

the same side.

Q. They're both on the same side?

A. Same side, yes sir.

5

<RE-EXAMINATION BY MR LAVAC

Q. Could the witness be shown exhibit C, photograph 6 please. Mr Bennett you told us about Bullock striking this vase. Remember telling us that?

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HIS HONOUR: If you look at the last photo I think has got the vase.

15 LAVAC

Q. Photograph 6, the very last in that bundle, see that photograph?

A. Yeah.

20

Q. You told us that Mr Bullock struck a vase, remember telling us that?

A. Yes I did.

25

Q. Does that appear to be the vase?

A. Yeah, it was the vase.

Q. Now you told us that the vase was a treated aluminium shell, that was your evidence?

30

A. Yeah.

Q. What do you mean by that, a treated aluminium shell? What does that mean?

A. I thought it was aluminium. The ones that they had there before were aluminium - I didn't expect it was this one.

35

Q. The one you're looking at now that's not an aluminium?

A. No, it's a concrete - this is still a concrete one.

40

Q. Does that refresh your memory now as to what vase was there on the morning of 9 April?

A. Yes it was.

45

Q. Was that the vase?

A. That was the vase. I thought it was aluminium but the ones way before them when I was working were aluminium. They were slight ones like that but it was a long time ago. I didn't expect my memory--

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<THE WITNESS WITHDREW

<SHANE MAGUIRE, AFFIRMED(3.00PM)

<EXAMINATION-IN-CHIEF BY MR LAVAC

- 5 Q. Mr Maguire your full name is Shane Maguire, is that correct?
A. That is correct.
- 10 Q. Could you tell us your age please?
A. Fifty-one years old.

Q. What is your current occupation sir?

A. Security officer.

5 Q. And were you a security officer on the 8 and 9 April at the Surf Rock Hotel?

A. Yes I was.

10 Q. And at that time were you working on the door in that capacity?

A. Yes I was.

15 Q. How long had you been working at the Surf Rock Hotel as at 9 April?

A. Approximately one year.

Q. Now who else was on the door with you at that time?

A. Phil Purcell.

20 Q. Now at about 1am, roughly about 1am on the morning of 9 April were you told something by Ed the manager?

A. Yeah that is correct.

Q. Do you remember his second name?

25 A. No I don't know his second name.

Q. What was it you were told?

30 A. Well he came to the door in a panic and he said "I need both you guys upstairs straight away, I'll watch the door for you".

Q. And when he told you that what did you do?

35 A. Well I immediately knew that for him to come to the door in a panic like that the boys inside must have been in trouble, so we immediately went inside.

Q. When you say we immediately went inside who went first?

A. Phil, big Phil.

40 Q. That was Phil Purcell?

A. That's correct.

Q. And did you follow him?

45 A. That is correct.

Q. When you went inside did you see anything?

A. I saw a brawl taking place on the stairs.

50 Q. When you say on the stairs whereabouts on the stairs?

A. Pretty well all over the top of the stairs. There's two lots of stairs, there's about three or four stairs, then there's like a mezzanine level and then there's an upper level of about, I don't know, ten stairs or something. They were mainly all on the upper level, 55 people brawling.

Q. When you say people brawling are you able to tell us how many people you saw brawling at that time?

A. I couldn't be exact. I suggest around about ten people.

5 Q. And how far up those stairs did you go when you said that brawling?

A. I noticed the brawling as soon as I walked in the hotel.

10 HIS HONOUR

Q. The question was did you go up the stairs at all?

15 A. I think I went about halfway up the stairs and Phil grabbed one of the aggressive guys who was fighting and passed him to me and I held him. I mean I don't know, I was probably halfway up the stairs when he passed the guy to me.

LAVAC

20 Q. So Phil went up ahead of you did he?

A. That's correct.

Q. And he passed someone to you?

25 A. That's correct.

Q. And when he passed that someone to you what did you do with that someone?

30 A. Well the guy was aggressive and he was swearing and he was, he was struggling, so I just held him.

Q. For how long did you hold him?

35 A. Pretty much, pretty much the whole time while I was also observing, you know, if there was anything else I could do. It was a bit difficult because there was a lot of people involved.

Q. And what was the next thing you saw?

40 A. Ah well, the, pretty well everything sort of stopped about that time and I noticed that there was some people on the mezzanine level on the ground and there was a gentleman who was unconscious or semi-conscious was sort of on the ground.

45 Q. When you talk about the mezzanine level is that the area where the pot plant usually is?

A. It's right where the pot plant is.

Q. Did you notice anything about that pot plant?

50 A. I can't recall at the time. I know the pot plant's there. That's where it is.

Q. And then you said you saw someone on the floor?

A. That's correct.

55 Q. And what happened next?

A. Well I think there were several people on the floor, but I just remember, I noticed the one guy who appeared to be semi-conscious or unconscious. Somebody picked him up

and then they carried him outside.

Q. Do you know who that somebody was who picked him up?

5 A. No I can't say for sure. It was all very quick, it was all a blue, it was, you know, it was a dangerous situation and yeah I was just trying to defuse the situation as best I could.

10 Q. When you say it was a dangerous situation why do you say it was a dangerous situation?

A. Well because there was still a lot of people yelling and being abusive and screaming and yeah it was still a very dangerous situation.

15 Q. When you say a lot of people are you able to give us a ratio as to how many people there were, patrons, as to security staff? Were there more patrons than security staff?

20 A. Yes there were.

HIS HONOUR

Q. Where were these people that were yelling? Further up the stairs, on the bottom or where?

25 A. Well all over the stairs, all over the stair level, mainly at the upper level, but all over the stairs and the mezzanine level. I can't say exactly where everyone was, I just know there was a group of people on the stairs and they were still very aggressive and they were yelling and
30 screaming, there were a couple of girls as well, it was all, it was a bit mayhem there for a while.

LAVAC

35 Q. And they outnumbered the security staff?

A. Definitely.

Q. Now you say that the man was taken out and put outside, is that correct?

40 A. That is correct.

Q. Did you follow outside after he was taken out?

A. I believe I did, yes.

45 Q. What did you see outside when you got out there?

A. Well it's pretty much the same group of people were all out on the footpath. They were abusing us and yelling and screaming and wanting to fight and very aggressive towards us. The chap who was unconscious came to and he
50 got up and he wanted to fight everyone and he started throwing punches in mid-air and all that sort of stuff and then someone grabbed him and sat him back down again.

<CROSS-EXAMINATION BY CROWN PROSECUTOR

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Q. Can I suggest this Mr Maguire when you went in there you said there was screaming and yelling when you first go in?

A. There was a brawl situation.

Q. Was there screaming and yelling when you first went in?

5 A. Probably.

Q. Well do you remember it or not?

10 A. Well I remember a brawl situation going on and there would have been people yelling and screaming at the same time.

Q. Do you remember people yelling and screaming about the man on the mezzanine?

15 A. No.

Q. "Stop doing it" or "Don't leave him alone" or anything like that happening?

A. No.

20 Q. And there were people on the other stairs watching what was happening on the mezzanine, do you agree with that?

A. I can't say.

25 Q. They appeared to be standing looking down at the mezzanine level, at least a couple of males, maybe three?

30 A. It was a very volatile situation, I was just concerned in trying to diffuse the whole situation. I wasn't watching what other people were doing other than the ones who were directly involved in the brawl.

Q. I take it by that you don't remember what people were doing on the other stairs?

35 A. Are you talking about the upper stairs or above the stairs.

Q. The upper stairs, the stairs leading from the mezzanine to the upstairs area?

40 A. Well that's where the brawl was taking place.

Q. Sorry, where?

A. The upper stairs.

45 Q. And I suggest to you that there were people standing on the upper stairs looking down at something taking place on the mezzanine?

A. Do you want me answer that?

Q. Yes, do you agree or disagree?

50 A. Are you asking me a question sir.

Q. Yes?

A. What was the question again, I'm sorry.

Q. The question was there - were people standing on the upper stairs looking down at the mezzanine level, do you agree or disagree?

5 A. Well I saw people brawling on the upper stairs, I didn't actually see some people standing there, the whole area was taken up by people brawling.

Q. There were people on the mezzanine level when you went in, weren't there?

10 A. I can't say for sure.

Q. You mean, it may have been empty or you don't remember?

15 A. I can't say for sure.

Q. Let me suggest this, did you see some people apparently tumble from the upper stairs onto the mezzanine level?

20 A. No, I didn't.

Q. Or fall?

25 A. All I saw was a brawl situation and the guy was handed to me and I had hold of him and he was struggling with me and in the background there were people pushing and shoving and possibly falling. It was a very volatile situation.

Q. If you had seen someone tumbling down the stairs onto the mezzanine no doubt that would have stuck in your mind?

30 A. It all depends I mean I had my hands full with the guy who I had hold of and he was struggling against me. There was a lot of things happening and I didn't know, you know, I was just concentrating on what I could do and help to try to diffuse the situation.

35 Q. Where did you collect that man?

A. I think midway up, midway up the upper stairs.

40 Q. You've gone up onto the mezzanine and then across the mezzanine up, halfway up the stairs to the top floor and then Phil has handed you the man there?

A. It was approximately halfway up the upper stairs when he handed the guy to me.

45 Q. You've actually walked through the people on the upper stairs to get to that point?

A. Walked through?

50 Q. You said that the stairs were crowded the upper stairs there was a brawl going on on up there?

A. There was, there was a brawl the brawl was taking place over the whole stairs, the whole upper stairs.

55 Q. Did you have to walk through the brawl to get to the point halfway up the upper stairs to take this man off Phil?

A. No, I didn't.

Q. Do you mean by that that the bit that you walked up was free of people or not?

A. He was passing the guy down to me as I was walking up the stairs and I grabbed him.

5

Q. I take it you didn't have to walk through a whole lot of people throwing blows or fighting with each other or anything like that?

A. No, I didn't.

10

Q. Do you say that there was something happening right at the very top of the stairs that is not on the stairs itself but on the very top at that point?

A. I didn't - the whole top level of stairs there were people fighting and brawling and pushing each other and stuff.

15

Q. Security guards and people, patrons?

A. There was a whole group of people, approximately 10 people were involved pushing, shoving, screaming as I already said.

20

Q. Do you mean by that that there were 10 patrons or do you mean a mixture of patrons and security guards but more patrons than security?

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A. Well I didn't have time to count them but there were more patrons than security.

Q. Do you mean by that that the security and patrons were pushing and shoving each other?

30

A. Well the patrons were pushing pushing at the security guards.

Q. What were the security guards doing?

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A. I think from what I best recall I can remember they were just trying to calm things down but I'm not exactly sure what happened in that situation because I was concentrating on the guy that Phil handed me and he was struggling and everything so I was basically just trying to control him and restrain him. Now, I can't say exactly what was happening behind that because I could only see, I had my hands full.

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Q. Later on you saw a man lying apparently unconscious on the mezzanine?

45

A. That's correct.

Q. Had you seen him on the stairs?

50

A. I can't recall seeing him. The first time I noticed him was when the crowd separated and he was on the ground.

Q. You've taken that man from Phil and then where have you gone?

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HIS HONOUR: Taken which man from Phil? The first--

CROWN PROSECUTOR: The patron that was passed to him, your Honour.

WITNESS: Could you repeat that, sir?

CROWN PROSECUTOR

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Q. You've taken the patron from Phil that was passed to you?

A. Yeah that's correct.

10

Q. Where have you taken him?

A. I've taken him down I think to the mezzanine level I'm not sure where we went from there. Eventually I took him outside.

15

Q. Can I suggest this to you that you came in and went to the -just short of the mezzanine level and grabbed hold of a man there, does that assist your memory?

A. I don't know. It's over a year ago and I remember grabbing the guy, I'm pretty sure it was halfway up the stairs when Phil passed him down to me. I can't tell you exactly what stair it was on.

20

Q. Was that man yelling out things about the man you eventually saw unconscious on the mezzanine, was he saying, "Let him go" or something like that?

25

A. No, he was just aggressive and he just wanted to fight people, he was throwing punches and he was being very aggressive.

30

Q. Who was he throwing punches at?

A. Whoever was anywhere near him.

Q. Were there people near him when you were holding him?

A. Not really, no.

35

Q. Was he just throwing punches into the air or what?

A. Pretty much.

Q. How are you holding him, do you remember?

40

A. I had him restrained from behind.

Q. He's, what, throwing his arms out in front of him like this in a punching type gesture?

A. Well sort of but he was struggling, I mean, he was very aggressive.

45

Q. Is it possible that he was trying to get onto the mezzanine to get involved with what was happening there?

A. I guess it's possible, he just was part of the brawl and I was just trying to keep pull him back and diffuse the situation.

50

Q. What I suggest this to you and tell me if you agree or disagree that whilst you were there at some point on the stairs you could see a group of people on the mezzanine around this man that you eventually saw semi-conscious or unconscious? Do you remember seeing something like that?

55

A. Eventually, I'm not sure exactly where I was standing

but eventually I did see a group of people on the mezzanine level and as I said they parted and I saw the gentleman unconscious on the ground.

5 Q. I suggest that group of people were wearing black uniforms like yourself, do you agree or disagree with that?

10 A. I couldn't say. There were a couple of guards there I think Les was one of the guards there he was trying to hold the guy on the ground I do remember that and I can't remember who else was there.

Q. So you could see the guy on the ground being held by Les?

15 A. When the crowd parted I could see that.

Q. Was this before or after you noticed he was unconscious or semi conscious?

20 A. It was around the same time.

Q. What made you think he was semi conscious or unconscious?

25 A. Because he was motionless or he wasn't moving very much on the ground.

Q. Do I take it that Les has still got hold of him at that stage?

30 A. I don't know if he still had hold of him or he was trying to restrain him, he had his hand around his neck, upper body.

Q. Did you see Mr Nierop on the - as the crowd parted at that point?

35 A. No.

Q. Did you see Mr Nierop at any stage throwing some punches towards that man you saw later lying on the mezzanine?

A. No.