

**THE EASTERN CARIBBEAN SUPREME COURT
SAINT LUCIA**

**IN THE HIGH COURT OF JUSTICE
(CIVIL)**

SLUHCV2020/0344

BETWEEN:

AL BEAUSOLEIL

Claimant

and

THE ATTORNEY GENERAL

Defendant

**Before: Her Ladyship, the Honourable Justice Kimberly Cenac-Phulgence
(A Judge in Chambers)**

Appearances: Mr. Leslie Prospere and Ms. Megan Du Boulay-Lee of
Counsel for the Claimant
Mr. Seryozha Cenac of Counsel for the Defendant

2021: March 25, 31.

RULING

[1] **CENAC-PHULGENCE J:** This decision concerns the determination of a preliminary issue. The claimant, Al Beausoleil, ("Mr. Beausoleil") filed a constitutional motion with affidavit in support and exhibits on 12th August 2020. The defendant filed two affidavits in reply on 22nd September 2020.

[2] By the originating motion, Mr. Beausoleil seeks the following relief:

(i) A declaration that certain members of the Royal Saint Lucia Police Force (the police force) unlawfully deprived him of his personal liberty as guaranteed by the provisions of sections 3(1) and 3(3) of the Constitution of Saint Lucia¹ ("the Constitution") when they failed/refused to offer him

¹ Cap. 1.01 of the 2012 Revised Laws of Saint Lucia.

police bail pursuant to section 594 of the Criminal Code of Saint Lucia Act No. 9 of 2004 (the Criminal Code) for the summary offences of uttering threatening words to Theodora Joseph (threats) and unlawfully assaulting Theodora Joseph with a dangerous weapon (assault with a deadly weapon) contrary to sections 543(a) and 426 respectively of the Criminal Code;

- (ii) A declaration that certain members of the police force unlawfully deprived him of his personal liberty as guaranteed by the provisions of sections 3(1) and 3(3) of the Constitution when they failed/refused to release him from their custody after he had been granted bail by His Honour Magistrate Mr. Leon S. France on 4th February, 2020 for the summary offences of threats and assault with a deadly weapon;
- (iii) Damages for his unlawful detention by certain members of the police force from approximately 1:29 pm on 2nd February, 2020 until approximately 5:00 p.m. on 7th February, 2020;
- (iv) Aggravated and or exemplary damages for certain members of the police force's conscious and egregious breach of the order of His Honour Magistrate Mr. Leon S. France dated 4th February, 2020 granting him bail for the summary offences of threats and assault with a deadly weapon;
- (v) Damages for his loss of income arising from his unlawful detention by certain members of the police force;
- (vi) An order for the prompt return of his cutlass that certain members of the police force had confiscated from his residence at La Clery in the Quarter of Castries on 1st February, 2020; and
- (vii) Such further and other relief as this Honourable Court deems just.

- [3] The short facts as alleged by Mr. Beausoleil are that on Sunday, 2nd February 2020 he was charged with the offences of threatening words and assault with a deadly weapon to wit: a firearm. He was taken to the First District Court on Monday, 3rd February 2020 and due to the unavailability of the magistrate, was remanded in custody at the Custody Suites. On Tuesday, 4th February 2020, he was again taken to First District Court where he was granted bail in the sum of \$500.00 on his own recognizance on the charge of threatening words and \$500.00 cash on the charge of assault. Mr. Beausoleil's father paid the

\$500.00 on that same day. He was however not released as the Micoud Police Station wanted to interview him in connection with a matter. When he did get back to Custody Suites, Mr. Beausoleil alleges that a female police officer told the police officers accompanying him that they should take him back to the District Court Office to sign his bail documents but they responded very aggressively and said they would not do so. He was later on 4th February 2020 conveyed to the Micoud Police Station.

- [4] On 5th February 2020, he was taken to the First District Court to sign the recognizance and then driven back to the Micoud Police Station where he spent the night. On 6th February 2020, he was interviewed and on 7th February 2020 he was released without being charged. Mr. Beausoleil alleges that it is only after he began shouting and demanding his release when he realised that the 72-hour time limit was approaching that he was released.
- [5] The crux of Mr. Beausoleil's contention is that he was detained at the Micoud Police Station despite the fact that he had been granted bail and that this constitutes unlawful deprivation of his liberty in contravention of section 3(1), (2) and (6) of the Constitution.
- [6] The defendant maintains that there was no deprivation of liberty as there were reasonable grounds to have detained Mr. Beausoleil even after he was granted bail. The defendant in its reply also raised the question whether the Court should entertain this claim in light of the proviso to section 16(2) of the Constitution of Saint Lucia. The Court having discussed this preliminary issue with the parties gave directions and ordered the filing of skeleton arguments with authorities addressing the issue. The defendant filed skeleton submissions and reply submissions with authorities on 23rd November 2020 and 5th March 2021 respectively and the claimant on 23rd February 2021
- [7] Section 16(1) of the Constitution permits a person who alleges contravention of any of the provisions of sections 2-15 to apply to the High Court for redress. Sub-paragraph (2) states that the High Court has original jurisdiction to hear and determine applications made pursuant to sub-paragraph (1) of section 16

and may make such declarations and orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of sections 2 to 15.

[8] Section 16(2) is subject to a proviso which is in the following terms:

“Provided that the High Court may decline to exercise its powers under this subsection if it is satisfied that adequate means of redress for the contraventions alleged are or have been available to the person concerned under any other law.”

[9] It is clear that the proviso gives the High Court a discretion whether to exercise its jurisdiction to hear a constitutional claim where it is satisfied that adequate means of redress are or have been available to the claimant. The fact that there is an adequate means of redress available does not lead to an automatic decline by the High Court to exercise its constitutional jurisdiction. This is clear from the cases of **Attorney General of Trinidad and Tobago v Siewchand Ramanoop**² and **Urban St. Brice v The Attorney General**.³

[10] In **Urban St. Brice**, Webster JA put it this way:⁴

“Where the allegation involves a breach of a specific provision of the Constitution but there is a parallel right at common law the applicant is still expected to challenge the breach at his criminal trial and not by a constitutional motion:...A constitutional motion is possible for this type of breach **if the matter is urgent or otherwise exceptional**.”

“...However, **the right to use the constitutional procedure is not automatic and the judge retains his or her discretion under section 16 of the Constitution to decline to hear the complaint as a pre-trial application**”.

“...it is clear from the proviso to the section that the power is discretionary and the court may decline to hear the motion if adequate means of redress are or have been available to the applicant. In my opinion nothing in the cases cited above diminishes this power. They simply give guidance as to how or when the power should be exercised. **Each case must be decided on its own facts.**” (my emphasis)

² [2005] UKPC 15 at paras 23-24

³ SLUHC VAP2012/0027 (delivered 31st October 2016) (unreported).

⁴ At para 27(b)-(c); para 28.

[11] In **Jaroo v The Attorney General**, the Privy Council sounded the caution when their Lordships stated:⁵

“Their Lordships wish to emphasise that the originating motion procedure under section 14(1) is appropriate for use in cases where the facts are not in dispute and questions of law only are in issue. It is wholly unsuitable in cases which depend for their decision on the resolution of disputes as to fact. Disputes of that kind must be resolved by using the procedures which are available in the ordinary courts under the common law.”

[12] Their Lordships continued:⁶

“Their Lordships respectfully agree with the Court of Appeal that, before he resorts to this procedure, the applicant must consider the true nature of the right allegedly contravened. He must also consider whether, having regard to all the circumstances of the case, some other procedure either at common law or pursuant to statute might not more conveniently be invoked. If another such procedure is available, resort to the procedure by way of originating motion will be inappropriate and it will be an abuse of process to resort to it.”

[13] Counsel for the claimant, Mr. Leslie Prospere (“Mr. Prospere”) in his submissions readily accepts the import of the proviso to section 16(2) of the Constitution.

[14] Counsel for the defendant, Mr. Seryozha Cenac (“Mr. Cenac”) submits that there is or has been from the onset an adequate alternative remedy available to the claimant which does not require the claimant to resort to the Court's constitutional jurisdiction that being a claim for damages for false imprisonment against members of the Royal St. Lucia Police Force and the defendant for the failure to release the claimant after 72 hours.

[15] Section 3(1) of the Constitution provides for instances where a person may be deprived of his personal liberty. In the circumstances of this case, sub-paragraph (e) is relevant. It permits deprivation of a person's personal liberty if it is ‘upon a reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law.’

⁵ At paragraph 36.

⁶ At paragraph 39.

- [16] Section 3(3) provides that any person arrested or detained upon reasonable suspicion of his having committed, or being about to commit a criminal offence under any law and who is not released, must be brought before the court, without undue delay and in any event not later than seventy two hours after his arrest or detention. Section 3 is not an absolute right.
- [17] Mr. Cenac submits that it is Mr. Beausoleil's case that he was unlawfully deprived of his personal liberty when the officers refused/failed to release him after he had been granted bail by the Magistrate on 4th February 2020 for the offences of threats and assault with the deadly weapon with which he had been charged. He therefore seeks a declaration to this effect and also claims damages for unlawful detention for the period 2nd to 7th February 2020. In essence his detention became unlawful after the expiration of 72 hours of his arrest and this unlawful detention gives rise to a claim for damages.
- [18] It is the defendant's further submission that the facts of this case are best suited for a private law claim of false imprisonment. Mr. Cenac argues that if one examines the elements of the tort of false imprisonment, it is clear that the facts of the case as alleged by the claimant if accepted would satisfy the elements required to be proven to establish false imprisonment. It requires proof of the fact of imprisonment and the absence of lawful authority to justify such imprisonment. It is well-known that imprisonment is complete deprivation of liberty for any time, however short, without lawful authority.
- [19] It is the defendant's contention that the claimant had a claim of false imprisonment open to him by which he could have claimed and recovered similar damages which he seeks on this claim if he had been successful.
- [20] The defendant further submits that the failure or refusal of the police to grant police bail is not a constitutional question which in any event would be more appropriately dealt with during the trial of a false imprisonment claim where it may be a relevant factor to be considered.

- [21] Mr. Cenac contends that the Court should not entertain this claim as a constitutional claim given the proviso to section 16(2) of the Constitution and having regard to the fact that the claimant had the opportunity to bring a claim for false imprisonment from the outset, a claim which they say operates as an adequate and effective alternative remedy for the alleged breach.
- [22] The defendant refers to the case of **Johnson Moise v The Attorney General**⁷ which referred to the case of **Ramanoop** at paragraph 25 where the Privy Council stated that:
- "...where there is a parallel remedy, constitutional relief should not be sought unless the circumstances of which complaint is made include some feature which makes it appropriate to take that course. **As a general rule, there must be some feature which, at least arguably, indicates that the means of legal redress otherwise available would not be adequate. To seek constitutional relief in the absence of such a feature would be a misuse, or abuse, of the court's process.** A typical, but by no means exclusive, example of a special feature would be a case where there has been an arbitrary use of state power." (my emphasis)
- [23] Stephenson J in the **Johnson Moise** case said at paragraph 56:
- "[56] **If it is in essence a breach of the claimant's common law right, then the fact that it could fit the description of a right protected by a constitution does not by itself justify resort to procedure by way of constitutional motion. The question is, is there an exceptional feature such as the absence of any disputed facts, as this would make such a procedure more convenient and appropriate?**" (my emphasis)
- [24] Mr. Cenac submits that there is no exceptional feature in this case that warrants the court's constitutional attention above that of its power to award damages at common law for the alleged tort. He further submits that the facts pleaded in the case at bar do not support Mr. Beausoleil's assertion that the actions of the police officers were egregious or for which damages in a claim for false imprisonment would not be adequate.
- [25] Mr. Prospere in answer submits that the claimant's claim carefully sets out the facts which highlight the exercise of egregiously arbitrary power against him by

⁷ DOMHCV2015/0132 (delivered 4th April 2017) at paragraphs 53-56.

the police. In that regard, he specifically points to what he terms the most striking feature of the exercise of arbitrary State power which occurred when members of the Gros Islet police deliberately detained him in custody after he had specifically been granted bail (paragraphs 27 and 28 of the affidavit in support). Mr. Prospere also cites the fact of the police deliberately refusing to take the claimant to sign his bail documents even after being urged to do so by one of their colleague officers at Custody Suites as another example of this arbitrary power (para 29-30 of the affidavit in support). Mr. Prospere also contends that the defendant has failed to provide any evidence relating to the claimant's post bail detention at Custody Suites.

[26] Mr. Prospere contends that this claim is not a pedestrian claim arising from allegations of false imprisonment against the police as the defendant has submitted. He also submits that the court in its constitutional jurisdiction is capable of vindicating the claimant's rights by making the appropriate declaratory relief and awarding appropriate damages (vindictory damages) which it cannot do in an ordinary private law claim.

[27] In reply, Mr. Cenac submits that the claimant has referred to 'facts' which he says illustrates an arbitrary use of State power against him by the police but the defendant disputes the allegations of the claimant and states that contrary to the claimant's assertions at paragraph 25 of his affidavit, the claimant was taken to sign his bail documents by the police in relation to the first charge of threatening words. This is reflected by exhibit AB5 of the claimant's affidavit in support where it shows clearly that the claimant signed his recognizance to appear on 4th February 2020.

[28] Mr. Cenac also contends that the order granting bail did not prevent the arrest and further detention of the claimant on reasonable suspicion that he had committed another offence. They rely on the case of **Everette Davis v The Attorney General**⁸ where Ramdhani J laid down the applicable test in relation to reasonable and probable cause to arrest and or detain a person. The

⁸ SKBHCV2013/0220 at paragraph 12.

defendant submits that the sworn affidavit testimony of PC Burtrus Biscette in reply to the claim filed on 22nd September 2020 at paragraphs 4-6 sufficiently expresses the existence of facts from which there was reasonable suspicion that the claimant had committed the offence of arson. The defendant therefore submits that the claimant was lawfully detained at the Custody Suites after being granted bail, on reasonable suspicion that he had committed another offence.

- [29] Mr. Cenac further submits that it is for the claimant to prove by way of his pleadings that the actions of the police were in fact 'an arbitrary use of State power'. He refers to the case of **Webster v The Attorney General of Trinidad and Tobago**⁹ where Lord Wilson stated:

"What was the feature which entitled the claimant in Ramanoop not to make his claims in tort for assault, battery and false imprisonment and therein to claim exemplary damages including by reference to breaches of his constitutional rights? The Board's answer was that the police officer's conduct, which had been "quite appalling", had represented a shameful misuse of the coercive powers with which the state had endowed him..."

- [30] The defendant submits that the claimant has failed to show that the conduct/actions of the police officers by any means amounted to a shameful misuse of the coercive powers with which the State endowed them or that their actions were egregious or appalling in the circumstances of this case. The defendant further submits that there is nothing which would have prevented the claimant from claiming exemplary damages for any proven constitutional breach in a false imprisonment claim and he has not shown why a claim for false imprisonment with a claim for exemplary damages would not be an adequate remedy for the claimant's complaint.

- [31] The defendant contends that if it found that the magistrate granted bail and the police nonetheless detained the claimant further without reasonable suspicion and this is proved, this would no doubt amount to false imprisonment. If the defendant says it had provided no reason for the claimant's continued detention after he was bailed, then the claimant may have been in a better

⁹ [2011] UKPC 22 at paragraph 19.

position to persuade the Court that there was a special feature justifying a constitutional motion.

- [32] Even if the Court were to find on the facts of this case that the conduct of the police was “appalling”, the defendant contends that this could have been addressed by a claim for exemplary damages.

Analysis and Conclusion

- [33] It is accepted that the mere existence of an alternative remedy does not automatically justify excluding constitutional proceedings under the proviso to section 16(2). The crux of the matter is the adequacy of that alternative remedy. The courts have attempted to provide some guidelines in assessing adequacy. As seen from above, **Ramanoop** suggests that constitutional relief is only appropriate where there is some additional feature that exists. Some examples provided by the learned authors of **Fundamentals of Caribbean Constitutional Law**¹⁰ are: ‘the arbitrary use of state power-(i) where an off-duty policeman brutalized the claimant for what was a private dispute between the claimant and the policeman’s friend (**Ramanoop**); (ii) where a lawful visitor to the Bahamas was incarcerated for eight years without charge and in appalling prison conditions pending the execution of a simple deportation order (**Takitota v AG** [2009] UKPC 11); (iii) where there are multiple breaches of a person’s fundamental rights.’
- [34] There is no doubt that on the facts as pleaded by the claimant that he has or had available to him the parallel remedy of false imprisonment which on the facts as alleged is the more appropriate remedy which would provide adequate redress to the claimant. The damages which the claimant seeks on this claim could also have been claimed on a claim for false imprisonment. The conduct of the officers as alleged by the claimant could have founded a claim for aggravated or exemplary damages.

¹⁰ Tracy Robinson, Arif Bulkan and Adrian Saunders, Sweet & Maxwell 2015, see para 9-037 at page 459.

[35] The claimant in this case has failed to show based on the affidavits filed thus far that his claim meets the requirements that would make constitutional redress appropriate. That is, there has been no pleading or averment by the claimant that would support a case that the actions of the police amounted to misuse of their coercive powers with which they are empowered or that their actions were egregious or appalling.

[36] The central question for this Court is not the purported “appalling” conduct of the police, but whether the duration of the defendant’s continued detention was excessive and was unfounded, i.e. there was no reasonable suspicion of the claimant having committed or committing any offence or that there was no basis for not releasing the claimant after he had been granted bail, and if so, the quantum of damages the claimant is entitled to be awarded. In my view, this is not a constitutional question. Mr. Prospere in oral submissions submitted that he is not contending that there were no reasonable grounds for suspicion such that the claimant was not properly detained but rather the contention is that he ought to have been released after he was granted bail instead of being taken back to Custody Suites to be later transported to the Micoud Police Station. That is a claim for false imprisonment. In other words, there was no lawful authority to detain the claimant after he was granted bail. A critical part of the assessment in this matter is to ask whether the alternative action can in fact deal with the constitutional point and grant the appropriate remedy and I believe the answer is yes.

How should the Court dispose of the instant proceedings if it declines to exercise its constitutional jurisdiction

[37] Mr. Prospere submits that should this Court decline to exercise its constitutional jurisdiction on this occasion, it should however endeavour to preserve and try the same by invoking its private law jurisdiction rather than resorting to the draconian step of striking out the same. He says the Court can do so having regard to its case management powers under CPR 26.1(w) as it is manifestly apparent that the claimant possesses a genuine and a very serious claim against the defendant.

[38] Counsel refers to the case of **Ramanoop** where at paragraph 30 Lord Nichols said thus:

“What, then, of the case where on the information available to an applicant a constitutional motion is properly launched but it later becomes apparent (1) that there is a substantial dispute of fact or (2) that a claim for constitutional relief is no longer appropriate? As to the first of these two events, the emergence of a factual dispute does not render the proceedings an abuse where the alleged facts, if proved, would call for constitutional relief. Where this is so, the appropriate course will normally be for the applicant to apply promptly for an order that the constitutional proceedings continue as though begun by writ and for any appropriate ancillary directions for pleadings, discovery and the like. Where appropriate, directions should also be given for expedition and a timetable set for the further steps in the proceedings. If the second of these two events happens, and constitutional relief is no longer appropriate, it would be an abuse of process for the applicant to continue to seek constitutional relief at all. In such a case the applicant should either abandon his motion entirely or, here again, seek a direction that the proceedings continue as though begun by writ. In this case, however, unlike the first case, the applicant will also need to amend the relief he seeks so as to abandon his claim to constitutional relief and instead seek to pursue his parallel remedy. Needless to say, on all such applications the court will exercise its discretion as it sees fit in all the circumstances. Moreover, the court may of its own motion give any of these directions.”

[39] Based on this dicta, Mr. Prospere submits that the factual disputes in the proceedings are in the main insubstantial. He therefore urges that the claimant should be provided an opportunity to seek the Court’s leave to make an application for the constitutional claim to be treated as a private law claim for false imprisonment with consequential amendments to the fixed date claim to make the same consonant with an ordinary claim.

[40] Mr. Cenac disagrees and submits that the claimant ought not to be granted leave to make an application for the instant constitutional claim to be treated as a private law claim for false imprisonment. He submits that this is so because at the time of filing of the constitutional motion on 12th August 2020, the claim would have been prescribed by virtue of article 2122 of the **Civil Code** which prescribes a period of six (6) months for actions of public officers.

[41] The defendant contends that the claimant having brought this claim outside of the six (6) month period ought not to benefit from his decision by being given leave to allow the proceedings to continue as a private claim. He ought not to be allowed to use the constitutional process to circumvent a limitation period affecting the more appropriate claim. This would be an abuse of process. The defendant relies on the dicta of the court in **James Gardiner v Attorney General of St. Kitts and Nevis et al** (SKBHCV2017/0251 at paragraphs 35-38.

[42] In response to the defendant's submissions on the prescription point, Mr. Prospere submitted that on the pleadings, the claimant had raised allegations which smack of bad faith and therefore he should be allowed to amend his claim to properly plead bad faith and abandon his claim for constitutional relief and seek his parallel remedy.

[43] Mr. Cenac responded that the pleadings do not on their face allege bad faith and so to allow the claimant to amend his claim to now particularise bad faith would be an abuse of process.

Analysis and Conclusion

[44] In the case of **James Gardiner** the court was clear that the constitutional claim brought by the respondents should be struck out since judicial review and other choices were open to them at the outset. The court went on that the respondents do not have the luxury of choosing a remedy as and when they please. The question is whether having found and been satisfied that in this case there is an adequate means of redress by way of a claim for false imprisonment, it is or has been available to the claimant. A claim for false imprisonment was open to the claimant from the start. He made a choice to seek redress via a constitutional claim which in the circumstances of this case could not be said to be appropriate. There is nothing on the claimant's pleadings which suggests that the remedies available to him on a claim for false imprisonment would not be adequate to address the actions of the police officers as alleged by him.

[45] Now that his constitutional claim cannot be maintained, he now faces the hurdle that he is outside the time prescribed for bringing the false imprisonment claim. To allow a claimant to continue his claim as an ordinary claim to seek the parallel relief is one thing. But to allow such to be done outside of the prescription period I think would be encouraging the abuse of the court's process. I am also of the view that the claimant's pleadings would have to be substantially amended not just in terms of the relief which now has to be sought but also substantively as it would be necessary to plead and particularize bad faith. There is no bad faith alleged on the claimant's pleadings. I would therefore decline to give leave to treat the claim as filed as an ordinary claim for false imprisonment. It would have been different if the claim was a mixed claim and the false imprisonment claim having been filed within time could have been saved by simply striking the constitutional claim.

Costs

[46] Mr. Prospere refers the Court to the observations of Lord Nicholls on the issue of costs at paragraph 33 of **Ramanoop** where he referred to the dicta of Hamel-Smith JA in **George v Attorney General of Trinidad and Tobago** to the effect that failure of the State to respond to any letter written before action may lead to the State being condemned in costs, in the event that the party proceeds under section 14 of the Constitution (section 16 of the Saint Lucia Constitution) only to find that the facts were in issue and no constitutional principle of general significance to citizens is involved.

[47] Mr. Prospere refers to a letter dated 6th February 2020 which he says was written as early as 6th February 2020 demanding the claimant's release to which there was no response. A response he says may have assisted in setting the matter along an agreed procedural path which would have avoided the requirement for this point in limine. This failure to respond to the 6th February 2020 letter, counsel says should be specifically considered by the Court on the issue of costs.

[48] I note though that this letter is not part of the Court's record and was not referred to in the claimant's pleadings and therefore is not part of the evidence

on the pleadings which are the only matters which the Court must consider in dealing with this preliminary point. Mr. Cenac submits that the letter is inadmissible and is not evidence which the Court can consider in arriving at its decision on this issue.

[49] Mr. Cenac further submits that even if the letter is admissible, the relief which it indicates would be sought is not in keeping with a constitutional claim. They reiterate that it is a claim for false imprisonment with an indication that exemplary damages for constitutional infringement would be claimed.

[50] At the hearing, Mr. Cenac put forward the position that there should be no order as to costs whilst Mr. Prospere was of the view that costs should be awarded as in cases where an application to strike out had been made. He did not think that there was any difference where as in this case the Court raised the matter of addressing the matter as a preliminary issue and then gave directions for the filing of submissions.

Conclusion

[51] Having considered the issue of costs, I find that the more appropriate order on costs is that there is not order as to costs. This is a case where the Court suggested that this issue be dealt with as a preliminary issue and did so with the agreement of the parties and therefore it would not be correct in my view to award costs against the unsuccessful party.

Final Order and Conclusion

[52] Based on the foregoing discussion, I decline to exercise the constitutional jurisdiction of the Court in the circumstances of this case. The originating motion filed on 12th August 2020 is therefore struck out with no order as to costs.

**Kimberly Cenac-Phulgence
High Court Judge**

By the Court

Registrar