

POLICE COURT

2nd February, 1987

Her Majesty's Attorney General

- v -

Robert Luigi Michieli

DEPUTY BAILIFF: First of all, on the matter of the confession, we have asked ourselves the primary and essential question - are we satisfied that it was voluntary. We are so satisfied. Some of the earlier authorities cited to us might be decided differently to-day. After Sergeant Horsfall had told the appellant that it would be a lot easier if he told the truth - the appellant said "I can't now - its too late". That was itself a confession that he had to persist in a false story because he was so immersed in it. When P.C. Megaw entered the room after the appellant had seen Sergeant Horsfall the appellant was smiling and said "Oh you've got to try, haven't you?". We think that demonstrates his state of mind. He had tried on three false stories, Ian Cabot, the hitchhiker and the girl Sandra and now he was voluntarily going to tell the truth.

In our judgment the conviction of the appellant was safe and satisfactory.

The Court has often said that it does not lightly upset a finding of fact by a Magistrate because the Magistrate has had the benefit of hearing the evidence at first hand, of studying the conduct, reactions and demeanour of the witnesses.

Here the Assistant Magistrate found the appellant's evidence to be palpably false and considered there might be a case for a prosecution for perjury. Sadly, we have to agree - I say sadly because the appellant was a first offender - but we believe the appellant to be a liar and that a perjury investigation is fully justified.

If the appellant's story were true a number of conclusions would inevitably arise.:

1) Mr. Clifford, the taxi-driver, would be guilty of perjury because he would have lied on oath deliberately for his own ends.

2) Miss Moffa, an independent witness, taking the kindest view, would have had to be mistaken.

3) Police Constable Beckford would be lying when he said that he asked the straightforward question "who was driving, and where is he?", and received the equally straightforward answer " A friend, Ian Cabot, he lives round there". Police Constable Thorpe would also have been wrong on that point. We do not accept that the appellant could have thought that he was being asked where he was going next. P.C. Thorpe said that he could not have been mistaken because the appellant had repeated it several times.

4). Equally, at Police Headquarters, the appellant told Police Constable Megaw that he had not been driving and that it had been a person by the name of Ian Cabot. All these Police Officers could not be mistaken.

5) The appellant then came to another story in which he admitted driving from the hotel and then picked up a female hitchhiker who drove the rest of the way. Perhaps at this stage his mind was formulating his final story but this interim version to Police Constable Megaw destroys his credibility and really he has to accuse this Police Office of lying too.

6) Police Sergeant Horsfall, too, would have been lying in his evidence of the circumstances in which the statement under caution came to be made.

It is inconceivable that six witnesses would have been telling deliberate lies or making the most appalling mistakes.

We have no doubt that the appellant lied almost throughout. He lied about the ownership of the car, about the keys, about Ian Cabot, about the hitchhiker, about getting out of his car at Five Oaks, about what the doctor had said on the telephone, and, of course, about the girl Sandra. For a short time he told the truth to Police Sergeant Horsfall and in his caution statement. We are concerned too about the part played by the appellant's mother but because the letter allegedly received by her may well be investigated further we say no more about her.

The Appeal is dismissed.

We grant costs in favour of the Prosecution.