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IN THE SEYCHELLES COURT OF APPEAL

JERRIS LEON

APPELLANT

VERSUS

THE REPUBLIC

RESPONDENT

Criminal Appeal No. 1 of 1996

Before: *Goburdhun P., Ayoola, Venchard JJA*

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Mr. F. Bonte for the Appellant

Mrs. G. Antao for the Respondent



JUDGMENT OF THE COURT

On 22nd November 1995 the appellant Jerris Leon was convicted by the Supreme Court of the offence of "being in any building whatever by night with intent to commit a felony therein contrary to Section 293(f) of the Penal Code," ("the Code") and theft contrary to Section 260 of the Code. He was sentenced to imprisonment of two years and three years respectively for the offences. He has now appealed against conviction and sentence.

On 11th September 1993 in the early hours of the morning a Casino called Casino des Seychelles was broken into and a sum of Rs.240,000 stolen therefrom. There was no direct evidence of the perpetrator of the crime. In the course of investigation of the crime Detective Assistant Superintendent Paul Bedier a fingerprint expert and analyst carried out fingerprint examination of the locus of the crime from where he lifted fingerprints impressions which on comparison matched the fingerprint impressions of the appellant. Giving evidence at the eventual trial of the appellant Mr. Bedier described the place where he had lifted the fingerprint impression which had matched that of the appellant. The upshot of his evidence was that the person who

from the inside of the drawer. On the inside the material was plywood, but the cover was formica." Whereas Mr. Bedier had said that:

"The print was on the middle drawer in a position while the drawer was open, it was about 1 inch below, meaning we're talking about position, it's an inch below the top of the drawer and on the inside, on the outside there was Formica and the inside there was plywood inside the drawer."

Questioned, "Where did you lift up the print?", he had answered, "On the outside on the Formica but it is facing the inside on the Cashier's office." Mr. Bedier had not shown particular articulateness in describing events. His confusing use of "inside" and "outside" in relation to the cashier's office and the drawers therein makes the remark that the fingerprint was lifted from the inside of the drawer understandable, erroneous though it was. However, having regard to the rest of the evidence this discrepancy was inconsequential. What was important as circumstantial evidence was the location of the appellant's fingerprint in an area in the Casino to which the public had no access and which turned out to be the location of the crime. This fact was alive in the mind of the learned Chief Justice when he observed that:

"The accused it will be recalled never said that he had been behind the cashier's counter but he had gone to talk to Brian Fred who was behind the counter."

The inculpatory fact of the appellant's fingerprint being found behind the cashier's counter could thus not be explained upon any other reasonable hypothesis other than that of guilt. The appeal against conviction is without substance and it would be dismissed.