

**IN THE COURT OF GENERAL SESSIONS OF THE PEACE OF THE  
COUNTY OF GREY**

HIS HONOUR JUDGE G. H. MOORE  
REGINA VS. DONALD PARKS  
JANUARY 28, 1974

Exhibit A was presented to me on Wednesday last as a proposed exhibit to be introduced to the jury through an accountant, Mr. Lindquist. Exhibit A is a summary prepared by Mr. Lindquist, from evidence that has either already been entered in this case through documents with an explanation of the person who had proper custody of those documents or evidence about to be called by the Crown. This evidence is relevant to five counts of fraud. What the Crown is seeking to do or so Mr. McLeod advises me, is to assist the jury by providing it, in effect, with an accurate summary of the transactions arising out of the various documents.

Mr. Carter has submitted that the proposed witness, Lindquist, is doing no more than putting into evidence a document that is already before the Jury and Mr. Lindquist, through the document Exhibit A, is giving his opinion as to the effect of the various documents which Mr. Carter submits is something that the jury will be required to do when the case is submitted to them. As to Mr. McLeod's submission, by way of analogy with regard to evidence that is submitted by way of photograph, diagram, survey and so on, he submits that these are pictorial representations of the scene of the crime as it must have existed at the time of the crime and this is, of course, an essential aspect of such proof. It is not an interpretation of it. Mr. Carter, in effect, submits that Exhibit A is simple a document which is interpreting a series of transactions, after the event.

I have had an opportunity of reading Exhibit A and considered the evidence so far introduced in this case. I have made inquiries through Mr. McLeod with reference to documents which are not yet before the jury. Mr. McLeod assures me that there will be evidence introduced to lay a complete ground- work for every phase contained in Exhibit A. Therefore my Ruling is premised on his assurance that Exhibit A will prove to be and must prove to be an accurate summary of evidence that will eventually be placed before this jury.

A trial judge has an obligation just as the Crown has and for that matter, just as Defense Counsel has, of presenting to a jury evidence in the clearest possible fashion so that they can then consider and understand the evidence, make findings a fact upon that evidence and address themselves to their verdict.

There has been a veritable blizzard of documents introduced in this case, particularly with respect to Counts 7 to 10, the "South" transactions. These simply

indicate various transactions which South had with the County of Grey and the Crown alleges on that evidence that in reality it was Mr. Parks dealing through South with the County of Grey. Because of the number of documents, it may be difficult by the very number of these documents, for the jury to get to the task of making their findings of fact as to the various transactions. I do not think that the jury need be that concerned because the number of documents they may have to consider, however. One of the reasons why they will not have to be that concerned with the number of documents is the summary produced by the Crown, Exhibit A. Exhibit A will clarify these transactions and will greatly assist the jury in their consideration of the various documents.

Now as I stated earlier, it is a trial judge's duty and obligation to see that the evidence is presented to the jury in the clearest possible fashion and to assist them in coming to a just verdict. During a trial, evidence that is perhaps difficult for a jury to digest as the moment is sometimes presented by the Crown, or the Defense for that matter. A jury may inquire about such evidence while they are deliberating upon their verdict and the trial judge may direct that a transcribed summary of the evidence be presented to the jury for their consideration. More often, a judge either reads from his own notes an accurate account of the evidence or directs the reporter to read the transcribed notes of the evidence to the jury.

I have come to the conclusion that Exhibit A should be before this jury to assist them in their deliberations. I have attempted to find in my consideration of my ruling over the weekend, any rule that would prohibit the submission of this exhibit to the jury and I have found none.

The Kuzmack case (110 C.C.C 338) referred to by Mr. Carter is not in point on this issue. While Mr. Lindquist, just as an example, does state with respect to a transaction on January 30, 1968 under Charge number 5, that the document Exhibit 5-1 creates a personal debt to Dominion Motors of a certain sum of money, it is my recollection that during this examination in chief, the witness that produced this exhibit could have said the same thing and my have said exactly the same thing in different words. That comment in my opinion could be made with regard to all these transactions.

As to the submission that as Exhibit A was prepared by a professional person and that therefore undue weight would be given to this fact, I reject that as an argument preventing its admission. The accountant will be called and each fact that he has introduced into this summary must already have been proven. The so-called opinions that he gives are readily ascertainable from the reading of the documents themselves and in most cases, if it is an opinion, it's already before the jury. However, the document itself in my opinion will be of great assistance to the jury in understanding and tracing the various transactions.

I therefore rule that, as the proper time, Mr. McLeod can submit Exhibit A as an exhibit in this case.

