

THE EASTERN CARIBBEAN SUPREME COURT
SAINT VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CLAIM NO: SVGHCV2016/0029

BETWEEN:

HILARY BOWMAN

of Richland Park

Claimant

and

EUDENIA ARRINDELL

also known as

SHIRLEY EUDENIA ARRINDELL

of Arnos Vale

Defendant

APPEARANCES:

Mrs. Cheryl Bailey with her Mrs. Mandella Peters for the claimant
Ms. Paula David for the defendant

2020: March 4,
May 27,
July 23.

JUDGMENT ON ASSESSMENT OF DAMAGES

- [1] **GILL, M. (Ag.):** This is an assessment of damages for breach of contract pursuant to the terms of a judgment of Henry J. delivered on May 2, 2019. Notwithstanding granting an order for specific performance which is generally an alternative to an award of damages, Her Ladyship considered

that in the exceptional circumstances of this case, the discretionary remedy, by itself, might not adequately compensate the claimant for his loss. Therefore, the court granted leave to the claimant to file an application for assessment of damages on or before June 3, 2019. He did so on May 24, 2019.

Background Facts

[2] The claimant, Dr. Hilary Bowman, the Director of Education for the Caribbean Union Conference of Seventh Day Adventists, owned about an acre of land at Arnos Vale, Saint Vincent and the Grenadines. That property bordered land belonging to the defendant, Ms. Eudenia Arrindell. There was a house erected on Ms. Arrindell's land.

(1) By a Deed of Exchange dated February 1, 2016, Ms. Arrindell agreed to exchange her property at Arnos Vale for property at Cane Hall which Dr. Bowman purchased on her behalf.

(2) On February 3, 2016 Dr. Bowman attempted to deliver the keys for the Cane Hall property to Ms. Arrindell and take possession of the Arnos Vale property. However, Ms. Arrindell failed to perform her obligations under the Deed of Exchange and continued to occupy the Arnos Vale property until ordered by the court to quit and deliver up vacant possession of the said property. She did so on June 2, 2019.

(3) Dr. Bowman claims damages for breach of contract in the sum of \$96,217.49 under the following heads:

- (a) Damages for loss of use and enjoyment - \$46,800;
- (b) Damages for deterioration of the property - \$42,000;
- (c) Incidental expenses - \$750.00; and
- (d) Travel expenses - \$6667.49.

Issue

[4] The court must determine the quantum of damages to be awarded to the claimant for breach of contract by the defendant.

The measure of damages

- [5] The learned authors of **Halsbury's Laws of England** have given guidance on the measure of damages in contract as follows:

"The normal function of damages for breach of contract is compensatory. Damages are awarded, not to punish the party in breach, or to confer a windfall on the innocent party, but to compensate the innocent party and repair his actual loss. Compensation is normally achieved by placing the innocent party in the same position, so far as money can do, as if the contract had been performed. Only in some exceptional circumstances do courts depart from this policy and award some greater or lesser sum. Ordinarily, there is just one measure of damages in contract, which is the loss truly suffered by the promisee."¹

Damages for loss of use and enjoyment

Claimant's Submissions

- [6] Dr. Bowman contends that as a result of Ms. Arrindell's willful refusal to vacate the Arnos Vale property, his use and enjoyment of the property was delayed from February 3, 2016 to June 2, 2019. This delay prevented him from earning rent as he had intended to use the property to generate an income. Paragraph 5 of his witness summary reads:

"5. The Defendant's delay in handing the Arnos Vale property over to me caused me very serious inconvenience, in that to be able to afford to purchase the Cane Hall property, I refinanced a loan that I had with the Bank of Saint Vincent and the Grenadines. It was my intention to utilise any rental income that I would have received from the Arnos Vale property towards my liability to the Bank."

- [7] Mr. Franklyn G. H. Evans, property valuer/valuator prepared a Loss of Income Report for Dr. Bowman in respect of the expected income he could have received from the property for the period February 3, 2016 to May 29, 2019. The report dated June 7, 2019 placed a net income value of \$1200.00 per month for the property. Dr. Bowman's witness summary indicates that he had no reason to believe that the property would not have been rented throughout the period as the property is situated in a prime location with excellent transportation links into Kingstown and is in

¹ 4th Edition (Reissue), Volume 12(1) at paragraph 941

close proximity to all necessary amenities such as shops, supermarkets and schools. Hence, the sum claimed is \$46,800.00, that is, \$1200.00 for 39 months.

[8] In arriving at a monthly rent \$1200, Mr. Evans used a method of calculation akin to that in **Horsford v Bird & Ors.**² In that case, the appellant had been wrongfully deprived of the use of his property and the Privy Council held that an annual rate of 7.5% of the capital value of the property would represent reasonable mesne profits.

[9] I reproduce the relevant part of the Loss of Income Report. It reads:

“This is to certify that I made a visit inspected the Subject Property on October 08, 2015 with a view to surveying same and analyzing the Open Market Value as requested by **Hilary Bowman**.

Assessed Value: EC\$360.000.00

Using a Yield of 5%, this gives an annual income
of EC\$18,000.00 [360 000 ÷ (100 ÷ 5)]

Monthly Income: 18 000 ÷ 12	=	1 500
Less property management @ 20%		-300
Net Monthly Income:		1 200

x 39

Loss of Income for 39 months: EC\$46 800”

[10] Learned Counsel for Dr. Bowman, Mrs. Bailey, submitted that the measure of damages to be applied here is the value of the user of the land, which is generally the rental or market value of the land from the date on which the contract ought to have been completed to the actual date of completion. She relied on the reasoning in the landmark case of **Royal Bristol Permanent Building Society v Bomash**³ where a purchaser of two houses lost a tenant as a result of being denied possession of the houses on the date fixed for completion of the sale. It was held that the purchaser was entitled to damages in the nature of compensation for loss of a tenant, and that the

² [2006] UKPC] 3 (Antigua and Barbuda)

³ (1887) 35 Ch. D. 390

damages would be the amount of rent lost. Kekewich J. quoted Fry L. J. (then Fry J.) in *Jacques v Millar* as follows:

“Damages are claimed, in addition to specific performance of the agreement, in respect of the delay which was caused by the defendant’s willful refusal...to perform his contract, and the consequent loss of profit to the plaintiff. I think I am at liberty to consider what would have been the value of the possession of the premises to the plaintiff for the period between the 5th of September, 1876, and the time when he actually obtained possession of other premises....I am entitled to have regard to the damages which may be reasonably said to have naturally arisen from the delay, or which may be reasonably supposed to have been in the contemplation of the parties as likely to arise from the partial breach of the contract.”⁴

- [11] Mrs. Bailey also relied on the case of **Romeo Skepple v Oliver Potter**⁵ citing a summary of Lanns J. (Ag.) (as she then was) in determining the damages to be awarded for the breach of a construction contract. Her Ladyship took guidance from the Privy Council in a case appealed from The Bahamas. At paragraph 67 of the judgment, she had this to say:

“In regard to an appropriate monthly rate, in cases of this nature, damages are usually based on the user principle. This is evident from the decision of the Privy Council in **Inverugie Investments Ltd. v. Hackett**. Here the claimant was wrongfully deprived by the defendant of possession of 30 apartments in a hotel complex in the Bahamas. The Privy Council held that the claimant was entitled to recover a reasonable rent for the period for which he was deprived of possession of the apartments. Applying the user principle, Lord Lloyd, delivering the judgment of the Board, concluded that the claimant was entitled to recover a reasonable rent whether or not he had ‘suffered any actual loss’. Likewise, the defendant was liable to pay a reasonable rent even though he ‘may not have derived any actual benefit’. To the same effect is the principle enunciated in the case of **Royal Bristol Permanent Building Society v Bomash** (1887) 35 Ch. D.390.”

- [12] Mrs. Bailey submitted that the assessed rental income of \$46,800.00 represents the value of the user of the property for the period February 3, 2016 to May 29, 2019 and this sum should be awarded to Dr. Bowman.

⁴ Ibid at page 396

⁵ Claim No. ANUHCv2013/0330

Defendant's Submissions

- [13] Ms. Arrindell accepts that a party entitled to possession of land is entitled to damages for the period during which another party fails to vacate the property.⁶ However, Learned Counsel for the defendant, Ms. David, used the just cited authority of the claimant to emphasise that the test laid down by the Privy Council is 'reasonable rent'. Counsel contended that it was unlikely that in 2015, when the first valuation of the property was done, the property would have been able to fetch a monthly rent of \$1500.00. Therefore, it would be unsafe and unreasonable to award the claimant damages at that rate for the period during which the defendant failed to deliver up the property.
- [14] In his second valuation report dated October 8, 2019, Mr. Evans stated that land values in the location had remained static because of declining commercial activities. In cross-examination he gave examples; one property changed a lot of occupants over the last years as business was not profitable, the supermarket 'Options' went through changes of renters, two businesses tried to diversify and one closed its doors. When asked whether in 2015 the property would have been likely to attract a tenant willing to pay a monthly rent of \$1500.00, he said, "It may not fetch as high before renovations. Depends on the land use. It could, but that would be the highest at best use." In the premises, Ms. David contended that the claim for \$46,800.00 is excessive.
- [15] Ms. David acknowledged, as pointed out by Mrs. Bailey, that Ms. Arrindell has not furnished the court with any evidence of what would be a reasonable figure, or what would be an appropriate formula for determining the damages due to Dr. Bowman for her occupation of the property. However, Ms. David argued that the damages sought by Dr. Bowman are in the nature of general damages and not special damages so that it is open to the court to make an award based on a notional sum which appears to the court to be reasonable in the circumstances. The court ought to assess the damages according to the justice of the case.⁷

⁶ See **Kelson Layne v Allison Balcombe and Stalk Plantation Ltd.** Claim No. 186 of 2008 (Saint Vincent and the Grenadines) per Thom J. at paragraph 24 of the judgment

⁷ See **Duff's Valley Corporation Ltd. v Kunta Brookes**, Claim No. BVIHCV2016/0002 per Ellis J. at paragraph 64 of the judgment

Ruling

- [16] The court must determine an appropriate sum to award under this head of damage. Mr. Evans, the valuator/valuer used a mathematical formula as in **Horford v Bird**⁸ to assess the income lost by Dr. Bowman because of Ms. Arrindell's undue occupation of the property. His calculation produced a net monthly rent of \$1200.00. He used this net figure to arrive at the assessment of \$48,600 for 39 months. A tenant would be required to pay the gross figure of \$1500, which was the basis for the cross-examination of Mr. Evans on the issue as to whether the property could realise such a rent. His basic conclusion was that in 2015, it could but it would depend on the use of the land.
- [17] Whereas the court accepts that the formula in **Horsford v Bird** is an acceptable and proper assessment of calculating a claimant's loss of income for failure of another to vacate his property, I am of the view that the court is not required to adopt this method robotically in every case. In individual cases, the court must consider what is reasonable and just in the particular circumstances before it.
- [18] Mr. Evans' evidence, brought out in cross-examination, is that the property could fetch a monthly rental of \$1500 at best use. The valuation of property is done on this basis. Property is appraised in terms of its highest and best use. Therefore, I see no reason to upset the figure arrived at by Mr. Evans. Using \$1500 as the gross monthly rental income, the net income being \$1200, the user value of the property for the period Ms. Arrindell remained in unlawful occupation of the property is \$46,800.
- [19] Under the head of damages for loss of use and enjoyment, I award Dr. Bowman the sum of \$46,800.

⁸ Supra at note 2

Damages for deterioration of the property

Claimant's Submissions

[20] Mr. Evans prepared two valuation reports in respect of the property, one dated October 8, 2015 ("the 2015 report"), the other dated August 9, 2019 ("the 2019 report"). In the 2015 report, the property was appraised at \$360,000, in the 2019 report, \$318,000. The difference in the valuations concerned the diminution in value of the house on the property from \$84,000.00 to \$42,000.00.

[21] The parties are *ad idem* that the property was in poor condition when the 2015 report was done. The relevant part of that report states:

The building is in a poor state of structural and decorative repairs. Cupboards are limited and in poor condition. There is evidence of leaks in the ceiling and it is reported that there is usually flooding from rainwater running off the Highway.

[22] In relation to the State of Repairs, the 2019 report reads:

Photo Addendum shows destruction of kitchen cabinets, bathroom units not functioning and deterioration of ceiling and eaves.

[23] At paragraphs 13, 14 and 15 of his witness summary, Dr. Bowman compared his observations of the property before and after he took possession of it. He averred:

"13. I can attest to the fact that whilst the property as at October 2015 and indeed February 2016 was in a state of some disrepair, that the state of the property then was nothing like what I saw in the photographs which my representative sent to me in June 2019.

14. The property is now in an appalling condition. I was alarmed, shocked and saddened by the present condition of the property. In 2015/2016 the property, whilst in a poor state, was habitable. Although there was no running water and no sink in the kitchen, the property had the benefit of intact kitchen countertops, kitchen cupboards, a shower, a full toilet system and the internal ceilings were relatively undamaged.

15. However, on taking possession of the property it was discovered that the kitchen has been completely destroyed, in that there are now no workable kitchen units or countertops. As it relates to the bathroom, the shower head and water pipe have been completely removed and only the toilet bowl remains: the lid, seat, tank and cistern have all been removed. In light of the deplorable conditions the property in its present state is not suitable to be rented...."

[24] In seeking to adduce evidence of property damage occurring when Ms. Arrindell was in possession of the property, under cross-examination, Learned Counsel for Dr. Bowman, Mrs. Peters, asked her about one of her sons who lived with her at the property. She stated:

“I have a son who misbehaves from time to time. His name is Glenroy. He caused some damage to the house while the case was going on. He break window and mash up some of my drinking glass. He smokes weed. Sometimes when he smoke weed, he gets violent. When he acts up or gets violent, he has caused damage to the house. Some of the damage was done while the case going on. No, he didn’t damage the cupboards as well. When I left the property in June, he went with me.”

[25] Learned Counsel Mrs. Bailey asserted that from the date of the contract, Ms. Arrindell was obligated to keep the property in a reasonable state of repair so that Dr. Bowman would have been in a position to obtain that which he contracted to do. Counsel posited that it is clear from the evidence of Dr. Bowman and Mr. Evans that Ms. Arrindell did not maintain the property in the same condition it was when the contract was entered into and, therefore, Ms. Arrindell should pay damages for the dilapidation. Again, Mrs. Bailey relied on the case of **Royal Bristol Permanent Buliding Society v Bomash**⁹ where (as mentioned earlier) there was a delay in giving vacant possession to the purchaser of two houses which became dilapidated during the intervening period. Damages were awarded for the deterioration of the premises that occurred after the date of the contract. At pages 397 to 398, Kekewich J. declared:

“...a vendor having property under his control in his possession which he has contracted to sell, is bound to keep it in a reasonable state of repair, so that a purchaser may take the thing which he has contracted to buy, unless there are some special circumstances which alter that obligation....

Therefore I regard the vendors in this case as trustees for the purchaser – from the date of the contract. I think they ought to have taken that reasonable care of the property which would have prevented it from being damaged by *Fleming* in the exercise of his legal rights, or by anyone who removed the fixtures, or by vagrants or other persons coming in, or by people who broke windows, or anything of the kind. I think they ought to have kept it in a reasonable state of repair, and the evidence proves conclusively that they have done nothing of the kind. The place is much dilapidated.”

⁹ Supra at note 3

- [26] It is submitted that the sum of \$42,000, which represents the depreciation in value of the house, should be awarded to Dr. Bowman in respect of the deterioration of the property between the date of the contract October 2015 and the date Dr. Bowman took possession in June 2019.

Defendant's Submissions

- [27] Learned Counsel Ms. David had no quarrel with the statement of the law by Mrs. Bailey under this head. She agreed that it is clear law that a party holding over real property is liable to maintain it in the condition in which it was at the time when it ought to have been surrendered.¹⁰ The contention came on the evidence.
- [28] Ms. Arindell's evidence is that when she vacated the property on June 2, 2019 it was in substantially the same condition as it was on October 8, 2015 when Mr. Evans appraised it. However, she is adamant that Dr. Bowman's description of the state of the property around 2015 and 2016 is inaccurate. In her witness statement, she admitted that at that time, the kitchen countertops were in place but they were constructed from wood and the wood was rotten. She stated that she had vinyl sheeting on top of the countertops, not secured but "simply placed on the countertop like a tablecloth". Apart from that, she took great issue with Dr. Bowman's evidence at paragraph 14 of his witness summary (quoted earlier). Her contrasting account of the state of the property in 2015/2016 is contained paragraphs 9 to 11 of her witness statement.

"9. Dr. Bowman says at paragraph 14 of his witness summary that around 2015 and 2016 "the property had the benefit of ... a shower, a full toilet system and the internal ceilings were relatively undamaged". None of that is correct. There was never a shower head in the bathroom for the whole time I occupied the house at Arnos Vale. No part of the bathroom was ever tiled. When I first moved into the house there was a stop cork head in the wall to allow water to flow into the shower area. The stop cork went bad so I had to take it out completely. I had it replaced by a pipe and stop cork overhead. I never filled up the hole where the original stop cork had been. That was many years before 2015. My children were still small. I had running water in the house until the day I left the house.

10. Between 2015 and 2016 there was no functioning toilet in the Arnos Vale house. The toilet bowl was in place but the tank was in a cupboard in my bedroom when

¹⁰ See **Maxwell Francis v Timothy De Garve** (Antigua and Barbuda Civil Appeal No. 26 of 2003) per Barrow J.A. at paragraph 16 of the judgment

Dr. Bowman's valuer visited the Arnos Vale property in 2015 to carry out his appraisal. There was never a toilet seat on the toilet for the entire time that I occupied the house. That had been the condition of the toilet for as long as I can remember and it was certainly the condition of the toilet when Dr. Bowman's valuer visited to do his appraisal in 2015. The toilet had never worked for the whole time I occupied the Arnos Vale house and the toilet tank had always been stored in the cupboard in my bedroom.

11. In 2015 when Dr. Bowman's valuer conducted his appraisal, two pieces of Celotex from the ceiling were missing. They had been water damaged due to leaks in the roof. Dr. Bowman's valuer noted the leaks in the roof at page 2 of his report of 8th October 2015. The photograph of the ceiling included in Dr. Bowman's valuer's report of 9th August 2019 shows the ceiling in the same condition it had been in around 2015 to 2016."

- [29] In relation to the destruction of the bathroom and kitchen cabinets, Ms. Arrindell referred to a letter dated July 19, 2019 from Dr. Bowman's lawyer to her lawyer complaining that they were destroyed by "someone for the Arrindell's". She made it clear that she did not return to the property since she vacated it on June 2, 2019, nor had she sent anyone there to destroy the bathroom and cabinets or to do anything else. By letter dated July 24, 2019, her lawyer responded to this effect to Dr. Bowman's lawyer indicating that Ms. Arrindell knew nothing of the destruction of the bathroom and cabinets.
- [30] When the court sought clarification as to the damage caused to the property by her son Glenroy, Ms. Arrindell said that he only caused damage to the house once when he broke the window and another time, her drinking glass.
- [31] Ms. David drew the court's attention to the absence of any evidence of detailed notes of the state of repairs of the property in the 2015 report. She pointed out that the 2015 report made no mention whatsoever of the state of the eaves or the state of the bathroom. Further, there was only a general statement that cupboards were limited and in poor condition and that there was evidence of leaks in the ceiling. Counsel submitted that in the absence of detailed notes by Mr. Evans on the state of the wood from which the cupboards had been constructed, the state of the bathroom, the eaves and the ceiling, his evidence as to the extent of their supposed deterioration cannot be reliable.

[32] Ms. David argued that Ms. Arrindell, having lived on the property for numerous years would have been more familiar with the condition of the property than Dr. Bowman's valuer. Therefore, she urged upon the court that where there is a conflict between the evidence of the claimant's valuer and Ms. Arrindell over the state of repair of the property in 2015, the evidence of Ms. Arrindell should be preferred.

Ruling

[33] The property was valued by the same valuer/valuator, Mr. Franklyn G.H. Evans, in October 2015 and August 2019. Mr. Evans gave evidence as an expert in his field. The 2015 report revealed that the building on the property was in poor condition. He valued it at \$84,000.00. In the 2019 report, he found that the building had deteriorated to the tune of \$42,000.00.

[34] Ms. Arrindell did not submit any valuation of the property in this matter. Even if the court accepts her evidence in relation to the state of the property, in 2015 and 2019, apart from her evidence, she did not provide the court with any additional assistance whereby the court can make a determination that there was no diminution in value of the property from 2015 to the date she vacated the property as she contends.

[35] The crux of this issue is the **difference**, if any, between the value of the property in 2015 when Mr. Evans did his valuation and its value when he did the second valuation in 2019. The court must weigh the evidence of Mr. Evans and Dr. Bowman on one hand of a diminution in value of the property and that of Ms. Arrindell that there was none, on the other.

[36] On the evidence before the court, notwithstanding the challenges to some aspects of the claimant's case in relation of the state of the property in 2015 and 2019, I have no doubt, and I conclude, that there was a diminution in value of the property between the time the 2015 and 2019 valuation reports were done. Apart from the expert evidence of the valuer/valuator, I am convinced by Dr. Bowman's account of his reaction of alarm, shock and sadness on seeing photographs of the property in June 2019.

[37] It is apparent that Ms. Arrindell makes the assumption that any destruction of the bathroom and kitchen cabinets, referred to in the letter dated July 19, 2019 sent to her attorney,¹¹ took place after she vacated the property. Whereas there may have been an opportunity for someone other than the Arrindells to access the property after she moved out, and cause the destruction observed, there is no such evidence before this court. There is nothing in the evidence to show when this damage occurred, only that this was not the case when the 2015 report was done.

[38] Ms. Arrindell was in possession of the property from the date of the contract in October 2015 and it remained under her control until she vacated it in June 2019. In the circumstances, she was under an obligation to keep the premises in a reasonable state of repair. From the evidence, it is clear that she did not. Therefore, Ms. Arrindell is liable to pay damages to Dr. Bowman for the deterioration of the property. The only evidence of quantification of the depreciation in value of the property came from the expert, Mr. Evans. Again, I see no reason not to, and I accept, his appraisal. Dr. Bowman is entitled to \$42,000 for the depreciation/diminution in value of his property.

Incidental expenses

[39] Dr. Bowman's evidence is that when Ms. Arrindell vacated the property, she left behind debris and several items including an old mattress, some old clothing, wood and pellets. He paid \$500.00 to remove the material from the property and \$250.00 to transport the debris from Arnos Vale to Diamond. Counsel Ms. David did not challenge him on this aspect of his claim for damages and took no issue with this category in submissions. I am of the view that Dr. Bowman is entitled to his incidental expenses of \$750.00.

Travel expenses

[40] Dr. Bowman avers that because of Ms. Arrindell's breach of contract, he was put to extremely serious inconvenience, as it was necessary for him to attend a number of court hearings in St.

¹¹ At paragraph 29 above

Vincent and the Grenadines between April 4, 2016 and March 24, 2019. During the period of the court proceedings, he was based in Trinidad and Tobago. He seeks an award of \$6667.49, the EC equivalent of US\$2454.08, for the cost of his air travel to and from St. Vincent and Trinidad for the period. Exhibited to his witness summary is a bundle with a schedule of his travel dates, costs and receipts.

[41] Learned Counsel Ms. David stated that she was unaware of any authority that suggests that monies expended by a litigant in travelling to a trial venue are recoverable as damages. However, she was prepared to concede the point if such authorities were produced. She did not cross-examine Dr. Bowman in respect of this head.

[42] In support of the claim for travel expenses, Learned Counsel Mrs. Bailey relied on the case of **Stanford Financial Group Ltd. v Leslie Hoffman**¹² in which an award of damages made by the Industrial Court for the respondent's travel expenses and accommodation to attend court in Antigua was varied from US\$6000.00 to US\$3000.00 in the absence of supporting documentation. The Court of Appeal found that there was no mathematical basis to justify the sum of US\$6000.00, but from the evidence, the Court understood the respondent to have said that the costs for attending the trial were US\$3000.00, and that she went on to explain how she arrived at that figure.

[43] In light of the foregoing authority and the unchallenged evidence provided by Dr. Bowman in relation to his air travel to attend court in St. Vincent, I am of the view that he is also entitled to recover the amount he claims under this head.

Order

[44] The defendant shall pay the claimant as follows:

1. Damages for loss of use and enjoyment in the sum of \$46,800.00
2. Damages for deterioration/diminution in value of the property in the sum of \$42,000.00
3. Incidental expenses in the sum of \$750.00
4. Travel expenses in the sum of \$6667.49.

¹² Civil Appeal No. 2 of 2020 (Antigua and Barbuda)

5. Prescribed costs on the global award in the sum of \$14,432.62.

[45] I am grateful to Counsel on both sides for their assistance in this matter. In particular, I feel compelled to mention Ms. David's *pro bono* representation of the defendant. It is evident that, both at trial and at this assessment, Ms. David demonstrated great fervour, enthusiasm and conviction in conducting the defence, having been asked to assist in the unfortunate circumstances of the defendant. I commend Ms. David's conduct of this matter to all Counsel in their moral duty to give back to society.

Tamara Gill
Master (Ag.)

By the Court

Registrar

