

COMMONWEALTH OF THE BAHAMAS CASE NO. VBI/268B/11/2017

IN THE SUPREME COURT

Criminal Division

B E T W E E N

THE DIRECTOR OF PUBLIC PROSECUTIONS

Applicant

V

PERRY PICKERING and LLOYD MINNIS

Respondents

BEFORE: The Honorable Mr. Justice Dale Fitzpatrick

**APPEARANCES: Mr. Terry Archer and Ms. Jacklyn Conyers on behalf of the
Prosecution**

**Mr. Glendon Rolle on behalf of Perry Pickering and Ms. Tamika
Roberts on behalf of Lloyd Minnis**

HEARING DATE: 1st December 2025

DECISION DATE: 2nd December 2025 (Oral ruling with reasons to follow)

Decision

FITZPATRICK J

Introduction

[1.] This case engages issues of complacency and delay in the prosecution of a criminal case. Regrettably, this case is not isolated. These are issues that pervade the criminal justice system here in The Bahamas. Timely justice is a *Constitutional* right of all accused persons and, obviously, of fundamental importance, especially for persons incarcerated awaiting trial. The timely prosecution of criminal allegations is of vital importance to victims and their families, who seek closure following often highly traumatic events, so that they may move on with their lives. One need only read a newspaper to understand the public frustration where stakeholders, including The Judiciary, fail to progress cases in a timely manner. Simply put, complacency and unjustified delay cannot be tolerated. Systemic issues can be corrected if all participants recognize the value in doing so and work cohesively to achieve this much needed change.

[2.] The Director of Public Prosecutions in this matter missed, without explanation, three court imposed deadlines for filing an application to permit a witness to testify anonymously.

[3.] Eight years after the death of the victims in this matter, on the morning of the tenth date scheduled for the trial of Mr. Minnis and the third trial date for Mr. Pickering, the Prosecution filed its application seeking an anonymous witness order. Defence counsel opposed the application. The trial would necessarily be adjourned if the application were permitted to proceed. This Court denied the Prosecution request to have the application addressed with reasons to follow. These are those reasons.

Litigation History

[4.] By Summons issued November 27, 2017, Lloyd Minnis was served with a Voluntary Bill of Indictment (the “Minnis VBI”) charging him with Murder (2 counts) and directing his attendance before the Supreme Court on January 19, 2018 for arraignment. The Minnis VBI listed fifteen Prosecution witnesses, including an intended anonymous witness assigned the moniker “Alpha”.

[5.] Mr. Minnis attended before the Court on January 19, 2018 where he was arraigned on both counts and pleaded not guilty. Thereafter, he made several appearances in 2018. On February 12, 2019, the Court set September 7, 2020 (the first trial date) as the start date for trial. That trial was delayed to October 5, 2020 (the second trial date) flowing from technical issues with the court equipment.

[6.] The October 5, 2020 trial date was vacated owing to the COVID pandemic. A back up trial date of November 2, 2020 (the third trial date) was set along with a substantive trial date of April 4, 2022(the fourth trial date). On November 4, 2020, the Court vacated the November 2, 2020 trial date and confirmed that the trial would commence on April 4, 2022.

[7.] The April 4, 2022 trial date did not proceed, it would appear, owing to the Court having another trial matter before it. Mr. Minnis’ trial was then set to commence on January 23, 2023(the “fifth trial date”). The trial did not commence on January 23, 2023 and was, again, rescheduled this time to start November 27, 2023 (the sixth trial date).

[8.] Of note, there is no mention of any request or application by the Prosecution for witness anonymity prior to September 6, 2023. On September 6, 2023, the Court set a deadline of September 15, 2023 for the Prosecution to file an anonymous witness application and rescheduled the trial to commence March 9, 2026.

[9.] The Prosecution did not file an application by September 15, 2023. The Court made a further endorsement setting a new deadline of January 31, 2024 for the Prosecution to file its anonymous witness application. No such application was ever filed and there was no further mention of same.

[10.] On February 3, 2025, the Court that then had carriage of this case confirmed the trial date for March 9, 2026 (the seventh trial date). The Court then transferred the matter to this Court, setting a mention date of February 17, 2025 while noting that this Court “may be able to accommodate this trial earlier”.

[11.] By Summons issued December 5, 2024, Perry Pickering was served with a VBI (the “Pickering VBI”) charging him with Murder (2 counts) and directing his attendance before the Supreme Court on February 7, 2025 for arraignment. The Pickering VBI referenced the same offences as the Minnis VBI although Mr. Minnis is not named. The Pickering VBI listed anonymous Prosecution witness “Alpha” along with eight other named witnesses.

[12.] Mr. Pickering attended before the Court on February 7, 2025 where he was arraigned on both counts and pleaded not guilty. The matter was then transferred to this Court setting a mention date of February 17, 2025.

[13.] The Minnis and Pickering VBIs were both before this Court on February 17, 2025, March 2, 2025 and March 14, 2025. On March 14, 2025, this Court set a date of October 14, 2025 (the eighth trial date) for the Minnis VBI to commence trial. The Pickering VBI was also set to commence trial on October 14, 2025 (the “first trial date”). It is noteworthy that the Prosecution did not make any request for an anonymous witness hearing or order at any of the aforesaid court attendances.

[14.] The Minnis and Pickering VBIs were each before this Court on September 5, 2025 for case management. On that date, the Prosecution filed a new VBI

consolidating the Minnis and Pickering VBIs (the “Consolidated VBI”). The Consolidated VBI, again, listed anonymous Prosecution witness “Alpha” along with now twenty other named witnesses. The October 14, 2025 trial date was maintained for the consolidated case.

[15.] On September 5th, the Court raised the status of the long outstanding anonymous witness application for Alpha. The Court set a deadline of September 19, 2025 for the Prosecution to file any such application noting they “shall either have a witness to proceed with or not”. The Consolidated VBI was then scheduled for a final pre-trial on September 19, 2025.

[16.] The Prosecution failed to file an application seeking an anonymous witness order by the Court imposed September 19th deadline. Instead, on September 19th, the Prosecution advised that they would proceed without the anonymous witness and that Alpha would testify without anonymity if called. Accordingly, the Court noted the express intention of the Prosecution to proceed with the trial of the Consolidated VBI and also endorsed that the Prosecution “will produce the witness formerly intended anonymously now in the usual course without anonymity, if at all.” The matter was then set to return on October 3, 2025 to confirm the trial was proceeding.

[17.] On October 3, 2025, the Prosecution sought an adjournment of the trial. There was no formal application, documentation, or details presented in support of this request. In particular, the Prosecution provided no meaningful details respecting the status of Alpha, including any specifics as to what efforts had been made to locate that witness. The Court denied the adjournment noting that this 2017 matter was to proceed “without further delay.”

[18.] Regrettably, there was an issue with the transport of both Mr. Minnis and Mr. Pickering from the custodial facility delaying their arrival on October 14, 2025,

although each of their counsel were present ready to proceed. The Court, not atypically, had more than one trial scheduled to commence on October 14, 2025. In these circumstances, the Court elected to commence the other pressing trial matter then before it and the trial of the Consolidated VBI was rescheduled that day to commence November 10, 2025 (the ninth trial date for Mr. Minnis and the second for Mr. Pickering), with a related pre-trial set for November 6, 2025.

[19.] The Court on October 14th reaffirmed that the Prosecution had missed its deadline for the filing of any anonymous witness application and that the witness, Alpha would “need to testify without anonymity, if at all.”

[20.] The November 10, 2025 trial date did not proceed owing to the Court’s calendar.

[21.] The Consolidated VBI was next before the Court on November 20, 2025 when the trial was rescheduled to start December 1, 2025 (the tenth trial date for Mr. Minnis and the third for Mr. Pickering). The Court then noted that the trial had been rescheduled repeatedly and “needs to proceed.” On this date, the Prosecution provided no meaningful details respecting the status of Alpha, including any specifics as to what efforts had been made to locate the witness. A final pre-trial of November 28th was also scheduled.

[22.] On November 28th, Defence counsel confirmed they were ready to proceed on December 1st. The Prosecution advised the Court that it had “some information” regarding its witness, Alpha suggesting that witness might be prepared to participate in the trial. To be clear, the Prosecution did not present any documents to confirm this information and, in fact, stated that they needed to confirm the information they had received. Given the vague, unconfirmed information then presented, the Court directed that this matter would commence as scheduled December 1st.

[23.] Both Accused were present and their counsel prepared to proceed with the selection of a jury from the pool assembled on December 1st. The Prosecution did not have any of their twenty one witnesses present at court or otherwise available that morning. Instead, the Prosecution presented an unfiled Notice of Application dated December 1, 2025 seeking an anonymous witness order supported by an affidavit sworn December 1, 2025 by a lawyer from the office of the Prosecution, Mr. Nicholls. The Prosecution advised the Court and Defence that these documents had been uploaded to the court filing portal but not yet received as filed.

[24.] On the basis of these unfiled documents, the Prosecution sought to make submissions seeking to have the Court revisit its September 19th order and schedule a subsequent hearing date to argue the anonymous witness application. Counsel for the Defence stated their opposition to allowing the Prosecution to revisit the September 19th order and confirmed they would oppose any application for an anonymous witness order. The Prosecution acknowledged that the trial for the Consolidated VBI would have to be rescheduled if the Prosecution was permitted to proceed with the requested anonymous witness application.

[25.] The jury pool was directed to return on December 3rd. The Court heard submissions from all counsel on December 1st with the Court's decision reserved until the following day. The Court and counsel reconvened on December 2nd where the Court announced its decision denying the Prosecution request to revisit the September 19th order with reasons to follow. No anonymous witness application was scheduled. The Court confirmed that the trial would commence on December 3rd. On December 3rd, the Prosecution elected to call no witnesses or evidence and acquittals were directed.

Analysis

[26.] In 2024, the Rules committee amended the Criminal Procedure Rules to place an obligation on the Supreme Court to “actively manage each case to ensure the case progresses efficiently and fairly” [see Rule 7A(1) of the Supreme Court (Criminal Case Management)(Amendment) Rules 2024]. There is no doubt that the court had a case management function and obligation at all times prior. However, the Rules memorialized this duty with the aforesaid 2024 amendment.

What does “active case management mean?”

[27.] As the Court of Appeal noted in *Sonia Timothy-Serrette v. The Estate of Stephen Serrette et al.*, SCCiv App No. 151 of 2022 at paragraph 64. “It need hardly be said that a Judge’s duty to ‘*actively manage cases*’ involves much more than merely giving directions and fixing timelines to ready a matter for substantive trial”.”

[28.] While *Serrette* was a civil matter, clearly the Court of Appeal’s comments bear equally upon, if not more so for, criminal matters, which engage *Constitutional* rights to the presumption of innocence and a fair and timely trial.

[29.] Managing cases effectively must include identifying and addressing issues ahead of trial whenever possible and holding the parties accountable where they fail to address such issues. This very obligation was noted by Mr. Justice Evans, as he then was, in *Serrette* where he stated “The goal of the Judiciary is to do justice between the parties. When attorneys do not comply with the Rules of the Court and the Court does hold them accountable, it is usually the litigant who suffers.” The administration of justice also suffers, including the public’s confidence in the criminal justice system, where counsel are not held accountable and cases are delayed.

[30.] The challenge for the court is to find the appropriate balance between the need to enforce court rules/orders designed to ensure timely access to justice and the need for flexibility where circumstances are warrant forgiveness for failing to comply with court deadlines and the public interest in having serious criminal allegations determined on the merits.

[31.] The failings of the Prosecution in advancing any witness anonymity application in this case are several and significant, including:

- a) The Prosecution was aware of Alpha and his/her wanting to testify anonymously since at least November 27, 2017 yet that office did not file any related application until eight years later on December 1, 2025;
- b) The Prosecution has never provided any explanation for the extraordinary delay in filing an anonymous witness application;
- c) The Court ordered and the Prosecution missed three deadlines for the filing of an anonymous witness application, namely September 15, 2023, January 31, 2024 and September 19, 2025;
- d) The Prosecution has never provided any explanation for its failure to meet the Court ordered deadlines.
- e) The Prosecution never filed an application seeking to extend any of the three Court ordered application deadlines;
- f) The Prosecution took the firm position before the Court on September 19, 2025 after failing to meet the September 19th filing deadline that it would proceed to trial without any anonymity order. The Prosecution has failed to advance a reasoning for why it abandoned that position;
- g) The Court on September 19th ordered that Alpha would be required to testify without anonymity if the Prosecution elected to call him/her. The Prosecution did not appeal this order;
- h) The Prosecution waited a further two and half months after the missed September 19th deadline to file its anonymous witness application and has never provided any explanation for its failure to move immediately for relief following the missed September 19th deadline;
- i) The Prosecution has presented no evidence of any efforts whatsoever to locate Alpha before October 7, 2025, being three weeks after the September 19, 2025 filing deadline and nearly eight years since that office was first made aware of Alpha's desire to testify anonymously. Even then the effort amounted only to the Prosecution writing to the police on October 7th asking that they locate Alpha; and,
- j) The Prosecution has never provided any explanation for why no efforts were made to locate Alpha prior to October 7, 2025. Interestingly, the most recent statement of Alpha dated November 27, 2025, attached to the Affidavit of Mr.

Nicholls, states that he/she has lived in the same location for the majority of his/her life, including in 2017 when he/she provided an initial statement to police. In other words, Alpha has been in the same location at all material times and available to the Prosecution. This is not a situation where the witness moved and could not be located.

[32.] Both Accused are in custody. If the Court were to permit the Prosecution application to proceed then a hearing would be needed that allowed for reasonable time for the Defence to file responding materials. That would necessitate the rescheduling of the trial with this Court's first available date being in March, 2027 for allegations arising from 2017. The obvious prejudice to the Accused is the delay of their long awaited trial.

[33.] The Prosecution's fundamental argument is that the application should be permitted to proceed given the charges are serious and in the interests of justice. Both Accused face very serious allegations involving two murders, including the death of an eight year old child. It is well settled that it is in the interests of justice for serious criminal allegations such as these to be determined on the evidential merits. However, this cannot simply be the rallying call that trumps all else regardless of the circumstances. If that were so then all the Prosecution would ever need to do is recite this incantation to absolve any failings effectively insulating that office from any obligations, including being Rules compliant.

[34.] The Prosecution also argued that the application should be permitted given that the Supreme Court lacks the facilities to accommodate anonymous testimony. This argument misses the point. Whether the court has facilities available is a matter for trial scheduling following a compliant application filing, hearing and court order permitting anonymous testimony. None of that occurred here. It is also worth noting that at no time did the Prosecution seek a trial adjournment on the basis of the Court lacking facilities for any of the numerous trial dates scheduled from September, 2020 forward. Again and to the contrary, the Prosecution advised the Court on September 19, 2025 that it was proceeding to trial without witness anonymity.

[35.] In summary, there is complete absence of any evidence or explanation whatsoever for the Prosecution's failure to meet three court ordered deadlines along with the Prosecution's unexplained failure to make any efforts to locate Alpha until

October 7, 2025, three weeks after the last filing deadline passed. The Prosecution has simply failed to make any reasonable efforts in the face of very serious allegations that should have motivated that office to move with dispatch. The Prosecution simply disregarded the deadlines suggesting a culture of complacency under some misguided view that the application could be brought at any time with impunity.

[36.] As noted, the Court must balance the interests of all parties towards achieving fairness. Here that balance is between the Prosecution who, despite much opportunity, failed to make reasonable efforts to ensure that a fixed trial could proceed as scheduled to be decided on the merits versus the in custody Accused who would suffer significant trial delay through no fault of their own.

[37.] As directed by the Rules and the Court of Appeal in *Serrette [2022]*, this Court must hold the Prosecution accountable for its failures in this matter. In these circumstances the Prosecution cannot be permitted to adjourn this trial in favour of scheduling an anonymous witness hearing. To do other would serve to endorse a culture of complacency whereby adjournments are granted whenever sought producing a spiral of delay. This simply cannot be permitted in this case and in the overall administration of justice.

Decision

[38.] The Prosecution's oral application to revisit the Court's September 19, 2025 Order is denied and dismissed. As such, this Court will not schedule a hearing for an anonymous witness application. The trial for the Consolidated VBI shall commence on December 3, 2025 at 10:00 a.m.

Dated this 15th day of December A.D. 2025

Justice D. Fitzpatrick