sir.

Q. What? A. Elsada Hall picked up this pants, sir.

Q. Elsada Hall picked it up? A. Yes, sir, it was on the bed.

10

HIS LORDSHIP: On your bed? A. Yes, sir.

HIS LORDSHIP: Is that exhibit 5?

DEFENCE COUNSEL: Exhibit 5, M'Lord. She said anything?

A. Yes, sir, she said something.

Q. What? A. She said, "yes, because see the zip there."

HIS LORDSHIP: She just said, "yes, because see the zip there"?

A. Yes, sir.

20

Q. You said anything? A. No, sir.

Q. The police asked you anything about that pant?
A. No, sir.

Q. The police took away that pant with them?
A. Yes, sir.

Q. Did they take away anything else from you?
A. Yes, sir.

Q. What? A. They also take a underpant, sir.

Q. Was that one on your body at the time? A. No, sir.

30

Q. Where they took that one from? A. It was also on the bed, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Examination

1st/4th
March 1968

(Continued)

Q. Whose underpant was that - yours? A. Yes, sir.

Q. When last had you worn that underpant?
A. The day before, sir.

Q. The 18th of April? A. Yes, sir.

Q. Could you show him exhibit 7 for me please?
(Exhibit 7 shown to witness). Is that yours?
A. Yes, sir, my own, sir.

10

Q. Is that the one taken from the bed? A. Yes, sir.

Q. That is the one you wore on the 18th of April? A. Yes, sir.

Q. And after that you were arrested by Detective Hohn? A. Yes, sir.

Q. When you were arrested you said anything to the policeman after he arrested you? A. After he arrested me, sir?

Q. If you said anything? A. If I said anything to him?

20

Q. If you said anything more to the police after arrest? A. I said to him, I am not guilty Officer. You took me for the wrong person, sir.

HIS LORDSHIP: I am not guilty. You take me for the wrong person? A. Yes, sir.

Q. Now, Mr. James, have you ever owned a revolver in your life? A. No, sir, never. I never handle a revolver. I only seen it. I only see people with it.

30

Q. You have never handled a revolver? A. No, sir, in all my life. I only see people with it.

Q. Did you use any knife on the night of the 18th of April to threaten that woman so as to have sex with her? A. No, sir, I don't own a knife, sir.

Q. Did you use any knife and threaten.....

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Examination

1st/4th
March 1968

(Continued)

HIS LORDSHIP: Just a minute. You didn't use any knife on the 18th of April, 1967 to threaten Elsada Hall so as to have sex with her. Is that correct? A. Yes, my lord.

HIS LORDSHIP: And you say you don't own a knife?
A. No, my lord, I don't own no knife, sir.

Q. But in your life time you have handled and used knives? A. Yes, sir.

Q. Did you force this woman into her room at 10 Coolshade Drive.....

10

HIS LORDSHIP: Use her name.

Q. Elsada Hall. Did you force her into her room on the night of the 18th of April, 1967?
A. No, sir, because I never left my room.

Q. The answer is no? A. After I came back from work.....

Q. The answer is no? A. Yes, sir.

Q. Did you wear that pair of pants into Elsada Hall's room on the 18th of April, 1967.

A. No. sir.

20

HIS LORDSHIP: Exhibit 5?

DEFENCE COUNSEL: Exhibit 5, M'Lord. Did you pull the front of the zip of that pants with your left hand, take out your penis and have sex with that lady for half hour on the night of the 18th of April, 1967? A. No, sir.

HIS LORDSHIP: You didn't have sex with her on that night? A. No, sir.

HIS LORDSHIP: You didn't have intercourse with her? A. No. sir.

30

Q. And from half past 10 on the night of the 18th of April to half past five on the morning of the 19th of April, did you stand up like a policeman keeping duty, watching at her bedside? A. No. sir.

Q. And finally, at around 5.30 a.m. on the 19th of April, 1967 when leaving her room did you threaten her that if she shouts out or tells anybody you would kill her?
A. No, sir.

In the Home
Circuit Court

Defence
Evidence

Q. Did you leave her room at all? A. No, sir, I wasn't at her place at all.

No.10

Q. You weren't at her place at all? A. No, sir.

Eric James
Examination
1st/4th March
1968

10 HIS LORDSHIP: In fact you didn't go to her room on the night of the 18th at all?

(Continued)

A. I never left my room at all that night until I got up at 5.30 at Mr. Henry's place and went to my work.

HIS LORDSHIP: The night of the 18th or any other time at all? A. No other time, sir.

- - - - -

ERIC JAMES CROSS-EXAMINED BY CROWN COUNSEL:

Cross-
Examination

20 Q. Now, Mr. James, you have the trousers in front of you. Look at it properly. Exhibit 5. A. Yes, sir.

Q. You have told us you wore two different pairs of trousers on the 18th of April. Is that correct? A. Yes, sir.

Q. And did you say that is the trousers that you wore at work? A. Yes, sir, in the concrete, sir.

Q. May I look at it. Your work, Mr. James, is mixing mortar - on the 18th of April? A. Yes, sir.

30 Q. You don't use a waterboots when you are mixing mortar? A. No, sir; I have a pair of old black shoes there, sir.

HIS LORDSHIP: You say you wear a pair of old black shoes? A. Yes, sir, at work.

HIS LORDSHIP: When mixing the concrete? A. Yes, my lord.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Cross-
examination

1st/4th

March 1968

(Continued)

Q. Tell me, do you roll up your trousers foot when you are mixing the mortar? A. Well, no sir.

Q. Yes, or no? A. I generally do, sir, because....

Q. You generally roll up your trousers foot when you are mixing mortar? A. Yes, sir.

Q. Did you roll up the trousers foot of this trousers on the 18th of April when you were mixing mortar? A. No, sir.

Q. You didn't? A. No, sir.

10

Q. Why do you usually roll it up? A. Well, sometimes the water would splash and wet you up.

Q. And you don't want to be wet? A. No, sir.

Q. It would wet the bottom of your trousers foot? A. Yes, sir.

Q. Just answer me this: do you think by wearing a water boots that would prevent the water wetting the bottom of your trousers foot? Do you agree with me? Yes or no. Would a water boot prevent that? A. Well, yes, sir, it could prevent it.

20

DEFENCE COUNSEL: M'Lord, I don't want to interrupt, but this type of cross-examination sound like speculation; this is not a fishing expedition. Through the witness Detective Hohn the evidence is that a search for waterboots - both at home and at work place - proved abortive.

HIS LORDSHIP: The crown must prove its case. The crown's case is that the person who went to this woman's room had on a pair of waterboots.

30

CROWN COUNSEL: Now let me just deal for the moment with the pants. You say that it was Elzada who took up the pants in your room from the bed? A. Yes, sir.

Q. And you said you never told the police that you were wearing it the day before? A. I told them, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Cross-
Examination

1st/4th
March 1968

(Continued)

Q. You said that the police didn't ask you about the pants? A. After Elzada take it up she said that was the pants I was wearing on the night of the 18th.

Q. Let me put it this way. Did you say yes?
A. Sir?

Q. Did you agree that that was the pants you were wearing on the night of the 18th?
A. No, sir, I didn't agree, sir.

10 Q. Didn't the police ask you anything about the pants? A. No. sir.

Q. Did you tell the police anything about the pants without their asking you? A. No, sir.

Q. No? A. No, sir.

Q. Didn't you just tell me that you told the police you were wearing the pants on the 18th of April? A. At work, sir.

20 Q. Didn't you tell me that just two minutes ago?
A. At work, sir. I don't wear that pants on the street, sir.

Q. Did you, Mr. James, in answer to me say, less than two minutes ago, that you told the police that you were wearing the pants on the 18th of April last year? A. At work, sir.

30 HIS LORDSHIP: Just a minute. What the witness said in answer to the first question put to him in cross-examination - he said, "I wore the pants at work on the 18th of April mixing concrete."

CROWN COUNSEL: I am referring to a question about the pants on the 19th of April, and this witness said to me that he told the police he was wearing the pants, and now he is saying that he didn't say that.

HIS LORDSHIP: You have heard? You did say you told the police that you wore the pants the day before?

A. Yes, sir, at work, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Cross-
Examination

1st/4th
March 1968
(Continued)

HIS LORDSHIP: You told the police that? A. Yes, sir.

Q. Are you agreeing now that you said you told the police that? A. Yes, sir.

Q. When you said you didn't were you lying? A. Maybe I misunderstood, sir.

Q. And you told them without their asking you about it. Is that what you are saying? A. Yes, sir.

HIS LORDSHIP: Mr. Forte, I didn't hear the question. 10

Q. You told them that without their asking you anything at all? A. Well, she took up the pants and tell them and I said, I don't wear this pants on the street is only at work or at home.

HIS LORDSHIP: She took up the pants and you said you don't wear it on the street, only at work and at home? A. Yes, sir.

HIS LORDSHIP: Is this a convenient time? 20

CROWN COUNSEL: It is convenient, my lord.

3.45 p.m. - COURT ADJOURN

4th March, 1968

10.15 a.m. - COURT RESUME. JURY ROLL CALL ANSWERED.

CROSS-EXAMINATION OF ERIC JAMES BY CROWN COUNSEL
CONTINUES:

Q. Mr. James, Friday you told us that you - where are the trousers, the exhibits? You were shown a trousers on Friday which you said you wore at work. A. Yes, sir. 30

Q. When you left work that day, 18th of April last year - were you still wearing that pair of trousers? A. Well, I wasn't wearing it, sir, but I carry it home.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Cross-
Examination

1st/4th
March 1968

(Continued)

Q. You took it home with you? A. Yes, sir,
the Wednesday afternoon, which was the 19th,
sir.

Q. What is the - what colour - I suppose you
wore a pair of trousers home? A. Pardon,
sir?

Q. You wore trousers home? A. Yes, sir.

Q. What colour trousers? A. Dark brown.

10 Q. Will you look at this trousers - exhibit 5?
What colour would you describe it as?
A. I would say this is light gray, sir.

Q. You call that light gray? A. Yes, sir.

HIS LORDSHIP: That is exhibit 5?

CROWN COUNSEL: Exhibit 5. So, Mr. James, would
you not agree with me that it is a pair of
brown pants? A. Well, I wouldn't call that
brown, sir.

HIS LORDSHIP: You said you call it what?
A. Light gray, sir.

20 Q. Now, you had on that gray trousers - the dark
brown trousers on the night of the 18th of
April? A. Yes, I wear it to work, sir.

Q. But you wore it from work, sir? A. Yes, sir.

Q. And you wore it in the night of the 18th
before you went in to bed? A. No, I take
it off and have a shower then hang it up,
then tidy the other morning which was the
19th.

30 Q. Let me get it straight. When you left work
you were wearing a dark brown trousers?
A. Yes, sir.

Q. Now, when you got home did you keep on that
brown trousers? A. Yes, sir, until I ready
to go to bed.

Q. Until you went to bed? A. Yes, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Cross-
Examination

1st/4th
March 1968

(Continued)

Q. When the police came to your house the following day where was that pair of brown trousers?

HIS LORDSHIP: The one you wore home?

A. That was the one that I did have on, sir, when the police came.

Q. You had that on? A. Yes, sir.

Q. Did you tell them that you wore that pair of trousers on the night of the 18th?

A. I tell them I wear it at work. 10

Q. No, no. Did you tell them that you wore the pair of trousers, that you had on when they came, on the night of the 18th?

A. They didn't ask me anything special about that one that I did have on, sir. They didn't ask a thing.

Q. They didn't ask you? A. No, sir.

Q. When the lady came to your house and made the report in your presence did she say what time the man had come to her house the night before? 20

A. Yes, sir, she said from 10.30, sir.

HIS LORDSHIP: That is the complainant? A. Yes, sir.

HIS LORDSHIP: The complainant told the police that the man came to her house about 10.30?

A. Yes, sir.

Q. Didn't the police ask you for the clothes you were wearing the day before? A. They didn't ask, sir. Is the girl say this is the pants I did have on the night, sir. 30

HIS LORDSHIP: What?

A. The girl said, sir - the complainant told the police, which this pants were lying on the bed, and she said, yes because see the zip. So the police just take it.

Q. She didn't also say, yes, because it is a dark brown pants? A. Who, sir, me?

- Q. The girl. Did she say that? A. Yes, sir, she say that.
- Q. And did she point out where the foot looked to her that it had been rolled - mashed up? A. Did she what?
- Q. Did she point out where the foot looked like it was mashed up? A. I fold it up.
- Q. Yes or no? Did she say that? A. Yes, sir, she said that.

In the Home
Circuit Court

Defence
Evidence

No.10
Eric James

Cross-
Examination

1st/4th
March 1968

(Continued)

10 HIS LORDSHIP: She pointed out?

CROWN COUNSEL: One of the trousers foot as being mashed up.

A. Yes, sir, she said that.

Q. Well, did you tell the police, I wasn't wearing that pants last night, I was wearing it at work in the day? A. Yes, sir, I said that.

Q. You told them that? A. Yes, sir.

20 Q. But you didn't show them the one that you really had on the night before? A. They didn't ask me that, sir, and the girl didn't say.

Q. They didn't ask you about the one you were wearing the night before? A. No, sir.

Q. I am putting it to you that the police asked you for your clothes and it was you who gave them that pants, exhibit 5? A. No, sir, the girl pick it up off the bed, sir.

30 Q. Now, you told us sometime ago, Friday I think it was, that it was after this incident that you came to discover where 10 Coolshade Drive was? A. Yes, sir.

Q. It is within walking distance from Border Avenue to Coolshade Drive? A. Yes, sir, it is within.

Q. And it wouldn't take more than fifteen minutes to walk from 181 Border Avenue to 10 Coolshade Drive? A. I would say about twenty, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Cross-
Examination

1st/4th
March 1968

(Continued)

Q. About twenty minutes? A. Yes, sir.

Q. What time is was you say Mr. Henry came in that night? A. About quarter to 10, sir, or twenty to 10.

HIS LORDSHIP: The night of the 18th? A. Yes, sir.

Q. Now, Mr. Henry just came and went into the house? I mean he didn't stop and talk to you?

A. I heard when he call out to his wife, sir, to open the door, then he call out to me, sir, and said I must remember to turn off the light before I went to bed. 10

Q. But apart from talking about the light he didn't say anything else? A. No, sir, because I was inside.

HIS LORDSHIP: You say he didn't say anything else? A. No, Sir.

Q. Did you answer him when he called about the light? A. Yes, sir, I told him that I don't as yet gone to bed and I turn it off.

Q. Then you never saw or heard Mr. Henry again for the rest of the night? A. No, sir. 20

Q. How long after he had called to you did you turn off the light? A. About five minutes after, sir.

Q. Now, Mr. James, we go to the following day, the 19th of April, when you were on Fairfax Drive. A. Yes, sir.

Q. During the time Mr. Lyn spoke to you did he ever ask you to direct him to any particular address at all? A. No, sir, he didn't. 30

Q. But you said that you thought why he was asking you all these questions was because he wanted an address? A. That was when I meet him on Border Avenue, sir, after I reach about a chain from my gate. The second time that is on Border Avenue.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Cross-
Examination

1st/4th
March 1968

(Continued)

- Q. Tell me, when is the first time you thought Mr. Lyn was looking for somewhere?
A. The second time when I meet him, when the girl started to question me if I married and all that.
- Q. That is when you thought he wanted an address?
A. Yes, sir.
- 10 Q. Then do you believe that questioning you about whether you were married would help to find out an address? A No, sir, but the way she was questioning me.
- Q. Did you on Friday, in answer to Mr. Brown your Counsel, say that you never made any attempt to run up at Fairfax Drive when they were questioning you? A. No, sir, at no time.
- Q. Did you say you never made any attempt to run?
A. I never made any attempt to run.
- 20 Q. And did you go on to say that you never made any attempt to run because you thought he wanted an address? A. Well.....
- Q. On Fairfax Drive? A. No, sir, it wasn't on Fairfax Drive. I said on Border Avenue, sir.
- Q. I am putting it to you.....? A. Yes, sir.
- Q. That you said on Friday that you never attempted to run at Fairfax Drive because you thought Mr. Lyn wanted an address? A. No, sir, I said on Border Avenue, sir.
- 30 Q. Alright! Tell us why you never attempted to run on Fairfax Drive? A. Because I didn't do anything, sir, so I would never run.
- Q. Tell me: what you thought why Mr. Lyn was asking you all these questions? A. When I make Border Avenue and meet the car again.....
- 40 Q. I am talking on Fairfax Drive. Why do you think he was questioning you? A. Well, he never ask much question on Fairfax Drive as what he ask on Border Avenue. He only ask me my name and address, where I work and if I ever see this girl before, and I said no.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Cross-
Examination

1st/4th
March 1968

(Continued)

Q. Why do you think he was asking your name?
A. Well, I don't know, sir.

Q. Why do you think he was asking you all these questions? A. Is when I meet the car on Border Avenue and I meet the car again and I ask the girl why she asking all these questions and Mr. Lyn said he was looking for information.

Q. Why you said you thought Mr. Lyn wanted an address on Border Avenue? A. Because of the way he question me, sir. 10

Q. Alright. You tell me, do you think the fact whether you were married or not would help them to find an address in Havendale?
A. No, sir.

Q. Do you think whether you had children would help them to find an address in Havendale?
A. No, sir, until I tell them my exact address and they should ask me.

Q. When was it you tell them your address?
A. On Border Avenue, sir. 20

Q. What in the whole conversation led you to believe that Mr. Lyn was looking for an address? A. Well, through the girl asking me all these questions - if I married or.....

Q. Just answer my question.

DEFENCE COUNSEL: Allow the witness to answer the question.

CROWN COUNSEL: Well, he cannot answer until I ask him. May I be allowed to ask the question or is the witness going to answer before I ask it? 30

Q. Do you think that the fact that you were married would have anything to do in helping to find an address? A. Well, no, sir.

Q. And you say it is because the girl was asking you questions? A. Well, you see, sir, that is why.....

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

~~Cross-~~
Examination

1st/4th
March 1968

(Continued)

Q. You are answering before I finish. You are saying that because the girl was asking you questions on Border Avenue why you thought they were looking for an address? A. Yes, sir.

Q. Let's see what she asked you. She asked you if you were married? A. Yes, sir.

Q. She asked you how many children you have? A. Yes, sir.

10 Q. She asked you if your wife was living at 181 Border Avenue? A. Yes, sir.

Q. Did she ask you who were the people you were living with at 181 Border Avenue? A. Yes, sir.

Q. And those are all the questions she asked you? A. Yes, sir.

Q. Now, which one of those questions suggested that she was looking for an address?
A. Well, I would say through I married, sir, she may be is from Mandeville. At that time I turn to her and ask her which parish she is from, sir.

20

Q. You are not answering my questions. I want to know which of those questions she asked you led you to believe that she was looking for an address?

A. Through she asked me if I am married, I say well maybe she is looking for me.

Q. You thought she was looking for you then?
A. Yes, sir.

30

Q. Not just for an address? A. Yes, sir. Is when she tell me she is from St. Ann now.

Q. Alright. I have not asked you any questions - just answer what I ask. A. Yes, sir.

Q. After Mr. Lyn and the girl had gone you went home into 181? A. Yes, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Cross-
Examination

1st/4th
March 1968

(Continued)

- Q. And you started watering the garden?
A. Yes, sir, I went inside before I started to.....
- Q. Yes, you went inside and took up the hose and started to water the garden? A. Yes, sir.
- Q. Now, when complainant, Elsada Hall, came back were you then watering the garden? A. I just finish water, sir.
- Q. So you weren't watering? Did you have the hose in your hand? A. Yes, sir, I was wrapping up the hose. 10
- Q. And you say that she came back in Mr. Lyn's car? A. Yes, sir.
- Q. Did you say on Friday that when she came you were watering the garden? A. I said I just finish water, sir, and wrapping up the hose.
- Q. Did you say on Friday, I saw them again that evening about 20 minutes after. I was then in my yard at 181 Border Avenue. I was watering? A. Yes, sir? 20
- Q. Did you say that on Friday? A. No, sir, I said I just finish water, sir.
- Q. I am putting it to you that you said that on Friday? A. Is that so, sir? Well, I don't remember, sir.
- Q. You might have said it and you don't remember? A. Yes, sir.
- Q. But if you said it, it would not be the truth? A. Yes, sir.
- Q. Yes what? If you said that on Friday it would be the truth? A. If I said I was watering sir. 30
- Q. When they came would that be the truth? A. I don't know, sir.
- HIS LORDSHIP: When the girl and Mr. Lyn came were you watering? A. I were wrapping up the hose when they came.

- Q. If you said you were watering when they came, Mr. Lyn and the girl, would that have been the truth? A. I don't remember, sir.
- Q. I said, was it the truth? A. It could have been the truth and I forget, sir.
- Q. Are you saying now that you don't remember whether you were watering or not?
A. I believe when they came I had the hose in my hand, sir.
- Q. But you are not sure? A. Yes, sir.
- Q. I am putting it to you that Elsada Hall came with Detective Hohn in his car? A. No, sir. As I could remember, sir, Mr. Hohn and two more came in an Austin Cambridge car, sir, and came out.
- Q. Who came first? A. The girl and the Chinese man, sir - Elsada Hall - and they park over on the left-hand side, sir.
- Q. And when the police came had you finished wrapping up the hose? A. No, sir, I never finish wrapping it up, sir.
- Q. Tell me: have you ever been to 10 Coolshade Drive, either before or after this incident? A. No, sir. About three weeks after I was passing there, sir - after I was being arrested, sir.
- Q. You only passed, never went inside? A. No, sir, I never go inside. I only pass.
- Q. You never go inside and hear any conversation between Mrs. Lue and Elsada? A. No, sir, I wouldn't have no occasion there, sir.
- HIS LORDSHIP: You say about three weeks after you were arrested you passed there? A. Yes, sir.
- Q. This answer is obvious. You don't stammer? A. No, sir.
- Q. Or stutter? A. No, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James
Cross-
Examination

1st/4th
March 1968

(Continued)

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In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Cross-
Examination

1st/4th
March 1968

(Continued)

- Q. Were you stammering or stuttering when you were answering Mr. Lyn on Fairfax Drive?
A. No, sir. Why should I.
- Q. I am putting it to you that you had done so?
A. But why, sir?
- Q. Because you knew you had gone into Elzada Hall's home the night before and raped her.
A. No, sir.
- Q. Have you ever owned a knife? A. No, sir.
- Q. You have never owned a knife? A. No, sir. 10
- Q. Not even a pocket knife? A. Not even a little one, sir.
- Q. Not even a kitchen knife? A. Well, yes, sir. I have kitchen knife at home in the country.
- Q. How long have you been working mixing cement?
A. I would say from the building started in March, sir.
- Q. That is the first job you ever get mixing cement? A. No, sir.
- Q. You have done it before? A. Yes, sir, I have done so before with Godfrey Brothers in Mandeville. 20
- Q. That is your normal work? A. No, sir.
- Q. You work mixing cement very often? A. No, sir, not often.
- Q. What other work you do apart from mixing cement? A. I was working out New Port West on a dredge out there, sir.
- Q. Doing what? A. They were dredging out there.
- Q. As what? A. My job was second cook, sir. 30
- Q. You are a cook? A. Yes, sir.
- Q. So you never owned a pair of waterboots?
A. No, sir, never.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Cross-
Examination

1st/4th
March 1968

(Continued)

Q. Never in your life? A. No, sir, never in my life.

Q. Not even when you were mixing mortar?
A. Not even when I am mixing mortar, sir.

Q. You told us that you went for the Gleaner the following morning? A. Yes, sir.

Q. What time you picked up the Gleaner?
A. Sometime the Gleaner man came.....

10 Q. What time did you pick up the Gleaner that morning? A. About 5.30, sir.

Q. What you did with it after you picked it up?
A, I carry it and put it on the bonnet of the car under the car port and then there is a door.....

Q. I don't want a long story. You put it on the bonnet of the car? A. Yes, sir.

Q. So you didn't carry it and hand it to Mr. Henry? A. No, sir.

20 Q. You saw whether Mr. Henry picked it up?
A. Yes, sir, because I was washing my face.

Q. What time that was? A. I would say about 20 to 6, sir.

Q. Nobody could walk from Coolshade drive and reach to your house by 20 to 6? A. No, sir, about quarter to 6 or ten to 6.

Q. If they leave 10 Coolshade Drive at 5 o'clock they couldn't reach your home at ten to 6?
A. Leave 5, sir?

Q. Yes? A. Yes, sir, they could.

30 Q. How many minutes is it from 10 past 5 to 20 to 6? Is that forty minutes? A. Yes, sir, about that.

Q. So they couldn't walk to your house in forty minutes? A. I don't think so, sir.

Q. Didn't you just tell me that it would take 20 minutes from Coolshade Drive to your home at Border Avenue? A. That is to my work place at Highland Drive, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Cross-
Examination

1st/4th
March 1968

(Continued)

- Q. Have I ever asked you anything about Highland Drive? A. No, sir, you didn't.
- Q. So do you agree that you told me that you said it was - it would take twenty minutes to walk from 181 Border Avenue to 10 Coolshade Drive? A. Yes, sir, I get you now.
- Q. So it follows that they could walk the distance in 40 minutes? A. Yes, sir.
- Q. Why were you telling me a while ago that somebody could walk that distance in forty minutes? A. I never understand what you said, sir. 10
- Q. Is it because you are guilty? A. No, sir.
- Q. And that is in fact what you did? A. No, sir.
- Q. I put it to you that you were in the premises occupied by Mrs. Lue at 10.30 p.m. on the night of the 18th of April last year?
A. No, sir, not this Eric James, sir; no, sir.
- Q. And I am putting it to you that you with a knife and a gun held up Elsada Hall and took her into her room and raped her? A. No, sir, not me. 20
- Q. Do you smoke? A. Yes, sir.
- Q. Do you drink? A. Yes, sir, I may drink a beer now and then, sir.
- Q. Were you drinking that night? A. No, sir.
- Q. Were you smoking? A. Well, yes, sir, I usually smoke before I go to bed.
- Q. You were smoking that night? A. Yes, sir, before I go to bed. 30
- HIS LORDSHIP: You said you never held up Elsada Hall with a knife and gun and raped her?
A. No, sir, I never been there at all.
- Q. And you say you were smoking that night?
A. Yes, sir, before I go to bed, after I came home from work.

Q. I am putting it to you that after you raped her you stood over her and watched her until 5 in the morning when you left?
 A. No, sir, I wasn't there, sir. I wasn't there, sir; not me.

In the Home
 Circuit Court

Defence
 Evidence

DEFENCE COUNSEL: One moment, M'Lord. Just on a point of correction: I would like to ask my friend to stick to his case. His case is 5.30 a.m. if I remember rightly, not 5 o'clock.

No.10

Eric James
 Cross-
 Examination

10

HIS LORDSHIP: You didn't rape her and stand up over her until 5.30 the next morning?

1st/4th
 March 1968

A. I never been there, my lord.

(Continued)

CROWN COUNSEL: I am putting it to you that you were there, you raped her, you stood up over her, and then you left? A. No, sir, no, sir, I never been there.

ERIC JAMES RE-EXAMINED BY DEFENCE COUNSEL:

Re-
 Examination

20

Q. Now Mr. James, when you were in Fairfax Drive the evening of the 19th of April, 1967.....

HIS LORDSHIP: Afternoon.

DEFENCE COUNSEL: Much obliged, m'lord - afternoon - and Mr. Lyn asked you for your name and address did you hide it from him? A. No, sir.

30

Q. Your name and address? A. No, sir. As he said good evening and asked me my name, address, and where I worked, I quickly give it to him.

Q. Did you stammer or stutter to give it to him? A. No, sir.

Q. And the address of 181 Border Avenue that you gave to him then on Fairfax Drive is that the same address at which he found you later on? A. Yes, sir, that is right.

Q. How tall are you? A. 5 feet 2½, sir.

In the Home
Circuit Court

Defence
Evidence

No.10

Eric James

Re-
examination

1st/4th
March 1968

(Continued)

DEFENCE COUNSEL: Thank you. Please call
Neville Henry.

(Neville Henry called, but does not answer).

DEFENCE COUNSEL: Mr. Henry has not answered
to his name. He was here on Thursday and
Friday. In the circumstances, M'Lord, that
will be the case for the defence.

No. 11SUMMING-UP 4th MARCH 1968In the Home
Circuit CourtNo.11Summing-up
4th March 1968

REGINA -v- ERIC JAMES

SUMMING-UP of MR. JUSTICE ROBINSON

Time: 11.46 a.m.

ROBINSON, J:

10 Mr. Foreman and members of the jury, the accused is charged with the offence of rape for that he on the 18th day of April, 1967, in the parish of St. Andrew, had sexual intercourse with Elsada Hall without her consent. At the time of the commission of the said offence the said Eric James was armed with a gun and a knife. That is the charge in the indictment.

20 In every case of this nature, members of the jury, you are the sole judges of the facts. It is for you to decide what facts you accept and what you reject. It is open to you to reject all or any witness' testimony as you deem fit in your collective wisdom. You must weigh the evidence of each particular witness including the accused man who gave evidence on oath and see what you make of it, and in the weighing up of the evidence of each particular witness you must bear in mind the conduct and demeanour of the witness in the witness box, the way in which a particular witness answers the questions put to this witness, how the witness impresses you, and bear also in mind the intelligence of each particular witness and the way generally they answered their questions and gave the evidence, and in this manner decide what you accept and what you reject and come to your conclusion on the facts.

30

My duty is to tell you what the law is and you take the law from me. You will apply the facts you find proved to the law as I give it to you and in that manner come to your conclusion. If I should make any comment while I sum up the case to you, it is open to you to reject all or

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

any of them according to whether you agree or disagree with all or any of them. You are the sole judges of the facts. And in this weighing of evidence, members of the jury, you will not weigh the evidence of the accused man in any different scale to that in which you weigh the evidence of the witnesses for the prosecution. Not because he is an accused man should you weigh his evidence differently.

In this case you may think that - from the facts you may believe that someone had intercourse with the complainant, Elsada Hall. Counsel for the defence in addressing you used these words on this point. He said the defence is satisfied she was raped by a man. Well, members of the jury, in as much as counsel says so, that may be his conclusion, it is for you to find from the facts which you accept whether or not Elsada Hall was raped, that is to say, whether or not someone had intercourse with her without her consent. The duty is yours to find on the facts. If you find from the facts that someone had intercourse with her without her consent, then the next question is, who is the man. Who is that man that had intercourse with her without her consent. And if you find from the facts that the accused was the man, you have to ask yourselves further whether at the time of the commission of the said offence he was armed with a gun and a knife as alleged by the complainant.

10

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In the course of your deliberations you may consider a set of facts and you might want to draw one inference or another from that set of facts - set of proved facts which you accept; but you must not draw an inference from a set of proved facts that is not reasonable. In other words, you must only draw reasonable inferences from proved facts; and if more than one inference can be drawn from a set of proved facts, one favourable to the accused and another against him, you should draw the inference in his favour.

40

In this case the identification of the accused is of the utmost importance because before you begin to consider whether the ingredients of the charge have been proven to your satisfaction, the first thing you must find is whether or not the

accused was the man who entered or who forced this woman, Elzada Hall, into her room that night and had intercourse with her. Was he the man? So that, in other words, members of the jury, bearing in mind the conduct and demeanour of the complainant, Elzada Hall, you have to consider when she tells you she is sure that the accused was the man, you have to consider whether you feel sure that the accused was the man. The prosecution has brought the charge against the accused man, and it is the duty or burden of the prosecution to prove his guilt, that is to say, to prove that he is guilty of the charge. The accused is presumed to be innocent until the prosecution proves his guilt. He is not obliged to prove anything, the accused man. There is no duty on him to prove anything. The duty is on the prosecution to prove his guilt to the extent that you feel sure of his guilt before it is open to you to convict him. In other words, members of the jury, from the evidence which you accept if you do not feel sure of his guilt you must acquit him. If you have doubt as to his guilt you must acquit him. If you have doubt as to his identification, you must acquit him. As I said before, there is no duty on the accused to prove his innocence, but he may attempt to do so. If he attempts and succeeds, he is not guilty. If he fails, you must consider all the evidence including what the accused said in evidence to you and see whether you feel sure that the crown has proved its case, that is the guilt of the accused man.

The defence of the accused man is that on that night, the night of the 18th of April, 1967, "I slept in my bed". In other words, members of the jury, the accused is saying "I was not there, I don't know anything about it." You cannot convict the accused man unless you reject that evidence, that is to say, unless you reject what he has told you; and even so, you must not for that reason convict him, you must still look to the crown's case to see whether you feel sure of guilt before it is open to you to convict him. If what he has told you, the accused man, raises a doubt in your mind as to his guilt, you must acquit him.

Rape consists in having unlawful sexual intercourse with a woman without her consent by force or fear or fraud. It is not necessary to prove completion of the intercourse by the emission of

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

seed, but the intercourse is deemed complete upon proof of penetration only. To constitute the offence of rape there must be a penetration, but any, even the slightest penetration will be sufficient. I pause here a moment, members of the jury. If you believe that a man, according to the complainant, entered - took her into that room in circumstances of which I shall presently remind you of, took her into that room with the use of this gun and knife and as she said he inserted his penis into her vagina and had intercourse with her and was there for about half an hour, you may have little trouble, little difficulty in coming to the conclusion that there was penetration of the male organ in the female organ. It must also be proved that the prisoner had intercourse with the prosecutrix, that is to say Elsada Hall, by force or against her will. It must be without her consent. If she yielded through fear of bodily injury or through duress, it is rape. Duress means compulsion, threat or violence illegally used to force a person to do something.

10

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If even there was consent brought about by duress it is rape. If a woman is even a woman of easy virtue she is entitled to choose her man and consent to any intercourse that should take place with her.

Now, members of the jury, Detective Hohn told you of the report that this girl - the complainant - made to him. Mrs. Lue, the employer of this complainant at the time, told you of a complaint that the girl made to her on the early morning of the 19th of April last year. She said, Mrs. Lue said, that the girl - she heard a knocking on the door between 6.30 to 7.00 o'clock, on the door of the house in which she lived. She opened it and saw Elsada, and she was crying. She asked her what happened and she answered saying that when she came in the night about 10 to 10.30, that is to say Elsada Hall, and went around the back approaching her room door, someone came from the side of the building and stuck her up with a knife and a gun and asked her to open the door and she did so, that then the person raped her. That was the complaint that she made to Mrs. Lue.

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Now, members of the jury, in cases of rape and similar offences the fact that a complaint was made

In the Home
Circuit Court

No. 11

Summing-up
4th March
1968

(Continued)

by the prosecutrix, the girl Elzada Hall,
shortly after the alleged occurrence, the
particulars of such complaint, so far as they
relate to the charge, may be given in evidence
by the prosecution, but as evidence of the facts
complained of but as evidence of the consistency
of the conduct of the prosecutrix with the story
she has told the court from the witness box, and
as being inconsistent with her consent to that of
10 which she complains. In other words, members of
the jury, this complaint, the words of the
complaint as given to Mrs. Lue is not evidence
of the facts stated in the complaint but only
evidence in so far as it relates to the
consistency of her conduct, that someone had
intercourse with her without her consent. That
is her complaint to you from the witness box,
that intercourse had taken place with her without
her consent. So that that is how you are to
20 approach the complaint recently made to Mrs.
Lue that morning. It relates in short only to
the consistency of her conduct in relation to
what she told you from the witness box, and that
is on the question of intercourse without her
consent. In other words, does the recent
complaint assist you in deciding as to whether
or not she consented, because she said she
didn't. That is to say, if intercourse did take
place. Is this recent report consistent with her
30 conduct from the witness box in relation to the
story she has told you? That is how you view that
report to Mrs. Lue.

I must also tell you, members of the jury,
that what Mrs. Lue says this girl told her -
the complaint - is not corroboration of the
complainant her self, for the simple reason that
Mrs. Lue is saying something that the witness told
her Mrs. Lue. The complainant, the prosecutrix
Elzada Hall, cannot corroborate herself. On the
40 question of corroboration, members of the jury,
I must tell you that though corroboration of the
evidence of the prosecutrix, Elzada Hall, is not
essential in law, it is in practice always looked
for, and it is the practice to warn the jury
against the danger of acting upon her un-
corroborated testimony, particularly where the
issue is consent or no consent. In other words,
members of the jury, if you believe, the law
permits it, that if you believe what Elzada Hall
50 has told you, and if you feel sure on the material

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

facts as to what she has told you, you can act on it; but my duty is to warn you of the danger of acting upon her uncorroborated testimony.

What is corroboration? Corroboration is independent evidence which affects the accused by connecting him with the crime. It must be evidence which implicates him, that is which confirms in some material particular not only the evidence that the crime has been committed but also that the prisoner committed it. I shall deal further, members of the jury, on the issue of corroboration when I come to deal with the facts. You may think, and I shall remind you of that presently, that what Dr. March says corroborates the complainant, Elzada Hall, on the issue of intercourse. That is to say, and I shall remind you in detail as to the doctor's evidence presently, the doctor gave evidence and he said semen and spermatozoa was found on certain garments that were on that bed allegedly that night. It is a matter for you, and he said the sheet - on the sheet there was spermatozoa to one end of the sheet; there was semen also present at the middle. If you believe that sheet was on the bed and this woman, the complainant, had intercourse with a man on the bed, would you expect semen to be in the middle of the sheet, bearing in mind that, according to the doctor, most males over thirteen will produce spermatozoa, and spermatozoa lives in semen. So that, on that issue of intercourse the doctor corroborates the woman. He also gives evidence about the spread. Semen was present near the middle of the spread. Spermatozoa was also found. He also gives evidence about the swab, the vaginal swab taken from the woman and also the smear. There was semen on the swab, also spermatozoa, and the smear also had spermatozoa on it, which comes from the male. The doctor said, in relation to the swab, if on the swab spermatozoa is found this indicates that intercourse may have taken place within hours of the swab being taken. That is to say, not very long, within hours of the swab being taken from the woman. A similar position relates to the smear. So, as I say, members of the jury, the doctor seem to me to corroborate the complainant that intercourse had taken place. It is a matter for you. Whether you regard the doctor's evidence,

in relation to the finding of semen on these various garments and on these various objects, whether it amounts to corroboration, is a matter for you. So that, as I said before, if intercourse had taken place, the question is, was it without consent of the complainant, Elzada Hall? The next question would be, was the prisoner the man? Was he the man that had intercourse with her without her consent?

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

10 I will pass on now, members of the jury,
to refresh your memory as to the facts.

Elsada Hall says she is now a student at the Salvation Army Training College, and in April of last year she was a Domestic Servant working at 10 Coolshade Drive. She then lived there on that day. The 18th of April last year about 10.30 p.m. she returned home coming from Soldiers' Council in Jones Town from a meeting held for members of the Salvation Army. She says
20 she lived at the back of the main building and a step led up to her room. "As I was about to approach the step I saw a dark man with no shirt and one trousers foot rolled up and one down. He was coming from behind the wall of the house I lived in. My room adjoins the main building. He was then about two and a half feet from me. He had a revolver in his right hand and a ratchet knife in his left hand. He held them, facing me like this." and she demonstrated
30 to you. And she goes on, "He said if you scream out I kill you. I was frightened, from the moment I saw the man I was frightened. I did not expect him. He put the revolver in his pocket and he held the knife in his right hand and came and held me around my waist. He held the knife pointing to my right breast. He was standing behind me. When he stuck me up, he was standing before me, and he turned around and held me backways. I asked him what he wanted, and he
40 replied, 'Shut up.' He held me in the same position and carried me up the step and we stood in front of the door." She explained, when she said he carried her she said she means that she did not want to go up with him but she walked because the knife was pointing towards her, so she followed him. In front of the door he said, "Let me see what is in your hand." "I showed him this, that is to say what was in my hand,

In the Home
Circuit Court

No. 11

Summing-up
4th March
1968

(Continued)

namely, a threepence, a key for the door, a song book, a Bible and a pen. He said to me, 'Open the door now'" She said the accused is the man. "I opened the door because he had the knife and I had to open it." I pause here for a moment, members of the jury. It is for you to say whether as seven reasonable people a woman of this age, she says she is nineteen, will act in this way, if you believe there was a man there with a knife to her breast and a gun in the other one. Do you think this woman was frightened as she said, and because of fright and fear she opened the door? It is a matter for you. She said, "He started to go in first and was pulling me in with him. I said where are you going? He said, 'If you make any noise I shoot you.' The knife was still in his right hand and pointing at me all the time. I went inside. He got in before me and he was still holding me. Inside he said, 'Put down your books.' Instead of putting down the books I stretched over the bed and put on the electric light because I wanted to see him. I then turned round and got a slight glance of his face, so I did not see him properly in the night at the said time. When I turned on the light I did not see him properly because he quickly turned off the light and said, 'What you noticing me for?' He then said, 'Turn around, sit down.' I sat on the bed. He then said, 'Now give me all the money you have.' I looked at him and he had the revolver back in his right hand and the ratchet knife in his left hand pointing at me, also the revolver pointing at me at the same time. I told him I only had threepence left from my bus fare. He took the threepence from me and then gave it back to me. He said at that time, 'Take off your clothes now.' I hesitated for a moment, he pointed the revolver and the knife nearer to me and said, 'Well, it is either one thing or the other.' I started to pull down the zip at my dress back slowly. I saw the knife and the gun standing over me and I was afraid of it. He then roughly pulled down the zip and dropped the dress down and said, 'I can't wait on you.' The dress was dropped to my waist, and he pulled up my half-slip to my waist and then he said 'Ease up.' I eased up, and he pulled off the dress and my panty leaving the half-slip underneath my bust. Then both the knife and the

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In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

10 revolver were in his right hand. He "next
put the revovler on the bed-side table and then
he come over me and said, 'Lie down now.' The
knife was still in his right hand, I lay down.
He sat on the edge of the bed, the knife still
pointing at me, and he used his left hand and
took off his water boots. Next he stood up and
then came over me on the bed and with the knife
still in his right hand he used the left to pull
down the zip of his trousers. He held the knife
beside my neck, used his left hand and took out
his penis and inserted it in my vagina. The
knife was held beside my neck. He held it so."
And she demonstrated to you. She goes on, "I
don't know what for." That is to say, she did not
know what for the knife was being held so close
to her neck, because then he was having
intercourse with her. "He had sexual intercourse
with me for about half an hour. After this he got
20 up and used the corner of the sheet to wipe his
penis. Then he said, 'Get up and put on your
clothes.'"

30 I pause here a moment, members of the jury,
and here this is my comment. You may reject it or
accept it if you wish. Elsada Hall says that this
assailant, the man who had intercourse with her,
when he was finished, he wiped his penis on the
sheet, corner of the sheet. You may think if that
man had wiped his penis properly no more semen
would be left on his penis. It is a matter for
you. There was semen on the sheet according to
the Doctor and on the other bit of clothing on
the bed, the spread. These are matters for you.
"He said, 'Get up and put on your clothes.' I
put on back the panty and drew down my slip."
The Doctor said he also found semen on the panty.
"I was then sitting on the edge of the bed and
he was standing in front of me with the revolver
in his right hand and the knife in his left hand.
40 He stood over me all night in the same position
with the revolver and knife pointing at me. While
he stood there I took a glance at him sometimes
as his eyes were sometimes closed, and he appeared
to be sleeping." Well, members of the jury, this
is what this witness, Elsada Hall, said happened.
It is a matter for you. She said this man stood
over her, after he had completed the intercourse
stood over her for the rest of the night. She
said it was about 5.10 a.m. next day that he left

In the Home
Circuit Court

No. 11

Summing-up
4th March
1968

(Continued)

the room. "It was partly day light then because you could see anything at all in the room. I I could see him properly then. Before he left he held the revolver and the knife in his right hand and used his other hand to put on his water boots, and still pointing the weapons at me." In that manner, holding the weapons, according to her, pointing at her. "The early morning before he left, he said to her, 'If you scream out or tell anyone I will come back and kill you.' Then he left. Before he left I had a good look at him. I did not hear him go down the steps when he was leaving and I stood still in the house, and then I was putting on my dress. He closed the door when he left and I locked it."

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I pause here, members of the jury, is it reasonable to expect a woman whose life has been threatened by a man with a gun and a knife to wait until that man has disappeared completely from the premises without coming out of her room? This is a matter for you. She has said she stayed in the room for some time before she came out. She said, "He closed the door when he left and I locked it. About fifteen minutes after I heard water boots going down the step and going around to the front of the yard. I waited a little and then went and tell Mr. and Mrs. Lue who were the occupants of the main building and they were then my employers. The police was called, and came, and they left and after this Detective Hohn came. I made a report to Detective Hohn. I gave him the panty I had on also the half slip, a pink striped floral sheet and a coloured spread with red, yellow, blue and green. She said I also gave him a pink striped spread. Apparently, she described the sheet, members of the jury, as being red, yellow, blue and green. She identified the spread in court, Exhibit I, as the one she gave to the police as also the sheet, the panty and half-slip she was wearing on the night of the 18th. "On the 19th of April I was examined by Dr. Sanguinetti. On that day at about 4.45 p.m. I was standing on the back verandah of 10 Coolshade Drive. I was facing Fairfax Drive. This was about two chains away from Fairfax Drive and I could see into Fairfax Drive. I saw three men walking along Fairfax Drive. I recognised the one at the back, the accused, as the one who attacked and raped me the night before."

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In the Home
Circuit Court

No.11
Summing-up
4th March
1968

(Continued)

10 "Mr. Lyn was a boarder at 10 Coolshade Drive and I spoke to him and I ran down Coolshade Drive to Fairfax Drive. Mr. Lyn came down in his car and I went in it. The same three men were still walking and I looked at them before going in the car. The accused was the one walking behind. In the car I spoke to Mr. Lyn and Mr. Lyn drove the car and stopped in front of the accused. Mr. Lyn spoke with the accused, asking him if he knew me; the accused looked at me and was stammering." This is in Fairfax Drive, members of the jury, "and the accused said, No, no; No, sir, this is the first time I see her." "The accused asked me if I knew him, I said yes. The accused asked me when last I have seen him, I told him it is alright. Mr. Lyn asked him his name and address, and he gave his address as 181 Border Avenue and his name as Eric James. Mr. Lyn and I drove

20 around to 181 Border Avenue and thereafter went back home, and then to the Constant Spring police station and made a report to Detective Hohn. We left there with Detective Hohn and went back to 181 Border Avenue. I saw the accused in front of the house there with a water hose in his hand. I pointed him out to Detective Hohn and in the presence and hearing of the accused I made a report to Detective Hohn as to what happened exactly to me the night before. The

30 accused heard what I said and he said, No, no, you must be a mad woman, for is the first time I see you. He looked at Detective Hohn and said, Officer, this girl take me for the wrong person; me sleep at my bed whole night. Detective Hohn took him into custody", and she said, finally, she didn't consent for him to have intercourse with her.

40 She said she was -- under cross-examination she said she was 18 years old as of the 4th of October, 1967. She says on the 18th of April last year, or rather that night, was not the first time she had sex. "I had sex only once before and that is over two years ago, and it was before I entered the faith of the Salvation Army. I was enrolled in the Salvation Army the 16th of October 1966. I have always got on well with Mr. Lyn who was the boarder at 10 Coolshade Drive." She says she doesn't work there any more; she ceased working there on the 25th

50 September last year though she visits there,

In the Home
Circuit Court.

—————
No. 11

Summing-up
4th March
1968

(Continued)

and last November, 1967, when she went there on a visit she saw Mr. Lyn. She says on the 19th of April Mr. Lue went to work, but Mrs. Lue was at home all day. Mr. Lyn went to work, but he comes home early in the evenings. "I returned from the doctor after 3 p.m. and I don't know what time Mr. Lyn got home. Mrs. Lue was at home when I got back. Mrs. Lue had to look after her baby of which I was then in charge and she didn't go anywhere." You recall the cross-examination, members of the jury, of this girl about Mrs. Lue, and as to whether she goes out to the front of the gate or where she went on the particular day, and the witness said sometimes Mrs. Lue takes out the baby but only to the gate. Mrs. Lue works at Cremo, she says, and goes to work every day, and she, the witness, is never at home alone with Mr. Lyn, and Mr. Lyn has his own business. Some days Mr. Lyn comes home early and Mr. and Mrs. Lue are at work. Sometimes Mr. Lyn comes in early. He goes to the show and sometimes he goes out. "Before he goes out I give him his dinner." 10

The gist of the cross-examination, members of the jury, it appeared to me, was to show that there was some - alleging some intimacy between Mr. Lyn and the prosecutrix with a view to showing that she is a woman of easy virtue. I myself don't see the exact relevance of that, bearing in mind that the accused said he was not there at all, he didn't go there, he was in bed that night. However, it appears to me that this was the gist of the cross-examination, but it is a matter for you. 30

She says Mrs. Lue drives a car and on the 19th of April last year she had no car with her. The witness says she was crying and speaking loudly when she made the report to Mr. and Mrs. Lue, and Mr. Lyn came in and asked her something and that is how he got to hear. She said, "When I saw the three men in Fairfax Drive from the verandah Mrs. Lue was at the gate with the baby and Mr. Lyn was at the dining table. Mr. Lyn was closer to me than Mrs. Lue who was at the gate, and I called to Mr. Lyn because by the time Mrs. Lue should come the man would be gone". She says, "I got where the men were before Mr. Lyn". She 40

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

says there was no intimate relationship between Mr. Lyn and I as I am a christian. She was asked about a Postman and the conversation with a Postman. She says, "I don't know a Postman by the name of Guy Brodie. Many postmen serve that area. I did not have any conversation with a Postman from Constant Spring about this case. I had no conversation with any Postman about this matter and I never told any of them that I made a mistake relating to the accused." She said that the accused had said it wasn't him, "but I don't agree it wasn't him." She says Dr. Sanguinetti examined her about 2.00 p.m. or a little after. "I had no watch, I saw no clock there. I got home a little after 3. The Detective dropped me at the gate from the doctor's office." She says, "I guessed the height of the man when I told the police, but I didn't look to see if the man was taller or not than me. When he faced me and I faced him I didn't notice if he was taller than me. I gave the police the description of the man, namely, a very black man, round face, hair needed a cut at the time, as far as I could see; his hair was not very high but he needed a trim. He had on no shirt; he had on a dark trousers with one foot rolled up a little below the knee. His face was skinny because it wasn't fat. I guessed his height as 5 feet nine and a half inches, as he wasn't a tall man. The police asked me his height". "I don't remember giving any more detail. I told the police the man was wearing a short water boots which was above the ankle"; and that is as far as the description is concerned.

She goes on, "I was on the verandah and about two chains from him when I saw him", that is to say the accused man, "in Fairfax Drive. I couldn't see his feet then but I saw him from his waist up. I saw his full face then because he was looking right over to Coolshade Drive, and I saw - rather, I said something to Mr. Lyn. I went around to the front gate of my home and ran to Fairfax Drive, I ran right up and looked in his face. I did this though I saw him from the verandah. I did this to be yet more certain." Those are her words. She goes on, "In Fairfax Drive the accused was wearing a dark pants with

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

two feet down, and wearing a pair of brown shoes and a terrylene shirt, more or less the colour of the top of the wall in this court room. He had nothing on his head, his hair was just the same as the night before. The accused was the man, the same man as the night before and his hair was just the same. When the accused asked me if I knew him and I said it was alright I did this because I didn't want to tell him everything at the same time as he might run away and I wouldn't get to catch him at all." She says Mr. Lyn's car is a Triumph. "When I looked at the accused in Fairfax Drive he turned around and looked at me. He was frightened. Mr. Lyn asked him for his name and address. The accused didn't give his name and address at the same moment because he was enquiring what is the matter. Mr. Lyn didn't tell him but only said to him, I only wanted to know your name and where you live. He gave his name as Eric James of 181 Border Avenue. Then Mr. Lyn and I drove to 181 Border Avenue. When the accused looked and saw the policeman at 181 Border Avenue he was frightened. The police was not in uniform. When we left the accused on Fairfax Drive we turned the car and passed the accused on Border Avenue on the way home and to the police. The car didn't stop and I didn't speak to the accused. I didn't ask the accused if he was a married man and if he had children. I asked him no questions apart from what I told the court earlier. He didn't tell me he was married and his wife lives in the country, nor did I ask him how many children he had and he told me four. The Detective went into a room at 181 Border Avenue and I stood at the door. The detective came out with a pair of dark pants, maybe something next to brown in colour; it wasn't new, rather old. I don't remember seeing any holes in it. I looked at the pants and there was one foot that was mashed up as though it was rolled up, and I said that was the pants. Definitely I have to say I am quite sure that that was the pants the man was wearing. The accused said to the police that he was wearing that pants all day on the day before. From what he told the police and the look of the pants I am sure it was the pants. I definitely look at the man and know him, and I am definitely sure the accused was the man. When I was having sex it was dark. A light comes into my room from Fairfax Drive. If a white person is in my room I can see that person's face better, but

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if brown or dark person you couldn't picture the difference one from the other." And these are her words. That is how she puts it, members of the jury. It is for you to say what interpretation you place upon it.

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

10 She goes on, "When he was having sexual intercourse with me I looked in his face but I didn't picture it as plainly as I did in the morning. When having intercourse he held his face up, he didn't rest it on mine. I couldn't resist him as the knife was at my neck. The accused had the knife on my neck during the intercourse and that is why I didn't bawl out, and the revolver was on the bedside table. The revolver was dark in colour. He took off his water boots and came in bed. He drew up everything, but by lying down a part of the slip came into the area of my bottom on the bed."

20 "He never took off his trousers, so I don't know if he had on an under-pants. He pulled down the zip of his pants. The zip was shine. He discharged in me. He wiped his penis on the side of the sheet. No one else used my bed or linen apart from me. The last time I had sex was two years ago. I did not have sex in that bed with any other man in that week, that is to say, the week of the 18th of April, 1967. When I locked the door I did not make the alarm then because I was still afraid. I don't know if when he kept duty over me he was

30 sleeping or not, probably it was a trick. He stayed there all night because it appears he was drinking as his mouth smelt of rum and also like when you burn green bush. I don't drink rum, not familiar with it but I know the smell of rum. Can't say the difference whether it was white rum or coloured rum from smell." She says, "On the 19th when in Fairfax Drive I looked in his face, I did not go near to his face, I went about four yards to his face." and she pointed out the

40 distance which she says was the distance of about four yards, and the distance was from the bench behind counsel to where she was in the witness box. She says, "I did not bite or scratch the man who assaulted me that night nor did I bawl out or attempt to bawl out. I went to the police station when the accused was taken there, that is to say, the same evening when the police took him there from

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

181 Border Avenue." She says, "I did not know if a man answering the description that she gave to the police was arrested and brought to the station and that that man escaped." She did not know anything about it. "I don't know that a prisoner escaped from the police station while I was there." She said the man on the night of the 18th spoke softly to her. When he stuck her up outside the door at that time he did not stammer. "When he asked me for all the money I had, he did not stutter. When entering the room he went in front and I followed him. At that time he held the knife in his hand pointing in front of my right breast. He walked sideways when entering the room because he was holding me around my waist with his left hand." And you recall, members of the jury, she demonstrated to the court at that time how the man was holding her behind her back with his left hand and taking her into the room while, she said, the knife he pointed towards her right breast. She also demonstrated that to you at the same time. She goes on, "The first time I saw the accused was not on Fairfax Drive on the 19th. When he asked me when last I saw him, I did not say, 'last night' because he might run away. When he asked me this Mr. Lyn was there. At 181 Border Avenue Detective Hohn was there and I told him what happened. The accused did not attempt to run. Detective Hohn was holding his hand. As I went up and told Detective Hohn about it, Detective Hohn held his hand. As I went up I said, 'There is the man'. and he had the hose in his hand. He did not attempt to run neither before nor after arrest. I wanted the police to hold him right as I was there.

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The accused was then taken from the dock and put in the open court and she said looking at him standing in the open court room she would say he is about 5 feet 5 inches. "The accused is the same man I described to the police. I guessed his height to the police as I did not know his height." Finally, she said, the accused had sex with her that night, he was the man and he is not the wrong person.

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Members of the jury, I continue summing-up to you at 2.00 o'clock. Adjourn the court until 2,00 o'clock.

Luncheon Adjournment 12.50.

2.05 p.m. Court Resumes

In the Home
Circuit Court

ROLL CALL ANSWERED

No. 11

SUMMING-UP CONTINUES

Summing-up
4th March
1968

(Continued)

10 Before we adjourned, members of the jury, I dealt with the evidence of Elsada Hall. I should mention here that wherever you find a discrepancy, it is for you to say what weight you attach to that particular discrepancy. It is for you to say whether the discrepancy may be relatively unimportant or whether it is something of weight which might cause you to discredit the evidence of a particular witness. I shall try to point out whatever discrepancy I myself come across but should I not point out all that you see you are at liberty to weigh those discrepancies -- whatever you see supply them. You have heard the evidence, all the evidence, supply them and see what you make of these discrepancies.

20 I will now pass on to Mrs. Lue the employer of Elsada Hall. She said she is a housewife living at 10 Coolshade Drive. Elsada Hall was employed to her on the 18th of April last year as a domestic servant, and Hall lived in a room at the back of the premises. She says, In the afternoon of the 18th of April, 1967, Elsada left home about 6.00 o'clock. I did not see her again for that night. I was at home the following morning" and between 6.30 and 7.00 a.m. she
30 heard a knock on the door. She opened it and saw Elsada standing there. She was crying. I refreshed your memory already this morning as to what happened then, but I might repeat it. She said she asked Elsada what happened. She answered saying that when she came in the night about ten to ten-thirty, went around the back, approaching her room-door someone came from the side of the building, stuck her up with a knife and a gun and asked her to open the door and
40 she did so; that then the person raped her.

You will recall what I told you, members of the jury, as to how you should treat that complaint. I told you that this morning, and you will apply that to this complaint that Elsada Hall is alleged to have made to Mrs. Lue.

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

Mrs. Lue goes on to say that Elsada gave her a slight description of the person; that she telephoned the Constant Spring Police Station and made a report and the police came to the house later that day.

She was cross-examined and she said that Elsada said the person was short and dark and had on no shirt and one foot of his pants was rolled up and the other was down. She says, "I don't recall her telling me how short this man was. I don't recall any further description that she gave me. As far as I recall she mentioned nothing to me about the hair on the head of the man or the colour of his trousers." She says she is sure Elsada said the man was a short man. She said it was early that she knocked at the door because it was about 6.30 to 7.00 a.m. "I have a radio in my room, I don't think my radio was on that morning. It was not the knock that awakened me from my sleep. I was awake about half an hour or so before." She said her bedroom is at the front of the premises and depending on what side of the house the person walks coming from Elsada's bedroom, that person may or may not pass her bedroom. It appears to me, members of the jury, that the questions that were put to Mrs. Lue which elicited the evidence I just read were on the question of the man leaving Elsada's room and going through the front gate next morning. She said depending on what side of the house the man walked he may or may not pass her bedroom. The idea is, it appears to me, it is a matter for you, that she should have heard the foot-steps of this man when he was leaving the early morning of the 19th. Well, she said that he need not pass her room. She said the moment Elsada comes off her step she is on the earth on the back of the premises. It is one step that goes into her room. There is a lawn right around the house, The driveway to the carporte is paved. Looking from the street the carporte is on the right. The maid's quarters is on the left side at the back. From the maid's room to the front gate is equidistant from either side of the house, "I did not hear any foot-steps passing my bedroom or going through the gate before I heard the knock. The last person coming in padlocks the gate." She said Mr. Lyn was a boarder at the house at the

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In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

time. She can't say if Mr. Lyn came in very early that night, that is to say, the night of the 18th. She said on that night she retired to bed at about 8.00 p.m. as also her husband. She says, "I don't recall whether on that particular night Mr. Lyn was in at 8.00 p.m. I saw Mr. Lyn had his supper on the 18th about 6.00 p.m. thereafter he went out." She says, "I got a report from Elzada. I did not look to see if my front gate was padlocked. I went through the gate that morning at about 10.00 o'clock. My husband left the house that morning about 8.00 o'clock. Mr. Lyn left at that same time." She did not go to work that morning, "the morning of the 19th I did not go to work that day because I had a young baby of about six months old. I had resumed work since I had the baby. Another reason I did not go to work is because of all this that happened." She says, "I went through the gate that morning about 10.00 o'clock to open the gate for the policeman." She said Elzada did not go through the gate on the morning of the 19th. "She was at home all morning and so was I. I saw Elzada go through the gate in the afternoon about 2.00 p.m. She came back through the gate about 5 p.m. After she came back I don't recall her passing me and running through the gate down Coolshade Drive. "I don't remember if when Elzada came home Mr. Lyn was there. I don't recall that Elzada left my premises in Mr. Lyn's car and going down Coolshade Drive". Well, members of the jury, it appears to me that the accused himself said that this Chinese man and Elzada did accost him in Fairfax Avenue.

Mrs. Lue goes on, "I don't recall Elzada saying anything to me on the afternoon of the 19th about the accused. I didn't see the accused arrested by the police. I didn't tell Elzada to say, when she was in doubt, that she was sure it was the accused. I didn't do this at my home on the afternoon of the 19th". Elzada, she says, ceased to work with her in September of 1967; she left of her own free will, and she was working with her since February of last year. She was questioned about Elzada having visitors and she said that Elzada was allowed visitors when she worked there, 'under certain circumstances', as she puts it. She said that she had visitors on one or two occasions. She had a girl friend visitor,

In the Home
Circuit Court

No. 11

Summing-up
4th March
1968

(Continued)

and about once she said Elsada's brother came there. She knew it was Elsada's brother because Elsada told her so; and she said she saw the accused for the first time when she attended the preliminary enquiry. And that is the extent of Mrs. Lue's evidence.

Detective Stanley Hohn says he is a Detective Acting Corporal of police stationed at Constant Spring police station. On the 19th of April 1967 he received a report, about 8.45 a.m., and went to 10 Coolshade Drive where he saw Elsada Hall who made a report to him. He said she handed to him a spread, exhibit 1, the sheet (exhibit 2), the panty (exhibit 3), and the slip (exhibit 4). He said he made sealed parcels of these items and took them to the Forensic Laboratory. He said he took Elsada to Dr. Sanguinetti at the Hagley Park Clinic where she was examined. The Doctor handed him a swab and smear in a sealed envelop marked "A", and he took these to the Forensic Laboratory. He said, "I took Elsada from the doctor back home and left her." He said, "I saw Elsada that day again at Constant Spring Police Station about 5 p.m." That is the day following, the 19th. "She made a report to me, and I went to 181 Border Avenue with her. There I saw the accused. He was on the lawn by the side of the house. I went to him. Elsada was still with me. Elsada said, in the presence and hearing of the accused, 'This is the man who came to me last night with a knife and a gun and forced me into my room, pull off my clothes and had sex with me and stayed 'til about 5 o'clock this morning and left.' He said she was then pointing to the accused, almost touching him. The accused said, "No, no! you must be a mad woman. Is the first time I ever see you. Listen officer, this girl is taking me for the wrong person.'

Now, members of the jury, I pause here for a moment. This is a report made by the complainant to Detective Hohn in the presence and hearing of the accused man, identifying him as the man who came into her room, and, as she puts it, according to the Detective, had sex with her in the context in which I just read to you. A statement made in the presence of an accused person, accusing him of a crime, upon an occasion

In the Home
Circuit Court

—
No.11

Summing-up
4th March
1967

(Continued)

10 which may be expected reasonably to call
for some explanation or denial from him,
is not evidence against him of the facts
stated, save in so far as he accepts the
statement so as to make it in effect his own.
If he accepts the statement in part only,
then to that extent alone does it become
his statement. He may accept the statement
by word or conduct, action or demeanour, and
it is the function of the jury which tries
the case to determine whether his words,
action, conduct or demeanour at the time when
the statement was made amount to an acceptance
of it in whole or in part. If you, the jury,
come to the conclusion that the prisoner
acknowledges the truth of the whole, or any
part, of the facts stated in that report, you
may take so much of the statement, as was
acknowledged, to be true, but no more, as
20 evidence in the case generally, not because
the statement, standing alone, affords any
evidence of the matter contained in it, but
solely because of the prisoner's acknowledgment
of its truth. Unless you find as a fact that
there was such acknowledgment you, the jury,
ought to disregard the statement altogether.
So, members of the jury, that is the manner
in which you are to view that report, bearing
in mind what the accused man said afterwards.
30 It seems to me he is disacknowledging the truth
of the report. It is a matter for you.

40 The Detective goes on. He said, "I
cautioned him and then questioned him about
the clothes he wore on the night in question."
That is to say, the night of the 18th of April.
"The accused handed me a pair of brown trousers,
a pair of gray underpants, and I took a pair
of cream underpants which he was wearing at
that particular time." He identified the pair
of trousers in court as the one he took from the
accused's room - as the one the accused handed
him, and numbered exhibit 5. The Detective said
the accused got this from his, the accused,
room. Then he identified the pair of gray
underpants as the one that he also got at that
time - exhibit 7. He said he made sealed
parcels of the trousers and underpants and
took it to the Government Pathologist at the
Forensic Laboratory, and that same day, the 19th

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

of April last year, I arrested the accused, cautioned him, he said, 'Is not me, sir. I sleep in my bed all night last night.'

He was cross-examined and he said the accused said he was wearing the gray underpants, exhibit 7, on the night of the 18th, as also the pair of trousers. "I don't recall if Elsada was present when the accused said this. I showed Elsada the trousers, exhibit 5," that is the one that the detective said the accused handed him, and she said something. She said, 'It looks very much like the one he was wearing the night when he came into my room.' She also told me, when she made the report, that the pants was brown and had a zip, and when I showed her she described the pants, from its colour and the zip, as the one the accused was wearing on the night when he came to her room. She said that the accused had had the feet of the pants rolled up part-way, and then there were some creases on this pants which gave the impression that they had been rolled up", and which she, Elsada, pointed out to the witness, Detective Hohn.

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Well, I pause here a moment, members of the jury, because Elsada at all times appears to me to say, in this court room, in relation to the trousers, that one foot was rolled up and one was down; but Detective Hohn said she had told him that the feet of the pants were rolled up. It is for you to say what importance you place on that discrepancy. The Detective goes on to say, "It was after this and after the report that Elsada made that I arrested the accused man. Whilst I was there with the accused and Elsada Hall I saw Mr. and Mrs. Henry of 181 Border Avenue. They both came near to where the three of us were. The accused told me that he lived in the back room of Mr. and Mrs. Henry's premises. The accused told me that he worked in the Havendale area, but I can't remember the address. From the time I entered 181 Border Avenue until arrest the accused did not attempt to run. Elsada Hall led me to 181 Border Avenue. Elsada was brought to the police station by a Chinese gentleman whose name I don't know. She came in a sports car looking like a Triumph. I don't recall Mr. Lyn making a report to me at the Constant Spring Police Station, and I took no statement from him. Whilst I was at 181

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In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

10 Border Avenue with the accused both Mr. and
Mrs. Henry spoke to me concerning the accused.
I don't recall if they said anything or what
they said about the night of the 18th of April,
concerning the accused. Mr. Henry did say
something relating to the accused in relation
to the early morning of the 19th. He said that
the accused had been working -- doing some work,
in other words, and these are the witness'
10 words: 'Mr. Henry said from morning the accused
had been doing some work'; that is the morning of
the 19th. "I saw the accused with a hose in his
hand watering the garden that afternoon of the
19th. He then had on no water boots and I
found none in his room. Elsada Hall told me about
water boots concerning the man who had raped her.
I got information that the accused was working
on a building in the neighbourhood and I went
there and I searched for water boots and found
20 none. Elsada told me also about a knife and
revolver. I asked accused about these and he
said he had no such weapons. I searched for
weapons in the accused's room and also in the
building on which he said he was working and
found none. When Elsada made the report first
to me she gave me the description of the man.
That description was; black complexion, medium
built, 5 feet 8 or 9 inches tall, wearing a
brown pants and water boots. I think she said
30 the person was without a shirt and she said
he had black croppy hair -- some people call it
woolly. She described to me the nature of the
way in which the rape was done." Still under-
cross-examination he was asked about another
incident of rape in the area and he said there
was a rape of similar pattern to this in the
same area, on Fairfax Drive, except that no
gun was involved, only a knife. Some days after
40 arresting the accused, a man was brought into
the station for investigation in relation to that
other case of rape on Fairfax Drive. This rape
occurred some days after the present case. This
man escaped and is still at large. The man who
escaped was about 5 feet 8 inches to 5 feet 9
inches and of dark complexion, medium build
and had black croppy hair.

50 I pause here, members of the jury, for a
moment. It seems to me that the suggestion here
being made, by the nature of the cross-
examination, is to suggest for your consideration

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

whether that man who escaped might not have been the one involved in the present matter - in this present case.

Under re-examination he said, "I have had other reports of rape at the Constant Spring police station since the report concerning the case of rape on Fairfax Drive. The description of the man who escaped fits a large number of persons. It also fits the accused. The man who was brought in at the station was never identified by anyone before he escaped. The accused was identified by Elzada Hall.

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And now I go on, members of the jury, to the evidence of Constable Gladstone Grant. I might mention here that the evidence of Constable Grant and Acting Corporal Osbourne Robinson of which I will soon deal, you may think it formal, had to do with the seeing off of Dr. Sanguinetti from the Airport and also that he gave evidence at the preliminary enquiry. This is done, members of the jury, so that the evidence on the deposition of Dr. Sanguinetti might be read to you in his absence since he is not in the Island. Constable Grant said that on the 7th of September last year he was present at the Resident Magistrate's Court, Halfway Tree. A preliminary enquiry was held by His Honour Mr. Zacca then Resident Magistrate for St. Andrew into a charge of rape against the accused, Eric James. He says he heard and saw Dr. Sanguinetti give his evidence and it was taken down in writing by the Resident Magistrate, read over to him; he saw him sign it, the accused had an opportunity to cross-examine the Doctor, and he identified the signature of the Doctor on the deposition and also that of the Resident Magistrate. He said the accused was present throughout the Doctor's evidence. He did not know whether the accused cross-examined the Doctor. He identified the deposition also. And Acting Corporal Robinson, he is Acting Corporal at the Immigration Branch, Church Street. He said on the 27th of December, 1967, he was engaged in immigration duties at the Palisadoes Airport. He embarked Dr. John Sanguinetti on Flight 400 bound for Miami. The plane left, and to the best of his knowledge the Doctor has not returned to the

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Island, so the Doctor is not here. And his deposition. was read to you.

In the Home
Circuit Court

Dr. John Sanguinetti on his oath says as follows:-

No.11

Summing-up
4th March
1968

(Continued)

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"I am a registered medical practitioner and Medical Officer for St. Andrew. On the 19th of April, 1967, I examined Elzada Hall. Physical examination was negative. Vaginal swab and smear was taken and handed to Detective Constable Hohn in a sealed envelope."

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The Doctor was not cross-examined. Well, members of the jury, as I say you may think this evidence on the deposition of Dr. Sanguinetti merely formal. It is for you to say what weight you attach to it. The Doctor was not here in court itself for you to hear him, and the accused did not have an opportunity in this court to cross-examine the Doctor. However, a portion of Dr. Sanguinetti's evidence was put to Dr. March and I shall deal with that now when I deal with Dr. March's evidence.

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Dr. March says he is a Government Pathologist in charge of the Forensic Laboratory. On the 20th of April last year he received eight sealed envelopes and parcels from Constable Hohn. Sealed envelope marked 'A' contained a vaginal swab taken from Elzada Hall and vaginal smears. The swab had traces of human blood and semen and spermatozoa. "The smears were examined and I found a few red blood cells and puss cells and spermatozoa. The sealed envelope marked 'B' contained one floral sheet, multi-coloured." This Exhibit 2 in court here he identified as the sheet he received and examined. "I found human blood present in pale brown stains near the middle, semen was also present near the middle and to one end and spermatozoa was found. I made holes to get samples for examination. Most males over 30 will produce spermatozoa. Spermatozoa lives in semen. There must have been semen to produce spermatozoa. Semen was Group 'O'." The sealed envelope marked 'C' contained the spread in court which he identified as the spread, Exhibit 1. He says diluted blood was present in areas marked in blue

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In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

pencil as he pointed out to you, and he also pointed out an area to the corner of the spread to the Court. The semen was present near the middle. Spermatozoa was found in the semen which was Group 'O'. The sealed envelope marked 'D' contained this pair of panties, white panties. That was Exhibit 3. Semen was present on the crutch and spermatozoa was found in that semen. No blood was detected. Sealed envelope marked 'E' contained a pink half-slip which he identified as Exhibit 4, the same pink half-slip you saw in court. He says human blood was found on lower back and front, that is the area marked in blue pencil. Semen was present in the lower back and front marked in red pencil. Semen was Group 'O'. Spermatozoa was found in the semen. "I also received a parcel marked 'F' containing a dirty old trousers, "Exhibit 5 in court. He says neither blood nor semen was found on that trousers. That was the trousers which Detective Hohn said the accused had handed him. 10 20

The Doctor was cross-examined. He said he also received a sealed envelope marked 'G' which contained a pair of underpants. Neither blood nor semen was found on that underpants. He also received an envelope marked 'H' which contained a pair of dirty grey underpants torn in the middle. Neither blood nor semen found on either of these underpants, the accused's underpants. The semen on the crutch of the panties was insufficient for grouping likewise was that found on the swab. "I don't know the grouping of the accused. It is the semen the Doctor said that is grouped not the spermatozoa. The age of spermatozoa can be found on test. After about three days spermatozoa tend to fragment. "I never attempt to obtain the age of spermatozoa because they disintegrate according to the amount of contamination, with contamination spermatozoa break down rapidly." He says, "I cannot say when spermatozoa got on the garments. It could have been up to one week before examination. There are over 50% of group 'O' people in Jamaica." 30 40

The Doctor was re-examined. He said, "I examined the garments the day I received them," that is to say, the 20th of April, 1967, and he said he did the examination the same day. He says,

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

10 "Bearing in mind the garments on which spermatozoa was found if it had got there on the night of the 18th of April, 1967, I would expect to find them in the condition I did." He goes on to say, "It is possible that the spermatozoa got on the garments or was voided on the 18th of April, 1967. It is more likely that the spermatozoa got on the panty within a few days rather than several days of my seeing them. I would not say the same for the spread and sheet as they were much cleaner, "that is to say the rate of disintegration would be much slower on the sheet and spread.

20 The Doctor was asked about the term used by Dr. Sanguinetti, that is to say, "Physical examination was negative." The Doctor was asked what was the meaning of the word 'negative' in that context. He said the word 'negative' used by Dr. Sanguinetti means that he found no signs of injury that could be attributable to resistance by the patient. It is very difficult if the person is non-virtuous or non-resistant to find signs of recent intercourse. He says in a case like that one relies on a swab which can be of several hours duration. The Doctor goes on to say if on the swab spermatozoa is found this indicates that intercourse may have taken place within hours of the swab being taken. A similar position relates to the smear.

30 In dealing with corroboration this morning, members of the jury, I pointed out to you, and this is a matter for you, but I pointed out to you that it seemed to me that the Doctor corroborates the complainant that intercourse had taken place. As I say, it is a matter for you; but I went on to say and I repeat if intercourse had taken place you will have to decide on what facts you accept, was it without consent. If intercourse had taken place without consent of the complainant, then who was the man that had intercourse with this complainant? In other words, was it the prisoner that had intercourse with her as she alleges?

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I pass on now, members of the jury, to deal with the defence. The accused said his name is Eric James, a labourer, living at 181 Border Avenue, Kingston 8. He says, "Mr. and Mrs. Henry

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

live there; I live in the back room. I worked on the 18th of April, 1967, at 8 Highland Drive in the Havendale area with Mr. Keyes a building contractor. A new building was being put up. I work mixing mortar for the Mason. I wore a little old grey pant on that day at work. I wore on that day a cocoa brown pant to work." He says he wears the trousers, Exhibit 5, in the yard "when I am watering the garden. This pants, "Exhibit 5", I wore at work and this is correct. I went home on that day after work about 5.40 or 5.45 p.m. I did not leave my home again for that afternoon or night except next morning about 5.30 a.m. when I picked up Mr. Henry's 'Gleaner'. I slept on the night of the 18th of April, 1967, at 181 Border Avenue in my room. I slept alone. I occupy that room alone. I am married. I have four children. My wife lives in Mandeville at Hatsfield with my children. I visit them every two weeks." He says, "By now I know where 10 Coolshade Drive is. I first knew where this address is about three weeks after my arrest. 10 Coolshade Drive is a little more than half a mile from 181 Border Avenue. I did not go into the premises, 10 Coolshade Drive, any time in the night of the 18th of April, 1967. I went to bed that night about 9.45 p.m. I did not know Elsada Hall before the 19th of April, 1967. I first laid eyes on her about 5.45 p.m. on the 19th on Fairfax Drive. I was coming home from work and as I reached Avon Place which come across Morningside Drive and Coolshade Drive and it come out to Fairfax Drive, as I reached there, I saw a sports car drove up. I did not know what direction the car was going. In the car there were a Chinee man, Mr. Lyn, and Elsada Hall, and as I reach about one chain from Avon Place, going down to Fairfax I looked around and see the car stopped beside me."

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"I saw the Chinie man driving and Elsada Hall was on the left, facing me and very near to me. The Chinie man said, "good evening". He said, 'you live in this area?' I said yes. He said, 'may I ask your name please?' I said, Eric James. He then said, 'do you work in this area?' I said, yes sir, you see that building up there at 8 Highland Drive, is up there I work. He turned to me and said, 'do you know this girl?', meaning Elsada Hall. I said, no sir. He turned to her and said to me, 'do you ever see that woman there yet?'

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In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

10 Elsada Hall said she has seen me somewhere but she can't remember where. I said to her, 'Me? You ever seen me?' At that point the Chinie man said, Thank you, and drove off down towards Fairfax Drive. She didn't speak again. During this time I didn't run because I thought he wanted an address. Before they drove away Mr. Lyn asked me for my address and I told him 181 Border Avenue. I was not frightened. I went down Fairfax Drive on my way to 181 Border Avenue.

20 About one chain from my gate the same car stopped on the other side of the road, that is to say Border Avenue, and the same two people were in it. Mr. Lyn called me again and said, 'What did you say your name again?' I said, 'Don't you is the same gentleman I just met up Fairfax Drive? I told you my name is Eric James and see my gate downthere, 181 Border Avenue, where that mango tree is, and I work at 8 Highland Drive as I told you. Then he took a cigarette box from his pocket and wrote down something. Elsada Hall asked me if I was married and I said yes. She asked me how many children I had, I told her four." These questions, he said, were asked in the presence of Mr. Lyn. "She asked me if my wife is living there with me. I said no, my wife is in Mandeville and I went over every two weeks. She then asked me who is the people that I am living with there, I told her

30 Mr. and Mrs. Neville Henry. At that time, he said, I said to the Chinie man if it is an address he is looking for, and he said no, I am just trying to get some information. Then he said, thank you and drove away. I went inside the yard. About 20 minutes after I saw them again when I was in my yard at 181 Border Avenue watering. I don't have a pair of water boots and was not wearing any water boots on the night of the 18th of April, 1967 because I don't own one. At the time when I

40 was watering there was no policeman with them. Just as I was finished watering three policemen came in an Austin car. Elsada Hall and Mr. Lyn came first and the three policemen came later. In my presence Miss Hall made a report to the Detective Hohn who was one of the three policemen. She said, 'This is the man that come to my room last night.' I said, 'Me? you must be a mad woman. She said, yes. Then I said, Let I go and call Mr. and Mrs. Henry, and the three policemen, Mr. Lyn and Elsada Hall followed behind me, and I called

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

Mr. and Mrs. Henry. They came out and Detective Hohn said to Mrs. Henry that they are police and it is me them come for. Mr. Henry said, 'For what'. Elsada Hall came forward and told her story to Mr. Henry. She said me come to her room from 10.30 until 6 o'clock the morning before I left there. Mr. Henry said, 'You are a crazy woman. You must be mad. Eric is not the type. I am sure he never left his room because he, Mr. Henry, was out and came back at about 9.40 p.m and I was in my room.' Mr. Henry went on to say that he called out to me when he came in, not to forget to turn off the light before I go to bed. A little after Mr. Henry came in I heard the T.V. say it is 9.45. This was the night of the 18th. The police said they would like to see my room. I led them there followed by Elsada Hall and Mr. Lyn. Up to then Detective Hohn had not touched me." This is the accused saying that up to that time Detective Hohn hadn't laid hand on him. On this point Elsada said that from the time she made the report Detective Hohn held the accused. Of course, this was not put to Detective Hohn, so we have no report from him that he was holding the accused at the particular time.

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The accused goes on. He says, 'I went up to the door and switch on my light and stood aside. All three policemen entered, also Elsada and Mr. Lyn, while Mr and Mrs. Henry stood with me by the door. They searched the room. Elsada Hall picked up from my bed this pants (exhibit 5) and said, 'Yes, because see the zip there.' I said nothing and the police asked me nothing about the trousers, exhibit 5, but they took away the trousers. They also take my underpants from my bed. I wore this underpants on the 18th of April, 1967", and the underpants that he was referring to was exhibit 7 that was in court. He says, "After this I was arrested by Detective Hohn and he said that he told Detective Hohn that he was not guilty. These are his words, "I said, I am not guilty officer; she took me for the wrong person." I have never handled a revolver in my life. I don't own one. I didn't use any knife on the night of the 18th of April, 1967 to threaten Elsada Hall so as to have sex with her. I dont own a knife. I didn't force her into her room that night because I never left me room." He says, 'I didn't wear that trousers, exhibit 5, on the night of the 18th of

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April last year, nor did I have intercourse with her on the night of the 18th". He didn't go to her room at all, he said, on that night. He never left his room.

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

10 He was cross-examined and he said that he wore the trousers, exhibit 5, at work on the 18th of April, 1967. He wore it when he was mixing concrete. "I don't wear a water boots when mixing concrete. I wear a pair of old black shoes. I generally roll up my trousers foot when mixing the mortar. I didn't do this to exhibit 5, the trousers, on the 18th of April." He says, "I roll it up because sometimes the water would splash and wet the trousers." He says a water boot could prevent this wetting. He said, "It is after Elsada picked up the pants she said it was the one I was wearing on the night of the 18th. The police asked me nothing about the pants, exhibit 5, and I told them 20 nothing." He goes on to say, "I told the police I was wearing the pants the day before. When I say I didn't tell them maybe I misunderstood. She, meaning Elsada, took up the pants and I said I don't wear it on the street, only at work or at home. I didn't wear exhibit 5 at home but I took it home." Sorry, he is saying he didn't wear exhibit 5 home from work but he took it home. In other words, he wore a different pair of trousers home from work on the 18th. He says, 30 "I wore a dark brown trousers home." He says, he was asked about the colour, "I call exhibit 5, that is the trousers in court, light gray, not brown. I kept on the dark brown trousers until I went to bed. I also had it on when the police came but the police didn't ask me anything about it." He says the complainant told the police that the man came to her house about 10.30. "The complainant told the police that the pants, 40 exhibit 5, is what I had on the night because it was a dark brown pant. She pointed out one of the trousers foot as being mashed up. I told the police that I wasn't wearing that pant last night, I was wearing it in the day. The complainant, Elsada Hall, picked up the trousers, exhibit 5, off the bed." He says 10 Coolshade Drive is within walking distance of Border Avenue, and it would take about 20 minutes walking from 181 Border Avenue. He says Mr. Henry came in on the night of

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

the 18th about 9.45 or 9.40 p.m. "I heard he called out to his wife and he told me to remember to turn off the light. He didn't say anything else. I answered him saying I wasn't yet gone to bed and I will turn it off. I never saw or heard Mr. Henry again for the rest of the night. I turned off the light about five minutes after he called to me." And he said this was 9.40 to 9.45 p.m. The allegation of the complainant is that this offence was committed in the vicinity of 10.30 p.m.

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The accused goes on. He says, "On the second occasion when the complainant questioned me, if I was married and so on, that is to say the incident which took place which he described about a chain from 181 Border Avenue - from the gate of that address - he said at that time I thought Mr. Lyn was looking for an address. I don't know why Mr. Lyn asked me my name and address. I told them my address at Border Avenue and I also gave them my address at Fairfax Avenue. He said, "Through Elzada asked me if I was married, I thought she was looking for me. After Mr. Lyn and the complainant left me I went home and started watering. When the complainant returned I had just finished watering the garden and was wrapping up the hose. She returned in Mr. Lyn's car. I am not sure if I was finished watering but I had the hose in my hand. When the police came I hadn't finished wrapping up the hose. About 3 weeks after arrest I passed 10 Coolshade Drive. I don't stammer. I wasn't stammering when I spoke to Mr. Lyn on Fairfax Drive. I never owned a knife, not even a small one I never owned a pair of water boots. I don't work mixing cement often. On the morning of the 19th I picked up the Gleaner about 5.30 and put it on the bonnet of the car and Mr. Henry picked it up about 5.40. I was not at 10 Coolshade Drive at 10.30 p.m. on the 18th of April last year, nor did I hold up Elzada Hall with a knife and gun and raped her. I didn't rape her nor did I stand over her until 5.30 a.m. when I left her. I didn't go there.

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He was re-examined, he said when he was in Fairfax Drive and Mr. Lyn asked him his name and address he did not hide it from him, he gave it to

him. And he said he was five feet two and a half inches tall.

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

10 Now, members of the jury, that is the
end of the evidence in the case. Bear in mind
what I told you about the burden of proof,
the question of identification of the accused
man, how you should treat the report made to
the police, Detective Hohn and how you should
treat the question of recent complaint, bear
in mind what I told you as to corroboration.
Finally, I must tell you that your first
consideration as I told you before in this
matter before giving thought to whether or not
the ingredient of the charge has been proven
by the crown, before that your first consideration
is to determine from the evidence whether the
accused man entered the room of that complainant,
Elsada Hall, in the context as she has given it
to you, whether he was the man. If you find he
20 was the man that entered that room and had
intercourse with her, if you feel sure of that,
then your next consideration is whether the
intercourse was without her consent and thereafter
the next consideration would be, if it was without
her consent, was he at the time armed with a gun
and a knife.

30 You will bear in mind what I told you as to
the fact that there is no duty on the accused to
prove anything, and that the duty is on the crown
to prove its case to you so you feel sure of guilt
before it is open to you to convict.

So, will you now consider your verdict,
Mr. Foreman and members of the jury. If you
wish to retire you may do so.

DEFENCE COUNSEL: Before you invite the jury to
retire I don't know if your Lordship wish
to invite the Crown Counsel and myself to
direct you to any passage that you might
have omitted by mis-chance in your summation.

40 HIS LORDSHIP: I have never been in the habit of
doing that, I have never done it before,
because I have never seen any good reason to
do it.

In the Home
Circuit Court

No.11

Summing-up
4th March
1968

(Continued)

DEFENCE COUNSEL: As your Lordship pleases.
I just wondered whether your Lordship
would consider that course which I have
seen done quite often - the evidence of the
Doctor, M^rLord.

HIS LORDSHIP: You mean Dr. March?

DEFENCE COUNSEL: A very vital aspect of his
evidence on corroboration.

HIS LORDSHIP: Mr. Brown, I have never done
that and I don't see any good reason for
doing that at this stage.

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DEFENCE COUNSEL: Your Lordship pleases.

HIS LORDSHIP: I might say, Mr. Brown, before
the jury retires that there is nothing in
Dr. March's evidence that I have omitted,
nothing whatsoever.

Time: 3.05

JURY RETIRES: Time: 3.06
JURY RETURNS: Time: 3.28

ROLL CALL ANSWERED

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No.12

VERDICT 4th MARCH 1968

In the Home
Circuit Court

No.12

Verdict
4th March
1968

V E R D I C T

REGISTRAR: Mr. Foreman, please stand. Members of the jury, have you arrived at your verdict?

FOREMAN: Oh yes please.

REGISTRAR: Is your verdict unanimous?

FOREMAN: Oh yes.

REGISTRAR: Do you find the accused, Eric James, guilty or not guilty of the charge of rape?

10 FOREMAN: Guilty.

REGISTRAR: Members of the jury, you say the accused is guilty, that is your verdict and so say you all?

FOREMAN: Oh yes ma'am.

In the Home
Circuit Court

No.13

CHARACTER EVIDENCE 4th MARCH 1968

No.13

Character
Evidence
4th March
1968

CHARACTER EVIDENCE

Stanley Hohn, Detective Constable, sworn, states:-

Enquiries were made into the antecedent of the prisoner, Eric James. He was born at Harmony Vale, St. Ann about 1926.

His mother was Sarah James of Harmony Vale; his father was Augustus James of the same address.

At the age of 7 years he attended the Waltham Primary School at Harmony Vale, leaving at the age of 16, after reading to 6th Standard, hence he is able to read and write fairly good. 10

After leaving school he started working with one Lawyer Bell as Handyman for 1 year and six months, then with a Mr. McCaulay for two years in the same capacity. At the age of 21 he left for Kingston and worked with several persons as waiter and sometimes as gardener. At one stage he worked as a Cabin Boy on the "S.S. Puerto Cabello" but was laid off this job. His last employment is at 181 Border Avenue, where he was engaged as a Handy-man up to the date of this offence for which the prisoner was indicted. 20

In 1961 he got married to one May Henry. There are four children, 2 boys and 2 girls aged between 10 and 2. Three now attend Hatsfield Primary School in Manchester where the Mother resides. They are all dependent on him for support.

He is described as being of sober conduct, hard-working and honest. 30

He had one previous conviction, namely, vagrancy (sleeping in old car) Resident Magistrate's Court, Halfway Tree, 24th March, 1967. He was fined £2.0.0. or ten days.

The information contained herein was obtained from the prisoner and from police records.

REGISTRAR: Eric James, have you any questions to ask the witness?

In the Home
Circuit Court

DEFENCE COUNSEL: May it please you M'Lord, the accused admits the one previous conviction mentioned. No M'Lord, no questions.

No.13

Character
Evidence
4th March
1968

REGISTRAR: Eric James, the jury having found you guilty of this indictment, do you wish to say anything why the sentence of the court should not be passed upon you?

(Continued)

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DEFENCE COUNSEL: May it please you, M'Lord, the verdict surprising as it is mostly to the accused I am sure as it is to me is a verdict that stands at present until tested elsewhere. The punishment prescribed by law is mandatory, your Lordship has no discretion. Let the law take its course. Your Lordship pleases.

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In the Home
Circuit Court

No.14

SENTENCE 4th MARCH 1968

No.14

Sentence
4th March
1968

S E N T E N C E

HIS LORDSHIP: Eric James?

ACCUSED: Yes, M'Lord.

HIS LORDSHIP: The jury found that you had sexual intercourse with Elsada Hall without her consent, and that at the time of the commission of that offence as Elsada Hall alleges, you were armed with a gun and a knife. Indeed the circumstances which Elsada Hall was put to were very difficult and extenuating. You forced her into her room with your gun and knife and thereafter gave the orders - take your clothes off, lie down; and thereafter when you were finished you threatened her if she talked that you would kill her or words to that effect. Under the circumstances the sentence of the court is ten years hard labour and twelve strokes by an approved instrument.

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No. 15

GROUND OF APPEAL 7th MARCH 1968

1. That the verdict of the Jury unreasonable having regard to the evidence adduced by the Crown witnesses.
 2. Insufficient evidence to support a conviction.
 3. Appellant crave leave to file supplementary grounds on the receipt of Transcript.
-

In the Court
of Appeal

No.15

Grounds of
Appeal
7th March
1968

In the Court
of Appeal

No.16

SUPPLEMENTARY GROUNDS OF APPEAL
16th APRIL 1968

No.16

Supplementary
Grounds of
Appeal
16th April
1968

TAKE NOTICE that the following are the Supplementary Grounds of Appeal on which the Appellant will crave leave to rely inter alia at the hearing of the appeal herein:-

1. That the verdict is unreasonable having regard to the evidence.
2. The identification of the prisoner by the complainant was not properly conducted, nor did the height of 5 ft. 9½ ins. given by the complainant to the police approximate to the diminutive or dwarf of 5 ft. seen in Court by the jury. In this case identification of the accused was very important. 10
3. That there were undue interruptions by the Learned Trial Judge rendering it impossible for defending counsel to present his defence fairly.
4. The Learned Trial Judge misdirected the Jury in his summation by telling the Jury that the presence of semen on the swab of the complainant was corroboration of the particular sexual act charged, especially since the Doctor could not tell the age of the semen as he had carried out no test to determine the age. 20
5. The Learned Trial Judge omitted to put the defence adequately to the Jury, with particular reference to his conduct when accosted by the complainant and police, the evidence by the police concerning a detainee for a similar offence in the same area escaping and answering the description given by the complainant, which cumulatively point very strongly to the innocence of the accused than to guilt. 30
6. The Learned Trial Judge omitted to direct the jury sufficiently as to the absence of any evidence from the garments of the accused or medical evidence to link up the accused with the alleged offence being committed by him, thereby leading to a miscarriage of justice. 40

7. There being no exhibits by way of revolver or knife in a case of this nature, the sentence is manifestly harsh and excessive.
8. The Learned Trial Judge in his summation tried to rehabilitate the complainant where she had been discredited with particular reference to the description of the assailant and put his personal views on the facts to the jury in such a way, that despite his warning, it must have been treated as a direction in Law which they were bound to accept, leading to a miscarriage of justice.

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In the Court
of Appeal

No.16

Supplementary
Grounds of
Appeal
16th April
1968

(Continued)

WHEREFORE THE DEFENDANT - APPELLANT PRAYS:

1. That the conviction be quashed.
2. That the sentence be set aside.
3. That this Honourable Court may cause the Appellant to be furnished with the full transcript as it will be necessary in respect of ground 3 above.
4. That this Honourable Court may grant such other relief as may be just.

DATED this 16th day of April 1968

(SIGNED) W. B. BROWN

Counsel for the Appellant

In the Court
of Appeal

No.17
JUDGMENT 27th FEBRUARY 1969

No.17
Judgment
27th February
1969

IN THE COURT OF APPEAL
CRIMINAL APPEAL No. 38/68

BEFORE: The Honourable President
The Honourable Mr. Justice Shelley,
J.A.
The Honourable Mr. Justice Fox, J.A.

R -v- ERIC JAMES

Mr. W. Bentley Brown appeared for the applicant
Mr. I. Farquharson, for the Crown

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27th February, 1969

THE PRESIDENT:

The Applicant was convicted in the Home Circuit Court on the 4th of March, 1968, of the crime of rape in relation to Elsada Hall, and was sentenced by the learned trial Judge to ten years imprisonment at hard labour and twelve strokes with an approved instrument. He appealed against his conviction and sentence on the 7th of March, and his application for leave to appeal came before a single Judge on the 25th of March, when it was refused. He now applies to this court for leave to appeal.

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Learned Counsel for the applicant has argued in the main three grounds of appeal. The first is in relation to the question of corroboration. Counsel refers the court to page 6 of the learned trial judge's summation and in particular to the following passages -

"I must also tell you, members of the jury, that what Mrs. Lue says this girl told her - the complainant - is not corroboration of the

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complainant herself, for the simple reason that Mrs. Lue is saying something that the witness told her, Mrs. Lue. The complainant, the prosecutrix Elzada Hall, cannot corroborate herself. On the question of corroboration, members of the jury, I must tell you that though corroboration of the evidence of the prosecutrix, Elzada Hall, is not essential in law, it is practice always looked for, and it is the practice to warn the jury against the danger of acting upon her uncorroborated testimony, particularly where the issue is consent or no consent. In other words, members of the jury, if you believe, the law permits it, that if you believe what Elzada Hall has told you, and if you feel sure on the material facts as to what she has told you, you can act on it; but my duty is to warn you of the danger of acting upon her uncorroborated testimony."

In the Court
of Appeal

No.17

Judgment
27th February
1969

(Continued)

The learned judge proceeds -

"What is corroboration? Corroboration is independent evidence which affects the accused by connecting him with the crime. It must be evidence which implicates him, that is which confirms in some material particular not only the evidence that the crime has been committed, but also that the prisoner committed it. I shall deal further, members of the jury, on the issue of corroboration when I come to deal with the facts. You may think, and I shall remind you of that presently, that what Dr. March says corroborates the complainant, Elzada Hall, on the issue of intercourse. That is to say, and I shall remind you in detail as to the doctor's evidence and he said semen and spermatozoa was found on certain garments that were on that bed allegedly that night."

And then he goes on on page 7 to say that -

"on that question of intercourse the doctor corroborates the woman. He also gives evidence about the spread. Semen was present near the middle of the spread. Spermatozoa was also found."

In the Court
of Appeal

No.17

Judgment
27th February
1969

(Continued)

Then again on page 7 he says -

"So as I say, members of the jury, the doctor seems to me to corroborate the complainant that intercourse had taken place. It is a matter for you, whether you regard the doctor's evidence, in relation to the finding of semen on these various garments and on these various objects, whether it amounts to corroboration, is a matter for you. So that, as I said before, if intercourse had taken place, the question is, was it without consent of the complainant, Elsada Hall? The next question would be, was the prisoner the man? Was he the man that had intercourse with her without her consent?"

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So it is clear from the passages which I have adverted to that the learned trial judge in clear and explicit terms mentioned the three essential elements which were necessary to constitute guilt before the jury could return a verdict adverse to the applicant, namely, first of all, that there must be intercourse, intercourse must have taken place. Secondly, that intercourse must be proved to have been without consent of the complainant, and finally and vitally, the identification of the person who committed the act of intercourse. He stresses in more than one of the passages which I have mentioned, the fact that it is in relation to the issue of intercourse that there exists corroboration in the crown's case.

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Learned Counsel for the applicant has submitted that on those directions of the learned trial judge, he has not fully or adequately dealt with the issue of corroboration, though the learned judge points out what was his duty he failed to carry out that duty.

We have read carefully the summing-up, and indeed there are other passages in the summing-up which dealt with this issue of corroboration to which Counsel has referred and we are of the view that in the particular circumstances of the case the directions of the learned trial judge were adequate. There is therefore no merit in the point urged by learned counsel for the applicant.

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We were referred to the case of the Queen v. Trigg, 1963 (1) Weekly Law Reports p.305, and we were told by learned counsel for the applicant that the vital features in Trigg's case were similar to the vital features in this case; that this court ought to be persuaded to pursue the same course as the court pursued in Trigg's case. Trigg's case, it is clear, dealt with an entirely different set of circumstances. Trigg's case dealt with the case where the learned trial judge entirely omitted to mention the question of corroboration at all when dealing with a crime of rape. In those circumstances, the court, in our view quite rightly, allowed the appeal and quashed the conviction. In this case directions were in fact given, and learned counsel for the applicant concedes that directions were given. He has referred us to the directions; but those directions, he has submitted, were not in the circumstances adequate.

In the Court
of Appeal

No. 17

Judgment
27th
February
1969

(Continued)

Two other minor grounds were further urged on behalf of the applicant, namely, that the question of identification on the evidence appears to be far from satisfactory. Learned counsel has referred to the circumstances in which the complainant said that she recognised the applicant as being the man who had intercourse with her. In our view that issue was again left clearly to the jury, who no doubt considered the matters which were urged to this court in relation to the issue of identification, and we can find no fault in the summing-up in regard to that particular issue. It was left to the jury in clear terms.

It was submitted finally, that there were matters which might have been left to the jury if the judge was dealing in a fair manner with the defence. It is true that there were certain matters which were not pointed out to the jury, but in view of all the circumstances and the manner of the narrative of the learned trial judge, those facts would have emerged. Therefore the court is of the view that there is no merit in that particular point.

In the Court
of Appeal

No.17

Judgment
27th
February
1969

For reasons, therefore, that I have given,
the court is constrained to refuse the
application.

Signed: C. G. Henriques
H. J. Shelley
L. B. Fox

(Continued)

No.18

In the Privy Council

ORDER GRANTING SPECIAL LEAVE TO
APPEAL TO HER MAJESTY IN COUNCIL IN
FORMA PAUPERIS 28th November 1969

No.18

AT THE COURT AT BUCKINGHAM PALACE

The 28th day of November 1969

PRESENT

Order granting
Special Leave
to Appeal to
Her Majesty
in Council in
forma
pauperis
28th November
1969

THE QUEEN'S MOST EXCELLENT MAJESTY	
LORD PRESIDENT	MR. GREENWOOD
LORD DELACOURT-SMITH	MR. CHANCELLOR OF
MR. SECRETARY CALLAGHAN	THE EXCHEQUER
MR. SECRETARY HEALEY	MR. STONEHOUSE
	MR. HOY

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WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 6th day of November 1969 in the words following viz:-

"WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble

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Petition of Eric James in the matter of an Appeal from the Court of Appeal of Jamaica between the Petitioner and Your Majesty Respondent setting forth that the Petitioner desires to obtain special leave to appeal in forma pauperis to Your Majesty in Council from the Judgment of the Court of Appeal of Jamaica dated the 27th February 1969 dismissing his Application for leave to

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appeal against his conviction for rape by the Home Circuit Court Kingston on the 4th March 1968 when he was sentenced to ten years imprisonment with hard labour and twelve strokes with an approved instrument: And humbly praying Your Majesty in Council to grant him special leave to appeal in forma pauperis against the Judgment of the Court of Appeal of Jamaica dated the 27th February 1969 and against his conviction and sentence or for further or other relief:

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"THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have

In the Privy
Council

No.18

Order granting
Special Leave
to Appeal to
Her Majesty
in Council in
forma
pauperis
28th November
1969

(Continued)

taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the Judgment of the Court of Appeal of Jamaica dated the 27th February 1969:

"AND Their Lordships do further report to Your Majesty that the authenticated copy of the Record produced by the Petitioner upon the hearing of the Petition ought to be accepted (subject to any objection that may be taken thereto by the Respondent) as the Record proper to be laid before Your Majesty on the hearing of the Appeal"

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HER MAJESTY having taken the said Report into consideration was pleased and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution

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WHEREOF the Governor-General or Officer administering the Government of Jamaica for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly

W. G. AGNEW

EXHIBITS

Exhibits

EXHIBIT 6 DEPOSITION OF DR. JOHN
SANGUINETTI

Exhibit 6
Deposition
of Dr. John
Sanguinetti

THIS DEPONENT JOHN SANGUINETTI on his Oath
saith as follows:-

10 I am a Registered Medical Practitioner
and Medical Officer for Saint Andrew. On 19th
April, 1967 I examined Elsaða Hall. Physical
examination was negative. Vaginal swab and smear
were taken and handed to Detective Constable
Hohn in a sealed envelope.

Not YXD Muirhead

(Signed) J. SANGUINETTI
7.5.67

ON APPEAL
FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N:

ERIC JAMES Appellant

- and -

THE QUEEN Respondent

R E C O R D O F P R O C E E D I N G S

T. L. WILSON & CO.,
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S.W.1

Solicitors for the Appellant

CHARLES RUSSELL & CO.,
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Solicitors for the Respondent