

SUPREMECOURT OF SEYCHELLES

Reportable

[2022] SCSC 1099

CO 2/2022

In the matter between:

THE REPUBLIC

Prosecution

And

GEORGES POOL

Accused

Neutral Citation: *The Republic v Georges Pool* (CO 2/2022) [2022] SCSC 1099
(13 December 2022)

Before: Adeline J

Summary: Objecting to the production of sketch plan pertaining to road traffic accident in evidence/ Issue of admissibility of sketch plan in evidence/ legal requirements for sketch plan to be admitted in evidence.

Heard: By Submission

Delivered: 13 December 2022

RULING

ADELINE, J

[1] This is a ruling on an objection raised by defence Counsel, Mr. Joel Camille, to the production of a sketch plan by Police Officer, CPL Claudia, Dogley as evidence for the prosecution in the course of the trial of the accused, Georges Pool. Learned Counsel's objection stems from his contention that, the sketch plan does not meet the requirements of the law as set out in ***Balfour vs The Republic, (Criminal Appeal No 22 of 1976) SLR 1976, 59***, in that, as per learned Counsel's submission, the sketch plan should have been "agreed by the parties involved including the accused person, and the fact that the

accused had been transferred to the Central Police Station at the time that the sketch was done is no good reason for him not to have been brought at the scene and agreed on the positioning in regards to the drawings; Learned Counsel proceeded to add, that the parties will then sign and agree.” Learned Counsel, relying on Balfour (Supra) went on as to say, *“that the legend had to be on a separate piece of paper”*.

[2] Learn Counsel representing the Republic, Ms. Corrine Rose, Countering learned Counsel for the defence argument, cited the case of the ***Republic v/s Hoareau [1977] No9***, in which case the Court referred to Balfour (Supra). Learned Counsel submitted, that in Hoareau, (Supra) the Court did say, that the sketch plan should, if possible, be made in the presence of the parties to the accident and the agreement sought as to its accuracy if possible either verbally or by signature”.

[3] Learned Counsel proceeded to add that, whilst his friend is correct as to what the Court said in Balfour, in Hoareau (Supra) the Court said that if possible, the procedure should be followed. As she put it, “it is not cast in stone that the accused person should be present, but in this judgment, it is stated, that it depends upon the possibility of the accused person being present, and the witness has explained in Court my Lord that it was not possible in this case to secure the accused presence at the scene because he had already been transferred to the Central Police Station which is far away from the Anse Boileau Police Station where this accident happened”.

[4] I have read both cases cited by learned Counsels on both sides of the equation. I agree with the construction by learned defence Counsel of the rules in terms of the requirements set by the case of Balfour as regards to the admissibility of sketch plan in evidence in respect of road traffic accidents. I equally agree with learned Counsel for the prosecution, that admissibility revolves around possibility. What the case of Hoareau (Supra) has done, is to modify the rules in Balfour by effectively saying, that the rules should be adhere to if possible. In fact, in Hoareau, (Supra) the court criticised the learned Magistrate who presided over the case as having “read too much into that part of Balfour”.

[5] In essence, in the case of Balfour (Supra), the Court had this to say;

“that the failure to produce the proper sketch plan was, I consider, fatal to the prosecution’s case, and I would point out that the sketch plan was not entirely satisfactory as it was not signed or agreed by the parties and as the legend was part of the plan instead of being on a separate sheet as is the normal requirements”.

[6] Therefore, based on these two case law authorities, it is my considered opinion that, the rules regarding the admissibility of sketch plan in evidence in road traffic accident is quite settled. That is, the sketch plan has to be signed or agreed by the parties, and the legend has to be on a separate sheet subject to the existence of the possibility of these things happening.

[7] Being satisfied that, the possibility was nonexistence because the accused had already been taken to the central Police Station, and that it was impractical to take him back to the scene of the accident at Anse Boileau, I therefore accepts the prosecution’s explanation as to why the sketch plan has not been signed or agreed by the parties, primarily, because it was not possible to take the accused to the scene of the accident to secure his agreement, and or his signature on the sketch plan. In the circumstances learned defence Counsel’s objection is overruled.

Signed, dated and delivered at Ile du Port on 13th December 2022

Adeline J