

**COMMONWEALTH OF THE BAHAMAS**

**In The Supreme Court**

**Criminal Division**

**No. CRI/VBI/94/4/2017**

**BETWEEN**

**THE DIRECTOR OF PUBLIC PROSECUTIONS**

**Applicant**

**AND**

**TEARGE JOHNSON**

**Respondent**

Before: Her Ladyship, The Honourable Madam  
Justice Guillimina Archer- Minns

Appearances: Mr. Timothy Bailey for the Applicant  
Mrs. Sonia Timothy-Knowles for the Respondent

**RULING**

**WITNESS ANONYMITY- LIVE VIDEO LINK APPLICATION**

## Archer-Minns J

### Introduction

1. The Applicant has by Notice of An Application For A Witness Anonymity Order filed 1 June, 2023 made application pursuant to Sections 11(1) and 12(1) of the Criminal Evidence (Witness Anonymity) Act 2011 (the “Act”) for a Witness Anonymity Order and in support thereof filed an Affidavit of Inspector Demetrius Taylor dated 30 May 2023, seeking the following measures that:
  - i. the identity of the witness be withheld;
  - ii. the witness be referred to by a pseudonym “Alpha”;
  - iii. the witness be screened ;
  - iv. the witness voice be subjected to modulation and;
  - v. the witness give evidence via live television link.

### Background Facts

2. The Respondent has been charged with the Murder of Jamiko Ash contrary to section 291(1) b of the Penal Code, Chapter 84 and two (2) counts of Attempted Murder contrary to section 292 of the Penal Code, Chapter 84 of Shorn Munroe and Theron Thompson respectively. It is alleged that on 17 January, 2017 sometime around 7:00p.m, a group of men gathered on the corner of Second Street and Palm Tree Avenue, Coconut Grove, when two men approached the group and started firing shots. As a result, Jamiko Ash was killed and three others shot. A stolen vehicle was found on First Street, The Grove which is said to have been used by the shooters to leave the scene.
3. Police officers investigating the matter have found a key eye witness who has linked the defendant to the commission of the offences and who has agreed to testify during trial on the condition that their identity and whereabouts not be disclosed as they are in fear for their life and of the opinion that they may suffer serious harm or even be killed if their identity is revealed.
4. The witness will not give evidence if the aforementioned measures to ensure their safety are not available.

5. An Anonymity Order was issued by then Acting Stipendiary and Circuit Magistrate, Jeanine Weech-Gomez dated 12 April, 2017.
6. Counsel for the Respondent challenged the application of the Applicant on the basis that the application before the court is not properly laid. The Applicant failed to comply with the requirements of section 14(2) of the referenced Act. In the circumstance, the application ought to be denied.
7. The court gave consideration to the application before it. Reliance was placed by the Applicant solely on the affidavit of Inspector Demetrius Taylor. Upon review of the contents of the affidavit, the Court notes that the only reference to the intended evidence of the witness Alpha is at paragraph 8 and to the extent that as a result of police investigation, a key witness was located whose evidence links the defendant, Tearge Johnson to the commission of the offence and has agreed to testify during the criminal proceedings subject to the measures sought via this application.
8. Save for the single reference there was no other information or evidence provided by the Applicant in order for a proper assessment to be made by the Court as to the importance or relevance of the intended witness' evidence in this matter. It is for the court to determine the importance of the witness' testimony and ultimately whether in the interest of justice given the nature of the evidence the witness ought to testify and to do so under specified conditions in accordance with the Act.
9. The court also took note that Counsel for the Respondent from the court's transcripts made reference to some details of the intended witness' evidence during submissions. The source of such information is not known to the Court as no evidence of the intended witness was put before it. Also that a previous Application and Affidavit in Support of the Application was filed on 12 March 2019. The supporting affidavit of Inspector Monique Turnquest mirrors that of Inspector Demetrius Taylor in the current application. The nature of the evidence of the intended witness Alpha was not disclosed in the previous affidavit save that the witness implicates the Applicant in the commission of the said offences and identified the Applicant on an identification parade. Nothing More, nothing less.
10. In the absence of relevant information to make a determination, the Court agrees with the submissions of Counsel for the Respondent that there is an essential requirement missing and therefore the application is not properly before the court.

In the circumstances the Court will not accede to the application as it is not satisfied that all of the conditions as outlined in section 13(1) of The Act have been met.

The Application is denied. The Applicant is at liberty to reapply.

**Dated this 24<sup>th</sup> day October, 2023.**



**Justice Guillimina Archer- Minns**