

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

SAINT LUCIA

CLAIM NO. SLUHCV2006/0247

BETWEEN:

KIERAN CHARLES

Claimant

v

- 1. MERVIN STEEL**
- 2. CHARDY JEAN**
- 3. ROHAN GIRARD**

Defendants

Appearances :

Dr. R.C. Barrow for the Claimant
Mr. M.P. Foster for the Defendants

2008: April 1;
April 30.

JUDGMENT

[1] **COTTLE, J.:** The first Defendant had been a victim of multiple burglaries at his home. After the third such break-in he installed a video surveillance system. On his return to his home in the early hours of Sunday 22nd May 2005, he observed signs of yet another burglary.

[2] He checked his security camera. On the footage he observed a man. He believed that the intruder on his video tape was the Claimant, a former trusted employee.

The first Defendant reported the break-in to the police as he had done for each of the previous three incidents. He was annoyed with the repeated burglaries. I expect as well that he did not repose much confidence in the police to apprehend

the burglar or burglars. It is unclear from the evidence whether he told the police that he believed the intruder in the last break-in to have been the Claimant.

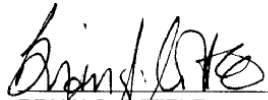
- [2] On 26th May, 2005 the Defendants, all cousins, went in search of the Claimant. They found him near his home just off the Millennium Highway in Castries. What happened next is disputed and forms the reason for the claim brought by the Claimant. Keiran Charles swears that he was called by Defendants 2 and 3 who had alighted from a car. They informed him that the first Defendant wished to speak to him. He approached the vehicle which had stopped a short distance away. The first Defendant was the driver. After a brief exchange of greetings Mervin Steele invited the Claimant to sit in the front passenger seat so they could talk. He did so, leaving the door ajar and with his left foot on the ground outside. He was then attacked by Defendants 2 and 3 on the instructions of the first Defendant. He was forced into the vehicle. He struggled without success to escape. He was struck in the face by the second Defendant. The third Defendant produced a pair of handcuffs and handcuffed the Claimant. They drove to the home of the first Defendant at Cap Estate. Still handcuffed the Claimant was made to watch the videotape. He denied being the man on the tape. The Claimant was detained for just over two hours. After he promised that he would take no action over his abduction, the Claimant was driven back to his home neighbourhood. His handcuffs were removed en route.
- [3] On the following morning the Claimant reported the incident to his girlfriend, an attorney-at-law.
- [4] The Defendants deny abducting the Claimant. The first Defendant says that the Claimant agreed to accompany them to his home to see the video tape. No violence or force was used on him.

- [5] The claim, then, is reduced to a simple contest of fact. The Claimant and his witnesses were cross examined. So too were the Defendants. At the end of the evidence, I prefer the evidence of the Claimant on a balance of probabilities.
- [6] I come to this conclusion because I believe the Defendant No. 1 was angry at the series of break-ins at his home. He was convinced that the Claimant was responsible at least for the last burglary. He admitted that he had a telephone number for the Claimant. He knew the Claimant's girlfriend and got directions to the Claimants home. He went in search of the Claimant in company with his two cousins. He did not take the Claimant to the police. He drove past several police stations on his way to and from his home with the Claimant. I accept the Claimant's story that he was handcuffed. I do not believe that the first Defendant would have been as charitable to a person he was sure had broken into his house as he would have me think.
- [6] This case demonstrates the perils of trying to take the law into one's own hands. Defendants 2 and 3 acted to aid their cousin in this venture.
- [7] I find that the claim against all the Defendants is proven. The Claimant was assaulted and battered by the Defendants. His liberty was restrained for over 2 hours. I award him the special damages claimed for \$70.00 for his medical examination and report.

General Damages

- [8] The medical report does not disclose any serious injuries to the Claimant and the period of deprivation of liberty was relatively short. I award the Claimant the sum of \$5,000.00 as general damages for assault, battery and false imprisonment.
- [9] I decline to make any award for aggravated damages as the facts of this case do not merit any such award.

[10] The Defendants will pay the Claimant prescribed costs in the sum of \$1,500.00.



BRIAN S. COTTLE
HIGH COURT JUDGE