



March 17/82 - 10 clues rec'd - Exhibit
71 bits.

→ piece of black tape - cannot identify
- has envelope marked & tape,

knife R4(g)
R4(G) - messy fibre

R4(G) fibres consistent

→ R9 - tape,
- used stereomicroscope,

R4(L) 12 fibres } 3 yellow jacket
5 fibre groups } yellow jacket.
of 7 different types }
↓ 2 types

- define consistent
- when transcript available - can apply for data
for reconstruction of bearings



PROVINCE OF NOVA SCOTIA

MESSAGE FE 185

TO _____

DATE Frank July 7 TIME 11:55

WHILE YOU WERE AWAY:

MR. - MRS.

MS. MISS Honey Wheaton

OF _____

TELEPHONE NUMBER _____ LOCAL _____

- TELEPHONED
- RETURNED YOUR CALL
- WILL CALL YOU AGAIN
- PLEASE CALL
- REQUESTS AN INTERVIEW
- VISITED YOU

AT _____
R. Marshall
 LEFT THIS MESSAGE

In response to the question "How did Pratie come to the attention of the police?"

7

USE REVERSE FOR CIRCULATIONS/
 ENCLOSURES/ACTION REQUEST
 FORM 182
 104.2.1/80P/1813A

CALL RECEIVED BY _____

Raymond Poirier who lived next door to Pratie in 1971 [at 90 Victoria Road] advised Chief Max Lutz that Pratie was a witness to the murder.

Re: Donald Marshall, July 8/82

Appeared in App Div. Chambers before Chief Justice W. Kerzan. Aronson and ~~Arthur~~ ~~Edel~~ present.

Aronson's submission;

Objection on how to proceed re Fresh Evidence.

Q-Notice of Appeal in usual form is only to give by usual particulars - 2nd thought - will treat Reference as Notice of Appeal - another notice will serve no useful purpose.

~~Q-Notice~~ of Prelim. Inquiry - not necessary. -
- Aronson stated that 1 or 2 witnesses on prelim did not testify at trial

→ I undertook to ensure that witnesses were advised of s. 5 of the Evidence Act.

IE 106

John's affidavit July 27.

FP 15 - delete.

25. + 27. Insert FP between

27 and 28 relating to
statements taken from Roy,
Greg and Mary.

FE 126

Research - Brown's right to call
reple evidence - Appellate
(1977) 33 CCC(2) 360.

Palmer (1979) 50 CCC(2) 193

McWams.

Cranshaw.

Prelim Remarks.

① Substantial argument as appellants' position on law.

② Brown's basic position is that if Court, Justice & Harris are heard then police should also be heard.

③ That Court will get a distorted view unless the appellant is submitted to press-examine on his affidavit or unless the Crown is permitted to cross-examine him on his affidavit. - Crown's new and pertinent actions of P. not only precipitated events of May 28 but also the course of the subsequent investigation & defence. (Ref. to McNeil's affidavit.)

related to the trial's
appellate

FE 126

Preliminary Remarks.

The Crown's role in this proceeding
 its role in this ^{in any criminal proceeding}
 Crown's role; ^{can be ambiguous at best. It is}
^{in practical terms, being in}
^{in defined terms, they charged it}
^{and are linked to it.}
 to ensure that the Court
 gets a full and balanced account
 of the evidence. In practical terms,
 this will mean that the Crown will attempt
 to call every witness to that

- ^{Appellant's} Discussions with ~~Defense~~ counsel
 and perusal of a draft copy of the Appellant's
 brief have revealed that ^{there is no} ~~clear~~ ^{significant} difference of opinion between counsel on the
 law respecting the admissibility of fresh
 evidence; ~~in the case of~~ that law
 may conveniently be summarized as follows;

police evidence - req. knowledge of Justice's worth etc.

FE 126

Outline of Appellant's Brief.

Limits of a Response

Admiss. of Fresh Ev. on Appeal.

S. 617 + Fresh Ev.

Testimony of eyewitness changing

Admiss. of Evidence Concerning the Credit of a Witness - Parties

- Dr. Mian

- Floyd, Cotie, + Beaver.

Conduct of Third Parties.

Note that he does not mention whether he will seek leave to call the Appellant.

FE 126

Law.

- ① Rules resp. admiss. of fresh evidence
- ② Scope broader in reference
(trend against re-adjustment.)
- ③

p. 14. issue of credibility of prime importance.

FE 126

Reluctant Evidence

This is a case where Defence witnesses
(notwithstanding they were Crown witnesses at
trial)

- Crown should cross-examine defence
witnesses on matters which it controls & relat.

Relevance - must be considered in light of defence evidence

Nick Ryan
Hart
Jones
Morrison
Mac Donald

Re. Donald Marshall Oct 5/82.

- made clear that affidavits were not evidence

Aronson - began by stating affidavits filed - insisted that all evidence put in as evidence.

Richard
Pratico
Wheeler
J. W. Hill
Patricia Kassis
Mary, Lanna Greg
Eckers
Wheaton
Marshall - himself

} Witnesses to would like

Pratico - bottom line is that he wants Pratico

- Moving for receipt of affidavits in this application.

Layler 27 CCL(2)321

FE 126

Decision re fresh evidence Oct 5/82.

alld appls.

James Wm. McNeil
 Laura
 Greg
 Calliphous
 Donald Marshall
 Grant
 Harris

Dec 1 + 2 at 10:00 a.m.

— Reserve appls. to hear ev. of
 other witnesses

— Reserve an appls. to receive affidavits

Oct 21/82.

FE 143

Re: Marshall

- Call Gene Cole - Paton -
- Was he ordered to look into it in 1974?
- did he have chief's file in office at station.

Patricia Harris

- check for criminal record.
- 1978 - insp. driving
- theft
- City police will provide her card.

Wayward Chant - check for record.

- Did Dave Katerford give statement?
- what about Gary Greene?

/FE 127

Oct 29/82Jim Carrollsee Eckhart.

Eckhart admitted
 on tape that he had
 stolen seal - used a
 penknife which he later hid
 and buried in his back
 yard on Arroyo St. - willing
 to show Carroll,
 - says he believes
 that Marshall went back +
 finished seal off.

Nov. 3/82 @ 11:50 a.m.

DEPARTMENT OF ATTORNEY GENERAL

MEMORANDUM

FROM: Jim Carroll

TO: Frank

RE: Marshall case

Wanted you to know that Mary Patricia O'Reilly is now married and her married name is CSERNYIK and her address is P.O. Box 1066, Red Water, Alberta, T0A 2W0, and her phone number is 1-403-942-2629.



MESSAGE

TO: <i>Frank</i>	
DATE: <i>Feb 21</i>	TIME: <i>2:55</i>

WHILE YOU WERE AWAY:

MR <input type="checkbox"/>	MRS <input type="checkbox"/>	<i>Jim Bond</i>
MS <input type="checkbox"/>	MISS <input type="checkbox"/>	
OF		
TELEPHONE NUMBER		LOCAL

<input type="checkbox"/> TELEPHONED	<input type="checkbox"/> PLEASE CALL
<input type="checkbox"/> RETURNED YOUR CALL	<input type="checkbox"/> REQUESTS AN INTERVIEW
<input type="checkbox"/> WILL CALL YOU AGAIN	<input type="checkbox"/> VISITED YOU
AT <i>Pi Donald Marshall</i>	

LEFT THIS MESSAGE
<i>Jim Marshall is</i>
<i>looking for a position</i>
<i>the People's Party that</i>
<i>held after this in</i>

Ottawa are looking
for a document from
the H.D. Court of Appeal
indicating that ~~there~~
they found that
Donald Marshall did
not kill Bondy's wife.
Jim thought perhaps
the final page of
the decision would
be sufficient if we
could locate this

Handwritten
Notes

Marshall

1. Why no pardon?
Court would pronounce independent of Ebery who could have been acquitted on basis of self-defense.
2. Why "cannot be supported by evidence" rather than "misarrange."
Bench very close to ordering a new trial which would have been great thing. My recollection they'd be far more inclined to acquit if the submission was waivered in trial it was.
3. Misrepresentation by focus of the burden of proof shifting to Marshall
- Accused has right to remain silent but once he decides to take the witness stand he is obliged to tell the "whole truth" that is what Marshall did not do - never indicated his motives when in park.
- Marshall's counsel wished that his client be acquitted without any reference to the Marsh 192 statement. This would have been a greater distortion of the truth than that we are accused of making.
- Estimating that statement not done with eye to compensation.

John W. Dwyer - Cross. ①

→ Circumstances surrounding taking of statements from:

- ① Hunt
- ② Pratico
- ③ Harriss

- Continuing interest in outcome of this case

① CBC Libel action

② Because he feels a conviction of Esary would reflect badly on him*

*Lead into this by suggesting that he arrested, charged & helped convict wrong man,

↳ If he knew convict Marshall didn't do it?

- Bungled the investigation & doesn't want to admit it.

- Ever check out Marshall's story - aware that Esary lived near park since 1959.

- Didn't A.G. order him to turn over file by letter April '82

- Wasn't you called out on night of & refuses.

- Had ambition to be Chief at time

John MacIntyre - Cross.

- ^{sit} Lited page against CBC - re Nov. 83
broadcast Sunday Morning,
 - documentary prod by Heather Wattson
 - taped int with P.D., Harris.
 - excerpt.

Maynard Chant - I had to
say something.

John Pratico - is a witness
according to Dr.

Parker: ~~John MacIntyre~~ → police coaxing
witnesses into lying or stalling

Witness Schedule - R.V. Ebary.

② Oscar Seale } How he got to room Westman
① Leatha Seale } Height + weight

Donald Marshall Jr.
Maynard Chant
Donald Marshall Sr.
Ray Gould

Mike Mac Donald

Harry Wheaton
~~Harold Eber - Doug Hyde - cont~~

(picture)?

Greg Ebary →
Mary Ebary
Dulna Ebary

Richard Mc Alpine
Greg Ashenbult
Isidolphus J. Ewers.

James MacNeil

Barlow }
Stech } voir dire
Chingor }

Cpl. James Carroll

Dr. Nagui. 564-9835

Leo Mroz

Mon Jan 14/85

1. Donald Jr. cont'd.
2. ~~Patricia Harris~~
3. Donna Ebary
4. Isidolphus Ewers
5. Leo Mroz
6. Dr. Nagui
7. Cpl. Carroll.

BEFORE:

The Honourable Mr. Justice D. Merlin Nunn

Writ No. S.C. 00666

The Queen v. Roy Newman Ebsary

List of exhibits put in at the trial of the action at Sydney, N.S.
on the 10th, 11th, 14th, 15th day(s) of January 1985

Pltf.	Property of Deft.	Letter & Number	Description of Exhibit
X		V-D-1 (Ex. 7)	Envelope containing tape
X		V-D-2 (Ex. 8)	Transcript
	X	V-D-3	Transcript from Dr. Akhtar May 7, 1985 (Fitness Hearing)
	X	V-D-4	Discharge report May 11/82
	X	V-D-5	Discharge report July 30/82
X		1	Brown paper containing 10 knives, and piece of tape
X		2	Box containing sample yellow jacket
X		3	White box to transport slides
X		4	Slide small sample brown jacket
X		5	Slide small sample brown wool
X		6	Small sample from Box #2
X		7 (V-D-1)	Envelope containing tape
X		8 (V-D-2)	Transcript
X		9	Evidence of Constable Leo Mroz read in by His Lordship
X		10-A	Photo showing Ebsary in 1971
X		10-B	Large photo showing Ebsary in 1971
	X	11	Evidence from Brian Doucette read in by His Lordship

FE 126

Geoffrey Evers

- qualifications & experience at that time.
- knowledge of frequency of use of such material. - ~~also~~
- ^{was} whether any definite distinction between material in same type of department unq. in different countries.
- remember the brands or labels on jackets.
- any experience or training in computing probabilities.

R & D

FE 120

Enclosures -

- 1. Crime lab reports 82-04-01
- 2. " " " " 82-04-05.
- 3. Statement of Parina Eksary 82-04-17
- 4. " " Mary Eksary 82-04-19
- 5. " " " " 71-11-15
- 6. " " Roy Eksary 71-11-15

Had the said evidence been addressed on an appeal;
 (a) Would the Court have ^{reversed the conviction} ~~acquitted~~ ^{ordered a new trial};
 (b) ~~if no~~ Would the Court have ordered a new trial.