



**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CRIMINAL DIVISION**

**IND0031 OF 2023**

**REX**

**AND**

**MCKEEVA BUSH**

**COURT 2**

**Coram: Justice Stanley John (Actg.)**

**Appearances: Mr. Charles Miskins KC Mrs. Hema Soondarsingh for the Crown  
Mrs. Bennett-Jenkins KC and Mr. Dennis Brady for the Defendant**

**Held: 28 February 2024**

**HEADNOTE**

*Ruling – Abuse of process*

**JUDGMENT**

1. On the morning of Monday, 25<sup>th</sup> February 2024, a request was made by the Defence to the Prosecution for the disclosure of certain information in the form of emails and other documents.
2. The matter was ventilated in court, and the Court directed that the information sought be provided. Most of what was required was delivered late Monday evening.
3. Yesterday, 27<sup>th</sup> February 2024, further disclosure was made to the Defence, and that was followed in the afternoon by the hearing of an application to stay the proceedings.
4. Courts do have an inherent power to stay proceedings in certain situations. That power must be exercised within “NARROW CONSTRAINTS” and must not be used as a tool for disciplining the police or the Prosecution.
5. My decision is based solely on the disclosure information provide to the Defence, and the submissions of both Counsel, written and oral.



6. I have considered the statement of Lord Dyson in **R v. Maxwell**<sup>1</sup>:

*“(i) Where it will be impossible to give the accused a fair trial, and (ii) where it offends the court’s sense of justice and propriety to be asked to try the accused in the particular circumstances of the case. In the first category of case, if the court concludes that an accused cannot receive a fair trial, it will stay the proceedings without more. No question of the balancing of competing interests arises. In the second category of case, the court is concerned to protect the integrity of the criminal justice system. Here a stay will be granted where the court concludes that in all the circumstances a trial will offend the court’s sense of justice and propriety (per Lord Lowry in R v Horseferry Road Magistrates’ Court, Ex p Bennett [1994] 1 AC 42, 74G) or will undermine public confidence in the criminal justice system and bring it into disrepute (per Lord Steyn in R v Latif [1996] 1 WLR 104, 112F)”*

7. As the Court said in **R v Crawley**<sup>2</sup>, there are two potential limbs under which an application of this nature can be brought, namely:

*“(i) Where the court concludes that the accused can no longer receive a fair hearing – This focuses on the trial process itself.*

*ii) Where it would be unfair to try the accused or put another way, where a stay is necessary to protect the integrity of the criminal justice system – This is where the Court considers that the accused should not be standing trial at all, irrespective of the potential fairness of the trial itself.”*

8. The Court is therefore concerned with the process, and I stress, the process by which the decision to prosecute was made.

9. I pose this question rhetorically. Would a right-minded citizen hearing the process used to have the Defendant brought before the Court ... not have serious concerns?

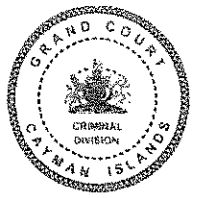
10. Additional disclosure was made to the Defendant yesterday afternoon. The contents of the disclosure documents have been seen by the Court and now form part of the Court’s records.

11. This entire process has caused a level of disquiet.

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<sup>1</sup> [2011] 2 Cr App R 31

<sup>2</sup> [2014] EWCA Crim 1028



12. I, therefore, uphold the application and will, accordingly, stay the proceedings.

13. Detailed reasons will be given in writing at a later date.

  
Honourable Mr. Justice Stanley John (Actg.)  
Judge of the Grand Court

