IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

CRIMINAL DIVISION

CASE NO. CACT2022CR00107

BETWEEN	**REX**	**RESPONDENT**
AND	**CHRISTOPHER GORDON**	**APPLICANT**

IN OPEN COURT

Mrs. Sarahope Cochrane-Spencer and Ms. Dominique Martin instructed by the Office of the Director of Public Prosecutions appeared for the Respondent

Mr. John-Mark Reid appeared for the Applicant

Dates Heard: March 12, 2024, September 26, 2024, March 28, 2025 and April 10, 2025

Criminal Law – Change/Withdrawal of Plea – Principles arising from R v Dodd (1981) 74 Cr App R 50 and summarised in Shadrach Momah v R [2011] JMCA Crim 54 – Whether the Court should exercise its discretion to allow an accused to change his plea of guilty to one of not guilty

PALMER HAMILTON, J.

BACKGROUND

[1] On the 12th day of March, 2024 Mr. Gordon (hereinafter referred to as 'the Accused') plead guilty to the offence of Causing Death by Dangerous Driving. On that day he was represented by Learned Counsel Ms. Sophia Bryan. The particulars of the offence are that on the 6th day of May, 2021 in the parish of St. Andrew the accused drove a motor vehicle to wit: A 2013 grey Toyota Probox

registered PG9515 along Hope Road in the parish of St. Andrew and caused the death of Verona Nelson, by driving in a manner which was dangerous having regard to all the circumstances of the case.

[2] The facts of the case were outlined by Crown Counsel as follows:

> *The date of the offence is Thursday, May 6, 2021 at about 7:45 a.m. There are no eyewitnesses to this incident. The Crown's case rests primarily on the reconstruction report done by Corporal Donald Brown and a Question and Answer given by the Accused. The incident occurred about 8:00 a.m. in the vicinity of the Andrews Memorial Hospital in the parish of St. Andrew.*
>
> *Treating with the Question and Answer, the Accused indicated that he is the owner of a grey 2013 Toyota Probox motor car, with registration plates PG7515, indicated that he left August Town travelling towards Half Way Tree in the said car. On approaching Andrews Memorial Hospital, he was travelling in the extreme left lane, he was travelling about 40-50 kilometers per hour, he was aware of a traffic light in the short proximity in the vicinity of Andrews Memorial Hospital. He indicated that on approaching the entrance gate to Andrews Memorial Hospital, he did not see any pedestrian, he then saw a pedestrian when he was about seven to eight feet away. He says to avoid hitting the pedestrian he turned his steering wheel to the left, the vehicle then hit the pedestrian. He further stated that the vehicle ended up mounting the sidewalk as he was trying to avoid hitting the lady. He denied losing control of the vehicle, he says he did not apply the brake out of shock and he was shaken up as a result of the accident. The pedestrian suffered injuries and he came out of the car and titled her head to feel her pulse and he waited until the stretcher came. He also went on to state that he saw the injured pedestrian on the sidewalk on the ground. He exited the vehicle immediately, and that that he isn't aware of anything he could have done to avoid the collision. He denied that he wasn't paying attention or that speeding was the cause of the accident.*
>
> *Treating with the accident reconstruction report now m'Lady. After making the relevant observations at the scene the expert made the following observations and conclusion:*
>
> 1. *damage to the front of the Toyota Probox was one of extensive nature, the damage observed would have been occurred whilst the vehicle was proceeding in excess of the speed limit for the area, and it is stated in my opinion between 50 kilometers per hour to 80 kilometers per hour;*
>
> 2. *the Toyota Probox made contact with the pedestrian whilst proceeding along the sidewalk;*
>
> 3. *the Toyota Probox made contract with the pedestrian causing the deceased to make contact with the concrete wall;*

4. *the expert is unable to say what could have caused the motor vehicle to leave the road way and come to a stop along the sidewalk.*

With respect to vehicle defects, m'Lady, the vehicle of the accused was examined by Mr. Sheldon Grant, a Certifying Officer of the Island Traffic Authority, it was noted that the two rear tyres of the motor vehicle were defective.

Post Mortem Examination Report, m'Lady, indicates that the cause of death was due to hemorrhage and shock and multiple blunt trauma to the head and neck.

At the Coroner's Inquest on April 5, 2022 an inquest touching the death of the deceased was held before Her Honour Mr. Charles Pennycook. During the inquest the Accused gave evidence of the accident and in summary, the Accused says he saw the lady at the entrance of St. Andrew Hospital, she was walking steady like someone going somewhere, he was coming down from Jamaica House in the left lane. He became aware of the lady from the corner of the hospital entrance, it was the entrance closest to the stop sign. He says he doesn't know if he overreacted, but he swung the steering left, intended to go behind her. At this time, he says she was in the left lane that he was in, he doesn't know if he overreacted or panicked but he swung the car to the left and went onto the sidewalk. The sidewalk was about 6 to 7 inches high. When the car mounted the sidewalk he was fighting for control, he was not fully on the sidewalk. He said he guess on hearing the vehicle the lady turned in his direction and saw his vehicle and ran back to the sidewalk. This was the moment he fully tried to put the vehicle on the sidewalk to avoid hitting her. He saw the shock on her face, he doesn't know how the car stopped. He ran out to assist. He saw two security guards and he told them to get a stretcher. He was feeling for her pulse and make sure she was alive. He was talking to her, felt her pulse, then he broke down. The police came and saw him.

The Accused then told the Judge he wished to say something which a lawyer would advise against. The Judge then asked him why he wanted to. The Accused then said he is responsible for the lady. It was his car, he was the captain of the car and that was his responsibility. He says he did not cause the accident, but his car ended up causing her death. He later admitted that his vehicle was defective but he was not speeding.

M'Lady, a point of note here in the statement of the Court, that the Accused man was asked to remove his car so the deceased could be picked up. I note in the Reconstruction Report that it was opined based on observations made that the Accused man's vehicle ran over her.

[3] A Social Enquiry Report and an Antecedent Report were ordered and a date was set for sentencing. Subsequent to the 12th day of March, 2024 the Accused man

was no longer represented by Learned Counsel Ms. Sophia Bryan. Learned Counsel Mr. John-Mark Reid now appears on his behalf.

THE APPLICATION

[4] On the 25th of September, 2024, Learned Counsel for the Accused made an oral application for the withdrawal of the guilty plea, which was later reduced in writing. A Notice of Application for Court Order for Change of Plea was filed by Learned Counsel Mr. Reid. The said Application sought the following Orders:

> *(1) That the Court exercises its discretion and allows the Applicant to withdraw his plea of guilt entered and permit the Applicant to change his plea of guilty to a plea of not guilty to the offences alleged against him.*
>
> *(2) The matter be set for trial.*
>
> *(3) Any other order that might be deemed necessary and just.*

[5] The grounds on which the Applicant is seeking the abovementioned Orders are as follows:

> *(1) The plea of guilt entered was equivocal and involuntary, as the Applicant did not appreciate the elements of the offence to which he pleaded guilty. He was subject to such pressure that there was no genuinely free choice between guilty and not guilty.*
>
> *(2) The Applicant was not properly advised on the implications of such a plea, which could affect his livelihood.*
>
> *(3) That is, if the guilty plea is accepted, the Applicant would be deprived of what is, in all likelihood, a good and reasonable defence with a high likelihood of success, which would breach the Applicant's constitutional right to a fair trial.*
>
> *(4) This Application will not prejudice the Crown or the family of the deceased.*

LAW & ANALYSIS

[6] The starting point in dealing with a change of plea ought to be the case of **R v Dodd** (1981) 74 Cr App R 50. The Jamaican Court of Appeal summed up the

general principles applicable to the area of law surrounding a change of plea from **Dodd** in **Shadrach Momah v R** [2011] JMCA Crim 54. Those principles are:

> *(i) that the court has a discretion to allow a defendant to change a plea of guilty to one of not guilty any time before sentence;*
>
> *(ii) the discretion exists even where the plea of not guilty is unequivocal; and*
>
> *(iii) the discretion must be exercised judicially and, we would add, very sparingly and only in clear cases.*

[7] The case of **Rahming v R** [2013] 2 LRC also provided some guidance regarding change of plea. The Court stated that the discretion to allow an accused who had previously pleaded guilty to change his plea to not guilty was to be rarely and sparingly exercised, in order to ensure that such applications were genuinely made, for good reasons and were not frivolous. The Court further went on to say that in exercising the discretion the judge had to have regard to all relevant considerations and disregard irrelevant matters.

[8] The first ground on which the Accused is relying on is that the plea of guilt was equivocal and involuntary as he did not appreciate the elements of the offence to which he pleaded guilty; and he was subject to such pressure that there was no genuinely free choice between guilty and not guilty. The first ground is two-fold and will be dealt with as such in this judgment.

[9] Firstly, in dealing with whether the Accused did not appreciate the elements of the offence making the guilty plea equivocal and involuntary, I am guided by the case of **Peter Coleman vs. Regina** (unreported) Resident Magistrate's Criminal Appeal No. 22/94 delivered on July 12, 1994. In that case, the Court of Appeal had before them an appellant who was charged for possession of ganja and dealing in ganja to which he pleaded guilty. Counsel for the appellant argued that the Learned Resident Magistrate fell into error in accepting the plea of guilty without first obtaining from a chemist, certification that the substance with which the appellant was charged was in fact ganja. The Court of Appeal found that there was absolutely no merit to that argument as from the outset the appellant admitted that

he had ganja and once he pleaded guilty there was no obligation on the prosecution to prove anything. Counsel for the appellant also argued that the appellant fell into error when he pleaded guilty to charges he never understood. The Court of Appeal held that the appellant could not have misunderstood the language of the charges read to him and therefore he could not have fallen into error when he plead guilty.

[10] I am also guided by **Regina v McNally** [1954] 1 W.L.R. 933, where the appellant, who was caught red handed by the police, pleaded guilty to the charges of warehousebreaking and housebreaking without qualification and also before the magistrate. When the appellant was to be sentenced he told the judge that he wished to change his plea from guilty to not guilty. The judge refused to allow him to change his plea and did not ask him why he wished to do so. The ground on appeal was that the judge should have asked him the reason for wishing to change his plea and by not asking the judge had not properly exercised the discretion vested in him. In dismissing the appeal, the court found that it was perfectly obvious that the appellant had no grounds, that he did not suggest that he had any grounds in his notice of appeal, and his counsel was not able to put forward any grounds on which the appellant wished to withdraw his plea. The principle arising from this case is that if the court came to the conclusion that there was a question of mistake or misunderstanding, or that it would be desirable on any ground that the prisoner should be allowed to join issue, no doubt the court would allow him to withdraw his plea.

[11] There is nothing before the Court to indicate that the Accused misunderstood or did not appreciate the elements of the offence to which he pleaded guilty. I agree with the submissions of Crown Counsel that the language of the indictment was plain, simple and specific as to the circumstances of the offence and the nature of the charges. The case at bar is similar to **Peter Coleman** and in my view, a similar outcome is warranted. The Accused could not have misunderstood that he was pleading guilty to causing the death of Verona Nelson by driving in a manner which

was dangerous as the particulars of the offence were read out in Court as is evidenced by the transcript from the 12th day of March, 2024.

[12] The Court of Appeal in **Austin Richards and Oniek Williams v R** [2023] JMCA Crim 42 accepted as an accurate statement of the law the principle outlined in **Revitt and others v Director of Public Prosecutions** [2006] 1 WLR 3172 at paragraph 17 which states that, -

> *If after an unequivocal plea of guilty has been made, it becomes apparent that the defendant did not appreciate the elements of the offence to which he was pleading guilty, then it is likely to be appropriate to permit him to withdraw his plea – see R v South Tameside Magistrates' Court, Ex p Rowland [1983] 3 All ER, 689, 692, per Glidewell J. Such a situation should be rare, for it is unlikely to arise where the defendant is represented and, where he is not, it is the duty of the court to make sure that the nature of the offence is made clear to him before a plea of guilty is accepted.*

[13] In **McNally**, Lord Goddard C.J. outlined some examples where the court could allow an accused to withdraw a plea. He stated that, *"For example, it has been known for a prisoner charged with receiving stolen goods to acknowledge that he received them, and to plead guilty adding "but I did not know they were stolen." In such a case the trial judge might well allow the prisoner to change his plea, but it is entirely within the discretion of the judge."*

[14] An application of the principle from **McNally** and **Revitt and others** can be seen in the case of **Austin Richards and Oniek Williams**. Even though the Court of Appeal did not rely on or expressly mention **McNally**, it is clear from the case that the principle was the same. In **Austin Richards and Oniek Williams**, the Court of Appeal found that Mr. Williams' plea of guilty to the offence of murder should not have been accepted by the Learned Judge as there was no basis for same to be accepted based on the facts outlined for the plea and the authorities reviewed. Mr. Williams after being charged with murder gave a cautioned statement to the effect that himself, the co-accused, and another person planned to rob the driver of a taxi; he gave the gun to Mr. Richards, who shot the driver in his head; the car crashed and they panicked and ran away. Mr. Richards also gave a cautioned statement and indicated that Mr. Williams gave him the gun; he took it out whilst

being driven in the taxi; it accidentally went off and shot the driver; he did not mean to kill anyone; and he panicked and ran away. The Court of Appeal stated that Mr. Williams' participation in the intended robbery did not necessarily mean that he intended to be a party to the murder and that it was possible based on his explanation that he lacked the requisite intention to kill or cause grievous bodily harm. The Court further stated that the Learned Judge was required to make the necessary enquiries, not only in light of the explanations given by Mr. Williams, but on the basis of the facts put before him by the prosecution.

[15] As stated earlier, the facts were outlined in Court when the Accused pleaded guilty and he heard the full extent of the facts being alleged. He had an opportunity to raise any issues or disagreement with those facts but he never did. Learned Counsel for the Accused argued that at the time when the facts were being outlined his client made attempts to indicate to his then Attorney Ms. Bryan that he was not speeding and driving recklessly and when he was able to express same to her, she told him that he had no further choice. However, the matter came before the Court on numerous occasions and at no point did he raise any concern in respect of his understanding of the facts to which he pleaded guilty. In fact, when the Social Enquiry Report which is dated the 28th day of May, 2024 was done, the Accused accepted responsibility for the offence. It was not until September of that same year that an Application was made to the Court that the Accused wished to change his plea. I agree with Crown Counsel that it does not appear that the Accused did not appreciate the elements of the offence for which he is before the Court.

[16] There is also the transcript from the Coroner's Inquest where the Accused asked the Judge to say something that his lawyer would advise against and went on to say that he was responsible for that lady. The Learned Judge at the Coroner's Inquest asked the Accused twice if he was saying that he was responsible for the accident and he did not give a clear yes or no answer. He however stated that he feels responsible and he was the captain of that car and it was his responsibility. The accused further admitted that the vehicle he was driving was defective. A reasonable assumption can be made that he was accepting responsibility for the

offence. The Learned Judge further asked him if he understood the legal consequences when he accepts responsibility. The Accused's response was, *"Yes, Your Honour, this is what I know I came with the intention of being forthright. I do not want to waste the court time."*

[17] The second aspect of the first ground can be summarized as relying on erroneous advice and/or pressure to plead guilty from counsel. Learned Counsel for the Accused relied on the case of **R v Turner** [1970] 2 QB 321 where it was held that, if at the time of pleading the accused was subjected to such pressure that there was no genuinely free choice between guilty and not guilty then the plea is a nullity. He also relied on the case of **R v Sorhaindo** (2006) EWCA Crim 1429, where the England and Wales Court of Appeal held that where an accused has been erroneously advised that his factual cases afforded him no defence, he should be permitted to vacate the guilty plea that he entered in reliance on this advice. Those 2 cases were useful in making a determination in this matter, however, they do not support the position that the Accused is taking as they can be easily distinguished from the case at bar.

[18] In **Sorhaindo**, the prosecution's case was that money found on a property on which the appellant lived was from the proceeds of drugs, referred to as the money laundering counts. However, the appellant maintained that the money found was earned by him from promoting a series of raves. At the trial there was an interval during which time legal advice was given to the appellant by his representatives and as a result of those discussions the appellant changed his plea to guilty on those said money laundering counts. The basis for his plea was reduced to writing and it still maintained that the money was from a series of raves he promoted and that it was not in any way connected or associated with the supply or possession of drugs. Having seen the basis of the plea and hearing submissions from counsel for the prosecution and the defence, the judge correctly found that the basis of the plea as it stood did not amount to offences under the Proceeds of Crime Act. The judge then took the view that in the absence of a valid basis of plea, he would sentence the appellant on the basis of the prosecution's case, namely that the

money found was connected with drugs. An application was made on behalf of the appellant to withdraw his guilty plea on the basis that it was clear from the written plea that the appellant did not accept the prosecutions version of events and therefore did not intend to plead guilty on that basis. The appellant gave evidence to that effect and made it clear that he relied upon the advice given to him and save for that advice he would not have pleaded guilty. The appellant also repeated on at least six occasions when giving his evidence that his counsel had told him that the jury were bound to find him guilty. The judge refused the application. The England and Wales Court of Appeal found that by rejecting the application to withdraw the guilty plea, the judge failed to give any, or at any rate any sufficient, weight to the fact that the appellant had manifestly pleaded guilty on the basis of wrong advice and the exercise of his discretion was therefore flawed.

[19] There was cogent evidence of the erroneous legal advice that was given to the appellant in **Sorhaindo**, there exists no such evidence in the case at bar. I am mindful of the contentions of Learned Counsel for the Accused that, further to their instructions, their client was advised by previous Counsel that the best course of action is to plead guilty based on the strength of the prosecution's case and that they were unable to procure any signed and written instructions concerning their client's voluntariness to plead guilty and their client's contentions make it abundantly clear that his plea was not voluntary, rendering it a nullity. There is nothing before the Court to suggest that, other than mere assertions. Even though there was difficulty in obtaining any documentary proof from Ms. Bryan, there is also nothing forthcoming about what the advice from the Accused's previous Counsel was. Learned Counsel for the Accused directed the Court to excerpts from **Blackstone Criminal Practice 2024** and **A Practical Approach to Criminal Procedure 14th Edition,** however it is not clear if he is saying that previous Counsel for the accused told the Accused that pleading guilty was his only course of action whether he committed the offence or not based on the strength of the Crown's case.

[20] I will adopt the summary as outlined in **Turner**:

> *The defendant pleaded not guilty at his trial on a charge of theft. He had previous convictions, and during an adjournment he was advised by his counsel in strong terms to change the plea; after having spoken to the trial judge, as the defendant knew, counsel advised that in his opinion a non-custodial sentence would be imposed if the defendant changed his plea, whereas, if he persisted with the plea of not guilty, with an attack being made on police witnesses, and the jury convicted him there was a real possibility of a sentence of imprisonment being passed. Repeated statements were made to him that the ultimate choice of plea was his. He thought that counsel's views were those of the trial judge; nothing happened to show that they were not and the defendant changed his plea with the result that a formal verdict of guilty was returned.*
>
> *On appeal against conviction, on the ground that the defendant did not have a free choice in retracting the plea of not guilty and pleading guilty:-*
>
> *Held, allowing the appeal, that counsel could properly advise a defendant in strong terms to change his plea provided that it was made clear to him that the ultimate choice was freely his (post, p. 325B-C); but that, if the advice was conveyed as that of someone who has seen the judge, a defendant should be disabused of any impression that the judge's views were being repeated (post, p. 325C-E); that as the defendant may have felt that the views expressed were those of the judge he could not be said to have had a free choice in changing his plea, and that, accordingly, the plea of guilty should be treated as a nullity and a venire de novo ordered.*

Similar to **Sorhaindo**, there was evidence in **Turner** as to the nature of the advice that was given to the appellant by his representatives, which as was stated earlier no such evidence exists in the case at bar. There is only the assertion that he was told that the best course of action is to plead guilty based on the strength of the prosecution's case. As was seen in **Turner**, an accused's counsel could properly advise their client in strong terms to change his plea provided that it was also made clear that the ultimate choice rests with the client. There is only so much and no more that the Court can infer from what the Accused has put forward without falling into sheer speculation.

[21] In my view, the plea given by the Accused was unequivocal and voluntary. There is nothing before the Court to suggest that the Accused did not understand and did not appreciate the elements of the offence, nor is there anything to suggest that

he was subject to such pressure that there was genuinely no free choice between guilty and not guilty.

[22] The second ground that the Accused is relying on is that he was not properly advised on the implications of such a plea, which could affect his livelihood. I am guided by the case of **ex parte Rowland** *(supra)* where it was held that the magistrates were entitled to balance the instructions the applicant had given her solicitor after the first hearing against the prospect that the applicant had changed her story because of the possibility that she might receive a custodial sentence, and accordingly they were entitled to exercise their discretion not to allow the applicant to withdraw her unequivocal plea of guilty.

[23] Even though there was no indication by this Court as to whether the Accused would be given a custodial sentence or not, the principle from **ex parte Rowland** is instructive. I agree with the submissions of Crown Counsel that this is not a sufficient basis on which the Court should exercise its discretion. The mere fact that the implications of a guilty plea could affect the livelihood of the Accused is not sufficient basis for the Accused to be permitted to withdraw his guilty plea, especially in light of the fact that at the time when he pleaded guilty he understood the nature of the charges.

[24] The third and final ground that the Accused's constitutional right to a fair trial would be breached if he is deprived of a good and reasonable defence with a high likelihood of success also fails. Even though there was no eyewitness, it is my view that the Accident Reconstruction Report can effectively challenge the veracity of the Accused's account. Learned Counsel for the Accused contended that the standard of driving for this particular offence must fall far below what is reasonably expected of a competent and careful driver and it must be evident to a competent and careful driver that the manner of driving is dangerous and further that it is for the prosecution to prove the elements of the offence beyond a reasonable doubt. He further contended that an adequately directed tribunal of fact ought to deal with this fact in issue.

[25] On the other hand, Crown Counsel submitted that the Accident Reconstruction Report is sufficient to challenge the veracity of the Accused's account as it shows that in respect of where the Accused's vehicle came to a stop (on the sidewalk), the likely speed at which he was travelling (50-80 kilometers per hour), and where the Accused was likely to have been (on the sidewalk). This, it was further submitted, establishes the offence. I share a similar view to that of Crown Counsel. Not only does the Accident Reconstruction Report show what was mentioned above, but the Accused admitted at the Coroner's Inquest that the vehicle he was driving was defective. Even though the Accused has admitted and accepted that the motor vehicle he was driving was defective, it was certified that the vehicle that the Accused man was driving was defective and a Certificate of Defects dated 2021/05/06 was issued.

[26] The Accused's own account of how the accident occurred raises the issue of his credibility. The position of the Accused at the Coroner's Inquest is that there was bumper to bumper traffic that morning which contradicts his answer in the Question and Answer session that the vehicular traffic was moderate. The Accused also stated in the Question and Answer session that the speed he was travelling was 40-50 kilometers per hour, which is somewhat consistent with the speed that was outlined in the Accident Reconstruction Report. The said Report stated that he was going in excess of the speed limit, about 50-80 kilometers per hour, 50 kilometers per hour being the similar speed agreed.

[27] I am also mindful of the fact that the Accused has also maintained that he was not speeding. However, speeding is only one aspect that is considered with this offence. Section 30 of the **Road Traffic Act** outlines the elements of the offence as causing, *"the death of another person by the driving of a motor vehicle on a road recklessly, or at a speed or in a manner which is dangerous to the public."* Section 30 further states that in dealing with this offence one should, *"…have regard to all the circumstances of the case, including the nature, condition and use of the road, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road."* While the Accident Reconstruction

Report does not outline what traffic was like, it stated that damage to the front of the Accused's vehicle was one of extensive nature. It further stated that while no conclusion could be drawn as to what caused the Accused to leave the roadway and proceeded onto the sidewalk, it was opined that unless the driver deliberately drove from the roadway to the sidewalk, it would be due to some level of careless maneuvering for the vehicle to leave from the roadway to the sidewalk. I should also note here that the Accused stated that he swerved to the sidewalk to avoid hitting the deceased who was already in the road, and it was the deceased who ran back onto the sidewalk when she became aware of his vehicle. However, he also admitted that due to shock he did not apply his brakes.

[28] The Court in **Revitt and others** *(supra)* held that the court hearing an application to withdraw a guilty plea appreciated that the facts relied upon by the prosecution did not add up to the offence charged then justice would normally demand that the defendant be permitted to withdraw his plea. In my judgment, the facts relied upon by the Crown in this case does add up to the offence charged and justice would therefore demand that the Accused ought not to be allowed to withdraw his plea. Based on the facts before the Court, there is a prima facie case that the Accused was driving in a manner in breach of section 30 of the **Road Traffic Act.**

[29] However, even if I were to accept that the Accused would be deprived of a good and reasonable defence with a high likelihood of success, this ground cannot be looked at in isolation. The Accused's plea was unequivocal and voluntary and there is nothing to suggest that he did not appreciate the elements of the offence to which he pleaded guilty. In my judgment, there would be no breach of the Accused's constitutional right to a fair trial as at the time when he pleaded guilty to the offence he was aware of the nature and particulars of the said offence. Therefore, this is not an appropriate case to exercise my discretion in allowing the Accused to change his plea of guilty to not guilty.

ORDERS & DISPOSITION

[30] In the light of the forgoing, these are my Orders:

(1) Application refused.

(2) Sentence is set for May 30, 2025.