

The Primary Witness

Shamsuddin Mahmood was murdered on 2nd June 1994. Twelve years later, on 2nd September 2006, a man by the name of William Grant walked in to Kirkwall police station and handed in an anonymous letter:

*"This is a true letter. I promise that I saw the person who killed the Indian waiter. I saw his face in full and the **hand gun**. It was in the toilets at kiln corner. I have lived long enough with the guilt of not coming forward.*

*The person was about 15+ years approx - white, and had a balaclava on his head but still not turned down, colour was either dark blue or black, dark clothing. He came out of a cubicle but went back in quick when he saw me. I looked over and saw his face in full. The **hand gun** was natural polished metal or silver and like a **big beretta**.*

*This may sound stupid but the way he held a **hand gun** looked like he had handled a **firearm** before.*

*I just don't ken what to do!
Worried sick witness!"*

- **Notice the terminology used in this letter. The words "*hand gun*" have been used 3 times and the word "*firearm*" has been used once. How likely is it that a lay person would use these terms to describe, what most ordinary people would simply describe as, a "*gun*"?**
- **During Mr Grant's trial testimony, he gave no indication of any prior knowledge of guns or shooting that would have enabled him to identify the make of a hand gun to be a "*big beretta*".**
- **The final statement, appears to be a very definite judgement, based on a sighting that only lasted a matter of seconds: "*the way he held a hand gun looked like he had handled a firearm before*". On what basis was this judgement made?**

Subsequently Mr Grant, having been recognised by the administration assistant at the police station, was interviewed in connection with the claims made in his letter. One of the police officers on duty on the 2nd September 2006, a local DC, was given the letter by the office worker and told the identity of the man responsible for handing it in. He was also familiar with Mr Grant. They had known each other since they were children and had attended school together. Additionally, they were both members of the local Masonic Lodge. The same DC was the production officer for the murder case. This means that he was responsible for cataloguing all 'productions'; for example, statements and other documents, physical evidence and crime scene photographs and video.

Mr Grant's first two statements were taken in Orkney by this local DC (hereafter referred to as 'RP') and another officer. His second two statements were taken in Inverness by other officers assigned to the murder case. The decision to take Mr Grant to Inverness as opposed to interviewing him in Orkney was highly unusual given that interviewing officers would usually deal with any potential witnesses in the area where the crime had taken place. Mr Grant was accompanied to Inverness by RP and this involved an overnight stay.

There follows an analysis of the information provided to the police by William Grant. This will look at all of the information that he gave that was relevant to the enquiry, from initial interviews to trial testimony.

Mr Grant was correct about the following points:

Michael Ross had been in the same class as Mr Grant's niece at school and he was able to tell police this fact. He gave this as the reason that he knew some details about Michael; **however, Mr Grant's niece gave evidence at Michael's trial to the effect that she had never had a discussion with her uncle about Michael Ross.**

Having not been inside the building for 12 years, Mr Grant was able to give a photographic description of the exact layout of the inside of the Kiln Corner toilets. He remembered that there were 4 cubicles, all with wire mesh over the top of the doors; one small stainless steel sink; approximately 5 urinals; a stone floor and finally, a cleaning cupboard on the back wall. At the time that Mr Grant came forward in the enquiry, the toilets at Kiln Corner had been long since demolished giving him no opportunity to visit them prior to giving his statements.

Mr Grant was able to give the name of one customer that had been drinking in the 'Torvhaug' bar, where he said that he had been for a drink on the evening of 2nd June. This customer's presence in the bar was able to be confirmed from a barmaid's statement given in 1994.

Mr Grant's accounts of the following were incorrect:

Mr Grant initially said that he'd lived in Kirkwall in 1994 when he actually lived on the island of Stronsay, which is a 2½ hour ferry journey from the mainland. He said that the car he'd owned at the time had been an 'Audi' but it was actually a 'Sierra'. He gave the name of a barmaid that he'd spoken to in the 'Torvhaug' on the 2nd June 1994, but it later transpired that the 2nd June was her evening off. Mr Grant couldn't remember whether or not he had a mobile phone in 1994. Defence counsel Donald Findlay pointed out to him at the trial of Michael Ross that he did indeed own a mobile phone in 1994 and was able to give him the telephone number.

Mr Grant changed position on the following points:

Initially Mr Grant said that he was on the island of Hoy on the day after the murder and hadn't heard about it until the evening of 3rd June 1994. He later said that he'd heard about the murder during the day on 3rd June and that he hadn't been on Hoy at all. At trial, in complete contradiction of his earlier claims, his testimony was that he found out about the murder in the Masonic Lodge on the evening it happened, the 2nd June. Mr Grant's ex-wife gave a statement that suggested that he'd been in the vicinity of the restaurant just after the murder had happened and had called her on his mobile phone and described what was happening at the scene of the crime. **Please note: William Grant's name only appears in the case files from 2006. He was never interviewed in 1994, although he claimed he was in 3 pubs, in the vicinity of Kiln Corner toilets and it also appears that he may have been at the scene of the murder right after it happened.**

Initially Mr Grant said that he'd taken his vehicle in to Kirkwall on the boat from Stronsay on 1st June and that on the afternoon of 2nd June had gone for a drive around the Orkney mainland to "kill time", giving an exact route taken. He later said that he hadn't taken his car into town and had not gone for a drive. At trial he conceded that he'd been wrong about taking his car in and wrong about what type of car he had in June 1994.

In his initial police interview, Mr Grant stated that he had been in Kiln Corner toilets on 2nd June between 7:30pm and 9:00pm. He later changed his mind, saying that he remembered leaving the 'Ola' bar to go to Kiln Corner toilets at 7:00pm and he remembered seeing the time on the 'Ola' clock. **His later account of the timing was more in line with the facts of the case.** At trial he conceded that he would have had no idea what time it had been given that 12 years had passed.

Mr Grant initially said that the gun that he had seen Michael Ross holding in the Kiln Corner toilets was "*shiny silver*". He later said that he was wrong about this and that the gun was grey/black. **His latter testimony was more in line with what eye witnesses from 1994 had said about the gun.**

The clothing that Mr Grant described Michael Ross as having worn that evening also changed several times. He initially said that Michael had worn dark coloured trousers, jean type and a sweatshirt. He later said he'd been wearing a zip-up top with elasticated cuffs which he described as a "*jerkin*". His final position on the matter was that Michael had worn dark coloured trousers/jeans and a navy sweatshirt with two pockets at the front and a drawstring for the hood. **His latter testimony was more in line with what eye witnesses from 1994 had said that the killer had worn.**

Mr Grant's evidence at trial on his movements directly after Kiln Corner bore no resemblance to anything he had said in his statements. His trial testimony was that he had gone to the Masonic Club right after being at Kiln Corner toilets and it was there, on that same evening that he heard about the murder. He said that he hadn't thought that there was a connection between the murder and what he'd witnessed in Kiln Corner toilets, but this had occurred to him after some days had passed. However, Mr Grant initially gave statements that doubly contradicted his position at trial. He first said that he had gone from Kiln Corner toilets to The Royal Hotel in Victoria Street where he spoke to his cousin. At this point he stated that he hadn't said anything about his alleged 'sighting' but at a later point, said that he had told this cousin of his sighting of the 'man' in the toilets and the cousin had advised Grant to keep it to himself. In another statement, in contradiction of the first, he states that he had in fact gone to Wellington Street directly from Kiln Corner to see another of his cousins and he spoke to him before going on to the Royal Hotel. At this point he says that he told the Wellington Street cousin about what he'd seen. By 2006, both of these cousins had passed away. By coincidence, the cousin from the Royal Hotel had given a statement in 1994 with information unrelated to this but relevant to the enquiry, and he made no mention of speaking to William Grant on the evening of the murder.

Mr Grant gave information on an earlier sighting of Michael Ross shouting racist abuse outside the restaurant which he said took place around 2 weeks prior to the murder in May 1994. He said that Michael had been with two other 'army type' youths who were not named. **There was no other report of this in 1994 from either a member of the public, or any of the restaurant staff.** At trial in 2008, Mr Grant conceded that he would not have known who Michael Ross was at the time that the alleged abusive behaviour took place.

Throughout Mr Grant's police interviews, he stated that he had known instantly that the person he had seen in Kiln Corner toilets was Michael Ross. At trial, during cross examination by QC Donald Findlay, Mr Grant's position was as follows:

QC: *"If you did see someone in the toilets, are you saying that you don't know who that was?"*

WG: *(Long Pause) "No"*

QC: *"What ARE you saying?"*

WG: *"I am not sure really"*

QC: *"Over the period of the 12 years, there have been many stories about this murder?"*

WG: *"Oh, yes"*

QC: *"When you told the police that the person you saw was Michael Ross, may it be that you have allowed yourself to be influenced by what you had seen, read or heard?"*

WG: *"Very possibly, yes"*

QC: *"It was not Michael Ross that you saw that night, would that be right?"*

WG: *"I am not sure. Maybe it could be right"*

QC: *"Important for everybody, could that be right?"*

WG: *"I don't know what to say. **It very possibly wasn't**"(Michael Ross)*

Later on in the trial testimony, there was the following exchange between Mr Grant and Mr Findlay:

QC *"Is your evidence that when the person came out of the toilet you recognised him as someone you thought you knew, you thought it was Michael Ross?"*

WG: *"Yes"*

QC: *"When did the name Michael Ross come to you?"*

WG: *"It was quite a while after. I have no idea how long. It was probably days after; days or weeks. It was more than days later. I have no idea how it came to me, I must have been speaking to someone about it. I must have been describing the person I saw. I spoke to quite a lot of people. I was not talking about the person that I saw in the toilets"*

QC: *"Who were you describing?"*

WG: *"I don't understand"*

QC: *"Are you suggesting that, until the name Michael Ross was said to you, you did not know who that was?"*

WG: *"He looked familiar but I wasn't sure. **I was wrong to say** that I saw the person and straight away recognised him as Michael Ross"*

QC: *"That is monstrous?"*

WG: *"Yes"*

QC: *"This was someone that you recognised and it was only when the name was given to you, that you said it was Michael Ross?"*

WG: *"Yes"*

QC: *"Was it a civilian or a policeman?"(that provided the name Michael Ross)*

WG: *"I am not sure"*

QC: *"Could it have been a policeman?"*

WG: *"Quite possibly. It could have been at the Masonic Lodge"*

QC: *"Who might it have been?"*

WG: *"Could have been any of quite a few people. If I was to say a name I might be wrong. I don't know. I'm sorry"*

(Taken from documents provided to Michael Ross by his legal representatives)

Mr Grant's Significant LIE:

Early on in his police interviews, Mr Grant stated that he had been in a fight with Edmund Ross (Michael's father) while PC Ross had been on duty at a country dance. He described having a tussle with him and pinning him to the ground by the throat with his own police baton. He gave the name of another man that had been involved at the time. Police went to speak to the man, who flatly denied that any such occurrence had taken place. Mr Grant then admitted to police officers that he had lied. He also admitted under cross examination at trial that he had lied about this, but could give no reason for lying other than "stupidity". The name 'William Grant' did not appear in any of the police notebooks used by PC Ross. **The above account was given to police officers in an interview, but it was never recorded in a police statement. It transpired that the statements of Mr Grant could not be noted as he gave them because his accounts kept changing, therefore police officers 'took notes', the details of which were then selectively recorded in his final statements.**

An Observation on 'Memory'

Mr William Grant sat in front of police officers on at least four occasions. He couldn't remember where he'd lived in 1994 or what type of car he owned. He'd forgotten whether or not he'd owned a mobile phone – he did. He blatantly lied about an altercation with Edmund Ross. He changed his position on almost everything he said; and yet:

He remembered the exact layout of the Kiln Corner toilets with photographic clarity, having only been in there a handful of times and never again after 2nd June 1994, after which all of the buildings at Kiln Corner had been demolished. **At trial, no expert on 'Memory and Recall' was ever asked for an opinion on the reliability of this one example of such extraordinary recall in the midst of so many other inaccurate 'memories'.**

Further Points of Interest

In his police interviews, Mr Grant said that he left the toilets in a hurry after seeing Michael Ross, but he watched him exit the toilets from across the road. He described seeing Michael Ross leave Kiln Corner toilets with the balaclava still rolled up on top of his head and that he had witnessed him pulling it down over his face while crossing the road. **This absolutely contradicts what all witnesses said at the time of the murder in 1994. The killer was seen by several people outside Kiln Corner toilets and seen crossing the road. At all points, his balaclava was pulled down over his face. Interestingly, none of these witnesses described seeing William Grant, although he may well have been known to some of those witnesses.**

RP gave evidence at the trial of Michael Ross, where he confirmed that he had known Mr Grant since school days. He also confirmed that they were acquaintances from the Kirkwall Masonic lodge. As already stated, Mr Grant gave police an account of confiding in two of his cousins on the evening of the murder, separately, telling them both about witnessing the man with the gun in Kiln Corner toilets; however, both of these men had died by the time William Grant came forward in 2006. **During his trial testimony, RP gave evidence,**

under oath, that William Grant had told him in the Masonic Lodge at some point in the summer of 1994 that he had been in Kiln Corner toilets on the evening of the murder. In giving this testimony, RP provided the only corroboration as to William Grant's presence in Kiln Corner toilets at the relevant time:

QC *"Sometime in the summer, knowing you were a policeman, and from childhood, he spoke to you by way of a question and clearly knew you were connected to the murder enquiry. Did he not hint whatsoever that the police should interview him?"*

RP *"I never realised that he'd seen anything. If I had followed it up, would he have said something? I don't know."*

QC *"Mr Grant in the summer of the shooting spoke to you – one of only two detectives in Orkney"*

RP *"He did ask if he would be seen by police. He didn't say he had any information."*

(*'The Orcadian'*, May 2008)

If the above account is genuine, it is truly remarkable that RP did not think to enter William Grant's name into the police enquiry as a crucial witness for follow-up on finding out soon after the murder that he'd been in the Kiln Corner toilets on the night in question. Police were desperate for information in the days and weeks after the murder and had appealed to anyone that had been in the town centre to come forward and give a statement. Kiln Corner toilets had been treated as a 'crime scene' and examined by scenes of crime officers after the murder. It had been photographed, filmed, forensically examined, and police had traced and spoken to other people that had used this public toilet that evening of 2nd June 1994.

Mr Grant gave an account of seeing Michael Ross on two separate occasions, once shouting racist abuse outside the Mumutaz Restaurant on an unconfirmed date in May 1994 and once wearing a balaclava and holding a gun in a public toilet just minutes before the murder occurred. This gave police two key pieces of 'evidence' that had been missing for 12 years – an eye witness placing Michael Ross near the crime scene and a possible motive for the murder. Finally, he gave an exact, photographic description (from a 12 year-old memory) of the inside of Kiln Corner toilets alongside other testimony that was confused and haphazard.

The charges against Michael Ross in May 2007 were brought about by a 'cold case review' which started when William Grant came forward in September 2006. After the conviction of Michael Ross on 20th June 2008, Edmund Ross made a complaint about the manner of William Grant's evidence and he alleged corruption by one or more of Northern Constabulary officers. His complaint was investigated and he was told in the final response that:

"he (William Grant) was held to have been a credible witness throughout the legal process" and that there was ***"no evidence that Northern Constabulary failed or neglected to perform a lawful duty in terms of William Grant's credibility as a witness"***

WHAT DO YOU THINK?