

IN THE CROWN COURT OF NORTHERN IRELAND
DIVISION OF NEWRY AND ARMAGH

THE QUEEN

-v-

CRYMBLE AND OTHERS

APPLICATION NO. 7

McLAUGHLIN J

[1] This ruling concerns an application brought at the behest of the fourth named defendant, Sonia Thompson, to the effect that I should rule inadmissible, and therefore exclude, certain evidence sought to be presented by the prosecution. The evidence consists essentially of a comment made by her in answer to a question immediately prior to her arrest which was given without benefit of a caution. It is said the evidence should be excluded because the police had already sufficient information to require them to administer a standard caution but did not do so. By proceeding to question her it is said they were in breach of the relevant Code of Practice established under the Police and Criminal Evidence (NI) Order 1989. Following upon that submission it is said that further evidence obtained in the course of interviews under caution, and in the presence of her solicitor, should likewise be excluded as they are tainted by the impropriety which lead to the statement made by her before she was cautioned and immediately prior to arrest. In order to determine the issue a *voir dire* was conducted in the absence of the jury.

[2] The prosecution of the defendants arose from the murder of Paul Crymble on 20 June 2004. The prosecution case is that he had been out drinking that evening with his wife, the first defendant, and that after he had returned to his house he was attacked by Rodger Ferguson, the second defendant, and Colin Robinson, the third named defendant. In the course of the attack the deceased suffered extensive injuries and was eventually

subdued; the attackers then placed strong cable ties around his wrists and ankles. His wrists were bound behind his back and it seems clear from the evidence that the deceased would have been severely restricted in his ability to move or fight back when so shackled. Once this had been done a black plastic bag was put over his head which was then secured with masking tape around his neck. He suffocated and died within a short time. The tape holding the bag in place was wound so tightly that the police forensic medical officer who attended the scene after the discovery of his body had difficulty passing his fingers between the tape and the deceased's neck in order to cut it and release the bag. The deceased was taken from his home about 2.00 or 2.30 am and was found at about 11.00am that day in the rear section of his car; it was abandoned in a farm laneway a short distance from his home.

[3] Jacqueline Crymble was left with her arms cuffed but she alerted the emergency services by dialling 999 and the call was registered at 2.30am. Police arrived at the scene at about 3.00am.

[4] At an early stage of the police inquiries they discovered that Jacqueline Crymble and Rodger Ferguson had been conducting a relationship, and indeed had done so in a very public manner, for some considerable time prior to the abduction and killing of Mr Crymble. The possibility that he had been murdered as a result of this relationship became an urgent line of inquiry. I am satisfied however that the police also left open a number of other lines of inquiry including the possibility that there might be paramilitary involvement - although that appears to have been ruled out fairly quickly - or that it was somehow connected to an attempt to obtain money and or drugs from the deceased. In her first account of events Jacqueline Crymble claimed the men who had entered the house had demanded money and/or drugs and this information formed the basis of one of the alternative lines of inquiry.

[5] Rodger Ferguson was arrested at 1.20am on Monday 21 June remained in custody until 11.35pm on Thursday 24 June when he was released: as the police considered that they had insufficient evidence at that point to further detain or charge him.

[6] Following the arrest of Rodger Ferguson the police sought to establish his usual contacts. It was established shortly after the inquiry began that one of Ferguson's friends and associates was Colin Robinson who lived with Sonia Thompson at 5 Riverside Apartments, Gilford, County Down.

[7] Following a case conference review, which met from 6.30pm onwards on the evening of Monday 21 June, Detective Constables Oliver and Young were directed to interview Robinson with a view to establishing his movements, any movements of Rodger Ferguson known to him, and any contacts they may have had during the relevant period. The police were unaware initially that Robinson lived at Riverside Apartments and went to

his parents' home but his father re-directed them to the apartment in Gilford. They arrived at about 9.00pm but were unable to locate Robinson and they waited until about 1.00am in anticipation of his returning home. When he had not done so by that time they left. They were re-assigned to this task following the morning case conference on Tuesday 22 June and it would appear they attended at Riverside Apartments at about 10.30am or 10.45am until approximately 2.15pm in the afternoon. When they arrived Robinson was absent at work but they were able to speak to Ms Thompson and in consequence contact was made with Robinson at his place of employment who then agreed to travel back to the apartment to speak to the police officers.

[8] During the period of time they spent at the apartment the officers questioned Robinson about his movements and those of Rodger Ferguson but it was emphasised that he was treated merely as a witness. There was no information or intelligence to indicate that he had any role in the murder. In the course of a lengthy written statement Robinson explained that he was at work on Saturday 19 June until about 4.00pm when he returned to his apartment. In essence he claimed that he stayed in the apartment, had something to eat and fell asleep until he was awakened by Sonia Thompson at about 9.50pm. At that time his mobile phone had started to ring, it was answered by Sonia Thompson and the caller was Rodger Ferguson. She therefore woke him up for him to take the call from Ferguson. He claimed Ferguson asked him to join him to go out to get cigarettes and that he had agreed to that. He described his movements thereafter in some detail including driving to a garage on the main Portadown/Armagh Road to get the cigarettes, only to find the garage closed, and then continuing into Portadown where the particular brand of cigarettes being sought was purchased. They then returned via Richill where they stopped off outside Lyness' Pub and Ferguson passed the cigarettes to Jacqueline Crymble; at that time she was socialising with her husband in the pub. They then left Richill and drove to Ferguson's house, talked for about ten minutes, had a smoke and he left to go home arriving at Riverside Apartments between 11.30pm and 12.00pm. He claimed that he was at home with Sonia Thompson throughout the rest of the night and slept through until about 10.00am on the morning of Sunday 20 June.

[9] Sonia Thompson was present throughout the taking of the statement made by Robinson and there was a discussion, and some dispute, as to whether or not she had agreed with parts of the information given by Robinson but I shall return to this in due course.

[10] Whilst at the apartment a cursory search was carried out, the police being particularly interested at that stage in looking for keys for a Seat car or cable ties such as those used to bind the wrists and ankles of Mr Crymble. Further, because Robinson mentioned that Rodger Ferguson has telephoned

him during the course of the evening of the 19th, the police seized his mobile phone.

[11] When the statement of Robinson was considered and analysed it was realised that he had not been questioned about clothing worn by Ferguson on the evening of 19 June. Detectives Oliver and Young were directed to speak to him about this issue. This was regarded as a peripheral matter for the purposes of the present hearing and I need not go into the details of it. The re-interview took place at Robinson's place of work at some stage during the morning of Wednesday 23 June.

[12] As the inquiry progressed analysis of various mobile telephones was carried out by Detective Constable Cairns. In the course of this work he identified the fact that Rodger Ferguson had phoned Colin Robinson, mobile to mobile, at 0221 hours on Sunday 20 June. As this was less than ten minutes before Mrs Crymble made the 999 call alerting the police to the abduction of her husband its significance was immediately obvious to the investigating team. The Senior Investigating Officer, Detective Chief Inspector Williamson, therefore directed that Robinson be re-interviewed with specific reference to the contents of that call and the whereabouts of the respective persons when it was made. Detectives Bacon and McQuade were allocated the task of going to Riverside Apartments to speak to Robinson and were directed to collect Detective Constable Young enroute. None of the detectives involved appears to have recorded the time of their arrival at Riverside Apartments but it would appear to have been about 9.00 or 9.30pm. Detective Constable Young took the lead, firstly because he was a much more experienced officer than the other two, who were recent recruits to the CID, and also because he was known to Robinson as he had accompanied Detective Constable Oliver on the previous occasions when Robinson was interviewed. It appears that Robinson gave a number of apparently inconsistent or unsatisfactory explanations for the phone call. He denied it initially but then said that perhaps the call had been made accidentally as he slept with the phone under his pillow, using it as an alarm. He also alleged that Ferguson had phoned him with a view to recruiting him to go on a cigarette smuggling operation at 9.00am on the morning of Sunday 20 June. It would appear the demeanour and explanations given by Robinson made the detectives uneasy and they were unwilling to accept any of these explanations.

[13] Sonia Thompson was not present in the living room initially but was so shortly afterwards. She was then clearly upset and crying and asked Detective Constable Bacon to come outside to speak to him. He did so and asked her what was wrong to which she replied: "I'll leave that up to Colin to tell youse". He then asked her what she meant and she replied "I want Colin to tell youse". She then returned to the flat.

[14] The detective constables involved in the interview were under the general direction of Detective Sergeant Dexter Lynas who in turn reported to the Senior Investigating Officer, Detective Chief Inspector Derek Williamson. In view of the nature of the presentation and responses of both accused a series of phone calls commenced whereby Detective Constable Young reported his views to Detective Sergeant Lynas who in turn reported to Detective Chief Inspector Williamson. These events were occurring very late on during the evening of Wednesday 23 and both the Detective Chief Inspector and Detective Sergeant were off duty and at home, indeed the latter had already gone to bed. The evidence of Detective Sergeant Lynas was that in view of the developments which had occurred and the unsatisfactory nature of the responses of Robinson to the origin and circumstances of the phone call of 0221 hours on 20 June, he decided to leave home and go to Riverside Apartments to assess the situation for himself. Matters then began to move extremely rapidly. Detective Sergeant Lynas was met at the entrance to the apartments by Detective Constable Bacon who brought him up to number 5. On arrival there Sonia Thompson was at her doorway. Some conversation took place between Detective Sergeant Lynas and the accused. The record of it is contained in his notebook which is set out at page 1048 of the bundle and is in the following terms:

“She stated that she didn’t know where Colin was on Saturday night and she didn’t ask him anything about where he had been even though he was a good friend of Rodger Ferguson. Sonia was nervous and stated that she thought Colin had a story to tell. She said she didn’t want to be in the room with him and asked could she go and wait in the car.”

He then sent Detective Constables Bacon and McQuade with her to the police car. In the course of their evidence they indicated that they did not speak to her about the murder of Paul Crymble, rather instead they discussed general issues such as family, employment, schooling and tried to calm her as she appeared to be quite upset.

[15] In the meantime Detective Sergeant Lynas entered the apartment and then spoke to Colin Robinson with Detective Constable Young present. His notes continue:

“I asked him what he was speaking to Rodger Ferguson about in the early hours of Sunday 20/06/2004 and that we weren’t happy with his story. There was silence and Robinson looked directly at Detective Constable Young and said that he was sorry for telling him lies and put his hand out to shake Detective Constable Young’s hand. He said Rodger

wouldn't do it for me so I'm going to tell the truth. He said a lock of weeks ago me and Rodger was going to rough him up because Rodger didn't like him. He then said on Saturday Rodger and him went to get cigarettes and went to Lynas's and gave them to Jacqueline. They went out to do it I kept dick, I heard Jacqueline shouting. Rodger told me to get into the car. I saw the seats in the back were forward. It was the wee green car. I could see a body in the boot. I knew he was dead."

At that point Detective Sergeant Lynas stopped Robinson and told Detective Constable Young to caution him and arrest him for the murder of Paul Crymble. After caution Robinson stated:

"I'm sorry I should have told you the truth earlier, what's going to happen to Sonia, I told her about it."

[16] The developments with the admission by Robinson that he had been with Ferguson, and involved to some degree in the events leading to the death of Paul Crymble, followed by his arrest and his allegation that he had told Sonia Thompson about his involvement, had all happened within a matter of minutes of the arrival of Detective Sergeant Lynas. The arrest of Robinson occurred within the apartment. Thereafter Detective Sergeant Lynas went outside into the corridor or hallway of the apartments and phoned Detective Chief Inspector Williamson in order to bring him up to date. In the course of that conversation Detective Sergeant Lynas was directed to arrest Sonia Thompson and to preserve the apartment as a possible crime scene.

[17] I shall consider the evidence given before me of the various officers surrounding this period which is crucial in the context of the present application. The events that followed are not in dispute however. Detective Sergeant Lynas did not immediately arrest Sonia Thompson rather he left the apartment and went to the car where Sonia Thompson was waiting with Detective Constables Bacon and McQuade. He briefed the two detectives on the events which had unfolded in the apartment and then asked Sonia Thompson what she knew about the murder of Paul Crymble. She replied:

"Colin told me about him being involved but I wanted him to tell youse first."

At that point he told Detective Constable Bacon to arrest her for withholding information in respect of the murder. He then reported again to Detective Chief Inspector Williamson and arrangements were made for both Colin Robinson and Sonia Thompson to be taken into custody.

[18] Detective Superintendent Williamson (formerly Detective Chief Inspector Williamson) who was the Chief Investigating Officer also gave evidence about the events of that evening. As indicated earlier, he was at home at the time, and was kept informed of developments by Detective Sergeant Lynas. His account of the phone call made to him by Detective Sergeant Lynas was largely in accord with the latter's account. The unsatisfactory nature of the demeanour of both Colin Robinson and Sonia Thompson, the unsatisfactory nature of Robinson's explanation for the receipt of the phone call from Roger Ferguson at 0221 hours on 20 June and the belief on his part (erroneous) that Sonia Thompson had made a statement agreeing with that made by Colin Robinson to Detective Constable Oliver when he visited Riverside Apartments on 22 June led him to direct Detective Sergeant Lynas to arrest Sonia Thompson and to preserve the apartment as a possible crime scene.

[19] I have noted the erroneous belief of Detective Superintendent Williamson that Sonia Thompson had made a statement on 22 June. This is an important matter in connection with the second stage of the application on behalf of Sonia Thompson and I shall return to it in due course.

[20] Despite receiving a direction from the Detective Superintendent to arrest Sonia Thompson this was not in fact done immediately. Detective Sergeant Lynas gave evidence that he was not himself sure of the position in respect of Sonia Thompson because she had not figured in their suspicions or enquiries up to that point. He was adamant that he had not himself formed a suspicion sufficient to warrant a caution or her arrest. He then proceeded to ask her a further question which he has noted in his personal log in the following terms:

"I asked her what did she know about the murder of Paul Crymble."

She replied:

"Colin told me about him being involved but I wanted him to tell youse first."

At that stage Detective Sergeant Lynas directed Detective Constable Bacon to arrest her for withholding information in respect of murder of Paul Crymble.

[21] I have no hesitation in accepting the bona fides of Detective Sergeant Lynas and a team of detectives who were present at Riverside Apartment in the early hours of the morning of 24 June. They were involved in an inquiry which was developing at an extremely rapid pace and in a manner which was somewhat unusual. It is not a daily occurrence for someone to confess so

readily to an important role in, and knowledge of, a murder. The focus was naturally upon Colin Robinson and his actions. It was entirely proper that Sonia Thompson should be regarded as a peripheral figure at that point. It is also abundantly clear that she had no part whatsoever to play in the actual murder or the surrounding events. Any guilt on her part would have been entirely confined to a failure to disclose information to the police about what she knew from Colin Robinson, or from observing his movements over the relevant period.

[22] An analysis of the state of knowledge of the police about Sonia Thompson's role in these events shows the following:

(i) She was present during the course of the taking of the statement from Colin Robinson by Detective Constable Oliver at Riverside Apartments on the 22 June 2004. I am satisfied that in the course of that statement the police understood her to be agreeing with everything that Colin Robinson had said, including the fact that he had received a phone call from Roger Ferguson at about 9.50 and that he had returned home, and remained there, from about midnight.

(ii) That the demeanour of both Colin Robinson and Sonia Thompson on the evening of 23rd was suspicious particularly in the context of Robinson trying to explain the reasons for the call made to his mobile phone at 0221 hours on the morning of 24 June.

(iii) That the lack of sense in the explanations being given by Colin Robinson had caused Sonia Thompson to be upset to the point where she was crying when she asked Detective Constable Bacon to speak to her outside the apartment. When he asked her what was wrong she replied "I'll leave that up to Colin to tell youse" and later when asked what she meant and replied "I want Colin to tell youse" that it was obvious she was holding back something important in connection with the inquiry.

(iv) When Detective Sergeant Lynas arrived some time afterwards she claimed she did not know where Colin Robinson had been on the Saturday night and had not asked him where he was. This was tantamount to stating that she was not with him at the relevant time and contradicted the police understanding of what she had apparently been agreeing to on the 22nd.

Her statement that she thought Colin had a story to tell clearly indicated a level of knowledge of events:

When arrested Colin Robinson asked "What's going to happen to Sonia? I told her about it."

(v) That Detective Superintendent Williamson directed her arrest before the fatal question was asked.

[23] The defendant seeks to exclude the answer given on foot of the provisions of Articles 74 and 76 of the Police and Criminal Evidence (NI) Order 1989 (hereinafter "the 1989 Order") and the provisions of the Codes of Practice made thereunder. Reliance is also placed upon the common law and Article 6 of the European Convention. I am satisfied the issue can be dealt with within the context of the provisions of the 1989 Order and the PACE Codes of Practice. The 1989 Order provides as follows:

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The provisions in the Codes in respect of circumstances in which caution must be given are contained in Code C, Section 10 and are in the following terms:

"Section 10. Cautions

When a caution must be given

(a) *When there are grounds to suspect an offence*

10.1 When there are grounds to suspect a person of an offence, and he is to be questioned regarding his involvement, or suspected involvement in that offence and if his answers or his silence (ie. failure or refusal to answer a question, or to answer satisfactorily) may be given in evidence to a court, he must be cautioned:

- (i) before any questions are put to him about the offence; or
- (ii) before any further questions are put to him if it is his answers to previous questions that provide the grounds for suspicion.

This applies whether or not a person is under arrest."

[23] I am satisfied that in the light of the summary of the state of knowledge of the investigating police officers at the relevant time immediately prior to Sonia Thompson being asked what she knew of the murder of Paul Crymble that reasonable grounds existed for suspecting that she was guilty of an offence of withholding information. She had stated on a number of occasions that she wanted Colin Robinson to tell them what had

happened, which can only mean that she knew that he “had a story to tell”. In those circumstances it must be inferred that a proper analysis of the situation would have led to the conclusion that she ought to have been suspected of involvement in an offence, albeit not the murder. The question which followed, and which led to her arrest, later interview and charge, was in terms of what she knew of the murder, this I think confirms the focus of the police inquiries on the murder investigation as such. Nevertheless the consequence of asking that question without the protection of a pre-caution was to lead to an answer which I consider must be excluded from evidence in fairness to the accused.

[24] Following upon her arrest a series of interviews was conducted whilst she remained in custody. During all of that time Sonia Thompson had the full protection of the Codes of Practice. There was no allegation of any breach. She was medically examined, had full access to legal advice, she was fed at the appropriate times and in all ways it can be said fairly that she was well looked after, albeit that she had to endure the discomfort of detention. The first interview was not conducted until 1305 hours on 24 June 2004. Her solicitor was present throughout. She spoke under caution. The interview was recorded and the lead interviewer was a female officer. During that interview she gave an account of the state of her knowledge about the activities of Colin Robinson during the evening of 19 June and early hours of 20 June 2004. The present application seeks to exclude the contents of that interview.

[25] The defendant sought to mount a complicated argument that the evidence ought to be excluded as it was to be classified as “the fruit of the poisonous tree”. I consider these arguments to have been unnecessarily introduced into the discussion and to have added nothing to it. It was clear that if any mistake had been made in the early hours of 24 June at Riverside Apartments that it had long been dissipated given the adherence to all relevant Codes of Practice thereafter, the intervention of legal advice and the passage of time.

[26] An alternative argument was mounted however on the basis that the defendant was deprived of effective legal representation because of misrepresentations made by the police to her legal advisers that she had made a statement at Riverside Apartments on 22 June when Colin Robinson was being interviewed. Sometime was taken up during the course of the hearing in trying to clarify this point, and I have referred to it at an earlier stage in this judgment. All parties are satisfied that Sonia Thompson did not make a written or verbal statement at that time. I am reasonably confident that the error arose from the fact that Detective Constable Oliver was satisfied that by nodding at different stages of the interview with Colin Robinson that she was in fact agreeing with what he was saying. I can only assume that thereafter her “agreement” to what he was saying was reported back and

somehow or other became referred to as “a statement” and this error became compounded as events unfolded. I consider this to be very regrettable but is I think explicable by the understanding of the speed at which matters unfolded, the unusual course they took and the concentration upon the activities of Colin Robinson rather than of Sonia Thompson.

[27] In detailed written submissions, which I received from both sides, which were highly professional in their presentation and contents, and for which I am extremely grateful, the arguments in respect of this matter are set out. At paragraph 25 of the defendant’s submissions the following statement occurs:

“It is important to note that by way of pre-interview disclosure, Mr Ingram, Sonia Thompson’s solicitor, was told only of her reply after caution. He was **NOT** was told that she had been questioned on at least two occasions prior to caution nor was he told her answers to those questions. Mr Ingram is also told of Colin Robinson’s reply after caution, which clearly incriminates Sonia Thompson. Most significantly of all Mr Ingram was not told that Sonia Thompson had made a statement, giving Colin Robinson an alibi as to his movements.”

[28] The interview conducted by Detective Constables Murphy and Bacon of the accused which began at 1305 on 24 June was recorded and a full transcript of that has been made available for use in the trial. Indeed I was given transcripts of all four interviews conducted with Sonia Thompson and these were simply proved on the basis that rather than they should be read to me that I would read them separately. I was quite happy to do that in order to save court time. The parties have referred me to the relevant extracts and I am satisfied that on a number of occasions in the course of these interviews reference was made to Sonia Thompson having made “a statement” and this was with reference to events at Riverside Apartments on the 22 June.

[29] It is necessary I think to concentrate on the first interview in order to determine how this matter should be decided. Although the interview was conducted impeccably I am satisfied that the circumstances caused Sonia Thompson to be very upset and that she was frequently tearful. No doubt she was under enormous stress. Firstly she was under arrest in circumstances where she might not have ever expected to be and secondly, her boyfriend, with whom she shared the apartment, was under arrest for murder and had disclosed information to the police which implicated him deeply in the events. At that time she was barely eighteen, had no criminal record and might be thought of as someone who was vulnerable. Detective Constable Murphy was sympathetic towards her and I have no doubt that she tried to

handle Sonia Thompson's predicament as sensitively as she could consistent with her own professional responsibilities to investigate very serious events.

[30] I am satisfied from a reading of the transcript however that the references to her having made a statement in the past caused confusion in the mind of Sonia Thompson and this is apparent in the transcript, e.g. at page 2070 it is put to her:

".... So whenever the murder took place, last weekend, police came out and spoke to yourself and your boyfriend and you actually made a statement then. Do you recall what you said in that statement?

Thompson: No I think they asked me round times or whatever and I'd wrote around half a eleven, twelve when he'd come back was it Saturday night?

Police: Yeah, so you, you had said that Colin had come back home.

Thompson: Yeah.

Round half eleven quarter to twelve and went to bed and stayed there.

Thompson: Yeah.

Police: And our inquiries would now suggest that, that that alibi that you made for him was in fact false.

Thompson: Yeah."

At page 2071 she was asked:

"Why did you tell lies to police?

Thompson: At the time Colin didn't want me to get in trouble and then when he, when he had been asked what time he he'd come home at, he had directly looked at me, not to say tell the truth or tell a lie and I chosed to say wrong evidence."

The officers then go on to ask what had happened during the course of the evening of Saturday 19th/early morning Sunday 20th.

[31] I am satisfied that the interchange which I have just noted, which came at an early stage of the interview after the initial formalities, means the interview was conducted on the basis that Sonia Thompson had made a statement, whether written or verbal at the time Colin Robinson was being interviewed at Riverside Apartments. I am further satisfied by the evidence that she did no such thing. At the height of it she may have nodded in agreement with some things that he said but the evidence was unable to illuminate what it was she had agreed to or which question she had nodded her head in answer to. Given the background circumstances to which I have referred this would give rise to considerable concern because of her overall vulnerability and would in my opinion be liable to give rise to unfairness.

[32] The circumstances were however further compounded. Sonia Thompson was being interviewed in accordance with PACE. An integral part of the system is that it guarantees free access to legal advice. Legal advice was available to Sonia Thompson at all material times, indeed her solicitor was sitting beside her when she was being interviewed. The defence submissions are predicated on the basis that the solicitor was misinformed and was told only of the reply which she made after caution. A complaint is made that the solicitor was not told of the answers that she had made prior to caution which were in answer to questions directed to her by Detective Constable Bacon and Detective Sergeant Lynas. If that is correct, and I shall assume for the moment that it is, although I did not hear evidence from the solicitor concerned, then it gives rise to cause for great concern and anxiety. The solicitor was sitting in an interview with a client when he alleges that he knew only the reply given after caution. It is plain from the course of the interview that much more detailed information was being put to her. At no time did the solicitor intervene to seek clarification let alone to halt the interview whilst clarification was sought. It was open to the solicitor at all times to say in the course of the interview room, when his remarks would have been recorded, that he had been misinformed and that matters were being put to his client which had not been disclosed to him. This would have been a matter of grave concern to any solicitor because the decision whether to answer questions, how much to say, or whether to say anything at all, must be based on being properly informed about at the actual predicament of the client. If it is apparent that the information upon which the solicitor is seeking to act is incomplete then it follows he is unable to give adequate legal advice. If there had been the slightest concern that information was being withheld, whether innocently or not, then the solicitor in discharge of his duty to a client must call a halt to the process. A complaint made either in the interview room, where it would have been recorded, or to the custody sergeant, or to one of the senior investigating officers would have been recorded and a proper record of it made available.

[33] The combination of a distressed young woman in custody for the first time, a mistaken understanding by the investigating detectives that “a

statement" had been made, and the contents of which were apparently being put to her, when it did not exist and the failure of her solicitor to intervene, complain, seek further clarification or to seek to terminate the interview provided a combination which compel me to conclude that it would be grossly unfair to Sonia Thompson to permit the evidence of interview number one to be given.

[34] I indicated my view briefly to counsel sitting in chambers in the courtroom where the trial was conducted and the exchanges are recorded. I did this because we were under enormous pressure of time in the trial itself and I wanted the parties to know as soon as possible the view that I had formed. Mr Mooney QC on behalf of the Director of Public Prosecutions was able to inform me later that day that in the light of the view I had taken of events that no further evidence would be presented in respect of Sonia Thompson. That being so the court was convened in open session on Thursday 8 March 2007. Mr Mooney then stated formally that no further evidence would be presented in respect of Sonia Thompson and accordingly I direct that the jury to enter a verdict of not guilty by direction. She was thereupon discharged.

Conclusion

[35] I am satisfied that prior to the arrival of Detective Sergeant Lynas at Riverside Apartments close to midnight on 23 June 2004 there was no evidence to connect Sonia Thompson to any offence or suspected offence relating to the murder of Paul Crymble. In the course of the hearing there was a discussion, based on a misunderstanding by Detective Chief Inspector Williamson, that she had made a statement of some kind, whether verbal or written at or about the time Colin Robinson was interviewed by Detective Constables Oliver and Young at Riverside Apartments on Tuesday 22 June. I am satisfied she did not do so and that appears now to be common case. Detective Constable Oliver indicated that whilst recording the statement from Colin Robinson that he looked towards her on a number of occasions for her agreement or confirmation of what Robinson was saying and that she had nodded back in agreement. This was disputed on her behalf. Detective Constable Oliver was adamant that she had and Detective Constable Young did not have sufficient recollection to be able to comment either way. I have no hesitation of accepting the evidence of Detective Constable Oliver and although he had not recorded any reference to the nodding either in his notes, his statements or reports he had a clear recollection of it happening. In any event I am satisfied that it does not have any consequences for the case because any nodding which she did was in connection with matters which are not shown to cause any suspicion. One of the occasions referred to by Detective Constable Oliver, indeed the only occasion that he could specify, was when she confirmed that she had brought Colin Robinson's telephone to

him at about 9.50 on the evening of 19 June when Rodger Ferguson phoned. Also he indicated that he had urged on both of them the importance of telling the absolute truth and that they had nodded in response. None of this could have given rise to any suspicion or inference of a guilty mind.

[36] When one conducts analysis of events, despite the plethora of evidence which I heard, it then becomes clear that before Detective Sergeant Lynas entered the apartment not only did the police have no suspicions, or indeed particular interest in Sonia Thompson, there was nothing to suggest that she had been guilty of any offence. At most there was some concern and suspicion about her demeanour, alongside that of Colin Robinson, when she was being asked about the phone call from Rodger Ferguson at 0221 on the morning of 20 June. When Detective Sergeant Lynas spoke to her at the door of the apartment she made it clear that she did not know where Robinson had been on the Saturday night and she did not ask him anything about where he had been even though he was a good friend of Rodger Ferguson. She stated that she thought Robinson had a story to tell and did not want to remain in the apartment, for that reason she was allowed to go to the police car to wait with Detective Constables Bacon and McQuade. There was still no reason to arrest her at that point. Thereafter the only thing that changed was that when Colin Robinson made his admission was arrested and cautioned that he asked what would happen to Sonia because he had told her about it. There is no evidence about what he told her or the extent of any admission that he might have made to her. The detectives at that point were faced with the assertion made by Robinson that he had told her something, unspecified, and this came from someone who had lied repeatedly to the police up to that point and his claim had to be taken in the context of the assertion by Sonia Thompson that she did not know anything about Colin Robinson's activities at the relevant time. To have cautioned her at that stage, let alone to have arrested her would have been entirely premature and unjustified. I consider the step taken by Detective Sergeant Lynas to ask her what she knew about the events was a proper one and that once she indicated that Robinson had told her that he was involved she wanted him to be responsible for explaining his own actions that the point was then reached when the caution and arrest were inevitable. I am entirely satisfied that events were unfolding at a very rapid pace from the moment that Robinson became aware the police had discovered the existence of the crucial phone call from Ferguson to his mobile at 0221, at that time, according to the account given by Mrs Crymble, the abductors were in her house, perhaps just leaving and within minutes she was attempting to dial 999 using her tongue to depress the numbers on the phone keypad in her home. The focus was entirely on Robinson until he said he had told Sonia and thereafter the proper course, in my opinion, was for the police to give her a chance to refute that or to explain whether she did know anything in fact about his movements. The caution was administered at the first reasonable opportunity after it became clear that she was not innocent in terms of her knowledge of events and that she may well have withheld relevant

information. In the light of those findings I reject the application of the defendant to exclude those portions of the evidence gathered at the car in the car park at Riverside Apartments. It follows that the evidence in relation to the various interviews which took place in accordance with the PACE guidelines are properly admissible also.