

CHAPTER 12

WHETHER THERE WAS ANY DIRECT OR INDIRECT COMMUNICATION BETWEEN THE FUGITIVE CHRISTOPHER "DUDUS" COKE AND ANY JAMAICAN GOVERNMENT OFFICIAL (OR OFFICIALS) OR ANY AGENT THEREOF, DURING THE PERIOD BETWEEN WHEN THE REQUEST FOR EXTRADITION WAS FIRST COMMUNICATED TO THE JAMAICAN GOVERNMENT OR ANY OF ITS AGENTS OR OFFICIALS AND WHEN THE FUGITIVE CHISTOPHER "DUDUS" COKE WAS ARRESTED; AND IF SO, BY WHICH OFFICIALS AND/OR AGENTS THEREOF, THE NATURE OF ANY OR ALL SUCH COMMUNICATIONS, BY WHAT MEANS, AND FOR WHAT PURPOSE

ToR(N)

AND

WHETHER COPIES OF AFFIDAVITS AND OTHER CONFIDENTIAL SUPPORTING DOCUMENTS ATTACHED TO OR RELATED TO THE REQUEST FOR EXTRADITION OF CHRISTOPHER "DUDUS" COKE WERE FOUND IN COKE'S OFFICES, AND THE CIRCUMSTANCES UNDER WHICH AND THE PURPOSES FOR WHICH THOSE DOCUMENTS CAME TO BE THERE

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INTRODUCTION

12.1. This Chapter is an amalgamation of Terms of Reference (N) and (O). It is divided into two Parts, viz. Parts 1 and 2 respectively. In Part 1, we discuss whether there was any communication between any official of the GoJ and Christopher Coke during the period 24 August 2009 to 22 June 2010. Part 2 addresses matters concerning the search for and recovery of documents at Coke's offices by the security forces.

PART I

Evidence of Mr. Golding

12.2. In Chapter 3, para.3.6, we referred to Mr. Golding's evidence about the visit made to him on 24 August 2009 by the then Heads of the security forces. In the course of his evidence, Mr. Golding spoke directly to the issue of communication with Coke after meeting with the Heads. He said in evidence-in-chief:

"Subsequently [to the meeting] I did not speak with Coke. I never asked anyone to contact Coke. Subsequent to his arrest, I had no conversation with Coke nor did I ask anyone to converse with hm. I am not aware of any official in the Government having any discussion or conversation with Coke."

12.3. Mr. Golding asserted that, save and except for a discussion which he had with Bishop Blair in May 2010, he did not invite anyone to confer with Coke.

12.4. Prior to the internal security operation, Mr. Golding and Bishop Blair spoke about Coke. Mr. Golding's evidence on 9 February 2015 is as follows:

"Bishop Blair expressed a concern that every effort should be made to avoid a confrontation between the security forces and elements in the community once the security forces sought to execute the warrant. He indicated a willingness to seek to make contact with Coke and to see whether Coke could be persuaded to surrender. I welcomed his offer. I certainly gave it my blessing and I expressed my hope that he would be able to succeed...This conversation took place in the week before the internal security operation."

12.5. Mr. Golding made it clear that the offer to try and contact Coke was "Bishop Blair's suggestion". There is no evidence that Bishop Blair reported to Mr. Golding after he visited Coke on 19 and 22 May 2010. Rather, he communicated with CoP Ellington.

Bishop Blair

12.6. Bishop Blair testified that in his capacity as Head of the PMI, which was created “to help to alleviate tensions and polarisation in the society”, he “initiated a call to Prime Minister Golding and sought an audience with him”. He said –

“He invited me to Vale Royal and I went. I went as Head of the PMI and I offered myself to do whatever was necessary to defuse the tension arising out of Coke’s situation. The Prime Minister agreed that I should go into Tivoli Gardens.”

12.7. Thus it was that, on 19 May, the Bishop, on his own initiative, met and spoke with Coke in Tivoli Gardens. Then on 22 May, Bishop Blair met CoP Ellington at his office and the Commissioner asked him to go back to Tivoli Gardens “and share some things with Coke”. As recounted in Chapter 7, Bishop Blair visited Coke for the second time prior to the internal security operation.

*CoP Ellington **Re: Bishop Blair and Rev. Miller***

12.8. CoP Ellington testified that Mr. Golding asked him to speak with Bishop Blair and Rev. Al Miller concerning the possibility of Coke’s surrender prior to 24 May.

12.9. CoP Ellington said that Rev. Miller visited him sometime prior to 24 May and told him that he (Rev. Miller) had been in contact with Coke but Coke was reluctant to surrender to the custody of the police owing to concerns about his personal safety. CoP Ellington sent a message of plea and assurance via Rev. Miller to Coke as follows:

“I said, please tell Christopher Coke that I am appealing to him to surrender peacefully and I will ensure his safety whilst he is in custody of the State because that is my responsibility.”

12.10. According to CoP Ellington, a few days later, Rev. Miller made the following report to the Commissioner:

"I saw the man and the man said to me if it was PNP in office, them woulda know how fi deal with this. Tell Bruce Golding fi find a way to deal with it. I am not going anywhere and, if they want me, they have to come fi me and they have to come good."

Communications after 24 May

12.11. According to CoP Ellington, about 27 May, Rev. Miller attended on him and told him that he was instrumental in getting Coke's brother and sister to surrender to the police pursuant to an appeal by the JCF for them to surrender. Rev. Miller apparently continued efforts to find Coke and have him surrender. CoP Ellington told us –

"I thanked him for his continued effort and support, wished him good luck and that was it."

Mr. Golding

12.12. Under cross-examination by Ms. Martin, Mr. Golding said that, after the hostilities subsided, he had a brief conversation with Rev. Miller who thought that he might be able to influence Coke to surrender. Mr. Golding's recall of the meeting is this –

"He spoke with me and indicated that he had already commenced an initiative because he indicated that he was in contact with persons in the Police High Command and he was also in contact with officials in the U.S. Embassy. I welcomed that initiative because anything that could be done to secure Coke being taken into custody, the warrant having been issued there was too much turmoil created. And there was still anxiety about the fact that he was still at large. I welcomed any initiative and I was quietly, guardedly optimistic that, based on the fact that he had been able to take in Coke's sister and brother to the police, he might have been able to do similarly with Coke himself."

12.13. Mr. Golding made it clear that, although Rev. Miller was a friend, he had spoken with Rev. Miller in the context of his leadership of the National Transformation Programme. Rev. Miller was approaching Coke on his own initiative and had not sought Mr. Golding's permission. Rev. Miller's intervention was described by Mr. Golding in this way –

"At his own initiative he had assisted the Police to take into custody two of Coke's relatives who the Police had indicated were either wanted or persons of interest. And it was against that background that he spoke with me about his willingness to seek to have Coke surrender himself to the Police as well."

12.14. Under cross-examination by Mrs. Samuels-Brown Q.C., Mr. Golding testified that he did not consider the initiative of Rev. Miller "as being a law and order restoration effort". Speaking to the residual challenges facing the GoJ after the operation, Mr. Golding said –

"A major part of [the challenges] had to do with seeking to normalize relations between the citizens of West Kingston and Tivoli Gardens in particular, and the security forces taking into account the hurt and bitterness that many of them felt because of how they felt they had been treated by the security forces. That was a major challenge. It would certainly have assisted in that endeavour if the issue of Christopher Coke, the fact that he was wanted by the police, the fact that he had eluded the security forces, if that issue were removed. To the extent that Rev. Miller sought to achieve that, felt that he could have achieved that, and had demonstrated in terms of what I said earlier, that he might have achieved that – it is something that I felt would be in the best interests of the country."

FINDINGS

12.15. On the evidence adduced to the Commission of Enquiry, we find that there was no direct communication during the period 24 August 2009 and May 2010 between Christopher Coke and any official of the Government of Jamaica. The evidence of Coke being

“tipped off” on 24 August 2009 after the Heads of the security forces informed the Prime Minister and the Minister of National Security of an imminent request for Coke’s extradition, is not of a quality that could lead us to make any finding of communication between Coke and any official of the GoJ.

12.16. When Bishop Blair met with Coke on 19 and 22 May 2010, it was entirely an initiative on the part of Bishop Blair. He was not an agent of the Government of Jamaica. We doubt whether as Chairman of the PMI, Bishop Blair could be properly designated as “an official of the Government of Jamaica”.

12.17. On 19 and 22 May, Bishop Blair visited Coke in his capacity as Chairman of the PMI. We think that it was appropriate that he consult the Prime Minister to inform him as Head of the Government and Minister responsible for Defence, of his interest in having dialogue with Coke with a view to persuading him to surrender.

12.18. To the extent that the Commissioner of Police sent messages to Coke by both Bishop Blair and Rev. Miller encouraging Coke to surrender and assuring him of safe custody, we find that there was *indirect* communication between the Commissioner of Police as an official of the GoJ and Coke for the very laudable purpose of seeking the avoidance of a violent and bloody confrontation.

12.19. It was admitted during the hearings that Mr. Golding had asked CoP Ellington to speak with Bishop Blair and Rev. Miller concerning the possibility of having Coke surrender. These were *indirect communications* by the Head of the GoJ with Coke for the purpose of seeking to avoid a violent confrontation between the security forces and Coke’s criminal adherents. We find no impropriety

whatsoever on the part of Prime Minister Golding or CoP Ellington in pursuing their efforts for a peaceful solution to a very serious situation.

12.20. We resile from making any finding in respect of the role of Rev. Al Miller. It was our decision not to take evidence from Rev. Miller during the public hearings because, at that time, he was still on trial for an offence connected to the surrender/capture of Coke. In those circumstances, we considered it prudent to take no step which might be construed as prejudicial to his right to a fair trial. Thus, even though we accept the evidence that Rev. Miller communicated information from CoP Ellington to Coke, we are in no position to state whether Rev. Miller acted on behalf of the GoJ or any official thereof, in the absence of testimony from Rev. Miller himself. Similarly, we are unable to make any finding as to Rev. Miller's role and function during the period of Coke's escape and ultimate surrender/capture. In fact we cannot report whether Coke surrendered or was captured.

PART 2

12.21. In this Part, the evidence of SSP. Fitz Bailey (JCF) and that of Lt. Col. David Cummings (JDF) is relevant to the questions raised in the Term of Reference.

S/Supt. Bailey

12.22. In May 2010 SSP Bailey was Head of the Organised Crime Investigations Division (OCID). The role of OCID was to conduct searches for documents and contraband relevant to the *Proceeds of Crime Act* and the *Intellectual Property Rights Act*. SSP Bailey gave the date when his Division conducted searches. He said –

"On 25 May, several teams were dispatched to the area of operation after they became sterile and were conducive to the type of search necessary. Teams were headed by Det. Sgt. Karen Harrison, Det. Insp. Carl Berry and Det. Insp. Colin Campbell. They conducted searches of the Presidential Click. A number of documents were found and shown to me."

12.23. An inventory of the documents was generated and S/Supt. Bailey instructed that the documents be stored. A copy of the list of things found at Coke's offices is appended to this Report as Appendix 26.

Lt. Col. David Cummings

12.24. The Engineers were deployed to conduct searches. Lt. Col. Cummings stated at para.31 of his witness statement that the Engineers "conducted a detailed search of the Presidential Click's offices where Coke had his office". He said –

"We found 348 rounds of ammunition and a copy of what appeared to be Extradition papers. I handed these over to a female Police Inspector...I recall the papers were in a drawer. The ammunition was in different locations."

12.25. Lt. Col. Cummings read the papers and he said –

"It said something like "The Federal Grand Jury of New York" and Coke's name was mentioned... I recall the papers had been rolled up. We had to unroll it... It may have been more than one sheet. Immediately upon starting to read it, I realised that it should be handed over to the police because we certainly would not be experts in the meaning of it, so we handed it over."

Mr. Bruce Golding

12.26. In the course of his evidence-in-chief, Mr. Golding was questioned with specific reference to Term of Reference (O). He told the Enquiry that he learnt, from media reports, that copies of affidavits and other confidential documents relative to the extradition request, were found at Coke's offices. In

answer to Mr. Braham Q.C., Mr. Golding said that he had no knowledge of the circumstances under which the documents came to be at Coke's offices.

12.27. But Mr. Golding further said –

"I am not sure what documents were found but documents relating to Mr. Coke's indictment were universally available. They were posted on the website of the Southern District Court of New York two days after the extradition request was received. I myself became aware of that listening to a radio station quoting from the documents and indicating how they had sourced it. I went on the website myself and the documents were there to be downloaded."

FINDINGS

12.28. We were told by Ms. Martin, Counsel for the JCF, that copies of the papers to which Lt. Col. Cummings had referred, could not be found. However, the papers had been delivered to Det. Insp. Harrison who had since emigrated after resigning from the JCF. Det. Insp. Harrison did not give evidence to the Enquiry nor did she supply an affidavit.

12.29. Nevertheless, we find that a set of papers relevant to the extradition of Coke was found by the JDF at his offices at the Presidential Click. The JDF conducted searches at the Presidential Click on 26 May, the day after police officers of the OCID had carried out searches. We believe that the personnel of OCID left behind the documents which the Engineers found and subsequently handed them over to Insp. Harrison of the JCF. We find that those documents found by the Engineers related to the extradition request although we are unable to identify each document specifically. In the absence of evidence from Coke himself, it is impossible to determine the purposes for which he had the documents or how he received them.

12.30. We find that Mr. Golding had no personal knowledge of the documents relating to the request for Coke's extradition. We also accept that Mr. Golding saw documents relating to the Coke's indictment on the website of the Southern District Court for New York. Since the documents were freely available on the website to the world at large, any person (including Coke) could have downloaded them.