

Cardinal Williams

Petitioner

v.

The Queen

Respondent

FROM

**THE COURT OF APPEAL OF SAINT VINCENT
AND THE GRENADINES**

ORAL JUDGMENT OF THE LORDS OF THE
JUDICIAL COMMITTEE OF THE PRIVY COUNCIL
UPON A PETITION FOR SPECIAL LEAVE TO APPEAL

AS A POOR PERSON,

Delivered the 7th July 1999

Present at the hearing:-

Lord Hoffmann

Lord Hutton

Lord Hobhouse of Woodborough

[Delivered by Lord Hoffmann]

At the conclusion yesterday of the argument on this petition, their Lordships indicated that they were disposed humbly to advise Her Majesty to grant leave to appeal. Ordinarily they would say no more. But the unusual circumstances in which this matter has come for a second time before the Board suggest that it might be useful if they gave some indication of what was intended when they made the Report that led to the Order in Council of 16th December 1998.

In their advice to Her Majesty their Lordships expressed the view that the proposed evidence of Dr. Eastman, which then took the form of an unsworn report, was “likely to be credible” within the meaning of section 45 of the Eastern Caribbean Supreme Court (Saint Vincent and the Grenadines) Act c. 18 and that there was a reasonable explanation for the failure to adduce that evidence at the

trial. It would of course have been within the powers of the Board to advise that the decision on these questions be remitted to the Court of Appeal. Their Lordships have no doubt that the Court of Appeal would have dealt with them judicially and responsibly. But the Board also has its responsibilities as the final Court of Appeal of Saint Vincent and the Grenadines and, having formed the view that the requirements of the section had been satisfied, thought it right to say so.

In the circumstances, it was contemplated by the Board that the appellant would be permitted to call Dr. Eastman to give evidence, either at a new trial or before the Court of Appeal, and that it would be open to the Crown to cross-examine him and call evidence in rebuttal. Their Lordships understand from Sir Godfray Le Quesne Q.C. and Mr. Guthrie Q.C., who represented the parties on that occasion as now, that this was what they too understood. The Court of Appeal has expressed the view that Dr. Eastman's evidence appears on its face to be of no value. In particular, it was said to be based upon facts which Dr. Eastman accepted uncritically from the petitioner and of which there was no evidence. Their Lordships do not wish to say anything which might be thought to anticipate the arguments which may be advanced by the Crown on the hearing of the appeal. But they feel bound to observe that some of at least of Dr. Eastman's evidence consisted of his professional appraisal of the petitioner's state of mind, independent of the truth of any fact of which the petitioner told him. Their Lordships would also observe, in relation to the criticisms which have been made of Dr. Eastman's proposed evidence, that one of the purposes of permitting him to be called as a witness would be so that the criticisms could be put to him and he be given an opportunity to respond to them.

Their Lordships have no wish to prolong the delay in the final disposal of this case and would be favourably disposed to an application from either side to expedite the hearing of the appeal. On the other hand, it appears to them that there may in this case be a risk of carrying out the death sentence upon a person who, while not insane at common law, may have suffered at the time of the crime from an abnormality of mind such as substantially to impair his mental responsibility and entitle him to a verdict of manslaughter,

not murder. Their Lordships will therefore humbly advise Her Majesty that the petitioner ought to be granted special leave to appeal in order to allow argument as to whether the course adopted by the majority of the Court of Appeal is one which can properly be sustained and whether the petitioner should not be given the contemplated opportunity to call Dr. Eastman as a witness.