

ANTIGUA AND BARBUDA

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CIVIL)**

CLAIM NO ANUHCV2011/0167

BETWEEN:

ANTON TONGE

Claimant

AND

**ATTORNEY GENERAL
NORMAN PARILLON GEORGE**

Defendants

Appearances:

Ms E. Deniscia Thomas for the Claimant

No appearance of or for the Defendants

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2012: December 11
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ORAL JUDGMENT

- [1] **LANNS, J [Ag]:** On Tuesday 11th December 2012, I rendered an oral judgment in this matter and indicated that written reasons will follow. These are the reasons.
- [2] By Fixed Date Claim Form and Statement of Claim filed on 14th March 2011, the Claimant Anton Tonge claimed the following reliefs:
- (1) A declaration that the right of the Claimant to personal liberty as guaranteed under Section 5 the Antigua and Barbuda Constitution Order 1981 has been breached;
 - (2) Damages for loss of the Claimant's right to personal liberty as guaranteed under Section 5 of the Antigua and Barbuda Constitution Order 1981;
 - (3) Further and alternatively, damages for False Imprisonment;

(4) Damages for Malicious Prosecution on the charge of using threatening language contrary to Section 48 (a) of the Small Charges Act, Chapter 405 of the Laws of Antigua and Barbuda, 1992 Revised Edition;

(5) Such further or other relief as to the court seem just;

(6) Interest and costs

- [3] The Statement of Claim alleges, among other things that the Second named Defendant (Officer Parillon) maliciously arrested and detained the Claimant for about nine hours and subsequently caused him to be prosecuted on a charge of making use of threatening language to one Janice Powel.
- [4] On 28th January 2011, the charge was dismissed by the Magistrate for District A as the Prosecution conceded that there was nothing in the words allegedly spoken that could amount to threatening language.
- [5] By way of Defence, the Defendants admitted, among other things that the charge brought against the Claimant was dismissed, but denied that the claimant was prosecuted maliciously or without reasonable and probable cause for the said offence.
- [6] Various trial dates had been adjourned for various reasons, and the matter was finally set down for trial on the 11th December 2012.
- [7] When the matter was called up, Ms E. Deniscia Thomas appeared for the Claimant. There was no appearance of or for the Defendants.
- [8] The court rose for five minutes to allow the Court Clerk to contact the Chambers of the Attorney General. Upon resumption, the Clerk indicated that no one at the Chambers of the Attorney General knew the whereabouts of Crown Counsel Mrs Carla Brookes-Harris who has conduct of the matter on behalf of the Defendants.
- [9] The court proceeded with the matter.
- [10] The court had before it the affidavits filed by the parties in the matter and these comprised the evidence in the proceedings, pursuant to the order of Michel J dated 10th June 2011. By that Order, all affiants were required to attend the trial to be cross-examined on their affidavits, unless excused in writing. As I have said, the Defendants were absent and unrepresented. And there was no indication that Officer Parillon was excused from attendance.
- [11] The Claimant took to the witness stand and he identified his signature on the affidavits to which he swore, and he swore that the contents were true and correct. He was asked a few questions which were unnecessary since the answers were already contained in his affidavits. Nonetheless, there were no inconsistencies or anything new in his answers.

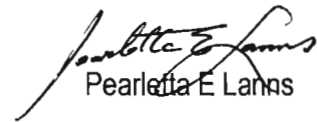
- [12] The Defendants, having failed to appear, the evidence of the Claimant stands unchallenged and uncontroverted, and judgment entered for the Claimant for damages to be assessed;

The Order

- [13] It is hereby adjudged that Judgment be and is hereby entered for the Claimant for damages (in respect of the torts of false imprisonment and malicious prosecution) to be assessed upon application.

And it is ordered that

- [1] The Claimant shall file and serve his application for assessment within 21 days of today's date, together with evidence on affidavit, brief submissions and authorities;
- [2] The Defendants shall file and serve their replying submissions within 21 days of service;
- [3] Hearing of the assessment shall take place in open court on a date to be fixed by the Court Office; unless a consent order is sooner filed.


Pearlita E Lano
High Court Judge [Ag]