

COURTS: Crown building case around circumstantial evidence, accused's lawyer tells court

Crucial evidence never collected, lawyer says

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STAFF WRITER

York Regional Police ignored important evidence and zeroed in on the most likely suspect when they charged John Bolender with attempted murder, the Ballantrae man's lawyer argued in his closing address yesterday.

Ken Murray told a Newmarket jury Bolender was an easy target for police simply because the shootings took place on his property.

The prosecution contends Bolender tried to kill two men when he fired four shotgun blasts at them while they were stealing marijuana plants from his property on Aug. 21, 1996.

David Showers, 25, and Mark Cowie, 28, suffered superficial wounds from BB pellets that were fired at them as they fled the Hwy. 48 and Vandorf Road property at about 1 a.m.

But Murray said prosecutors don't have a case against his client, since no one saw who fired the shots. Murray did not call any defence on behalf of Bolender during the three-week trial.

The Crown attorneys, Murray argued, have tailored the circumstantial evidence to fit their theory.

Murray said crucial pieces of evidence were never collected or considered by police.

For instance, police never made castings of footprints on the property, nor did they do a gunshot residue test on Bolender's hands.

Murray also pointed to testimony by Cowie, Showers and a neighbour that pointed to more than one shooter.

"If that doubt has been raised, how can you come to the conclusion that Mr. Bolender was the single shooter," Murray said. "It's implausible that the same person could have fired all four shots."

But Crown attorney Marcy Henschel argued that Bolender can still be convicted if he was one of two gunman who fired shots at the pair.

The jury has heard that Bolender was in a trailer with his girlfriend and her

two children the night of the shooting.

"This case requires a lot of common sense," she said. "And common sense can lead to only one verdict — that Mr. Bolender is guilty as charged."

Henschel said Bolender was protecting his valuable marijuana plantation the night Cowie and Showers trespassed on his property to raid his crop.

"Given the marijuana was

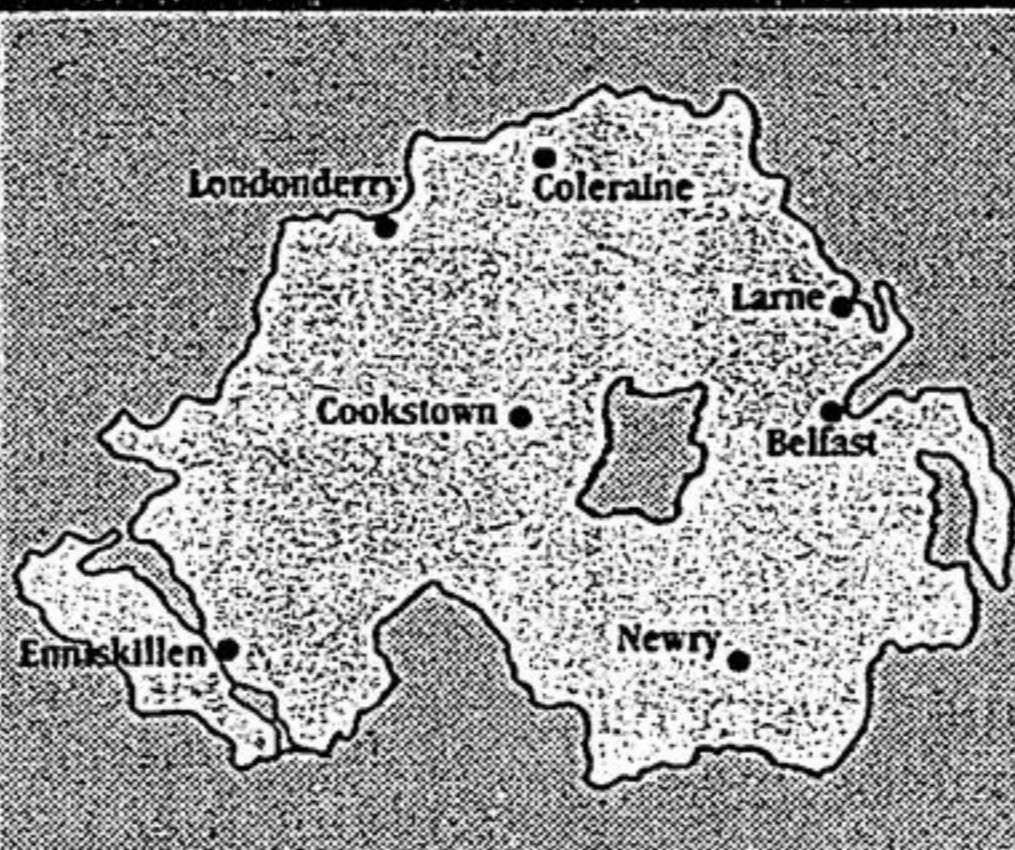
valued at more than \$50,000, there was a significant interest to protect," she said.

The jury was expected to hear the judge's charge this morning before their deliberations.

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CORRECTION

In an article in Saturday's *Tribune* entitled 'Save our courts' it was incorrectly stated that tennis courts in

Ballantrae were possibly being slated for a skateboard park.

The courts in question, are, in fact, in Stouffville area. We regret the error.

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