

AUSTRALIAN ADVOCACY INSTITUTE

DPP v. Nigel Bland

TEACHING NOTES & CHRONOLOGY

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CHRONOLOGY

Date	Event
18 December two years ago	Billy Goldberg went camping in the Evergreen National Park
23 December two years ago	Billy Goldberg saw Bland and Butler having an argument. Butler handed Bland a piece of paper.
6am-10am Boxing Day 26 Dec.	Killing of Steven Butler in the Evergreen National Park
12:00pm Boxing Day 26 Dec. (or Christmas day?) two years ago	Billy Goldberg stopped at the "Beef Burger & Grill" restaurant for lunch
1 January last year	Body of Steven Butler found in the Evergreen National Park

1 April	Snr. Det. Bruce put in charge of investigation.
End April	Diva chatting to Rambo on fantasy Island chat room. First on-line admission.
30 April	First Crime-Stoppers episode Pappas telephoned Snr. Det. Bruce and identified herself as MP
1 May	Snr. Det. Bruce confirmed the IP address of Rambo and obtained Bland's address.
6 May	Second Crime-Stoppers episode. Reward offered.
7 May	Pappas telephoned Snr. Det. Bruce for the second time. Pappas went to police station and engaged Rambo in conversation on the internet. Statement made by Pappas
8 May	Police go to Bland's home with warrant Conversation with Bland
	Take photograph of car Conversation with Mabel Bland Record of Interview with Bland
10 May	Bland goes to Police station and speaks to Snr. Det. Bruce. Statement made by Goldberg. Second visit by Police to Bland's house with a search warrant Bland refused to answer questions Bland arrested, charged with murder
1 December	Hand up brief served
21 December	Notice of alibi and statement of Mabel Bland given to Police
24 December	Statement of Bland made

Prosecution Case Theory

- Nigel Bland was camping and fishing in the Evergreen National Park in the week before Christmas.
- On 23 December he was found by the Park Ranger, Stephen Butler with an expired fishing licence.
- Stephen Butler cautioned him that if he was found in the park again without a current fishing licence, he could face a life ban.
- A verbal exchange took place.
- Nigel Bland went home for Christmas Day.
- He was back fishing in the park on Boxing Day. His mother, Mrs Bland, has either invented the alibi for him or slept in after a big night and did not hear him go out and come back.
- He was caught again by the Ranger without having renewed his licence
- He killed the Ranger
 - At about 12:00pm on Boxing Day, Goldberg identified Bland's car by description. He knew Bland and his car;
 - a knife and rope that could not be excluded as having been used were found together, concealed in Bland's shed;
 - the fact that no trace evidence was found on the knife means that it must have been cleaned thoroughly;
 - Bland lied about having a knife and nylon rope;
 - Bland lied about having known the Ranger. These lies show a consciousness of guilt.

Preferred Defence Case Theory

- Nigel Bland was at home with his mother when the Ranger was killed on Boxing Day morning. He has an alibi.
- The car seen by Goldberg was not Bland's car:
 - Goldberg assumed the car he saw was Bland's because he had seen Bland with a similar car in the park in the previous days and knew Bland's car;
 - Goldberg assumed that the reason features on the car appeared different was because Bland had polished the car, he did not consider that it may not have been Bland's car;
 - this assumption was compounded when Snr. Det. Bruce showed him a photo of Bland's car only.
- The forensic evidence in relation to the knife amounts to nothing because there were no identifiable features, and no trace evidence found on the knife. It could have been another new knife of that type.

XXN Goldberg

Participants may attempt to:

- Make Goldberg a bad observer by raising matters such as his vision being obstructed by the Christmas singers, being distracted by the man filling his car with petrol etc. However, if he is made a good observer, which is supported by his ability to recall the detail of what is going on around him, then it may be argued that the car he identified at the police station (no chrome strips, Nigel Bland's car) is not the car he saw coming out of the forest (chrome strips).
- Participants may attempt to use the reward to undermine Goldberg's credit. This is counterproductive to relying on him as a good observer.
- The defence case may be that Goldberg is mistaken about the day on which he saw the car, ie, that he saw the car one day earlier, Christmas Day. If that is the case, it could not be the killer's car. In support of that argument:
 - if one calculates the number of days he went bushwalking for, he lands up at the road house on Christmas Day;
 - this is supported by the date of the caution notice;
 - there are Christmas singers about, probably not likely on Boxing Day (after Christmas);
 - he doesn't celebrate Christmas and loses track of the days.

Participants have to consider whether these two defence theories can be run together. If the theory is that the car that was seen by Goldberg was not the accused's car, then it may be irrelevant whether it was seen on Boxing Day or Christmas Day. Relying on the argument that Goldberg was wrong about the day and confused may undermine reliance on Goldberg as a good observer.

XXN Snr. Detective Bruce

- The reliability of Goldberg's identification of the car may further be undermined in the cross examination of Snr. Det. Bruce. It may be argued that he compromised the identification by failing to provide a number of photos of cars for Goldberg to look at.
- Snr. Det. Bruce may be cross examined about the necessity for choice to make a reliable identification.
- Participants may also close the gates on Snr. Det. Bruce to allow for the possibility that either he did give more details of the murder to the media or others, or that a police member did before he came into the investigation:
 - he had no control over what other police officers did or said before he came in;
 - he took no notes of what he said to the media, although, he does now
 - it is good practice to keep records of what was said.
- Participants may be tempted to argue that Snr. Det. Bruce planted the knife and nylon rope because:
 - on the first search of the house, he had the opportunity to see the layout of the shed;
 - he went inside, but did not find anything on the first occasion;
 - he finds the knife and rope on the second occasion he goes into the shed;
 - given what he says in his statement, he is frustrated at the progress of the investigation.

There is, however, just a suggestion of this possibility but no real basis for it. It undermines a good argument that it is unlikely that Bland bought a knife like that but had lost it, as he says he did in his instructions.

XXN Nigel Bland

- It may be argued that Nigel Bland lied when he told the police in the record of interview that he did not own a fishing knife and nylon rope. To ensure that this argument is accepted, participants should close the gates on other possible explanations including that his mind was on his fishing gear, not what was in his shed:
 - he had bought the fishing knife in the week before Christmas;
 - the knife was not just a knife, but a fishing knife;
 - he was asked specifically about a fishing knife;
 - in his shed there was a whole section devoted to fishing gear, and that is where the fishing gear is kept;
 - the knife was not in the fishing section but behind a spare tyre;
 - the knife was found next to the nylon rope, away from all other fishing gear.
- Nigel Bland had a motive for killing the Park Ranger. He had already been cautioned that he may be banned for life. He did not renew his licence until 10 January. Further, it may be argued that he lied to police about knowing the Ranger in order to distance himself.
- He had an opportunity to concoct an alibi with his mother. When he first spoke to the police about what he was doing on Boxing Day he was vague. It is only after being interviewed, when he is told when the murder occurred, that he firms up his story. He has,

by then, had an opportunity to talk to his mother about it.

XXN Mabel Bland

- If Mabel Bland's evidence is accepted she provides Nigel Bland with an alibi. In order to argue that her evidence should not be accepted, the prosecution may XXN in relation to the following matters:
- she is the accused's mother and has an interest in protecting her son;
- when the police spoke to her first during the execution of the search warrant, she said he went fishing just as he always does. In her statement she says that he always goes fishing first thing on Boxing day;

It is not until Mabel Bland makes her statement, some time after the record of interview is conducted and when it is apparent what time the police say the murder took place, that she says Bland did not go fishing until later in the day. There is an opportunity for concoction between Nigel and Mabel Bland, as he returns home after the record of interview is conducted.