

NOTE FOR FILE

R v LUNT AND OTHERS

1. On Friday the 24 October Mr Davison, Professional Officer referred this file to me.
2. He updated me on the steps taken so far in relation to consideration of the case.
3. He pointed out to me that the pathologist's report was not yet available. However, in consideration of the case and in the light of his minute of the 10 October (which indicated that police have now certain reservations as to whether the main witnesses in the case were now willing to give evidence) consultations had taken place with Witnesses A, B and Jonathan Wright.
4. A full note of consultations has been made by Mr Davison and is on file dated 24 October.
5. In summary the position was that Witness A would not give evidence. Witness B claims that he cannot recall anything. He was in Mr Davison's view lying. However Mr Davison's conclusion was that neither Witness A nor Witness B could be relied on.
6. Mr Davison's assessment of the evidence was that without Witnesses A and B the following persons could not be prosecuted for any assault or related offence on Mr Hamill:-
 - i. Dean Forbes;
 - ii. Allister Hanvey;
 - iii. Rory Randolph Arthur Robinson.
7. I informed Mr Davison that I would take the file home and read it over the weekend. As Mr Davison was leaving to go on annual leave I indicated to him that I would take over the conduct of the case given the fact that a number of the accused were in custody. On Monday 27 October, having received the file over the weekend, I spoke with Mr Gordon Kerr QC who had been involved in the consultations with Mr Davison and who was being asked, in any event, to advise on the case.

spoke to him and asked his views on the evidence given which had occurred in consultation. Mr Kerr told me that he had not completed his advices but that he was satisfied that without A and B (and he agreed with Mr Davison's assessment that essentially neither could be relied on to give evidence there was no case against Forbes, Hanvey or Robinson.

8. I asked Mr Kerr his views on Witness A. Mr Kerr stated that Witness A, although upset and clearly disturbed because of conflict in her emotions brought about by her affection for one of the accused (Hanvey) and her knowledge of the rest of the accused against the fact that she realised that this was a serious assault that led to the death of Hamill, could give credible evidence in the terms of her previous witness statement.
9. I raised with Mr Kerr the question of summoning Witness A to court. I pointed out that she was a compellable witness. I asked had this been discussed with police. Mr Kerr told me that that had occurred to him and that he had mentioned it to Mr Davison but that no discussion had taken place with police on this issue. I said that I would need to consider this issue. I then asked Mr Kerr the position in relation to the witness Colin Prunty who had yet to be seen. Mr Kerr said that he had not been able as yet to see him but he knew that Mr Davison had been making enquiries with [REDACTED] to arrange such a consultation. I told Mr Kerr that I would enquire into the position. Mr Kerr stated that he could not make any decisions in relation to one of the accused, Wayne Lunt, without consultation with Colin Prunty.
10. I then contacted D/Inspector Michael Irwin, RUC Portadown the investigating officer in the case. I told him of the position as I understood it to be and as I had assessed it. He agreed that without A and B there was no case against Forbes, Hanvey and Robinson. I informed D/Inspector Irwin that I was anxious to reach a concluded view in relation to this case. The accused were in custody. Appropriate decisions would have to be made as soon as possible. I raised the D/Inspector the question of the summoning Witness A to court. I said that this was a matter which had not been discussed, as I understood it, with police. I said that this was a difficult issue. This was a serious case as Witness A could give relevant and cogent evidence. There was the question of compelling her to give that evidence. However, I needed police advices as to whether, if sur

to court, there was a reasonable prospect of Witness A giving evidence. D/Inspector Irwin's view was that there was not. He did not consider that in any event and no matter what happened that Witness A would give evidence any of the accused. I told D/Inspector Irwin that this was an important point and I suggested he reflect on it overnight, consult with his superiors, if necessary, and come back to me the next day.

11. D/Inspector Irwin confirmed to me that there was no other evidence available. Forensic evidence in regard to blood from a defendant, Stacey Bridgett, was now with me, although he did not have a copy yet. I would consider this forensic evidence.
12. I mentioned the fact that the witness, Colin Prunty, had yet to be seen by Senior Counsel. Senior Counsel was unable, as was this office, to make any decisions as to prosecution without having consulted with Colin Prunty. I asked the D/Inspector what was the position in relation to Prunty. He informed me that he had spoken to [REDACTED] and that he knew that Mr Davison had spoken to [REDACTED] but to date no arrangements had been made to see Prunty. I said I would look into this matter.
13. I agreed that I would look again at the file overnight and come back to him the next morning. I stressed to him that I was keen that the proper decisions and informed decisions should be made as soon as possible given the fact that the accused were in custody.

RAK

R A KITSON

28 October 1997