

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

**FEDERATION OF SAINT CHRISTOPHER AND NEVIS
SAINT CHRISTOPHER CIRCUIT**

CLAIM NO. SKBHCV2018/0217

BETWEEN:

DELROSE WILKINSON

Claimant

and

THE ATTORNEY GENERAL OF SAINT KITTS AND NEVIS

Defendant

Appearances:

Ms. Vadeesha John for the Claimant

Ms. Eshe Hendrickson Johnson with Ms. Rivi Lake for the Defendant

2020: January 15

ORAL JUDGMENT

- [1] **VENTOSE, J.:** This is a claim for damages for personal injuries that the Claimant suffered by reason of the alleged negligence of police officers who were conducting a vehicle check point (VCP). The Claimant alleges that she did not realize that the persons who attempted to prevent her from continuing along her journey were police officers. She therefore made a three-point turn and attempted to drive away to the nearest police station. In the course of that journey, she alleges she was being followed and her vehicle crashed into a wall as a result of which she sustained various injuries. The matter having come on for trial and upon

hearing the evidence of the parties and upon hearing counsel for the parties, the findings of the court are as follows.

- [2] The court believes the evidence of Police Constable McAlister that, first, the three police officers were all dressed in police tactical uniform, second, that they were wearing the vests with the word "POLICE" highlighted in the back and the front, and, third, the blue pickup vehicle had blue hazard lights flashing. His evidence was not shaken during cross-examination. The court also believes the evidence of Police Constable Grant that he put up his hand to indicate to the oncoming vehicle, which the Claimant was driving at the material time, that it should stop but that the driver of the vehicle made a three-point turn and sped off in the other direction. I also accept his evidence which corroborates the evidence of PC McAlister in respect of the uniform, vests and flashing blue hazard lights. PC Grant's evidence withstood cross-examination by Counsel for the Claimant.
- [3] I also accept the evidence of PC McAlister that the road was properly lit, and the evidence of PC Grant that the VCP was just under a lamp post. In any event, the headlights of the Claimant's vehicle would have provided sufficient lighting to enable her to see what was taking place on the road at the material time. I do not believe the suggestion put to PC McAlister and PC Grant by Counsel for the Claimant that the area of the road where the VCP took place was darker than usual.
- [4] The court also believes the evidence of Ms. Sweeney, who was at the VCP at the material time, that she gave one of the police officers her name and that she was able to observe what was taking place from her vehicle. Her evidence corroborates the evidence of PC Grant that he put up his hand to indicate to the Claimant that she should stop but that she did not, made a U-turn and drove in the other direction. Ms. Sweeney has no vested interest in the proceedings and I believe her evidence.
- [5] The court is, therefore, of the opinion that based on the evidence presented in court, the version of events as narrated by the witnesses for the Defendant is more believable, on the balance of probabilities, than that based on the evidence of the

Claimant. The Claimant should have stopped when PC Grant put his hand up to indicate that her vehicle should stop. She failed to do so and sought to evade the VCP by turning around and speeding away. I accept the evidence of PC Grant that, although the vehicle had mechanical problems, that would not prevent it from being used for police patrols. In any event, that would matter little since the Claimant was at fault in speeding away from the VCP prompting the police officers to follow her.

- [6] It was not unreasonable for the police officers to pursue the vehicle which had just avoided the VCP. It cannot in all the circumstances be said that the police officers were at fault in so doing. In fact, they would have failed in their duty if they did not pursue the driver of any vehicle who avoided a VCP. I also accept the evidence of PC McAlister that when the police officers commenced pursuit of the Claimant's vehicle, he put the siren on. That should have also been sufficient indication to the Claimant that she also needed to stop or slow down or that the vehicle that was following her was a police vehicle.
- [7] Whatever reason the Claimant had for avoiding the VCP, the police officers cannot be faulted because I accept that there was sufficient indication by the police officers that a VCP was being conducted, namely: (1) the hazard lights/blue flashing lights were turned on, (2) the police officers were wearing tactical uniform, (3) the police officers also had on green highlighted vests, and (4) that each of the police officers were wearing vests which were marked with "POLICE" on the front and back. In addition, I accept the evidence of PC Grant that he put up his hand to indicate to the oncoming vehicle that it should stop. I do not accept the evidence of the Claimant that any vehicle swung in front of her. I accept the evidence of Ms. Sweeny that there was sufficient space for any vehicle to pass without obstruction.
- [8] The Claimant's evidence is that when she came out of her vehicle after the collision, she then saw the police pickup coming towards her. The Claimant's evidence is also that she was traumatized and shocked and began to scream. It is more likely than not that the Claimant must have taken a minute or two or more to compose herself after the vehicle she was driving hit the wall. I do not accept her evidence that she remained there for only a few seconds. It is unlikely that a

person experiencing such trauma, as the Claimant states, would immediately leave the vehicle. In addition, the evidence of the Defendant that the pickup had some mechanical problems does ring true because if the officers were in hot pursuit of the Claimant's vehicle, she would not have seen the police pick up driving towards her only when she came out of the vehicle.

[9] The Claimant, having failed to stop, sped away to avoid any interaction with the police officers at the VCP, is solely responsible for the injuries she sustained as a result of her collision with a wall that was based on the manner in which she was driving her vehicle at the material time. She drove her vehicle in a careless manner and at a speed limit of over 100 miles per hour.

[10] The Claimant is, therefore, not entitled to any of the reliefs that she claims in her statement of claim.

Disposition

[11] For the reasons explained above, I make the following orders:

- (1) The claim is hereby dismissed.
- (2) Prescribed costs to the Defendant to be paid by the Claimant pursuant to CPR 65.5 within 14 days of today's date.

Eddy D. Ventose
High Court Judge

By the Court

Registrar