

CANADA  
 SUPREME COURT OF NOVA SCOTIA - TRIAL DIVISION  
 PROVINCE OF NOVA SCOTIA

THE QUEEN on the information of  
 SGT.-DET. JOHN F. MacINTYRE

- VS -

DONALD MARSHALL, JUNIOR

CHARGE:

DONALD MARSHALL, JR. did at Sydney, in the County of  
 Cape Breton, Province of Nova Scotia, on or about  
 the 28th day of May, 1971, murder Sanford William  
 (Sandy) Seale, contrary to Section 218(2) of the  
 Criminal Code of Canada." 206

WITNESSES:

✓ Dr. Mahomed Ali Naqvi  
 ✓ Dr. David Gaum  
 ✓ Carl MacDonald  
 ✓ Roy Gould  
 ✓ Donald Marshall, Senior  
 ✓ Sgt. Michael R. MacDonald  
 ✓ Patricia Ann Harriss  
 ✓ Terrance Gushue  
 ✓ Maynard Vincent Chant  
 ✓ John Pratico  
 - Robert MacKay  
 Brian Doucette  
 ✓ Leo Curry  
 ✓ Pearl MacMillan  
 ✓ Dr. Mohan S. Virick  
 ✓ Mrs. Merle Faye Davis  
 ✓ Aldophus James Evers  
 ✓ Sandra Catherine Mrazek  
 Cst. John Mallowney  
 Det.-Sgt. John F. McIntyre

STATEMENT OF FACTS

On the 27th May, 1971 (a Saturday night) a dance was being held at a local hall (St. Joseph's Parish Hall) with a number of the witnesses in attendance. Near midnight the participants at the dance began to leave.

A Mr. John Pratico met the accused and the deceased, Sandy Seale, at the corner of Argyle and George Streets in Sydney, and was invited by the accused to go into Wentworth Park with them by the accused. Mr. Pratico did not like the way the invitation was extended so he declined and proceeded alone up Argyle St. to Crescent Street which skirts the edge of Wentworth Park. He proceeded along Crescent Street until he neared the intersection of Crescent Street and Bentinck Street. There he stepped behind a shrub in Wentworth Park in order to consume a pint bottle of beer. While behind this shrub he saw the accused and the late Mr. Seale walk along Crescent Street and engage in an argument, or at least a loud discussion. As he watched he saw the accused remove a knife from his right hand pocket and plunge it into the stomach of the deceased. He then panicked and ran from the scene to his home.

Meanwhile one Maynard Vincent Chant will testify that he missed his bus to his home at Louisbourg and that he proceeded down Bentinck Street, and coming to the railroad tracks that run through Wentworth Park he proceeded along these railroad tracks as a shortcut to George Street where he intended to hitch-hike a drive home. As he walked along the tracks he noticed, and can identify, Mr. John Pratico sitting behind a shrub watching two men in an argument on Crescent Street. He proceeded about thirty feet beyond Mr. Pratico and stopped to observe what was going on. He knew both the accused and Mr. Seale and he saw Mr. Marshall, the accused, draw a knife from his pocket and plunge it into the abdomen of Mr. Seale, the deceased.

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He panicked and ran down the tracks and cut over a path to Byng Avenue, another street skirting Wentworth Park on the opposite side from Crescent Street.

While on Byng Avenue he saw the accused running down Bentinck Street and turn into Byng Avenue towards him. Mr. Chant turned to walk in the opposite direction when the accused caught up to him and told him that he and his friend, Mr. Seale, had been attacked by two men, one stabbed his friend, Mr. Seale, in the abdomen and he received a cut in the arm defending himself. This conversation took place in front of a house occupied by a Mr. Mattson, a former R.C.M.P. officer, who is expected to testify.

The accused showed Mr. Chant his forearm that was injured but no blood was in appearance. These two men stopped a passing automobile, the operator unknown, and were taken back to the scene where Mr. Seale was still alive, but beyond reasonable senses. Help was then summoned. Mr. Chant at first related to the police the story the accused gave him but later advised that he related the false story because of fear of the accused. He knew and can identify both men involved in the offence.

DR. M. A. NACVI & DR. D. GAUM will testify as to the identification of the deceased and the efforts put forth to save his life and the cause of death.

CARL MacDONALD will introduce the plans of Wentworth Park and the surrounding streets and area.

ROY GOULD will testify that he loaned the jacket in question to the accused on the night in question, that it was in good condition on the evening in question and its condition on recovery from the father of the accused. It was blood stained and torn.

DONALD MARSHALL, SENIOR, who is the father of the accused, will testify that he returned the jacket to its owner, Mr. Roy Gould.

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DET. MICHAEL R. MacDONALD, a member of the City of Sydney Police Force, took the exhibit jacket from Mr. Gould and took it to the R.C.M.P. Crime Laboratory in Sackville, N.B.

PATRICIA ANN HARRIS, who is fourteen years of age, will testify that she left the dance with Terry Gushue at approximately 11 P.M. They went into Wentworth Park to the bandshell where they spent some time. Then they proceeded along Crescent Street at approximately 11:45 P.M. where they met the accused, and another man who she cannot identify. A conversation took place and they continued along to her home. Miss Harris had known the accused before.

TERRANCE PATRICK GUSHUE will give the same evidence as Miss Harris.

MAYNARD VINCENT CHANT, who is fourteen years of age and lives in Louisbourg, will testify that he missed the bus that was going to Louisbourg and that he walked down Bentinck Street to the railway tracks that run through Wentworth Park. As he walked along the tracks he noticed John Pratico hunched behind a bush watching something on Crescent Street. Mr. Chant stopped to see what Mr. Pratico was observing and saw two men talking to each other. Mr. Chant saw the accused haul a knife out of his pocket and drive it into the stomach of the other man. This other man keeled over and Mr. Chant ran away towards George Street. He cut off into a path to Byng Avenue. As he proceeded along Byng Avenue he saw the accused running down Bentinck Street and turn into Byng Avenue.

Mr. Chant turned around but the accused caught up to him in front of a house occupied by Mr. M. Mattson. Here the accused showed his arm and told Chant that he did not know the accused. Chant then ran away.

JOHN PRATICO will testify that he knew the accused and met him near the corner of George Street and Argyle Street. He declined an invitation by the accused to go into Wentworth Park. He then went down Argyle Street to Crescent, which he walked along until he came to a bush which he went behind in order to have a pint of beer. As he was there he saw the accused and the deceased talking or arguing, he saw the accused haul something from his pocket and stab Seale. Seale dropped and Mr. Pratico ran away from the scene. Mr. Pratico knew both Mr. Marshall and Mr. Seale before the night in question.

ROBERT MacKAY, who was attending the dance, left with Miss Debbie MacPherson around 11:40 P.M. They sat at the bandshell in Wentworth Park for a few minutes, then proceeded along Crescent Street. As they walked along they saw Sandy Seale lying on the street. He asked for help because he was stabbed. Mr. MacKay sent Miss MacPherson on her way and ran for help. He returned just as the automobile with the accused returned to the scene. Mr. MacKay and the accused went to a house to ask for an ambulance to be called.

BRIAN DOUCETTE will testify that he was asked by the accused and another man to call an ambulance. When the ambulance arrived Mr. Doucette accompanied the ambulance to the hospital. The accused showed Mr. Doucette his injured arm and there was no blood.

LEO CURRY will testify that he was the ambulance driver that took Mr. Seale to the hospital and stayed with the deceased until the doctor arrived.

PEARL MacMILLAN, a lab technician at the Sydney City Hospital, will testify that she typed the blood of Sandy Seale and found it to be "O" positive.

DR. MOHAN S. VIRICK will testify that he examined Donald Marshall and found that he had a laceration on the left arm which he sutured. There was no bleeding from this cut. It was a superficial laceration.

MRS. MERLE FAYE DAVIS will testify that she is a nurse at the Sydney City Hospital and that she examined Donald Marshall on his arrival at the Hospital. She will describe the condition of Mr. Marshall's arm and that there was no blood on the arm when he entered the hospital.

MR. ALDOPHUS JAMES EVERS will testify that he is with the R.C.M.P. Crime Laboratory in Sackville. He will testify that he received the Exhibits from Sgt. Michael MacDonald on June 16th, 1971. These exhibits were a light brown jacket and a bright yellow jacket. He passed these exhibits on to Miss Mrazek. He will then describe the conditions of the exhibits.


MISS SANDRA MRAZEK, from the R.C.M.P. Crime Laboratory, will explain her examination of the two exhibits and also of a piece of Kleenex given to her as an exhibit.

CONSTABLE JOHN MULLOWNEY, a member of the Sydney Police Force, will testify that he searched the Crescent Street area after the alleged offence and found the blood soaked piece of Kleenex in the area.

SGT. JOHN MacINTYRE, a member of the Sydney Police Force, may be called regarding statements made by the accused.

LAW INVOLVED: Section 206(2)  
Section 203.

DATED AT Sydney, Nova Scotia, this 12th day of October, A.D., 1971.



Donald C. MacNeil  
Prosecuting Officer  
Cape Breton County