

THE EASTERN CARIBBEAN SUPREME COURT

**IN THE HIGH COURT OF JUSTICE
CIVIL DIVISION**

SAINT LUCIA

Claim Number: SLUHCV2024/0259

IN THE MATTER of the Constitution Order of Saint Lucia,
Cap No. 1.01 of the Revised Laws of Saint Lucia.

-and-

IN THE MATTER of a claim that the Claimant's rights
under Section 3(1) of the Constitution order of Saint Lucia,
Cap No. 1.01 of the Revised Laws of Saint Lucia.

BETWEEN:

CURTIS JULES

Claimant

-and-

THE ATTORNEY GENERAL OF SAINT LUCIA

Defendant

Before the Honourable Mr. Justice Alvin S. Pariagsingh

Appearances: Mrs. Lydia B. Faisal and Mr. Nigel R. Faisal for the Claimant
Mr. George K. Charlemagne and Ms. Kimberley Williams for the
Defendant

2025: January 23 – trial
March 17 – written submissions
April 14 – decision

JUDGMENT

Claim for Constitutional Relief.

INTRODUCTION:

[1] **PARIAGSINGH, J:** - This is a claim for relief under section 3(1) of the Constitution of Saint Lucia¹, arising from the detention of the Claimant at the Bordelais Correctional Facility ("the Facility") from 7th November 2023 to 18th March 2024 (134 days), in non-

¹Chapter 1.01 of the Revised Laws of Saint Lucia ("the Constitution")

compliance with the order of Justice Adrien Roberts dated 6th November 2023 (“the Order”).

[2] The Claimant seeks the following relief:

- 1) A declaration that the Claimant’s detention at the Bordelais Correctional Facility from the 7th day of November 2023 to the 18th day of March 2024 was unconstitutional.
- 2) An order that the Claimant be compensated as follows:
 - i. Damages for breach of his constitutional right;
 - ii. Aggravated damages;
 - iii. Exemplary damages;
 - iv. Prescribed costs;
 - v. Interest on all sums ordered by the Court to be paid to the Claimant; and
 - vi. Further or other relief as disclosed.

THE EVIDENCE:

The Claimant’s Evidence:

- [3] The Claimant has filed an Affidavit in Support, Affidavit in Reply and Supplemental Affidavit in Reply, in support of his case. At the trial he was not cross-examined.
- [4] In his Affidavit in Support, he outlines his claim that he was unlawfully detained at the Facility despite the Order dated 6th November 2023 and filed 17th January 2024, suspending his custodial sentence. Mr Jules asserts that he was sentenced on 6th November 2023 to a term of one year and six months’ imprisonment, but that this sentence was suspended for two years. He contends that this suspension meant he was not required to serve any immediate term of imprisonment. However, despite this Order, he remained incarcerated beyond the sentencing date for a period of 134 days, which he argues violated his constitutional rights under section 3(1) of the Constitution, that is, his right not to be deprived of his personal liberty save as may be authorised by law. He

further states that he was not provided with any lawful justification for his continued detention.

- [5] As a result of the Defendant's actions, the Claimant asserts that he was delayed from complying with the other provisions of the Order from the 6th November 2023. He also alleges that his period of detention was aggravated by the fact that he was treated no differently to a convicted prisoner and was forced to wear inmate's clothing, eat a high carbohydrate-low nutrition diet, share an overcrowded prison cell in which he sometimes slept on the floor, had no privacy when bathing or using the toilet, and bathed without soap for months.
- [6] In his Supplemental Affidavit in Reply, the Claimant states that it was made for the purpose of correcting formal omissions and typographical errors in his Affidavit in Reply and therefore supersedes and replaces it. In the supplemental affidavit, the Claimant reiterates that the Defendant's treatment of him during his continued detention was not up to international standards, as Mr Verne Garde (the Director of the Facility) claimed. He also states that on 6th November 2023, when he attended the sentencing hearing on Zoom, there were officers of the Facility in attendance who heard the Order when it was pronounced in open court.

The Defendant's Evidence:

Affidavit in Response of the Director of the Facility, Verne Garde

- [7] The affidavit in response, sworn to by Mr Garde, provides the State's justification for the Claimant's continued detention after 6th November 2023. The affidavit suggests that administrative or procedural issues may have played a role in the Claimant's continued incarceration. Firstly, Mr Garde states that on 6th November 2023, the Claimant appeared via Zoom from the Facility and the Order was rendered in open court; however, the entry made in the Court Attendance Register at the CARDD Unit made no mention of the suspended sentence. He exhibited a copy of the register in which the entry for the Claimant stated as follows, "sentenced to 1 year 6 months and 10 days.

Status hearing on 18/03/24. To attend life skills and counselling with Probations Department before 27/11/23.” The Defendant thereafter proceeded under the understanding that the Claimant was sentenced to a term of custodial sentence, and he remained at the Facility.

[8] Secondly, the Facility was not served with a perfected Order or a judge’s approved draft Order made on 6th November 2023 and entered on 17th January 2024, until 18th March 2024, the date of the status hearing. It was at this hearing, the Defendant alleges, that it was informed that the Claimant was to be released. Subsequently, the Claimant was released on that date. Apart from these administrative reasons, the affidavit does not cite any specific statutory or legal basis for the Claimant’s continued detention beyond the sentencing date.

[9] Mr Garde asserts that for the above reasons, the Claimant’s continued detention followed due process. He also denied the Claimant’s allegations of aggravating conditions during his continued detention at the Facility, claiming that in all respects, the Facility meets the standards required by local law and international convention.

Affidavit in Response of the Director of Public Prosecutions, Mr Daarsrean Greene

[10] The affidavit in response, sworn to by Mr Daarsrean Greene, the Director of Public Prosecutions (DPP), provides background information on Mr Jules’s previous criminal matters, including the serious nature of his past offences.

[11] The affidavit acknowledges that the High Court imposed a suspended sentence but does not explain why the Claimant remained incarcerated thereafter. While Mr Greene argues that the Claimant is not entitled to relief, he does not provide a legal justification for the Claimant’s continued imprisonment post-sentencing.

[12] The affidavit suggests that the Claimant's release may have been delayed due to bureaucratic or procedural factors, but it fails to establish that the delay was lawful or constitutionally valid.

THE CONCESSION OF LIABILITY:

[13] On 20th December 2024, the parties presented a draft consent order signed by the legal practitioners for the Claimant and the Defendant. The Court considered the order in chambers and declined to approve same, mainly for the following two reasons:

- 1) Firstly, the draft order simply stated that judgment was entered for the Claimant against the Defendant without identifying which of the reliefs in the fixed date claim form had been agreed upon. To compound matters, the drafting of the order was too vague, given that some of the reliefs claimed was in the form of declaratory relief.
- 2) Secondly, even if the consent order had set out an agreed declaration, this Court would still have to satisfy itself on the evidence presented, that the granting of a declaration served a proper legal purpose, accurately reflected the law, and was not being granted for any collateral or improper purpose. The Court has a broad discretion to grant discretionary relief; see **Barnard v National Dock Labour Board**². In administrative claims, notwithstanding any concessions or agreements, it is the Court that must consider whether a declaration will serve a useful purpose before it is made; see **Financial Services Authority v Rourke**³. Additionally, in claims where there is a public interest involved, the Court will be careful and consider the public interest element to the case before it exercises its discretion to grant a declaration; see **R v HM Treasury, ex parte Smedley**⁴. Notwithstanding the agreement of the parties, the Court has to scrutinise the terms of the agreed declaration and be

²[1953] 2 QB 18

³[2002] CP Rep 14

⁴[1985] QB 657

satisfied that it resolves a real legal uncertainty and would have a practical benefit for the Claimant before it is made.

[14] For these two main reasons, the Court did not approve the order in the terms presented in the draft consent order and opted to note there is no challenge by the Crown to the Claimant's allegations of breaches of his constitutional rights. Having considered the evidence and the submissions of both parties, I make the declarations and orders set out at the end of this judgment as it relates to liability.

ASSESSMENT:

[15] The Court is now tasked with assessing the appropriate quantum of damages to be awarded for a clear and admitted breach of the Claimant's constitutional right to personal liberty, arising from his unlawful detention for a period of 134 days. The submissions exchanged between the parties not only reflect divergent approaches to quantification but also offer contrasting narratives on the nature of the Claimant's experience during detention and the relevance of his prior charges.

[16] Under section 16 of the Constitution, a Claimant may seek relief for the infringement of his constitutional rights. The remedy is discretionary but is intended to be effective, meaningful, and proportionate to the violation suffered. In **Attorney General of Trinidad and Tobago v Ramanoop**⁵, the Privy Council held that constitutional redress may include a compensatory award and, where appropriate, an additional sum to vindicate the right breached.

[17] The Court is to be guided, but not constrained, by the common law measure of damages. In **Anthony Henry and Francis Noel v Attorney General of Saint Lucia**⁶, the Board disapproved of a mechanical daily rate approach, particularly for long-term detention,

⁵ [2005] UKPC 15

⁶ [2023] UKPC 41

and endorsed a tapered, holistic assessment that accounts for the totality of the injury, the individual's circumstances, and the conditions of confinement.

[18] Damages may include:

- 1) Compensatory damages: to reflect the loss of liberty and impact on dignity and well-being.
- 2) Aggravated damages: where the manner of detention or treatment exacerbated the harm.
- 3) Vindictory damages: to underscore the constitutional significance of the right breached and deter future misconduct.

COMPENSATORY DAMAGES:

[19] The background to this claim is not in dispute. Despite the Order, the Claimant remained incarcerated at the Facility until 18th March 2024, when his case was brought up for a status hearing and the error was identified. The State, in its submissions, has accepted liability for this unlawful detention for the period of 134 days, conceding that it amounted to a violation of section 3(1) of the Constitution of Saint Lucia. The parties have, however, been unable to agree on the appropriate quantum of damages.

[20] A significant point of contention arises from the respective affidavits filed. The Claimant's affidavit describes appalling conditions: overcrowding; sleeping on the floor; an exposed toilet shared with others; inadequate nutrition leading to digestive issues; and a lack of basic hygiene items. He emphasises that he was not serving a custodial sentence and yet endured these conditions.

[21] The State, through Mr Garde, offers a contradictory account, asserting that the Claimant was housed appropriately and provided with necessities. However, the Defendant elected not to cross-examine the Claimant. That procedural failure has substantive implications. Reliance on the case of **Glenville Isles v Attorney General of St. Kitts and Nevis**⁷ is misplaced. In **Isles**, neither party applied for nor obtained leave to cross-examine at the trial of a constitutional claim. On the day of the trial, when asked by the Court about his intention to cross-examine, Counsel for Claimant indicated that a previous order made at the pretrial review had stipulated that all witnesses attend for cross-examination. The matter was stood down for the parties to consider the law on cross-examination in administrative claims and the need to first obtain leave to cross-examine in administrative claims. When the matter was recalled, an oral application was made to the judge for leave to cross-examine which was considered and granted. This case in no way made any pronouncement that failing to cross-examine would lead to the evidence being accepted as submitted.

[22] In this case, there are several disputed facts regarding the conditions in which the Claimant was kept during the 134 days in the evidence of Mr Garde. Mr Garde was not cross-examined by the Claimant. In this regard, the learning in **Judicial Review Handbook**⁸, is apt, where it states:

“R (Soltany) v SSHD [2020] EWHC 2291 (Admin) at § 88 (Cavanagh J, describing “the approach that I have adopted in finding the facts... Where there is clear and incontrovertible evidence in support of contentions made on behalf of the claimants, I have accepted it. Where there is an outright dispute between the parties, I have accepted the defendant’s evidence, unless it is internally contradictory, implausible, or inconsistent with other incontrovertible evidence”); R (Sri Lalithambika Foods Ltd) v SSHD [2019] EWHC 761 (Admin) at § 35 (Charles Bourne QC: “Where the facts are in dispute in a judicial review application, in the absence of cross-examination the facts stated by the defendant’s witnesses must be assumed to be correct unless there are documents or other objective material showing that they cannot be correct.”); citing R (Safeer) v SSHD [2018] EWCA Civ 2518 at § 19 (Davies LJ: “The basic rule is clear, namely that where there is a dispute on the evidence in a judicial review application, then in the absence of cross-examination the facts in the defendant’s evidence must be assumed to be correct”); R (Singh) v

⁷ SKBHCV2020/0197 (Unreported)

⁸ Seventh Edition by the Hon. Sir Michael Fordham KC Rubric 17.3.11 – Presumptive acceptance of defendant’s witness statement evidence - Page 233

SSHD [2018] EWCA Civ 2861 at § 16 (“where there is a dispute on the evidence in a judicial review application, the facts stated in the defendant’s evidence will be accepted unless there has been an application to cross-examine the relevant witness or the evidence ‘cannot be correct’ ”); R (FDA) v Minister for the Cabinet Office [2018] EWHC2746 (Admin) at § 11 (“**The basic rule in judicial review is that where there is an evidential dispute, absent cross-examination the facts must be assumed to be those which favour the Defendant, unless there is documentary or other objective evidence that is inconsistent with the Defendant’s evidence and cannot sensibly be explained away**”); R (MAS Group Holdings Ltd) v Secretary of State for the Environment, Food and Rural Affairs [2019] EWHC 158 (Admin) at § 188 (absent cross-examination, facts in witness statements assumed in favour of public authority); R (Carlile) v SSHD [2014] UKSC 60 [2015] AC 945 at § 35 (appropriate to “proceed ... on the footing that the decision was genuinely made for the reasons given, and not for some undisclosed or collateral reason ... it should be noted that no application was made to cross-examine”), § 65, § 97 (“It would, no doubt, have been open to the claimants to have challenged the factual basis for the Government’s views before the Administrative Court. They could have asked that [the relevant individual] be cross-examined and subjected those views to searching examination”), § § 114, 117; R v Board of Visitors of Hull Prison, ex p St Germain (No 2) [1979] 1 WLR 1401, 1410H (“Since we have had to decide this matter on affidavit evidence without the benefit of cross-examination, we are obliged to take the facts where they are in issue as they are deposed to on behalf of the board”), applied in R (A) v Secretary of State for Justice [2010] EWHC 1250 (Admin) at § 2; R (MWH & H Ward states Ltd) v Monmouthshire County Council [2002] EWCA Civ 1915 at § 29 (wrong to “go behind the evidence” as to whether options were considered).”

[23] In this case, following the general rule as highlighted in the extract above, which in my view applies to all administrative claims and not just claims for judicial review, in the absence of cross-examination, the facts in Mr Garde’s evidence must be assumed to be those which are correct, as they favour the Defendant on the issue of conditions of detention. This is so as there is no documentary or other objective evidence that is inconsistent with the Defendant’s evidence. All disputed facts, therefore, which are critical to the claim and necessary to be resolved in this matter, are resolved in favour of the Defendant’s evidence.

[24] The Defendant’s attempt, however, to discredit the Claimant’s account due to a lack of corroborative evidence is undermined by its own failure to produce records. The Court pays little weight to this submission as the public authority has these records available to it. It cannot be that the State who had custody of the records and documents to

corroborate or disprove the Claimant's case did not produce it and then tried to ascribe evidential fault on the Claimant for not producing documents to corroborate his claim.

[25] The Defendant's reliance on the Claimant's conviction to reduce damages is heavily misplaced. **Terrence Calix v Attorney General of Trinidad and Tobago**⁹ makes it clear that constitutional rights of a person are not impacted by their reputation. In **Calix**, the Board held that the appellant's claim for constitutional relief had to be judged on an objective basis and could not be influenced by considerations as to his personal circumstances. Rather, the damage to his reputation was to be measured by reference to the fact that he had been previously of good character and that he had been prosecuted for the very serious offence of rape. Although the appellant's reputation had already suffered damage as a result of his having been prosecuted for robbery, that circumstance ought not to have operated to diminish the compensation to which the appellant was entitled. He was, therefore, entitled to be compensated on the basis that he had been of unblemished reputation when he was prosecuted for rape (see [12], [15], [16] and [17] of the judgment)

[26] The Defendant argues, that unlike **Merson v Cartwright** (*infra*), the Claimant has not pleaded a mixed tort and constitutional claim, and therefore, cannot invite the Court at the submissions stage to make an award for false imprisonment/unlawful detention, in addition to damages for his loss of liberty. That is, damages awarded in this case must be in relation to the Claimant's alleged breach of his constitutional rights only. The Defendant's argument against tort-based relief, whilst technically accurate, does not preclude a constitutionally framed remedy covering the same harm, which the Defendant accepts in its submissions. As **Ramanoop** and **Merson v Cartwright**¹⁰ confirm, constitutional damages may encapsulate tortious harm where pleaded appropriately. There are limits on a person being able to meaningfully vindicate a breach of their constitutional right in a common law action. **Ramanoop** provides the guidance for where mixed claims may be appropriate. In my view, this is not one such case. Relief

⁹[2013] UKPC 15

¹⁰[2005] UKPC 38

under the Constitution is sufficiently wide to permit an award of compensatory damages which in effect would compensate the Claimant for the additional time he spent in custody.

[27] The Claimant was detained unlawfully for 134 days, a prolonged and unjustified period for two reasons that are wholly unmeritorious. The omission of the attending officer of the Facility who accompanied the Claimant to Court to make an accurate note of the Judge's Order cannot justify the Claimant's unlawful detention. The omission is not insignificant, resulting in the Claimant being imprisoned for a further 134 days. Similarly, the second reason of no perfected Order being served demonstrates a significant misunderstanding of the nature and effect of the Order made by a judge in the assizes and, in particular, that it takes effect immediately and there is no obligation on the prosecution or the Court to serve any perfected Order on the Facility as averred in the evidence of Mr Garde.

[28] The parties have not been able to agree the methodology of the assessment of damages. The Defendant submitted that the reasoning of the Board in **Henry** applies in this case. That is, a tapered approach following the decisions of the Board in **Takitota v Attorney General**¹¹ and **Ngumi v Attorney General of the Bahamas**¹². I agree. Lord Carswell at paragraph 17 of the Board's decision in **Takitota** stated:

“[17] The court should determine what they consider to be an appropriate figure to reflect compensation for the long period of wrongful detention of the Appellant, taking into account any element of aggravation they think proper, reflecting the conditions of his detention and, in their own words, the misery which he endured. In assessing the proper figure for compensation for such long-term detention, they should take into account that any figure they might regard as appropriate for an initial short period, if extrapolated, should ordinarily be tapered, as their Lordships have pointed out in para 9 above. The final figure for compensatory damages should therefore amount to an overall sum representing appropriate compensation for the period of over eight years' detention, taking account of the inhumane conditions and the misery and distress suffered by the Appellant.”

¹¹ [2009] UKPC 11

¹² [2023] UKPC 12

[29] In the recent decision of the Board in **Ngumi**¹³ Dame Simler, DEB, stated:

- “72. The evaluative exercise called for in assessing the physical and mental deprivation caused by false imprisonment is no less difficult, and is even less precise. There are no guidelines and no mathematical formula is available to be relied on in every case. **Rather, the assessment must be sensitive to the unique facts of the particular case and the degree of harm suffered by the individual concerned, while at the same time reflecting a reasonable degree of proportionality to assessments made in similar cases and to awards for personal injury given the parallels between these two types of award.** It is now well-established that the initial shock of unlawful arrest and imprisonment may attract a higher notional element than a later period of detention because people do tend to adjust to their changed circumstances, and the initial shock generally gives way to adaptation and resignation, though this may not always be the case. The way in which the arrest was effected and any attendant publicity may be relevant factors in the assessment. Likewise, in assessing compensation for any later period of unlawful detention that follows, any loss of reputation, loss of enjoyment of life or normal experiences foregone, are likely to require consideration alongside the obvious factors of the length of and conditions and treatment in detention.
73. But damages in these cases should not ordinarily be assessed by dividing the award into separate periods or by fixing a rigid daily rate to be awarded for each day of incarceration and multiplying it by the number of days spent in unlawful detention. Rather, as the Board held in **Takitota** at paragraph 17, compensatory damages should be assessed in the round. The appropriate figure should “reflect compensation for the long period of wrongful detention ... any element of aggravation ... the conditions of his detention and ... the misery which he endured” and accordingly, the “final figure for compensatory damages should therefore amount to an overall sum representing appropriate compensation for the period of [lengthy] detention, taking account of the inhumane conditions and the misery and distress suffered”. That is the correct approach.
74. There may be cases where a notionally separate sum is regarded as appropriate to compensate for the initial shock of unlawful detention, but it is not necessary to distinguish between the initial and later periods of detention in every case. Nor is this necessarily the most principled way of making the assessment. What the Privy Council made clear in **Takitota** however, is that if an initial or daily rate figure is taken and simply extrapolated (by multiplying the daily rate by the number of days) to compensate **for a longer unlawful detention period**, then it should ordinarily be tapered for the reasons given above.”

¹³ at paragraphs 72 to 74

[30] In **Everette Davis v The Attorney General of Saint Christopher and Nevis**¹⁴, the Court, in considering damages, stated that:

“Any sum awarded by way of compensation must be measured and reasonable and assessed with reference to ordinary principles having regard to the circumstances of the case and the particular victim. The approach must be practical and neither seek to exaggerate the infringement nor to trivialise the breach.”

[31] In **Wakeem Guishard v Attorney General (BVI)**¹⁵, the Court of Appeal endorsed the use of a lump sum and a tapered approach in cases of long detention.

[32] In assessing the first component of the award for ‘initial shock’, in my view, the Claimant’s initial shock has to be nominal, if any, as he was already in prison when his incarceration became unlawful for a prolonged period. I find further support for this justification by following the guidance of the Court of Appeal in **Wakeem Guishard**: the ‘shock period’ factors - “the manner in which the claimant was arrested, his initial imprisonment, the conditions under which he was detained by the police, any harsh or inhumane treatment meted out to him at the hands of police officers, any undue publicity attendant with his arrest and detention, and any affront to his dignity” - are all absent in this case. The detention became unlawful in circumstances where he was already in custody, lawfully, on remand. There is no issue with the lawfulness of his initial arrest, its manner, or there being any affront to his dignity in the manner in which he was arrested. I consider an appropriate award for the initial shock to be \$5,000.00.

[33] In assessing the second component of the award using the tapered approach, and conscious of the statement of the Privy Council at paragraph 73 of the decision in **Henry & Noel** that “local courts are better placed than the Board to assess compensation in a case like this, as they are familiar with local conditions and the society they serve”, I have considered comparable local authorities. I have considered all of the cases cited by both parties, but I consider the following germane:

¹⁴ [2014] ECSCJ No. 142

¹⁵ [2020] ECSCJ No. 327

- 1) **Wakeem Guishard** – where a daily rate of \$300.00 USD (or \$822.00 XCD) was upheld by the Court of Appeal for a detention of 708 days;
- 2) **Garvin Brown v Attorney General of St Christopher and Nevis**¹⁶– where a daily rate of \$500.00 XCD was used for a period of detention being 533 days;
- 3) **Jermaine Browne v Attorney General of Saint Christopher and Nevis**¹⁷– where a daily rate of \$250.00 XCD was used for a period of 230 days;
- 4) **Everette Davis v Attorney General of St Christopher and Nevis** – where a daily rate of \$500.00 XCD was used for a period of 230 days.

[34] The average of these awards, though from different jurisdictions in the Eastern Caribbean, is about \$500.00 per day.

[35] In all of the cases relied on, there were issues raised about the conditions of the detention. In this case, given that Mr Garde's evidence opposing the Claimant's evidence was not challenged in cross-examination and there is no other evidence to reject the Defendant's evidence, I accept that the conditions are as stated by Mr Garde and not the Claimant. This must result in the daily rate being reduced.

[36] There is no way of calculating with precision what that reduction should look like, and the Court must be careful not to trivialise the fact of the breach of the Claimant's right to liberty. In my view, a reduction of 20% ought to be applied to the daily rate derived from the comparison of comparative awards, and a daily rate of \$400.00 ought to be used.

¹⁶ SKBHCV2018/0108

¹⁷ SKBHCV2016/0074

[37] Using this daily rate, the second component of the award would be:
 $\$400.00 \times 134 = \text{XCD}\$53,600.00$.

[38] The total award of compensatory damages to which the Claimant is entitled, in my view, is therefore: $\$53,600.00 + \$5,000.00 = \text{XCD}\$58,600.00$.

AGGRAVATED DAMAGES:

[39] Since the Court has not accepted the Claimant's account regarding the degrading conditions of detention, no separate award for aggravated damages will be made. The Court is, however, alive to the fact and accepts that being treated as a convicted or remanded prisoner, despite an order of release, exacerbated the indignity suffered by the Claimant. This, in my view, is adequately compensated in the award for compensatory damages made, the declarations issued, and the award of vindictory damages made below.

VINDICATORY DAMAGES:

[40] Vindictory damages are justified to affirm the value of the constitutional right and to reinforce respect for judicial authority. The facts that led to the Claimant being detained for 134 days were not the result of a technical oversight but a prolonged failure to give effect to a court order, based on a poor excuse and a misunderstanding of the requirement for orders to be served on the Facility.

[41] In my view, vindictory damages are further justified to reinforce respect for judicial orders. The entire notion of the perfection of an order taking two months, and service taking a further two months after perfection, is totally misconceived. The notion of perfected orders has no formal applicability in the assizes. Perfection of an order is a civil law concept; it does not exist in the criminal assizes, as far as I have been able to ascertain. The closest mention of an order for the assizes in the Criminal Code is Form

139, which refers to a minute of an order being kept and produced under the hand of the Clerk of Court in the District Court.

[42] **Section 59(3) of the Supreme Court Order** gives the Registrar of the Court wide power. It states that:

“The Registrar in any of his or her capacities shall have a discretionary power in respect of formalities, where no specific provision is made by this Act or any other law or rules of court in respect thereof.”

[43] There is no doubt that, for the good administration of the division, the introduction of formal orders made the process of recording orders more efficient and standardised between divisions, but this must not be conflated with the substantive law. The law is that, when an order is pronounced by a judge in the criminal division, it is immediately effective. There is no legal requirement for the drawing of an order, signing by the Registrar, sealing of the order, and perfecting of the same. These are procedural matters which do not affect the enforcement of the order made by a judge in the assizes. The obligation is on the Crown to note the order and, more importantly, to act on it.

[44] In my view, a sum of **XCD\$10,000.00** is appropriate and proportionate to serve the vindicatory objective.

FALSE IMPRISONMENT: WHETHER ADDITIONAL

[45] Although the Claimant refers to tortious heads, the matter proceeded solely under the Constitution. In line with **Ramanoop** and CPR 56.6(2), a unified constitutional remedy is preferable. A separate tort award is not made, but the rationale for such relief is incorporated into the overall quantum.

DISPOSITION:

[46] In this case, the Claimant having endured 134 days of unlawful detention, the following award is made:

- 1) **Compensatory damages:** EC\$58,600.00
- 2) **Vindictory damages:** EC\$10,000.00

COSTS:

[47] This is a Part 56 claim, the applicable costs regime being assessed costs. There is no reason to depart from the general rule that costs follow the event. Accordingly, the Defendant must pay the Claimant's costs of this claim to be assessed (following the detailed costs assessment procedure) in default of agreement.

ORDERS:

[48] For the reasons stated above, I make the following declaration and orders:

- 1) **IT IS HEREBY DECLARED** that the continued detention of the Claimant, Curtis Jules, from 7th November 2023 to 18 March 2024, following the High Court's Order of 6th November 2023 suspending his sentence of imprisonment, was unlawful and in breach of the Claimant's constitutional right to personal liberty as guaranteed under section 3(1) of the Constitution of Saint Lucia.
- 2) **IT IS HEREBY ORDERED** that:
 - i. The Defendant shall pay the Claimant the following sums:
 1. Compensatory damages assessed in the sum of XCD \$58,600.00; and

2. Vindictory damages assessed in the sum of XCD \$10,000.00.

- ii. The Defendant shall also pay the Claimant his costs of this claim to be assessed in default of agreement in accordance with the detailed costs procedure.



Alvin S. Pariagsingh
Judge

By the Court,

Registrar