

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE
(CRIMINAL DIVISION)

CASE NO.: ANUHCR2017/0039

BETWEEN:

THE KING

-and-

METHONI VERNON

Appearances:

Mrs. Shannon Jones-Gittens, Crown Counsel for the Crown
Mr. Andrew O’Kola, Counsel for the Applicant/Defendant

2024: December 5th,
January 23rd,
February 10th.

RULING ON AN APPLICATION FOR STAY OF PROCEEDINGS

[1] **BAKRE, J.:** Now this is an interesting case in which the applicant, Methoni Vernon is standing trial for murder of Roy Carridice vide charge dated 24th day of August 2017. By an application originally dated 27th of June, 2024 but subsequently amended on the 5th of June, 2024. The applicant requested for a stay of proceedings in the matter. By the nature of the stay of proceedings requested, the effect is a discharge of the said charge.

[2] The grounds of the application summarily are that;-

- (1) The court has jurisdiction to make the order sought by the applicant.
- (2) In the circumstances set out in the affidavit of Methoni Vernon dated June 2024, it is just and convenient to make such an Order.
- (3) A stay is necessary to prevent the infringement or likely infringement of the applicant’s right under the constitution of Antigua and Barbuda.

The applicant relied on a (44) forty four paragraph affidavit of Mr. Methoni Vernon (a Jamaican) wherein he highlighted the circumstances upon which he was brought into Antigua and Barbuda from Dominica.

- [3] It was contended that the applicant was kidnapped under a disguised extradition or unlawful rendition and brought into Antigua from the Commonwealth of Dominica outside the legal provision for extradition and the exercise being illegal, the right of the applicant under the constitution has been breached and the subsequent charge for murder based on this unlawful kidnap would amount to an abuse of the process of this Court and thus the prosecution should be stayed.

The Facts Relating to the Application

- [4] The applicant, Methoni Vernon is a Jamaican citizen who had lived in Antigua and Barbuda from 2000 until he travelled to the commonwealth of Dominica on 3rd of July, 2014.
- [5] By January 2016, he was living in the Commonwealth of Dominica, where he has a partner and child, when the Dominican police arrived at his home and stated that they had a warrant to search the house for guns, drugs and ammunitions (he claimed he was never shown the warrant. But he was taken to the police headquarters.
- [6] The defendant said he was told that he would be charged and deported but he contested that he would like to appeal the decision to deport him because of his significant ties to the commonwealth of Dominica based on his partner and child but he was denied access to legal assistance and his matter was not taken to court but arrangement was made for his extradition on the ground that he had over stayed in the country and would be deported to Jamaica. He was kept in custody for about two weeks.
- [7] The applicant related his subsequent journey to Antigua in his affidavit attached to this application and the relevant parts of the affidavit of the applicant are summarized below:-

- (1) The applicant arrived in Dominica on 3rd July 2014. He met a lady called Sherlyn the day after and they became romantically involved. She later became pregnant and shortly after, delivered a son and thus he decided to stay on in Dominica (according to him, with a plan to eventually move to Jamaica).

- (2) In 2016, the Dominican police went to his house with a warrant to search for guns, drugs and ammunitions and he was subsequently taken in to the police headquarters in Dominica.
- (3) He was eventually told that he would be deported to Jamaica, a decision which he said he would contest. He said he was denied the right to see his lawyer or apply to a judge on the decision to deport him despite the fact that he has a partner and a young son in Dominica.
- (4) He said he was never charged with any offence eventually but was told that since he had overstayed, he would be deported and he was thus detained for over two weeks.
- (5) Sometimes in January 2016, he was taken from the cell to the airport in Dominica in a car with four Dominican police officers and was told that he would be deported to Jamaica through Antigua. This surprised him and he queried why he would be going through Antigua and one of the officers said the Antigua government would buy his ticket for onward transfer to Jamaica.
- (6) He said his partner came to the airport upon hearing that he was being removed but they refused to let him see her but only brought the son to him to say good bye.
- (7) He said he was forcefully put on a flight through Guadalupe to Antigua and he subsequently found out that there were Antiguan police officers on the flight.
- (8) Upon arrival in Antigua, he was immediately arrested by the officers on flight and taken to the police headquarters.
- (9) He was eventually charged to face this offence of murder.

[8] Upon the receipt of the application, the prosecution, as respondent in this application also filed various affidavits in response relating to the circumstances with which the applicant was brought into the jurisdiction. The affidavits were of three police officers who performed various roles in bringing the defendant to Antigua and one who deposed to the fact that there is no record of a formal extradition process in the record of Antigua of how the defendant was brought.

- [9] The affidavit of Mr. Curtis Cornelius, a Crown Counsel was also filed and it detailed the effort of the Respondent to have Mr. Wendel Alexander (formerly Robinson) who was then the police Commissioner to state the exact manner the defendant was brought but was to no avail. In a letter exhibited to the affidavit of Mr. Cornelius, the Respondent narrated that Mr. Alexander had told them:-

“informal arrangements were made to have him returned by the Dominican authorities who had him in police custody. that these arrangements included his airline ticket to Antigua being purchased by the Antigua and Barbuda authorities”

- [10] At the hearing of this application on the 5th of December, 2024 the Court raised, suomuto the issue of its jurisdiction to determine this application being a court of criminal jurisdiction and asked to be addressed on it.
- [11] Counsel Mr. O’Kola stated that the jurisdiction of the Court is embedded in its inherent powers to protect the abuse of its processes. This position was also agreed by Mrs. Shannon Jones- Gittens, the learned acting Director of Public Prosecution who filed her argument in the submission dated 6th January, 2025 and filed on 7th January, 2025.
- [12] Both Counsel to the Applicant and the Respondent relied on several authorities with regards to abuse of court process. Refers to the case of **Bennett v. Horseferry Road Magistrate Court** (1994) 1 AC 42. Where it was stated that a court has a discretion to stay any criminal proceedings on the ground that to try those proceedings will amount to an abuse of its own process either because it will be impossible (usually by reason of delay) to give the accused a fair trial or because it offends the court’s sense of justice and propriety to be asked to try the accused in the circumstance of a particular case. The court stated however, that it is a remedy of last resort and a discretion which the court will exercise sparingly. The court stated that this leaves the burden of proof on the applicant even though it is on balance of probabilities.
- [13] To further buttress the point the case of **The Queen v. Crawely and others** (2014) EWCA Crim. 1018 was referred to the Court where the Court referenced Attorney General’s reference (No. 2 of 2001) (2004) 2 AC 72 which expounded categories of cases which may ground such an application. See also **R. v. Brentford Justices, Ex Parte Wong** (1981) QB 445.
- [14] It was thus conceded and agreed by both Counsel that this Honourable Court has the jurisdiction to determine this application as a court before which a criminal case

is taking place has inherent powers to prevent the abuse of its process. It was concluded that where the Court comes to the conclusion that it would be an abuse of its process to proceed with the case, it may order a stay of proceedings which would have an effect of a strike out as there would not be a need for the trial proceeding to take place. The case of DPP v. Alphonso Ryan (unreported) ANUHCRA 2019/0001 was referenced by the respondent.

- [15] The case of Bennett v. Horseferry Road Magistrate Court (1994) 1 AC 42 is almost on all fours with the facts in issue here. It involves the return of the defendant to the United Kingdom for trial for a pending offence. The trial court ruled that it had no jurisdiction to inquire into how the defendant was returned. The House of Lords however reversed the decision holding that the trial court had the jurisdiction to prevent the abuse of its process and that it was an abuse of the courts process to maintain a charge against a defendant forcibly brought into the jurisdiction in disregard of the lawful procedure.
- [16] From the submissions of both Counsel, it is not only clear that this Court is vested with the jurisdiction to inquire into the legality of the manner the defendant was brought before the Court, the Court is equally seized with the power to stay proceedings where it comes to the conclusion that its process is being abused in the circumstance in the bid not prevent the use of its process to support a seeming executive recklessness.
- [17] Counsel to the Respondent made a submission that, in order to apply the principle as enunciated by these authorities, the Court must make a finding on the facts as it relates to the circumstances of the defendant's alleged abduction before the application can be successful. Counsel relied on Latif v. Shahzad (1966) 1 All E.R 353 where the house of Lords found that the defendant was not abducted but returned willingly after being tricked. She submitted that in such a circumstance, the system was not compromised. She relied further on the case of R v. Staines Magistrates' Court and Others, ex parte Westfallen and others (1998) 4 All E.R 210. She thus urged the Court to make an inquiry on whether in this instance; the defendant was unlawfully brought in the jurisdiction as alleged.
- [18] Having come to these conclusions, this Court is merely faced with one other issue in this instance and it is whether in the face of the affidavit of Methoni Vernon and the witness statements filed by the prosecution, there was any form of breach of the constitutional rights of the defendant which would amount to an abuse in this regard.

- [19] I have related the affidavit of Methoni Vernon where he narrated the circumstances of how he came to Antigua. The summary of the prosecution statements supposedly in opposition was also narrated.
- [20] It is clear that the process that brought the applicant to the jurisdiction of Antigua is as related by the applicant. It is that the police authority in Antigua having been tipped off by an officer of the Antigua Police Force actually initiated the process of returning him to the jurisdiction. This process included seeking the support of the police in Dominica and eventually buying the ticket with which the defendant was returned. The defendant narrated how he was forcefully kept in Dominica and not allowed to see a judge until he was put on a plane with police officers from Antigua and arrested on arrival.
- [21] It was further related by the prosecution that there is no record of a legally process extradition in Antigua. This can only mean that as narrated by the defendant, the process of bringing him to the jurisdiction is not the normal channel.
- [22] The learned DPP had submitted that where the defendant was tricked into coming to the jurisdiction, it should be an exception to the situation where this would be regarded as an abuse of process.
- [23] I do not see in this instance that the defendant was actually tricked, rather I believe from all the facts related by him and the statements of the officers who deposed to various affidavits of the respondent that the defendant was taken to Antigua forcefully to be arrested.
- [24] Having taken the position that the process of removing the defendant from Dominica was wrong, it is without that the continuous prosecution of the defendant in this charge would amount to an abuse of process.
- [25] It is in this regard that the Court holds that this application succeeds. The prosecution of Methoni Vernon for the charge of murder of Roy Carridice is hereby declared an abuse of court process and the action is hereby stayed.

[26] The application succeeds and the accused is hereby discharged.

Tunde A. Bakre

High Court Judge

By the Court



Registrar