

IN THE CROWN COURT
AT LUTON

Case No. T2007 7262

Luton Crown Court
George Street
Luton

13th July, 2007

Before:

HIS HONOUR JUDGE BEVAN, Q.C.

REGINA

- v -

GARRY WEDDELL

MISS N. CARTER appeared on behalf of the Prosecution.

MR. A. AMER appeared on behalf of the Defendant.

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PROCEEDINGS

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A

MISS CARTER: May it please your Honour, I appear to prosecute this matter. My learned friend, Mr. Amer, represents the Defendant. Your Honour, we are here today for preliminary hearing in order to set a timetable for the way in which the case ought to proceed. I know that your Honour has previously dealt with this matter for a bail application which was heard here on 3rd July.

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Your Honour, I have spoken with the senior investigating officers who are in court today, and I have spoken with the reviewing lawyer yesterday at some length about the evidence that has been gathered, and that which is to be gathered.

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Your Honour, as a result, I would ask that the court sets a date for service of what I term a basic evidence volume, with an indictment, and unused material disclosure in six weeks, which date is 24th August. Your Honour, I have not canvassed a date for the plea and case management hearing with your Honour's list office because obviously it would need to be at a time when there is a certified judge available. But, I would be looking to a date I think some time towards the end of September, four weeks after the plea and case management hearing date. I do not know if your Honour is available?

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JUDGE BEVAN: I am here. I am not available, because I am part-heard. But, I can make myself available.

H

MISS CARTER: Your Honour, I wonder if you would say 24th September, which is the Monday after the four weeks.

JUDGE BEVAN: No. That, funnily enough, is not a good day because I may not be here all day - and certainly not in the morning. Nor is the

following day.(After a pause): What might be a good day would be Wednesday, 26th or Thursday, 27th.

A MISS CARTER: Either of those dates are convenient. I am not dealing with the matter for the Crown.

B MR. AMER: Your Honour, forgive me. Could we go for the Thursday as opposed to the Wednesday?

JUDGE BEVAN: Certainly. Thursday, 27th.

C MISS CARTER: Your Honour, if I just add that date on to this form, I can then hand the form to your Honour.

JUDGE BEVAN: That would mean the defence statement by Monday, Mr. Amer. That is not unreasonable. Monday, 24th.

D MR. AMER: Very good, your Honour.

E MISS CARTER: Your Honour, may I hand the form in? (Handed) There is a box on the form, asking the Crown to indicate whether or not - and indeed the defence to indicate - there is expert evidence to be relied upon. I have indicated on behalf of the Crown that there is expert evidence to be relied upon, and that further inquiries are underway in relation to other areas of expertise which the Crown anticipates would be evidence relied upon at trial. At the present time, F the Crown is in possession of linguistic evidence - at least the bulk of it. There is other work being undertaken. So, the Crown would expect to serve that in the basic evidence volume. But, there other experts who have been instructed. G There are two that I have mentioned on the form - computer analysis and also bio-mechanical evidence. We would expect to be in a position to have served the computer expert evidence sometime shortly after the date of service, but H certainly before the plea and case management hearing. But, the bio-mechanical evidence, we think, will take a little longer. If it is

not available by the plea and case management date, then would the court consider it appropriate that the court should be given a date of expected receipt at the plea and case management hearing?

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JUDGE BEVAN: Yes, I would have thought so. I mean, you will have to do your best in relation to that.

B

MISS CARTER: Other experts have been engaged, but I do not really want to go into an analysis at this stage.

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JUDGE BEVAN: I follow that, Miss Carter. Miss Carter, you have the officers in the case here.

MISS CARTER: Yes.

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JUDGE BEVAN: You represent the Crown Prosecution Service. The fact that I am, subject to anything Mr. Amer says -- the fact that I am setting a service date for the basic material as 24th August does not mean that nothing has to be served until then. It is in everybody's interests that the defence are assisted. I appreciate that they are going to get some evidence late, but if there is any evidence that they can have early, either by way of service or by way of advanced disclosure with a view to service, I am sure they would be grateful for it. I would be disappointed to hear at the plea and case management hearing if they got nothing until 24th August and then had all the evidence available dumped on them when some of it might have been available, say, in July. But, I am sure you will bear that I mind.

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MISS CARTER: Of course, your Honour.

JUDGE BEVAN: Service on 24th August does not mean service of everything on 24th August.

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Mr. Amer, you have heard those dates.

MR. AMER: I have.

JUDGE BEVAN: Do you have any observations?

MR. AMER: No. In relation to those dates, your Honour, I have no observations.

JUDGE BEVAN: You have heard the comments that I have made.

MR. AMER: I am grateful for the court's comments. Any information that the Crown have in their possession -- if they could serve it as soon as possible, it would obviously be of great assistance to the defence.

JUDGE BEVAN: Is there anything else about the plea and case management -- the preliminary hearing aspect?

MISS CARTER: No, your Honour. No, thank you.

JUDGE BEVAN: Very well. Will there also, by the plea and case management hearing, be a summary, Miss Carter?

MISS CARTER: There certainly will be a summary that has been prepared by the police. In fact, I have a summary ----

JUDGE BEVAN: There is a two-page summary ----

MISS CARTER: Your Honour, I have a document that runs to sixty-six pages presently.

JUDGE BEVAN: By way of summary?

MISS CARTER: Yes.

JUDGE BEVAN: Yes. Well, either that or a truncated version of it preferably ----

MISS CARTER: Your Honour, yes. It can be amended and served.

JUDGE BEVAN: -- to be provided to me, and, if suitable, I would hope to the defence.

MISS CARTER: In its amended form I am sure it can be.

JUDGE BEVAN: Sixty-six pages is a bit much. But, a truncated version of it.

MISS CARTER: Your Honour, yes.

JUDGE BEVAN: Very well.

Now, Mr. Amer, I do not think you were here on the last occasion, but we went into the question of bail.

A

MR. AMER: I understand.

JUDGE BEVAN: As I see from your up-dated bail application the question of the coaxial cable has been addressed apparently.

B

MR. AMER: Yes. Yes.

JUDGE BEVAN: But, I have not seen a report.

C

MR. AMER: I understand, your Honour. In fact, I was served -- indeed, the defence was served the report only about half an hour ago by e-mail from the doctor in the case. May I hand up that report to your Honour?

JUDGE BEVAN: Have you provided it to the Crown?

D

MR. AMER: I have indeed.

MISS CARTER: I have not yet read it. It came into my hands only a few minutes before we came in. I would appreciate an opportunity to read it before we deal with the question of bail.

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MR. AMER: Your Honour, may I say, of course, providing that report to the Crown is only for today's purposes ----

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JUDGE BEVAN: It is quite short. Are you content that I remain in court and read it now?

MR. AMER: Absolutely, your Honour. Absolutely.

G

(Pause whilst read)

JUDGE BEVAN: Mr. Amer, I have read it.

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MR. AMER: I am grateful.

JUDGE BEVAN: Have you read it?(After a pause): Let me tell you my two concerns.

First of all, turning to p.6, the last paragraph, "I note that Mr. Weddell had made another small ball, similarly constructed out of similar cables and elastic bands.

He showed it to me. It was later confiscated". I do not seek to cast any improper motives to Mr. Weddell at all, but one has to look at the realities.

Were you here on the last occasion?

MR. AMER: I was not. In fact, Mr. Maher was here.

JUDGE BEVAN: Well, I expressed my concerns. It is distinctly possible that knowing that a psychiatric report was coming up - because this new little collection of elastic bands seems to be **ex post facto** -- in other words, after the event, and could easily be a diversion.

MR. AMER: I understand, your Honour.

JUDGE BEVAN: My other concern is that the psychiatrist nowhere deals with the allegation that was made by Mrs. Carter, was it, on the last occasion ----

MISS CARTER: Miss Brown.

JUDGE BEVAN: Well, whoever it was -- that he was -- when the coaxial cable was found, he was asked about it, and is alleged to have said - and I appreciate he denies it - "I just wanted to go to sleep". I appreciate he is shaking his head in the Dock, but there is no need for him to do that, because it is made clear to me that he denies it. I would be much happier if that had appeared in the psychiatric report. It does not.

The concern, therefore, is that the doctor who has examined him has produced this psychiatric report without having full information. Now, of course, he denies it. But, at least the doctor -- The whole point of getting a psychiatric report was that the psychiatrist could factor in all the information we then had.

MR. AMER: Yes.

A JUDGE BEVAN: I am, frankly, disappointed either that the doctor was told that and did
not see fit to mention it in his interim report, or that he was not told that because
I was told it at the last hearing. My concern -- I do, in principle, want to grant
Mr. Weddell bail. But, I pointed out to defence counsel on the last occasion that
while there is any risk of something going wrong, it is a risk that none of us
B should be prepared to take - least of all me.

MR. AMER: I understand.

C JUDGE BEVAN: I would have been much happier if that central problem as to what he
is alleged to have said - because it is the central problem - had been addressed
in the psychiatric report. It simply is not.

MR. AMER: I totally understand your Honour's concern.

D JUDGE BEVAN: What am I to do?

MR. AMER: Your Honour, of course, I still press ahead with this bail application on the
basis ----

E JUDGE BEVAN: You are being passed a note.

MR. AMER: -- of this report. I understand Dr. Nyami can be here at 1.00 p.m.

However, unfortunately, I will not be here at 1.00 p.m. because I have other
professional engagements at 2.00 p.m. elsewhere. If your Honour is, at this
F stage, mindful to grant bail, but obviously equivocal on this point, I have to say --
Can I very briefly take instructions from the Defendant and then consider asking
your Honour for another adjournment so that this central point can be
G addressed?

H JUDGE BEVAN: I am bound to say it is regrettable that it was not addressed this time
round because I made it perfectly clear where I was coming from, to coin a
phrase.

MR. AMER: Yes.

A JUDGE BEVAN: Let me just hear from Miss Carter. Miss Carter, there is a very
substantial bail package put forward in this case. One of the concerns I have is
that it is not a straightforward case by any means. Your natural dis-inclination to
promise service of all the evidence in time suggests that it may take quite some
time before this case is in a ready condition to be tried. That is something I have
B to bear in mind in considering the question of bail, added to which, Mr. Weddell,
it goes without saying, is of positive good character. As I say, there is a
detailed, strong package put forward.

C My real concern, which I expressed at the last hearing, has not been
addressed. I am not prepared to grant bail today. But, do the Crown have any
other observations beyond everything that has been mentioned thus far?

D MISS CARTER: Your Honour, yes. Do you want me to deal with it in Open Court?

E JUDGE BEVAN: We are in Open Court. Can I indicate that at the moment - and this
may cut this short; it may be there is something you want to address to me in
chambers -- At the moment I am not prepared to grant bail, but were Dr. Nyami
either to produce a further report, or attend next week, then I would at least
consider it.

F MISS CARTER: Then perhaps I do not need to go any further than to make this
additional observation to that which your Honour has made ----

JUDGE BEVAN: Bearing in mind that you are in Open Court.

MISS CARTER: Yes. Your Honour, p.8 of the report.

G JUDGE BEVAN: Paragraph?

H MISS CARTER: Eight. (After a pause): I would be concerned to know more about
what the doctor means in that paragraph, and in para. 11, why the doctor makes
that recommendation that he would be willing to give that support. To what end?
Why? Why is it needed?

JUDGE BEVAN: Well, you have heard that, Mr. Amer.

MR. AMER: I have.

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JUDGE BEVAN: They seem to me, with respect to Miss Carter, to be sensible questions.

MR. AMER: Your Honour, in fact ----

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JUDGE BEVAN: What does para. 8 mean. To what end para. 11, coupled with my question?

MR. AMER: Indeed.

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JUDGE BEVAN: I am here for another week, if necessary. I had better deal with it at this stage.

MR. AMER: I agree.

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JUDGE BEVAN: I am at Ipswich for the following fortnight. It is obviously undesirable, for all sorts of reasons, that this case has to travel to Ipswich for what is effectively half a bail application. It would be much better if it could be done next week. I leave it entirely to you. But, on the information I am afraid I am not prepared to reconsider bail. But, I have already indicated that I would regard the psychiatric situation as a change of circumstances. Therefore, provided there is something new, and, with respect to what there is already, more helpful, then I will reconsider the question of bail.

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MR. AMER: I am grateful. It may well be, your Honour, that if we can have the matter re-listed, we will see if we can get the expert here in person.

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JUDGE BEVAN: I think that would be desirable. I will accommodate you as best I can, any time between nine-thirty and four o'clock.

MR. AMER: I am most grateful.

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JUDGE BEVAN: Thank you.

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