



AUSTRALIAN ADVOCACY INSTITUTE

DPP v MARTIN JACKSON

TEACHING NOTES

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Revised by Professor The Hon. George Hampel AM QC 28 June 2010



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PROSECUTION CASE THEORY

Martin Jackson was in financial difficulty, at least to such an extent that he was prepared to sell the car that he so loved.

His attempts to sell were unsuccessful. His need to sell is emphasised by the last advertisement which states, "Must Sell!"

He insured it. Unusually he left it outside his house. He had his last drive around in it for about 3 hours and then set it alight in order to claim the insurance.

He was seen driving it away by Barbara White and later was seen jogging away from the scene by Jay Molnar.

The alibi provided by his wife and confirmed by him is either made up, (it was not mentioned until very late), or it is not an alibi at all, because her time assessment is vague and he may have had time to jog back to his house to receive her call.

The prosecution case is only partly based on identification evidence, which is not strong by itself.

It is however strongly supported by the circumstantial evidence, (White's and Molnar's observations), and evidence of motive.

There is also the statement of intention to the landlord.

The Prosecution may have to choose whether to argue that Jackson's decision to torch his car was premeditated, (because he had insured it and was trying to sell for some time), or whether it was spontaneous after he had many drinks with Norta. Whether he left his car outside deliberately is relevant to that issue.

DEFENCE CASE THEORY

The identification evidence is very weak.

Barbara White assumed that the man she saw coming from the side of Jackson's house, getting into Jackson's vehicle and wearing similar clothing to Jackson, was in fact Jackson, before she got a glimpse of his face as he was driving away.

Anyone looking remotely like him would have been mistaken for him as she would have had no reason to consider whether it was in fact Jackson after she had made her assumption.

Her cross examination should be based on that theory and therefore there is no need to attempt to discredit her by reference to her various statements. Particularly, because some of her observations support the theory that it was a thief driving away and not Martin Jackson.

Jay Molnar's identification is also limited. He describes the man jogging as having a moustache, which Jackson did not have.

His cross examination should focus on entrenching the existence of the moustache which would have to have been absent in the photograph shown to him by the police, which was of Martin Jackson in his car. It was the only photo shown to Molnar. Once he saw the photo of the car, he would have assumed that the person sitting in the car in the photo was the same person who drove the car when he saw it being driven.

Jackson had a good reason for insuring his car when it was to be sold as he would have other drivers having a test drive. He had a good reason for not driving his car into his garage, as he was intoxicated.

Although he had difficulty selling his car, there was apparently a potential for a sale, mentioned by Nortá. So why would he burn it that night?

The alibi holds. Marina Jackson would not have been prepared to tell lies about the phone call and Jackson would not have had time to jog back in time to receive it.