THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT LUCIA

CLAIM NO: SLUHCV2018/0574

BETWEEN:

TREVON DANIEL (a minor)
Suing by his paternal grandmother and
Next Friend, LUCY AUGUSTIN

Claimant

And

THE ATTORNEY GENERAL OF SAINT LUCIA

Defendant

APPEARANCES:

Mr Ramon Raveneau for the Claimant

Mrs Tina Louison, Senior Crown Counsel and Mrs Rochelle John Charles, Crown Counsel for the Defendant

2021:	May 3;
2026:	March 27

JUDGMENT

[1] **PHILLIP, J**: This case involves a young boy, Trevon Daniel ("Trevon"), born on 25th May 2007. The claim was commenced by his paternal grandmother and next friend, Lucy Augustin ("Ms Augustin"). The claimant seeks damages for assault, battery and false imprisonment arising from Trevon's alleged unlawful transfer from the New Beginning Transit Home ("NBTH") to the Boys Training Centre ("BTC") without lawful justification.

Claimant's Case

[2] By claim form and statement of claim filed on 13th November 2018, the claimant initiated proceedings against the defendant seeking general damages for assault and battery, damages for false imprisonment, aggravated and exemplary damages, costs, and interest. The claimant alleged that he was unlawfully transferred from NBTH to BTC without the knowledge, consent, or

authorisation of either his parents or grandparents and in breach of the ***Children and Young Persons Act***[1] ("the Act"); that the defendant acted imprudently, maliciously, and in bad faith in transferring him to BTC without seeking the judicial intervention of the Family Court for an order for such transfer and incarceration; and that, as a result of the defendant's bad faith, imprudence, want of skill, care, and caution, he was assaulted, battered, and falsely imprisoned. The claimant called two witnesses – Trevon and Ms Augustin - in support of this case.

The Evidence

[3] Trevon gave evidence that he was a minor placed at BTC at about 9 years old without having committed any offence. He testified that BTC functioned like a prison with locked gates, guards, restricted movement, and no freedom to attend school normally. Trevon stated that he was housed with older boys and had limited contact with his grandmother. He testified that on 13th May 2018, after an incident involving other boys, he was locked in a dormitory with them by a security officer and, after the officer left, was severely beaten. Trevon stated that the boys believed he had informed on them, and during the assault, he was choked unconscious, forced to drink urine, and left injured and vomiting. He was later taken for medical treatment and eventually released to his grandmother, having never been convicted of any offence. The defence elected not to cross-examine Trevon.

[4] Ms Augustin testified that, from the age of seven or eight, Trevon was a ward of NBTH. He lived there and was cared for there, and she would visit him there on occasions. She stated that in or around February 2017, when Trevon was nine years old, he was transferred from NBTH to BTC despite having no criminal history. Ms Augustin stated that BTC appeared to be a custodial, prison-like facility with guards, searches, and strict controls. She testified that access to him became restricted and dependent on his "behaviour". In May 2018, she was informed by text that Trevon had been attacked, and when she saw him, he was severely injured with swelling and bloodshot eyes. She attributed the attack to his placement with juvenile offenders. She demanded his release, which was eventually secured in August 2018 with the help of her attorney. There was no cross-examination of Ms Augustin.

[1] Chapter 3:09 of the Revised Laws of Saint Lucia.

Defendant's Case

[5] In the defence filed on 8th March 2019, the defendant denied that Trevon was falsely imprisoned at BTC. The defence maintained that he was lawfully transferred from NBTH to BTC pursuant to several orders of the Family Court directing BTC to receive him into its custody. The defence averred that these orders were made with the knowledge of Trevon's parents and/or guardians.

[6] Regarding the claimant's claim in negligence, the defence denied any negligence on their part but admitted that Trevon was the victim of an attack while he was a ward at BTC. The defence accepted that BTC was required to have a system in place to categorise the wards in its custody; however, they averred that at the material time, a decision was taken to commingle the wards for the purposes of rehabilitation and reintegration. The defence further denied that there was any bad faith, imprudence, want of skill, care, or caution on their part in connection with the battery to Trevon. The defence also called two witnesses – Mr Wang Sonson ("Mr Sonson"), the Manager of BTC and Mrs Avice Charles-Inglis ("Mrs Charles-Inglis"), the Manager of NBTH.

The Evidence

[7] Mr Sonson testified that Trevon was received into the institution pursuant to valid Family Court orders made between November 2017 and April 2018, which directed BTC to take him into custody for care and protection. Under cross-examination, Mr Sonson accepted that BTC receives boys for both care and protection, and as juvenile offenders pursuant to court orders. He further admitted that he had not seen any document designating BTC as a "place of safety".

[8] Mrs Charles-Inglis outlined Trevon's background, including neglect, multiple placements, and behavioural difficulties such as aggression, vandalism, theft, and inappropriate sexual behaviour. She stated that various interventions were attempted while Trevon was in the care of NBTH, including counselling and behavioural programmes; nevertheless, Trevon's behaviour persisted. She testified that, due to the risk he posed and his responsiveness to BTC programmes, NBTH recommended his transfer, which the court ordered. Under cross-examination, Mrs Charles-Inglis confirmed that her evidence was based on a combination of institutional records, staff reports, and her own observations, and that she personally witnessed some of the behaviour described, including aggression. She also confirmed her understanding of foster care as placement with suitable persons approved by the court.

Issues

[9] By the pre-trial memorandum filed on 20th March 2020, the claimant raised the following issues for the court's determination:

(i) Whether the Children and Young Persons Act (The Act) intended for children (who could have no criminal intent) to be confined to an institution for "care and protection".
(ii) If the response to the first question above is in the negative, then whether the Magistrate's order resulted in the Claimant's constitutional right to liberty being breached.
(iii) Separate and apart from the above considerations, did the processing and institutional handling of the Claimant at the institution known as the BTC, as a matter of empirical fact, result in or constitute a breach of his rights under Article 3 of the Constitution and by extension a false/unlawful imprisonment.

While the issues raised by the defence in their pre-trial memorandum filed on 25th February 2020 were:

1. Whether the court has jurisdiction to review the orders of the Magistrate.
2. Whether the Magistrate acted ultra vires the Children and Young Persons Act ("the Act) when the orders were made for the BTC to receive the Claimant into its custody for care and protection.
3. Quantum of damages, if any, to be paid.

[10] The claimant's first issue effectively seeks an interpretation of the Act and a declaration, while the second and third issues seek adjudication of alleged breaches of Trevon's constitutional rights. However, a perusal of the parties' respective statements of case reveals that the issues the claimant seeks to have determined (at least in the form presented) were neither pleaded nor prayed for in the claim. Indeed, the claim form expressly states it is for general damages for assault and battery (which was previously conceded), damages for false imprisonment, aggravated and exemplary damages, costs, and interest.

[11] A party's failure to comply with the CPR 2000 (as amended) in stating their case cannot be simply remedied by including it as an issue in the pretrial memorandum. Indeed, in **George Knowles v Elaine Knowles**[2], Barrow, JA (as he then was) opined (para [13]) that even where the other side did not raise the issue (unlike in this case),

> "it cannot be a satisfactory situation that one case is 'pleaded' and the judgment is pronounced on a different case. The judgment shows the embarrassment that this situation caused. The Statement of Claim should either have been amended or, if it was too late to

[2] Antigua and Barbuda Civil Appeal No.17 of 2005 (18th September 2006)

amend, the claimant should have been confined to the case contained in the Statement of Claim."

[12] Consequently, the court does not believe that the first issue raised by the defence would similarly arise from the pleadings. The claimant's case is not an appeal against the Magistrate's order, but a claim in tort for false imprisonment based on the lack of lawful authority for his detention. Therefore, the real issues for the court's determination are:

1. Whether the claimant was falsely imprisoned when placed in the care and custody of BTC, or put otherwise, was the claimant lawfully detained at BTC when he was committed there for 'care and protection'; and
2. Whether the claimant is entitled to damages, including aggravated and exemplary damages.

False Imprisonment

Imprisonment

[13] Imprisonment has been defined in ***Halsbury's Laws of England***[3] as any total restraint of a person's liberty, however brief, whether effected by the use or threat of force or by confinement. It is not necessary that the confinement occur in a place ordinarily used for that purpose. Also, it is well established that the tort of false imprisonment comprises two essential elements: the fact of imprisonment, and the absence of lawful authority to justify it. However, in ***WL (Congo) v Home Secretary***[4] Lord Dyson JSC stated:

> "All that a claimant has to prove in order to establish false imprisonment is that he was directly and intentionally imprisoned by the defendant, whereupon the burden shifts to the defendant to show that there was lawful justification for doing so."

[14] It follows that the core element of an action for false imprisonment is the act of imprisonment itself. The claimant does not need to demonstrate that the imprisonment was unlawful or malicious; instead, they establish a prima facie case by proving they were imprisoned by the defendant. The burden then shifts to the defendant to prove a justification.[5]

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[3] Tort (Volume 97A (2021))

[4] [2012] 1 AC 245 at [65]; see also PC 138 Desmond Alfred v Assistant Superintendent of Police Emmanuel Joseph et al SLUHCV2012/0635 (24th January 2019) per Cenac-Phulgence J at para [61] and [64].

[5] Halsbury Laws 4th Edition Volume 45 para 1325.

[15] The claimant's case was that he was placed under the care and control of officers at BTC and confined at the facility, where he was not at liberty to leave. The particulars of false imprisonment pleaded[6] are as follows:

(a) That the servants and agents of the State falsely imprisoned the claimant by incarcerating him in the Boys Training Centre where he was not at liberty to leave and without there being any reasonable and probable cause for so doing;
(b) That the servants and agents of the State maliciously and falsely imprisoned the claimant by restraining and limiting his right to liberty and by placing him under the care and management of the officers of the Boys Training Centre who were authorized to limit the movements and freedoms of the claimant;
(c) That the servants and agents of the State held the Claimant under compulsion by unlawfully and without reasonable and probable cause, and by force and against his will, confining him to a place where they had no lawful authority to transfer him.

[16] The court accepts the claimant's evidence (discussed earlier at paras [3] and [4]) as to the conditions at BTC and the manner in which Trevon's liberty was restricted. That evidence was unchallenged in cross-examination and is consistent with the defence's own evidence that the institution operates as a controlled environment accommodating both offenders and children in need of care and protection. The gravamen of the claimant's complaint is that such committal, and consequent confinement, constituted false imprisonment on the basis that BTC is, in substance, a detention facility.

[17] However, the existence of restraint does not, without more, establish false imprisonment. The question is whether that restraint was without lawful authority.

Lawfulness of Restraint

[18] The claimant submitted that Trevon's placement at BTC was unlawful because, although purportedly made under the care and protection provisions of the Act, BTC could not properly constitute a "fit person" within the meaning of the Act. They contended that the statutory language contemplates a natural person rather than an institution, and that detention in a Government Industrial School falls under a distinct statutory framework unrelated to care and protection. Moreover, since Trevon had not committed any criminal offence, he could not be committed to a Government Industrial School. On that basis, the claimant argued that the Magistrate acted outside the scope of the Act, rendering the detention unlawful and constituting false imprisonment.

[6] See paragraph 10 of the statement of claim.

[19] On the other hand, the defence submitted that Trevon's committal was made pursuant to the Magistrate's statutory powers and was therefore lawful. They contended that he was brought before the Magistrate in care and protection proceedings and that, having been satisfied that his welfare required it, the Magistrate lawfully ordered him committed to BTC. Mr Sonson testified that Trevon was received into BTC pursuant to several Family Court orders made between November 2017 and April 2018, which directed BTC to take him into custody for care and protection.[7]

[20] Reliance was placed on section 9 (1) (d) of the Act, which expressly empowers a court, where satisfied that the welfare of a juvenile so requires, to commit that juvenile to be detained in a Government Industrial School, and contended that BTC is, in law, such an institution. They referred to the Criminal Code (Amendment) Ordinance[8] under which the predecessor institution was declared to be an industrial school and subsequently renamed without altering its legal character to support the contention that BTC constitutes a Government Industrial School. Further, the defence submitted that the Magistrate acted within jurisdiction, and, in the absence of any appeal, the order remains valid and binding. In those circumstances, Trevon's detention was lawful, and the claim for false imprisonment could not be sustained.

Disscusion

[21] In considering these submissions, it is necessary to address the structure of section 9 of the Act, which provides:

> **9. Powers of Court**
>
> (1) A Juvenile court before which any juvenile[9] is brought by virtue of sections 7, 8 or 10, or any court before which is brought any juvenile in respect of whom any of the officers mentioned in this Act has been committed, may, if satisfied that the welfare of the juvenile so requires, make an order –

[7] See exhibits WS1, WS2 and WS3

[8] Criminal Code (Amendment) Ordinance Act Number 3 of 1969

(1) Section 2 – "Industrial school" means a school for the industrial training of persons, whether convicted or not, in which persons are lodged, fed and clothed, as well as taught, and shall include any premises declared to be an Industrial School under section 1317A of this Code.

(2) Section 6 – The Government Industrial School for boys known as the Massade School shall be deemed to be declared an Industrial School within the meaning of section 1317A of the principal Ordinance and the provisions of the principal Ordinance shall apply to the said school and to its officers and to the persons detained therein.

[9] A person under the age of 16 years – see section 2 of the Children and Young Persons Act

(a) committing him or her to the care of any fit person, whether a relative or not, who is willing to undertake the care of him or her; or
(b) requiring his or her parent or guardian to enter into a recognizance to exercise proper care and guardianship; or
(c) placing him or her, either in addition to, or without making, any order under paragraph (a) or (b), for a specified period, not exceeding 3 years, under the supervision of a probation officer; or
(d) committing him or her to be detained in a Government Industrial School for a period not exceeding 3 years.

(2) ….

[*footnote added*]

[22] Section 8 deals with the power to bring juveniles in need of care or protection before the Court states:

(1) Any police officer or authorised person may bring before a juvenile court a juvenile in need of care or protection.
(2) For the purposes of this section—
(a) the expression "authorised person" means
(i) any probation officer, or
(ii) any person appointed as such by the Minister;
(b) "Minister" means the Minister to whom the responsibility for social affairs has been assigned; and
(c) in the expression "care or protection" includes control and guidance, as well as discipline.

[23] Section 9 details various specific orders a magistrate may issue when a juvenile appears before the court for care and protection. Of particular relevance to this case are two distinct options: first, the committal of the juvenile to the care of a 'fit person' under section 9 (1) (a); and second, the committal of the juvenile to be detained in a Government Industrial School under section 9 (1) (d). These options are separate and independent. The statutory scheme does not require that a Government Industrial School be described as a 'fit person'. Instead, it recognises that committal to such an institution is a different type of order available to the court, depending on what is best for the juvenile's welfare. Therefore, the claimant's argument confuses two separate statutory mechanisms. The Act explicitly allows a magistrate, in care and protection proceedings, to commit a juvenile either to a suitable person or, alternatively, to a Government Industrial School.

[24] Additionally, although the Criminal Code (Amendment) Ordinance was repealed upon the enactment of the Criminal Code in 2004, the court is satisfied that BTC falls within the definition of a Government Industrial School for the purposes of the Act. It follows that Trevon's commitment to BTC falls clearly within the scope of section 9 (1) (d) of the Act. Indeed, the claimant did not suggest in their submission that it was otherwise. On the contrary, they argued that it was not a 'fit person', presumably because it was a Government Industrial School. Suffice it to say, from reading the Act, it is clear to the court that BTC houses both boys in need of care and protection (victims of abuse or neglect) and those in conflict with the law.

[25] In any event, the ***Interpretation Act***[10] prescribes that 'person' includes cooperation, and as such, this court cannot accept the claimant's proposition that a 'fit person' can not be an institution. In the proper circumstances, an institution like BTC may amount to a 'fit person' under the Act.

[26] The court notes that the claimant relied on the conditions at BTC, described in their evidence, to argue that it was unsuitable for a child in need of care and protection. However, that goes to the appropriateness of the placement rather than to the existence of legal authority for the placement. On the evidence, the claimant was detained pursuant to several Family Court orders directing that he be placed at BTC. Those orders were made under statutory powers conferred by the Act and were not appealed or set aside. The defence's evidence in this regard was not contradicted.

[27] While the claimant has advanced detailed arguments as to the proper interpretation of the Act and the appropriateness of BTC as a placement for care and protection, those arguments, in substance, challenge the correctness or legality of the Magistrate's decision. This court is not entitled, in these proceedings, to go behind that order, to review the order or to otherwise determine whether the Magistrate erred in law. The proper avenue for such a challenge would have been an appeal.

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[10] Chapter 1:06 of the Revised Laws of Saint Lucia, see section 34:

34. Rules as to gender and number

(1) Words in an enactment importing (whether in relation to an offence or otherwise) persons or male persons shall include male and female persons, corporations (whether aggregate or sole) and unincorporated bodies of persons.

(2) ....

[28] As stated in ***Hague*** and reaffirmed in ***WL (Congo)***, the tort of false imprisonment requires not merely proof of detention but proof that such detention was without lawful justification, and the existence of lawful authority is a complete defence to a claim in false imprisonment. Where a person is detained pursuant to an order of a court of competent jurisdiction, that order constitutes lawful justification unless set aside on appeal. Consequently, taking the claimant's case at its highest, the court finds they had not established on a balance of probability that Trevon's placement or committal to BTC for 'care and protection' pursuant to the orders of the Family Court was without lawful authority. Therefore, the claim for false imprisonment must fail.

Damages

[29] In light of the court's findings that the claimant was not falsely imprisoned, the claimant is not entitled to damages for false imprisonment, aggravated or exemplary damages; therefore, issue 2. identified earlier (para [12]) requires no further discussion.

Disposal

[30] The claimant having failed in their claim for false imprisonment, aggravated and exemplary damages, the court had no basis to depart from the general rule that a successful party will recover costs. Consequently, the claimant shall pay the defendant the prescribed costs for an unquantified claim of $7,500.00.

[31] The court is aware of the order of the Honourable Master C. Debra Burnette (Ag.) dated 22nd July 2019, where it was ordered, among other things, that:

1. Summary judgment be and is hereby entered for the claimant on the claim of negligence only against the Defendant with damages to be assessed.
2. The assessment of damages on the claim for negligence shall be stayed, pending the determination of the claim on false imprisonment.
3. ....
5. Costs shall be costs in the cause.

Therefore, the court office shall fix a case management conference before the Master and notify the parties, for directions on the assessment of the damages on the claim for negligence, under CPR16.3 (5)[11] unless the parties submit a consent position to the court for approval sooner.

[11] Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023

[32] Further, to avoid potential multiple enforcement proceedings, in furtherance of the overriding objective (Part 1 of CPR 2023), it is directed that the costs awarded here be set off against the damages to be assessed on the claim for negligence.

[33] For the foregoing reasons, IT IS ORDERED THAT:

1. The claimant's claim for false imprisonment stands dismissed with costs to the defendant of $7,500.00.
2. The costs awarded against the claimant shall be set off against the damages to be assessed on the claim for negligence against the defendant.
3. The court office shall, within 21 days of this order, fix a case management conference before the Master and notify the parties, for directions on the assessment of the damages on the claim for negligence, under CPR16.3 (5), unless the parties submit a consent position to the court for approval sooner.

Justice Rohan A Phillip
High Court Judge

By the Court

Registrar