

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT**
Criminal Division

BETWEEN
THE DIRECTOR OF PUBLIC PROSECUTIONS

Applicant

AND
JEFFERSON BEVANS aka “BUBBAHS”

Respondent

Before: The Honourable Justice Weech-Gomez

Appearances: Mr. Timothy Bailey for the Applicant
Ms. Marianne Cadet for the Respondent

Heard: 29th May 2026

RULING

ON WITNESS ANONYMITY APPLICATION BY THE CROWN

WEECH-GOMEZ J

INTRODCUTION

1. On Thursday, 27 January 2022, at approximately 7:00 p.m., Keith Elroy Sweeting Jr. (“**the deceased**”) was shot in the area of McQuay Street, New Providence, and died as a result. A witness, to whom the pseudonym “Alpha” has been assigned, gave a statement to the Royal Bahamas Police Force on 20 February 2022 in which she stated that she witnessed a man she

knew as “Jefferson” or “Bubbahs” draw a handgun and shoot the deceased, who fell from the motorcycle he had been riding.

2. On 27 February 2022, Witness Alpha attended the Criminal Investigation Department and, from a twelve-person photographic array, she identified image number five as Jeffereson Bevans the man she said that she had seen shoot the deceased.
3. The respondent, Jefferson Bevans aka “Bubbahs” was subsequently charged with the murder of the deceased.
4. On 19 May 2022, a Magistrate made an order under section **6(1) of the Criminal Evidence (Witness Anonymity) Act, 2011 (“the Act”)** protecting Witness Alpha’s identity pending trial.
5. The trial was fixed for 27 April 2026 before Weech-Gomez J. That date has passed, and no new date has yet been fixed.
6. On 23 April 2026, D/Inspector Deandro Thomas took a further statement from Witness Alpha, who confirmed that she remained in fear for her life and would only testify if her identity continued to be protected.
7. By Notice of Application, the Director of Public Prosecutions (**“the Applicant”**) applies (i) to continue the witness anonymity order under sections **11, 12, 13 and 14** of the Act, with measures that Witness Alpha’s identity be withheld, that she be screened, that her voice be modulated, and that the Court not require to see or hear her in her natural voice or appearance;

and (ii) for leave for Witness Alpha to give her evidence by live television link pursuant to section **78B(1)(c) of the Evidence (Amendment) Act, 2011**. The Applicant additionally invites the Court to declare that the Act and section **78B** are constitutional.

8. The respondent, through the Office of the Public Defender, opposes both applications and has filed an affidavit in response.
9. Having considered the affidavit evidence and the written and oral submissions of both parties, I reserved my decision. This is that decision.

THE ISSUE

10. The issue is whether the conditions in **sections 13 and 14** of the Act are satisfied so as to justify the continuation of the witness anonymity order in respect of Witness Alpha, and, if so, on what terms; and whether her evidence should additionally be permitted to be given by live television link pursuant to section **78B of the Evidence (Amendment) Act, 2011**.

THE APPLICANT'S CASE

11. The Applicant's case rests substantially on two affidavits: that of Ms. Tylah Murray, Counsel in the Office of the Director of Public Prosecutions, and that of D/Inspector Deandro Thomas of the Criminal Investigation Department.
12. D/Inspector Thomas avers that Witness Alpha was present on McQuay Street on the evening of 27 January 2022 and saw the respondent, whom she knew before that date, draw a handgun and shoot the deceased at a distance of approximately twenty yards, in adequate street lighting, for some ten seconds, before he fled on foot. He avers that Witness Alpha has, from the investigative stage in February 2022 through to a further statement recorded on 23 April

2026 a period of over four years consistently maintained that she fears for her life and will not testify unless her identity is protected.

13. Ms. Murray avers, in similar terms, that Witness Alpha's evidence is direct evidence of the circumstances in which the deceased died and of the identity of the person responsible, and that an order is necessary to protect Witness Alpha's safety, to prevent real harm to the public interest, and to enable her testimony said to be important to the interests of justice to be given at all, since she would be reluctant to testify without it.
14. The measures sought are that Witness Alpha's identity and whereabouts be withheld and that she be referred to by the pseudonym "Alpha"; that she be screened; that her voice be modulated; that no question be permitted which might reveal her identity; and that her evidence be given by live television link. The Applicant additionally asks that the Court not exercise its power, under **section 11(4)** of the Act, to see or hear Witness Alpha in her natural voice and unmodulated appearance.
15. In submissions, the Applicant relies on **The Queen v Devon Anglin (unreported, Grand Court of the Cayman Islands, Quin J, 31 August 2011)** for the proposition that a defendant's reputation for violence can found a real and reasonable fear on the part of a witness; on **Attorney General v Leroy Smith aka "Shaddy" and Tony Smith aka "Jamal" SCCrApp No. 95 of 2014**, for the proposition that, given the prevalence of murder, the public interest favours ensuring important evidence is before the court; and on **Huntley v Attorney General for Jamaica [1995] 1 All ER 308**, for the proposition that fairness is not a matter of hard and fast rules but requires the Court to attend to the reality of what is involved.

THE RESPONDENT'S CASE

16. The respondent's affidavit and the submissions filed on his behalf by the Office of the Public Defender oppose the application on several grounds, which I summarise.
17. First, it is said that Witness Alpha's evidence is the sole and decisive evidence connecting the respondent to the offence; there is no independent corroboration, whether by way of forensic evidence, a second eyewitness, or surveillance footage. This, it is submitted, distinguishes the present case from both *Anglin* and *Leroy Smith*, in which the evidence of the anonymous witness was corroborated and was not on the court's own findings the sole or decisive evidence led.
18. Second, it is said that Witness Alpha's first statement was not given until some three and a half weeks (24-25 days) after the killing, without explanation, affording what the respondent describes as an opportunity for concoction, and that no background information has been provided concerning Witness Alpha's relationship, if any, with the respondent, the deceased, or their respective associates, notwithstanding her claim to have known the respondent personally for two years.
19. Third, it is said that there is no evidence that the respondent, or anyone acting on his behalf, has made any threat against Witness Alpha; the fear she describes is, on this argument, general and unparticularised rather than a fear specifically instilled by the respondent. The respondent points out that he has no previous convictions, and that the Antecedent Form disclosed by the Applicant in fact refers to a charge of attempted murder under a different indictment number, which he says is irrelevant to, and potentially prejudicial in, this matter.

20. Fourth, it is said that no evidence has been led as to whether alternative protective measures, such as police protection, were considered and found to be inadequate before anonymity was sought.
21. Fifth, it is said that the cumulative effect of the above, together with the request that even the Court be denied sight and unmodulated hearing of the witness, would leave the respondent “*fighting his case in the dark*,” contrary to **Article 20(2)(b), (c) and (d)** of the Constitution the rights to examine prosecution witnesses in person, to adequate time and facilities to prepare a defence, and to defend himself by counsel of his choosing and contrary to the common law right to confront one’s accuser.
22. The respondent relies principally on **R v Davis [2008] UKHL 36**, and on the material there discussed and reproduced in the submissions before me, including **R v Taylor (1994) Times, 17 August; the Report of the Diplock Commission; Smith v Illinois (1968) 390 US 129; S v Leepile (5) 1986 (4) SA 187; and the Strasbourg authorities of Kostovski v Netherlands (1989), Doorson v Netherlands (1996), PS v Germany (2001), van Mechelen v Netherlands (1997) and Krasniki v Czech Republic (2006)**, for the proposition that no conviction should be based solely or to a decisive extent on the evidence of a witness whose identity has not been disclosed to the defence.

ANALYSIS

23. **Section 13(1)** of the Act provides that the Court may make a witness anonymity order only if satisfied that the measures are necessary to protect the safety of the witness or another person, or to prevent real harm to the public interest; that, having regard to all the circumstances, the taking of those measures would be consistent with the defendant receiving a fair trial; and that the importance of the witness’s testimony is such that, in the interest of justice, the witness ought to testify, and either would not do so absent the order or that real harm to the public interest would otherwise result. **Section 14** sets out the relevant

considerations, including the general right of a defendant to know the identity of a witness, the extent to which credibility is in issue, whether the evidence might be sole or decisive, whether it can be tested without disclosure of identity, any reason to believe the witness dishonest or motivated to lie, and whether it would be reasonably practicable to protect the witness by means short of an anonymity order. These three conditions in **section 13(1)** are conjunctive: all must be satisfied before an order may be made.

24. The starting point in the respondent's argument is *R v Davis*, a decision of the House of Lords given in June 2008 which held, applying the common law and Article 6 of the European Convention on Human Rights, that a conviction resting solely or to a decisive extent on anonymous witness testimony could not stand. That decision was the direct catalyst for the enactment, within months, of the **Criminal Evidence (Witness Anonymity) Act 2008** in England and Wales, and, I am satisfied, for the corresponding legislation later enacted in this jurisdiction. The legislative response to Davis was not to prohibit anonymous evidence from ever being sole or decisive, but to permit it, in a proper case and subject to defined safeguards; section **14(2)(c)** of the Act lists that question as one relevant consideration among several, not a threshold bar. I do not, therefore, treat Davis as establishing, as a matter of law binding on this Court, that a witness anonymity order can never be made where the evidence may be sole or decisive. The question is whether, applying **sections 13** and **14** to the particular facts of this case, the three conjunctive conditions in **section 13(1)** are actually made out. For the reasons which follow, I am not satisfied that they are.
25. **Section 14(2)(b)** and **(d)** direct me to consider the extent to which Witness Alpha's credibility will be a relevant factor and whether her evidence could be properly tested without her identity being disclosed. Witness Alpha's own statement asserts that she has known the respondent personally for approximately two years before the killing an assertion of recognition, not a claim to have identified a stranger. Yet nothing in the Applicant's evidence explores the nature of that relationship, whether there is any history between Witness Alpha and the respondent capable of grounding a motive to falsely implicate him, or why, if she

recognised him instantly, her first statement was not given until some three and a half weeks after the killing. These are not peripheral matters: where an accused says he does not know who is accusing him and cannot investigate an asserted two-year acquaintance, the ordinary and most basic tools of cross-examination name, address, and background are foreclosed at the outset (**Smith v Illinois (1968) 390 US 129 at 131; S v Leepile (5) 1986 (4) SA 187 at 189**). The Applicant has had over four years since the killing, and since Witness Alpha's first statement, to gather and disclose material capable of addressing these concerns, and has not done so. I am not satisfied, on the evidence as it presently stands, that Witness Alpha's credibility and any potential motive could be adequately tested by the defence, whether at a screened hearing or otherwise, without disclosure of her identity.

26. I accept that Witness Alpha has, over a period exceeding four years, consistently maintained that she fears for her life and will not testify unless anonymous, and I do not doubt that this fear is subjectively genuine. **Section 13(2)** requires me, however, to consider whether that fear is objectively reasonable. In both **The Director of Public Prosecutions v Mark McKenzie aka "Kenzil Higgins" Cri/vbi/122/5/2017** and *The Queen v Devon Anglin*, the fear found to be reasonable was anchored in something beyond the mere fact of the charge: a conviction for murder known to the police, or a documented reputation for violence and intimidation. Here, by contrast, the respondent has no previous convictions, and the only antecedent document placed before the Applicant's own witness appears, on the respondent's unchallenged evidence, to relate to a different charge under a different indictment number entirely. There is no evidence of any threat, act of intimidation, or approach made by the respondent, or anyone on his behalf, towards Witness Alpha at any point in the more than four years since the killing. What is left is a generalised fear attributable to the nature of the offence itself, rather than to anything shown to be attributable to this respondent a materially weaker foundation than existed in either McKenzie or Anglin, which I have weighed accordingly.

27. Nor has any evidence been placed before me addressing whether measures short of a witness anonymity order such as police protection or relocation were considered and found to be inadequate, as section **14(2)(f)** of the Act contemplates. The absence of such evidence, taken with the matters at paragraphs 25 and 26 above, leaves me without a proper evidential basis to find that the measures sought are necessary within the meaning of section **13(1)(a)**.
28. Taking all of the foregoing together, I am not satisfied that the taking of the measures sought would be consistent with the respondent receiving a fair trial, as section **13(1)(b)** requires. Witness Alpha's evidence is, on the material before me, the sole and decisive evidence connecting the respondent to the offence; there is no forensic evidence, no second eyewitness, and no surveillance footage of the kind that corroborated the anonymous witnesses in Anglin, in Leroy Smith, and, in a more qualified sense, in *Doorson v Netherlands*. Where anonymous evidence is sole or decisive, the authorities relied upon by the respondent *R v Davis*; *R v Taylor*; the Report of the Diplock Commission; and the Strasbourg jurisprudence beginning with *Kostovski v Netherlands* consistently emphasise that adequate counter-balancing measures become correspondingly more, not less, important. The measures sought here go beyond those approved in *R v Taylor*, where the defendants were at least able to see the anonymous witness by video link for the purpose of confirming recognition; the Applicant asks that Witness Alpha be fully screened even from the Court, and that the Court forgo in advance its own discretion under section **11(4)** of the Act to see or hear her should the need arise. Combined with the unexplained delay and the unexplored claim of a two-year prior relationship, I am satisfied that permitting Witness Alpha to give her sole and decisive evidence in these conditions would leave the respondent, as described in the material before me, "*fighting his case in the dark*" and reduced, in cross-examination, to taking no more than "*blind shots at a hidden target*" (*Coles v Odhams Press Ltd* [1936] 1 KB 416, per Lord Hewart CJ, cited with approval in *R v Davis*).
29. I do not underestimate the difficulty this creates for the Applicant. Witness Alpha is, on the present evidence, the only witness to the shooting itself, and I accept that if she does not

testify the Crown will, in practical terms, have no case. I accept, too, that murder is a grave and prevalent offence, and that, as Adderley JA observed in *Attorney General v Leroy Smith aka “Shaddy” and Tony Smith aka “Jamal,”* the public interest ordinarily favours ensuring that important evidence is before the court. But the public interest in prosecution cannot be permitted to override the more fundamental requirement that an accused person receive a fair trial. It was precisely this concern that the practical consequence of exclusion should not be allowed to dictate the fairness of the trial process that underlay the conclusions reached in *R v Davis*, and in the material from the Diplock Commission reproduced in the submissions before me, to the effect that the courts have found no way of keeping a witness’s identity secret without gravely handicapping the defence, at least where, as here, that witness’s evidence is sole and decisive and her credibility is squarely in issue.

30. Balancing all of the foregoing the genuine but generalised and objectively unanchored nature of Witness Alpha’s fear; the sole and decisive character of her evidence; the unexplained delay and unexplored claim of a prior relationship bearing directly on her credibility; the absence of any evidence addressing alternative protective measures; and the scope of the anonymity sought, extending even to the Court’s own statutory safeguard under **section 11(4)** I am not satisfied that the conditions in **sections 13 and 14** of the Act are met. The application for continuation of the Witness Anonymity Order is refused.
31. In light of that conclusion, it is unnecessary to determine the Applicant’s request for a declaration that the Act and section **78B of the Evidence (Amendment) Act, 2011** are constitutional in the abstract, and I decline to do so; no live issue as to the constitutionality of that legislative scheme arises for decision on this application.

CONCLUSION

32. The application to continue the Witness Anonymity Order made by the Magistrate on 19 May 2022 in respect of Witness Alpha is refused, and that order is discharged.

33. The application for leave to adduce Witness Alpha's evidence by live television link, pursuant to section **78B(1)(c) of the Evidence (Amendment) Act, 2011**, was sought in conjunction with, and predicated upon, the anonymity measures addressed above; it is, for the same reasons, likewise refused.
34. This refusal is without prejudice to the Applicant's liberty to renew the application on fuller evidence directed to the deficiencies identified in paragraphs 25 to 27 above, including, in particular, particulars of any relationship between Witness Alpha and the respondent, an explanation for the delay in her first statement, and evidence addressing whether protective measures short of anonymity were considered.
35. The matter is to be listed for a case management hearing so that a new trial date may be fixed and the Applicant may indicate how it wishes to proceed in light of this ruling.

Dated this 29th day of July 2026

The Hon. Madam Justice Jeanine Weech-Gomez