

EASTERN CARIBBEAN SUPREME COURT
SAINT CHRISTOPHER AND NEVIS
NEVIS CIRCUIT

IN THE HIGH COURT OF JUSTICE
(CIVIL)
A.D. 2022

IN THE MATTER OF THE JURY ACT CAP 3.15

RE: MICHELLE BRANTLEY-HALL

(A Prospective Juror)

Before: His Lordship Justice Patrick Thompson (Jr)

Appearances:

Mr. Vieoence Prentice of counsel for the Prospective Juror

2022: October 24th and 31st
November 4th

JUDGMENT

Thompson Jr J:

1. "It is necessary for the peace order and good government of every civilized society that courts of law should be established and maintained for the dispensation of justice in disputes between members of the society, between them and the State and generally for the enforcement of laws regulating and controlling their conduct in the general interests of society. The rights guaranteed under the Constitution are of little value without the courts before which they can be vindicated"
2. The foregoing quotation, lifted from the reasoning of the late Chief Justice Smith of Jamaica in the case of Re Eric Darien (1974) 22 WIR 323 is entirely apposite today as it was in 1974 when Mr. Darien sought to be exempted from jury service on the basis of his religious beliefs.
3. Chief Justice Smith's reasoning was echoed in the reasoning of another court comprising a future Chief Justice of England and Wales in the case of R v Guildford Crown Court ex parte Siderfin [1990] 2 Q.B. 683. In that case Justice of Appeal Watkins and Justice Judge (as he then was) found that

“The existence of a serious conscientious objection arising out of a religious belief on its own would be unlikely to amount to a good reason for being excused from jury service. In other words, it would not outweigh the necessity to insist upon the observance of the public duty or obligation to perform jury service. It may in our view do so if the Applicant’s religious beliefs for example would be likely to prevent her from performing her duty as a juror in a proper way. Adherence to some kind of religious belief simply cannot be regarded as an unchallengeable right to excusal from jury service as automatically amounting to good reason. We were referred in this respect to a case dealing with conscientious objection to military servicebut we did not find the principles involved in conscientious objection to fighting in a war of any real assistance in considering how conscientious objection to jury service has to be regarded”

4. Applications to be excused from jury service on the basis of a conscientious objection ought to be considered carefully and sympathetically and this Court has applied this approach to the instant application.
5. Section 39 of the Jury Act provides that a juror may be exempted from serving if a judge is satisfied upon ‘reasonable and sufficient cause’ being shown. The Applicant seeks to be exempted from service on two grounds.
6. The first ground is because of her employment as a paralegal in a Nevis based company that provides appellate paralegal services to lawyers based in New York. Her employment requires her to know the procedural rules of the relevant appellate courts (presumably of New York and other of the United States) and she contends that she should be exempted from service as falling within the class of persons titled as ‘officers of courts of law and barristers and solicitors in actual practice and their clerks’.
7. This ground of exemption was not pressed on this Court but this Court is not persuaded that the Applicant falls within the foregoing definition. It would stretch the bounds of credulity to find that the Applicant is the clerk of a barrister or solicitor in practice and in any event the Jury Act can only exempt such persons in actual practice in the Federation. Moreover, it is not in dispute that the Applicant’s employment is offshore and focused on the administrative preparation of briefs in the United States. That employment could not reasonably affect her ability to sit and determine criminal cases in Nevis and dare I say enhances her suitability for jury service. This ground of exemption is thus rejected.
8. The Applicant’s primary ground of challenge concerns her religious faith. The Applicant is a practicing Jehovah’s Witness and it is her belief (supported by evidence from the Bible and the Watchtower publication¹) that she should not sit on juries as that constitutes acting as a judge of others.
9. This Court is satisfied that the Applicant is a bona fide member of the Jehovah Witness faith who genuinely and sincerely holds a belief that she should not sit in judgment as a juror on her fellow man or woman.

¹ See Luke 12:14 and 1 Corinthians 5:12-13

<https://www.jw.org/finder?wtlocale=E&docid=1973208&scrtype=wol&srcid=share&par=2>

10. This Court's task is to sympathetically and carefully balance this finding against the principles of law as distilled above from the Re Eric Darien and ex parte Siderfin decisions. Those decisions make it clear that the right to freedom of conscience does not automatically translate into a religious exemption from jury service. To quote the Court in ex parte Siderfin

"Members of the public summoned for jury service perform a vital role in the administration of justice in the criminal courts. Doubtless many members of the public find that a jury summons involves difficulty and inconvenience. Serving upon a jury is an onerous task. Many forms of public service are but without juries the system of justice would collapse. Performance of jury service is an important obligation of every citizen"

11. The importance of these principles have to be balanced against whether the interference with the Applicant's right to freedom of conscience is required and justifiable in a modern democratic society. See R (Williamson) v Secretary of State for Education & Employment [2005] UKHL 15
12. Ultimately, this Court is persuaded that it is appropriate to exempt the Applicant from jury service for the following reasons. One, jury service is not an abstract idea. Jury service requires a collaborative effort by all concerned. If this Court were to compel the Applicant to serve the Defendant(s) in any trial would likely be prejudiced since the Applicant would play no active part in the jury deliberations. The Applicant if compelled to serve would offer no useful input on the deliberative process so integral to arriving at a verdict and she may well affect the ability of other jurors to do so. Excusing the Applicant is not a charter for jurors to simply seek to avoid jury service by indicating their intention to frustrate the process but the Applicant's genuinely held religious beliefs present her with a fundamental obstacle to performing the basic functions of a juror.
13. The decision to exempt a juror is ultimately a matter of judicial discretion and this Court has opted to exercise its discretion in the Applicant's favour. The fact that the Applicant is willing to risk imprisonment confirms the force of her convictions and underscores the exceptionality of the case before this Court. See Re Jenison Contempt Proceedings 267 Minn.136 (Minn 1963).125 N.W.2d 588 a decision of the Supreme Court of Minnesota.
14. Secondly, the balance between the State's interests as set out above and the Applicant's right to freedom of conscience is not any easy one as there are weighty and compelling considerations on all sides. All the same, the exemption of one juror is unlikely to open the floodgates for a series of other similar applications to be granted. The effective functioning of the system of trial by jury is unlikely to be compromised by the exemption of a juror on these grounds. Therefore on this occasion, the State's interest must yield to the Applicant's rights.
15. This Court's ruling cannot and should not be considered as a carte blanche for all and sundry to launch applications for exemptions² from jury service. Any such cases will have to be rigorously considered on their own particular facts with due regard for the basis for the application and the exact nature and scope of how that religious belief intersects with exactly what jury service entails. Successful applications for exemptions from jury service are likely to be few and far between but

² The exemptions from jury service are set out in the First Schedule to the Jury Act and Parliament may wish to consider whether these wide reaching exemptions have any place in a modern post-colonial independent state on the cusp of celebrating its 40th year of independence.

should all be carefully considered with due respect for the particular religious beliefs of potential applicants.

16. This Court wishes to express its gratitude to counsel for the Applicant for his focused and diligent submissions and the frank and respectful manner in which the matter was argued.

Patrick Thompson Jr
Resident High Court Judge

BY THE COURT

REGISTRAR