

**R -v- ATKINSON & OTHERS**

**OPINION**

**238326**

**Generally**

1. There are three potential principal witnesses in this case - Tracey Clarke, Andrea McKee and Michael McKee.
2. Tracey Clarke is the most important in view of the significant direct nature of her evidence. She makes the specific case that some days after the relevant events she spoke to Allister Hanvey who told her that Atkinson had been very good to him, had phoned him on the Sunday morning (27th April) at about 8.00 a.m. and told him to get rid of the clothes he had been wearing on the previous night and, since then, had telephoned him every day to keep him up to date with police investigations.
3. Andrea McKee can prove, inter alia (i) that she heard her husband on the telephone to Atkinson telling Atkinson that Tracey Clarke had told them (the McKees) that Allister Hanvey had told her (Clarke) that Atkinson had telephoned his (Hanvey's) house and told him (Hanvey) to get rid of his clothes; (ii) that, subsequently, she and Michael visited Atkinson's house where, in the presence of Eleanor Atkinson, Robert Atkinson told them the concocted story which they were to tell to cover the telephone call from the Atkinson house to Hanvey's on the morning of 27th April; (iii) that, contrary to earlier assertions by several parties, she and her husband did not stay at the Atkinsons' house on the night of 26/27 April; (iv) that, accordingly, her husband did not make any telephone call to the Hanvey house on the balance of probabilities he morning of 27th; and (v) the general detail of the association between the relevant persons involved.
4. Michael McKee could prove that he did not stay at the Atkinson house during the relevant night, did not make the telephone conversation to the Hanvey house, and, having attended the McKee/Atkinson meeting, told the concocted story.
5. In my view the prosecution in this case should focus on the telephone call on the morning of 27th April and the evidence of the movements of, and clothing worn by, Allister Hanvey at the material time during the events of the early hours of 27th April.
6. Tracy Clarke is unwilling to give evidence. She has been in a relationship with Allister Hanvey and has had a child to him. If called she will be a hostile witness. She has not resiled from the truth of her statement, but her feelings for Hanvey lie at the root of her refusal to testify. It is of significance that she refused to testify against Hanvey at a time when he was charged with the murder of Hamill. It clearly would be inconsistent with