

IN THE HIGH COURT OF AUSTRALIA  
ADELAIDE REGISTRY

No. A22 of 2015

BETWEEN:



WAYNE DOUGLAS SMITH  
Appellant  
*APPELLANT*  
and

THE QUEEN  
Respondent

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*APPLICANT'S*  
~~APPELLANT'S~~ CHRONOLOGY

**Part I:**

I certify that this chronology is in a form suitable for publication on the internet.

**Part II:**

20 **11<sup>th</sup> December 2012** The appellant, Miller and another began drinking alcohol.<sup>1</sup>

**12th December 2012** The same three attended at the Elizabeth Tavern and purchased a carton of West End Draught beer.<sup>2</sup> They took the carton to Hayles Rd and continued drinking at that premises. They met both Presley and Betts at that premises, along with others. They were all intoxicated.<sup>3</sup>

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Betts and Presley, and another left the premises to look for somewhere to purchase cannabis.<sup>4</sup> They were confronted by both Hall and King (the complainants) at the end of a laneway on Grant St and an argument ensued, which resulted in Betts being struck in the face.<sup>5</sup>(the first confrontation)

Betts and Presley returned to Hayles Road, Betts complained of being struck<sup>6</sup> and Presley said they should go back and see what the problem is<sup>7</sup> and obtained a baseball bat.<sup>8</sup> Betts and Presley were joined by the appellant and Miller (and potentially others) and returned to

<sup>1</sup> T843L35 & T832L29-32

<sup>2</sup> T817L18

<sup>3</sup> T830L35-37

<sup>4</sup> T762L9-17

<sup>5</sup> T594L1 & T599L8-21 & FC 9

<sup>6</sup> T762L31

<sup>7</sup> T763L6-11 & FC 10

<sup>8</sup> T762L24

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the laneway.<sup>9</sup> An altercation ensued (the second confrontation) during the course of which Hall was stabbed (by Betts) and King was injured.<sup>10</sup>

The appellant, Miller, Presley and Betts returned to Hayles Rd and someone stated we had a fight we smashed them.<sup>11</sup>

After approximately 5-10 minutes the appellant, Miller, another and Betts drove to Northampton Crescent.<sup>12</sup>

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**13<sup>th</sup> December 2012** The appellant was seen walking along Talbot St towards Northampton St at 2.30am.<sup>13</sup>

At 5.15am, a police officer noticed the appellant asleep in the back seat of a green Hyundai in the driveway of the Northampton Crescent address.<sup>14</sup> The appellant told him that he had been drinking at Warriar's house the night before between 6.30pm – 11.30pm.<sup>15</sup>

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The Appellant was not seen at that house until 12 midnight.<sup>16</sup>

The Appellant was arrested at 5.45pm at his home address.<sup>17</sup>

A blood sample and buccal swab were taken from the Appellant at 10.30pm.<sup>18</sup>

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A shovel with Hall's hair and DNA was found at 30 Butterfield Rd,<sup>19</sup> the same premises as the knife, which too had Hall's DNA on the blade.<sup>20</sup> No DNA was able to be retrieved from the shovel handle.<sup>21</sup>

**May 2013**

There was no evidence of the appellant's DNA on any weapon or the victim's clothing. There was no bloodstains on the clothes he was wearing.<sup>22</sup>

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<sup>9</sup> T762L19

<sup>10</sup> CCA at [10] – [17]

<sup>11</sup> T768L30-31 & FC 18

<sup>12</sup> T817L25-33

<sup>13</sup> T1110L11-22 & FC 22

<sup>14</sup> T999L33-37 & T1001L4

<sup>15</sup> T1001L37 – T1002L2 7 FC 22

<sup>16</sup> T1027L25-29

<sup>17</sup> T1035L27 & T1036L11 & FC 22

<sup>18</sup> T1039L12-20 & T1204L15-16

<sup>19</sup> T1012L10-13

<sup>20</sup> T1426L21-24 & FC 27

<sup>21</sup> T1422L25-T1423L9 & FC 28

<sup>22</sup> T1415L7-38 – T1416L1-11

**Date unsure** The appellant's fingerprints were found on a Passion pop bottle that was found in or near the deceased's hand. The fingerprints were in a position consistent with a person pouring the bottle or drinking from it or holding it upside down around the base of the bottle, in a position inconsistent with the bottle being held and used as a weapon.<sup>23</sup> The deceased was a contributor to a DNA sample obtained from a blood stain on the bottle. The appellant was excluded as a contributor to the DNA found on the mouth of the bottle.<sup>24</sup>

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There was .02mg of diazepam, .02mg of nordiazepam, 12 micrograms of THC, 100 micrograms of carboxy THC and no alcohol detected in the appellant's blood.<sup>25</sup>

**7<sup>th</sup> April 2014** The Appellant stood trial before His Honour Justice Stanley on charges of murder and aggravated cause harm intending to cause harm contrary to s11 and s24(1) of the *Criminal Law Consolidation Act 1935 (SA)*.

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**16<sup>th</sup> May 2014** The jury found the appellant guilty of murder; and aggravated cause harm intending to cause harm, aggravated on the basis of being in company but found the aggravating feature on the basis of having an offensive weapon not proved.

**22<sup>nd</sup> December 2014** Justice Stanley sentenced the appellant to life imprisonment with the mandatory non-parole period of 20 years for murder and 3 years for aggravated cause harm intending to cause harm (concurrent) to begin on the 30<sup>th</sup> January 2013.


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**28 April 2015** The Full court of the Supreme Court of South Australia dismissed the appellant's appeal against conviction.

**30<sup>th</sup> January 2033** The Appellant will be eligible to apply for release on parole.

Dated 23<sup>rd</sup> March 2016

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 .....(signed).....

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<sup>23</sup> T1232L19-38& T1234L21-38 & T1235L7-23 & FC 29

<sup>24</sup> T1419L21-22 & T1421L9 & FC 29

<sup>25</sup> T1192L3 -T1193L8