

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FEDERATION OF ST. CHRISTOPHER AND NEVIS
NEVIS CIRCUIT
(CIVIL)

CLAIM NO: NEVHCV2021/0077

IN THE MATTER OF Sections 7 and 8 of the
Constitution of Saint Christopher and Nevis

AND

IN THE MATTER OF an Application for
Declaratory and Compensatory relief by
MALVERN WALWYN pursuant to Sections 18(1)
and 18(2) of the Constitution of Saint Christopher
and Nevis

BETWEEN:

MALVERN WALYWYN

CLAIMANT

AND

THE ATTORNEY GENERAL OF ST. CHRISTOPHER AND NEVIS

DEFENDANT

APPEARANCES

Mr Patrice Nisbett for the Claimant.

Mr Christopher Forde and Ms Ashley Maynard for the Crown.

2026: FEBRUARY 18

RULING

On damages for an arresting officer standing on back

- 1 **Morley J:** Malvern Walwyn, now 45, was lawfully arrested on 05.02.21 for wounding Clive Prentis, which led to an altercation with police, during which an officer stood on his back in a drain to subdue him, breaking two ribs. He wants declaration and damages under a constitutional motion filed on 03.06.21 he was treated inhumanely, contrary to **s7 St Kitts & Nevis Constitution**, though on 22.02.22 was sentenced by the magistrate to 2 years imprisonment, being 12 months after trial for the wounding, and 12 months consecutive following plea to resisting lawful arrest and battery on PC Carl Gordon.
- 2 Though case progress has been much delayed, there was to be a 2-day trial commencing on 17.02.26 with at least 10 witnesses, maybe 15, including possibly 2 doctors, but it was clear videos of the arrest and the effect of the plea needed proper thought by Counsel, the videos not even seen by Counsel Nisbett, so that Counsel Forde, showing ability, quickly conceded a video showing an officer standing on Walwyn's back made good ground for concession such was wrongful force, (noting the still at annex), while Counsel Nisbett conceded in light of the plea initial lawful arrest and force, so that the argument was to be on what damages should arise for what happened later at the drain.
- 3 The factual scenario on examination was Walwyn is known to police, having been jailed previously 3 years for dishonesty, and convicted of drugs offences, while he has also twice before successfully sued police, for \$130000ec and \$70000ec, having a few days earlier completed the second suit. Responding to a complaint Walwyn had assaulted Prentis, officers went to arrest him at Natalie's bar around 11am, and an altercation followed, where he can be seen on video MW1 on his back with his genitals visible. Being taken into custody, he was next seen on video MW2 in a drain, which carries effluent, on his stomach, lifting his head out of the trickle flow, with a large officer standing on his back, Walwyn being told to calm down and put his hands behind his back. The arrest led to cuts, bruises, abrasions, and much pain in his back and left side, he was seen by Dr Maurice Budgeon on 08.02.21 who recorded injuries, and after remand by Dr Leroy Richardson on 10.03.21, who suggested x-ray, which found two fractures in left ribs, causing considerable distress for many weeks, though he has made a full recovery.

- 4 The trial no longer required, with liability just for the drain conceded, the court proceeded to hear evidence from Walwyn for damages for how he was treated, reciting his injuries, how when stood on he could not breathe, how he could not work much as a vendor after, and to examine his behavior on the day.
- 5 I am sure, not merely on balance, from having read all the affidavits, including from police and supporters for Walwyn, and in particular looking at video MW1, that he deliberately created exasperation, and wantonly baited the police into overreacting in what he knew could be justification, here, for a third suit. In the video, he can be seen pushing down his shorts while on his back kicking out at an officer, and then pushing down his underwear, choosing to expose his genitals, knowing and encouraging filming, looking at the camera, saying 'brother tape me', and that the event would be worth 'a million'. From what he said and did, it is clear he thought this ignominy which he would, and then did, wrongly blame on police as stripping him would be good ground for legal complaint, in which he had become much experienced, though I expect he did not anticipate he would a few minutes later find himself face down in the drain with an officer standing on him. He accepted in court having seen the video he had indeed pushed down his underwear, explaining he was showing he had nothing to hide, but which the court does not accept: instead, I am sure he was creating a scene for suit, and though many then saw video go viral, which he said to the court was embarrassing, in my view that was partly its point and he brought this on himself to justify claim.
- 6 However, it is clear he should not have been minutes later stood on, this was very wrong, and though he was creating mischief the court has sympathy he suffered 2 broken ribs, which it is accepted will have caused much prolonged pain, along with a cut left shin, and some other minor injuries, though not all.
- 7 The question is, how much in damages is appropriate for 2 broken ribs for being stood on by an officer.
- a. On the one hand, Counsel Nisbett wants \$200000ec, which he has tied to an award for breach of privacy, though the authority has not been shown or cited, along with much more wanted for exemplary and vindictory damages.

- b. On the other hand, Counsel Forde suggests the award should reasonably be between \$15000ec and \$20000ec, citing a number of cases, where:
 - i. In **Wilton Grimes et al v Island Security et al 2014** GDAHCV2004/0447, in a decision by Price-Findlay J as she then was, there was an award of \$15000ec for a security guard causing a throat contusion, whiplash, right hand bruise and nerve damage, and lower back pain;
 - ii. In **Cain Alexander v AG 2006** SVGHCV2006/0150, there was \$7000ec for wrongful arrest and detention, and being struck causing nosebleed; and
 - iii. In **Dolette Bartholomew et al v AG et al 2021** GDAHCVAP 2021/0020 there was \$60000ec in aggravated damages added where a person died in police custody having been beaten.

8 The approach of this court is as follows:

- a. Though events began as a lawful arrest with Walwyn being provocative, a police officer standing on the back of an arrestee in a drain is an unacceptable sight, as inhumane abuse of arrest power, and as causing unwarranted physical harm.
- b. Such an image strikes at the heart of relations between the public and police and merits a strong court response, so that just for this activity, captured in the still at annex, I conclude merits \$100000ec in exemplary damages.
- c. Considering his pain and suffering, mindful of other cases quoted, I conclude this merits general damages of \$20000ec, as 2 broken ribs is prolonged discomfort.
- d. I make no award for loss of earnings as special damages, as he was on remand, and within a year was jailed for 2 years, when his job as a vendor by its nature was haphazard, unsupported by compelling separate evidence, being said to raise up to \$500ec weekly vending, along with \$400ec weekly handout on what used to be the 'peace program', meaning I am not satisfied he has on balance persuaded the court he lost calculable income.
- e. There will be no vindictory damages as I conclude he baited the police into over-reaction.
- f. More, in baiting them, and setting up this suit, so luring them into the trap of further legal action for overreaction, I conclude he has greatly contributed to his own injustice, warranting a reduction in the award by as much as 75%, from \$120000ec to \$30000ec;

this high percentage is to deter the floodgates of others trying to turn arrest into cash, where an arrestee should generally cooperate with police, not as mischief set up litigation.

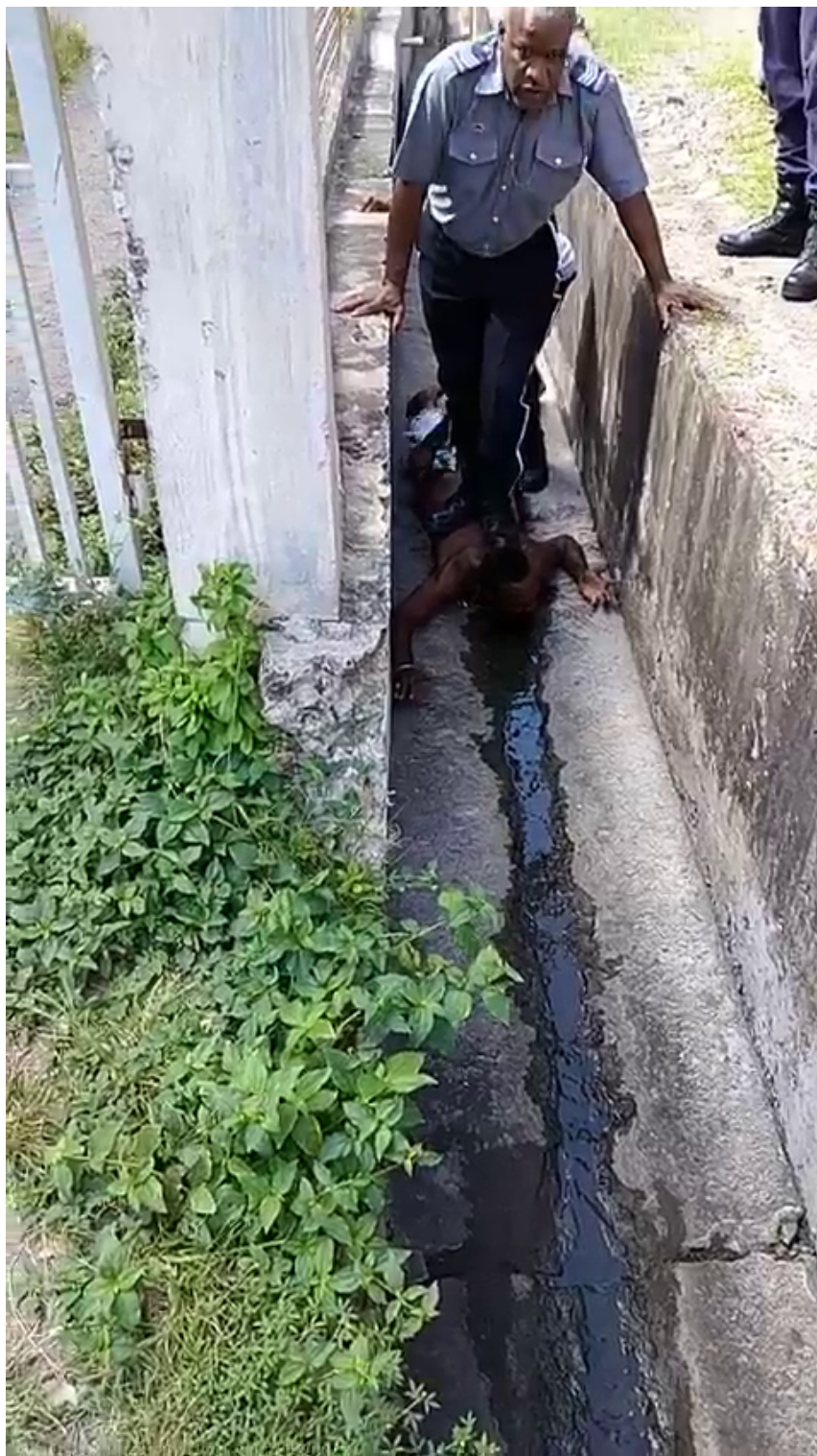
- 9 The award settling at \$30000ec, being a little higher than explored by Counsel Forde, but much lower than what Counsel Nisbett sought, I conclude there should be a contribution to costs of the claimant, in my discretion not a full recovery, which I will settle at \$5000ec.
- 10 The full amount of \$35000ec, with cheque to Walwyn for \$30000ec, is to be sent to the office of Counsel Nisbett within 28 days.
- 11 *Obiter*, I think it right to remark while the court has sympathy for injury received by Walwyn, it also has sympathy for the officers who overreacted to his provocative behavior, knowing from being a judge with long years of criminal court experience, and at the Bar, how difficult policing can be, and recognizing the frustration he created. However, that said, officers know that high standards are expected, so that going forward all involved in this case are reminded of their sacred duty to the public and of the need to maintain the confidence of the people: the job will often involve annoying behavior and police must rise above.
- 12 And so in conclusion, liability having been intelligently conceded by the Crown for standing on Walwyn's back in a drain, breaking two ribs, though he was baiting the officers in order to set up a third suit, there shall be a declaration Walwyn received inhumane treatment contrary to **s7 St Kitts & Nevis Constitution**, and shall receive an award in damages of \$30000ec, with \$5000ec in costs, to be paid by 18.03.26.

The Hon. Mr. Justice Iain Morley KC

High Court Judge

18 February 2026

Annex



Malvern Walwyn stood on during arrest on 05.02.21 (in still from MW2)