

IN THE SUPREME COURT
TURKS AND CAICOS ISLANDS

CRIMINAL SIDE

R v JONALD BELZY AND LOUISE BELZY

(1) Corruption

(2) Attempting to Pervert the Course of Justice

BEFORE THE CHIEF JUSTICE

The Hon Mme Justice, Margaret Ramsay-Hale

Ms. Kellee-Gai Smith for the Prosecution

Mr. Courtenay Barnett for Jonald Belzy

Mr. Noel Skippings for Louise Belzy

Heard on 8 July 2019



DECISION

1. The Defendants have challenged the sufficiency of the evidence against them of attempting to pervert the course of justice and corruption.
2. The background to these charges is that on 6 November 2018, one Djimpson Belzy was riding a motor scooter along Waterloo Road when he was stopped by police conducting routine traffic exercises. Officer Jarcel Astwood asked him for the license and insurance for the scooter which he was unable to produce. He explained that he had borrowed the bike from a friend to go and check on a job. She asked him if he had a driver's license and he replied that he did not have one. She warned him for the offences of driving an unlicensed vehicle, driving without insurance and driving without being licensed.
3. PC Astwood then asked Djimpson for proof of his status in the Islands and he replied he had no papers but had been to his boss to get his papers straight. She then informed him that she would have to take him to the station until he could prove he was in the Islands legally.
4. At that point, Djimpson made a call on his cellphone which he handed to the officer, saying that his boss wished to speak with her. She took the phone and recognized the speaker on the other end as the defendant, PC Jonald Belzy. It is her evidence that she relayed the above information to PC Belzy who then said to her, "Can you turn your back and let him go?" She said she could not and informed PC Belzy that she was detaining Djimpson for immigration purposes.

5. At the station, PC Astwood telephoned Immigration Officer Kano Wilson and told him she had detained an undocumented person and that she had his passport in her possession. An examination of the passport revealed that Djimpson's right to remain in the TCI had expired on 29 May 2018. IO Wilson later confirmed that Djimpson had no legal status in the Islands.
6. IO Wilson states that he received a call from the defendant Louise Belzy, also a police officer and wife of Jonald Belzy, who informed him that she had purchased a ticket for Djimpson to be sent back to Haiti. IO Wilson informed PC Astwood who indicated that her investigations were not complete. Ultimately, PC Astwood completed her investigations and Djimpson was charged and convicted on his own plea of traffic and immigration offences and deported.
7. The substance of the charge against Jonald Belzy is that he asked PC Jarcel Astwood, if she could *"turn [her] back and let him go."*
8. Mr. Barnett submitted that the words were no more than an invitation to the officer to exercise a discretion all officers have to not pursue a prosecution.
9. In my judgment, however, a jury, properly directed, could find that Mr. Belzy was seeking to dissuade his colleague from doing her duty - *"to turn [her] back and let him go"* -and that he was, therefore, guilty of attempting to pervert the course of justice. The same facts could establish the charge alleging that he committed an act of corruption.
10. The other submissions made on Mr. Belzy's behalf by Mr. Barnett were submissions that, in the main, went to issues of fact and were, therefore, matters for the jury at trial.
11. With respect to Mrs. Belzy, a cousin by marriage of Djimpson, the allegation is that she attempted to pervert the course of justice when she told IO Kano Wilson that she had purchased a ticket to Haiti for Djimpson and that she had done this to avoid him being subject to a Stop Notice. IO Wilson says he told her that he would not be able to accept the ticket until the police turned him over to Immigration.
12. From the evidence it is clear that Mrs Belzy did not ask that Djimpson not be prosecuted for overstaying, which is an immigration offence for which he was liable to be prosecuted on the facts. The inference that the Crown would invite the jury to draw is that, in telling the Immigration Officer she had purchased a ticket for Djimpson, she was trying to avoid him being prosecuted for overstaying and was thus seeking to dissuade the officer from doing his duty.
13. In his witness statement, IO Wilson said it is common practice for persons to approach immigration officers offering to purchase airline tickets for relatives being deported in order to avoid them being placed on the Immigration stop list but that this is not encouraged by Immigration and is not the right procedure. Nonetheless, the fact that a common practice has developed suggests that those Immigration Officers responsible for enforcing the Immigration law, do exercise their discretion to repatriate overstayers without charge, instead of prosecuting and repatriating them at the State's expense.

14. When Mrs. Belzy told IO Wilson that she had a ticket for Djimpson because she didn't want him to be put on the stop list, the officer's response was that he could not accept the ticket until the Police turned Djimpson over to Immigration. The ready inference to be drawn from that statement is that, were Djimpson in his custody and his police matters disposed of, IO Wilson could accept the ticket and send Djimpson home, in the exercise of a discretion which he plainly had.
15. In my judgment, the words spoken by Mrs. Belzy were, at their highest, an invitation to the Officer do his duty *in a particular way*, by exercising his discretion to allow a person who had overstayed to return home without prosecuting him, and were not an invitation to the officer to refrain from doing his duty.
16. There is nothing criminal in that, in my view.
17. I, therefore, rule that there is sufficient evidence to commit Jonald Belzy to stand trial for the offences of attempting to pervert the course of justice and committing an act of corruption. With respect to Mrs. Louise Belzy, I find that the Crown had failed to establish a *prima facie* case against Mrs. Belzy and I discharge her.

DATED THE 30 AUGUST 2019

CHIEF JUSTICE

