

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Common Law and Equity Division
2021/CLE/gen/00611

B E T W E E N:

EDWARD WILLIAMS

Claimant

AND

THE ATTORNEY GENERAL OF THE BAHAMAS

First Defendant

AND

**THE COMMISIONER OF POLICE OF THE COMMONWEALTH OF THE
BAHAMAS**

Second Defendant

CPL. 3195 WILCHCOMBE

Third Defendant

Before: (Acting) Registrar Renaldo Toote

Appearances: Krysta Mason-Smith of Counsel for the Claimant
Keith Cargill of Counsel for the Defendants

Hearing date(s): 3rd & 20th June 2024

ASSESSMENT OF DAMAGES

Toote, Registrar (Acting)

Introduction

- [1]. This is an assessment of damages concerning damages arising from constitutional breaches, unlawful arrest, assault, defamation, and psychological injury suffered by Edward Williams at the hands of police officers on 21 February 2021. Liability has previously been established by default judgment dated 24 August 2022, following the Defendants' omission to defend against the claim.

Background

- [2]. On 8 February 2022, this Court granted the Claimant leave to enter judgement in default, unless the Defendant file and serve a Defence on or before the 22 day February 2022.
- [3]. Despite the Court's concession, the Defendant failed to comply with the Order and the judgment against the Defendants was subsequently approved.
- [4]. On 5 April 2023, more than 1 year later, the Defendants filed a summons to set aside the Judgement in Default of Defence and for permission to file a Defence out of time.
- [5]. On 6 April 2023, the matter was heard before Registrar Constance Delancy (as she then was) who dismissed the Defendants request and Ordered that the parties are to file and serve a bundle of the agreed and non-agreed documents to be relied during the assessment of damages on or before 31 May 2023. The trial of the matter was to commence on 19 September 2023 and to conclude 20 September 2023. For reasons unknown, the matter did not proceed.
- [6]. The matter was rescheduled to be heard on 3 June 2024, Counsel for the Defendants requested an adjournment, and the matter was adjourned for 20 June 2024.
- [7]. On 20 June 2024, Counsel for the Defendants raised an objection to the commencement of the hearing, contending that they had not received adequate time to prepare their case and were prejudiced by the denial of their application to file witness statements out of time. The Court dismissed the objection on the grounds that the Crown had failed to comply with previous orders, had missed critical filing deadlines without excuse, and had displayed a pattern of procedural neglect. It was further noted that the matter had been before three different Registrars since 2022, and at no point had the Crown adhered to the prescribed procedural timetable or filed an application for extension in a timely manner.
- [8]. The trial commenced and the Claimant gave evidence and identified his witness statement of 6 July 2023. The Defence called no witnesses and the Court denied the application filed belatedly on 19 June 2024 for service of witness statements out of time. It was ordered that Closing submissions were to be filed on or before 30 September 2024.

Summary of Facts

- [9]. On 21 February 2021, Mr. Williams, the Claimant, was driving near Sister Mary Patricia Junior High School in Freeport, Grand Bahama, when he was stopped by three police officers, including the Third Defendant. The Claimant alleges that without providing any lawful justification or showing any warrant, the Officers searched Mr. Williams' vehicle, removing personal property without consent. Mr. Williams was then arrested and taken into custody where he remained for two days, from 21 February 2021 until his release on 23 February 2021.
- [10]. The Claimant testified that during the search, he was aggressively removed from his vehicle, forcibly handcuffed, and violently forced onto the ground, causing immediate physical pain. The handcuffs were excessively tightened, and Mr. Williams' repeated pleas for relief were callously dismissed.
- [11]. Mr. Williams further testified and this remains unchallenged due to the Defence's failure to call any rebutting witnesses that officers pointed guns at him, threatened and verbally abused him, flashed lights aggressively in his face, and deliberately humiliated him. Photographs of Mr. Williams in custody were taken and disseminated on various social media platforms, labeling him as a murder suspect.
- [12]. The Claimant's compelling testimony of psychological trauma was substantiated by expert psychiatric testimony from Dr. John Dillett. Dr. Dillett credibly stated that Mr. Williams suffers from Post-Traumatic Stress Disorder (PTSD), depression, anxiety, and hyper-arousal, conditions directly linked to the incident. The prognosis indicated a requirement for intensive psychiatric care for at least 1-2 years, with potential long-term ramifications.
- [13]. It is notable that while the Defence did in fact cross-examine both Mr. Williams and Dr. Dillett, they were not granted leave to file witness statements due to their repeated failure to meet multiple deadlines and persistent non-compliance with prior court orders. As a result, they were precluded from introducing rebutting testimony or tendering any documentary exhibits to counter the Claimant's claims. Their participation in the evidentiary process was thus minimal and non-substantive, and compounded by a persistent pattern of procedural non-compliance, including repeated failures to comply with Court orders mandating the timely filing of submissions and trial bundles. In consequence, the Court finds the Claimant's version of events corroborated by uncontroverted medical evidence to be credible, reliable, and largely unchallenged in substance.

Issues in Dispute

- [14]. The following issues arose for determination during the assessment:

- i. Whether the Claimant suffered unlawful arrest and detention in contravention of his constitutional rights;
- ii. Whether the psychiatric diagnosis of Post-Traumatic Stress Disorder (PTSD) and depressive features were causally connected to the incident, and not too remote or insufficiently evidenced;
- iii. Whether the reputational damage alleged by the Claimant warranted separate compensation in the absence of quantified loss;
- iv. Whether the Claimant's voluntary resignation from employment and intermittent work history post-incident diminished the strength of his claim for ongoing or severe emotional distress.

General Damages (Constitutional Breaches)

[15]. Articles 17, 19, 21, and 25 of the Constitution of The Bahamas provide robust protections against arbitrary arrest, cruel treatment, unlawful search, and violations of privacy. In the case of **Martin Orr v Attorney General** [2021] BS 2021 SC 10, Winder J., described arbitrary arrest and continued unlawful detention without judicial authorization as a fundamental violation of constitutional rights under Article 19(1). Orr, a Jamaican national, was held for 151 days in deplorable conditions after his lawful discharge by a Magistrate, and diagnosed with PTSD and Major Depressive Disorder.

[16]. That case is instructive in two respects: first that constitutional violations, no matter how brief warrant significant judicial scrutiny; and second, that while PTSD may indeed arise from custodial abuse and reputational humiliation, courts must be mindful of objective medical evidence and the duration, setting, and consequences of the breach. Whereas Orr was wrongfully detained for nearly five months under severe conditions, Mr. Williams endured two days in custody with brief clinical follow-up and resumed employment shortly thereafter. This context guides the moderation of damages herein.

[17]. The principle that one must be informed of the reason for arrest was reiterated with clarity in **Christie v Leachinsky** [1947] AC 573 and endorsed locally in **Lloyd v Cunningham** [2017] BS 2017 SC 40, where the Court found a violation where a man was handcuffed and paraded before neighbors without ever being told why. Like Mr. Lloyd, the Claimant in this case was never provided any justification for the state's interference with his liberty, and this adds a layer of constitutional gravity to the breach.

[18]. In **Lloyd**, Charles J., emphasized that "*False imprisonment is no other thing but the restraint of a man's liberty... so long as he bath not his liberty freely to go at all times.*" So too here, where Mr. Williams was held for two days, forcibly restrained, and presented to the public in a manner that cast a shadow over his reputation.

[19]. These principles require no innovation by this Court; they only require fidelity. Guided by the rulings in **Merson v Cartwright** [2005] UKPC 38, **Latario Rolle v Cpl Moultrie** [2021], **Lloyd**

v Cunningham, and the analytic balance in *Martin Orr*, the Court finds that an award of constitutional damages must reflect not only the indignity suffered but also serve to reaffirm the primacy of personal liberty in a democratic society.

[20]. Accordingly, under this head, the Court awards \$10,000 for the constitutional breaches.

Special Damages

[21]. Special damages are awarded to compensate for actual pecuniary loss and must generally be specifically pleaded and strictly proven through documentary evidence, such as receipts or invoices. These requirements serve to prevent speculative claims. However, the courts have acknowledged that in certain circumstances particularly where the losses are modest, clearly articulated, and uncontested relaxation of the evidentiary threshold may be appropriate.

[22]. Although no receipts were provided, the Claimant's modest claims for personal items taken or damaged (\$2,060.00) were consistent, specific, and unchallenged. In accordance with the precedent established in **Michelle Russell v Ethylyn Simms** [2008/CLE/gen/00440] where reasonable assertions were accepted without documentary proof, the Court grants special damages at \$2,060.00.

Pain, Suffering, and Loss of Amenities

[23]. The Court has closely considered the evidence of Dr. Dillett regarding the Claimant's diagnosis of PTSD and associated conditions. During cross-examination, Counsel for the Defendant rightly questioned how Dr. Dillett was able to assert that Mr. Williams had no prior history of mental illness if he had not previously treated him. In response, Dr. Dillett confirmed that his conclusions were informed by a review of Mr. Williams' prior medical records, which showed no pre-existing psychiatric condition, as well as information provided by the Claimant's father. While this basis is not wholly objective, it is not without value and falls within the common methodology employed by psychiatrists conducting post-incident evaluations.

[24]. The Court further queried Dr. Dillett about his overall findings. He stated that Mr. Williams exhibited active features consistent with an anxiety-related disorder stemming from emotional trauma. He classified the trauma as scalable and of moderate severity. His depressive features were milder and had improved with early psychotherapy. Notably, Mr. Williams only received four treatment sessions with Dr. Dillett from February to April 2021, a two-month window. This limited engagement does raise questions about the conclusiveness of a long-term diagnosis. Nevertheless, Dr. Dillett clarified that if Mr. Williams continued treatment as recommended, the symptoms might last 2–3 years but would likely improve incrementally.

[25]. Importantly, when asked whether the Claimant may have been feigning symptoms, Dr. Dillett unequivocally affirmed his belief that Mr. Williams' presentation was genuine. However, the Court observed that the Claimant's discontinued treatment with Dr. Dillett after two months, and did not follow through with the recommended care beyond April 2021. The Claimant also failed to present updated psychiatric evaluations or any objective medical evidence beyond that initial period.

[26]. Furthermore, while Mr. Williams testified that he resigned from his job at "Big Rico" due to feelings of being despondent and unfocused, it is notable that he was not terminated but chose to resign. At the time of assessment, he was not unemployed due to incapacity but awaiting commencement of new employment. Notably, Dr. Dillett did not opine that Mr. Williams' depressive symptoms were of a severity that impaired or rendered him incapable of maintaining employment. This undermines the assertion of long-term or debilitating impact.

[27]. While the Claimant may have suffered emotional distress, the limited medical engagement and failure to quantify reputational damage compel the Court to adopt a more conservative approach. Accordingly, the Court awards \$20,000 under this head of pain and suffering and loss of amenities, in alignment with the particularized summary of the claimed damages.

[28]. Dr. Dillett's findings, including hyper-arousal, insomnia, and social withdrawal, were explained within the context of the incident and not based on pre-existing conditions. The symptoms manifested immediately after the unlawful arrest and continued through the time of examination. The Court is persuaded that PTSD in this case is not too remote, but rather a probable and natural consequence of the unlawful conduct of state agents.

Compensatory and Exemplary Damages

[29]. The Court acknowledges that the Claimant was subjected to unlawful arrest and reputational harm due to unauthorized dissemination of photographs and false labelling on social media. However, in contrast to the facts of **Latario Rolle** where the Claimant was physically beaten, lost multiple teeth, denied medical care, and endured four days in custody Mr. Williams' injuries were of a different order, largely psychological and comparatively limited in duration.

[30]. The Court finds that while exemplary damages are warranted to underscore the abuse of power and the defamation suffered, the absence of physical harm, limited treatment window, and unquantified reputational loss militate against a high award. The Court therefore awards \$12,940 for compensatory and exemplary damages in total, ensuring consistency with Bahamian jurisprudence and fairness between similarly situated litigants.

Determination of Credibility

[31]. In the absence of any Defence witnesses and considering the credibility, consistency, and detail of the Claimant's testimony, alongside expert psychiatric evidence, I unequivocally accept Mr. Williams' account as truthful and reliable. The Defence's blatant non-compliance with Court orders and their failure to provide any counter-evidence further reinforce the Claimant's credibility.

Particularized Damages

[32]. This assessment reflects a proportionate and consistent application of legal principles, taking into account the distinctions between this case and prior rulings such as **Latario Rolle v Cpl Moultrie**. While the defamation suffered by Mr. Williams is acknowledged, the lack of quantifiable damage, short detention period, voluntary job resignation, and limited psychological treatment all weigh in favour of a more tempered award.

[33]. Damages are Ordered as follows:

- i. False Imprisonment (2 days): \$10,000;
- ii. Constitutional Breaches (Articles 17, 19, 21, and 25): \$10,000;
- iii. Special Damages: \$2,060;
- iv. Pain and Suffering (emotional trauma, psychiatric symptoms): \$20,000;
- v. Reputational Harm and Loss of Dignity (defamatory public labelling): \$5,000;
- vi. Exemplary Damages (to deter future abuse of state power): \$12,940

Total Damages Awarded: \$60,000.00

Costs

[34]. In determining the appropriate order for costs, the Court is guided by the principle that costs follow the event, but also retains a broad discretion to apportion or adjust costs based on the degree of success achieved by each party and the reasonableness of the amount claimed. Given the significant discrepancy between what was claimed and what was awarded, the Court finds it appropriate to depart from a full costs award.

[35]. Costs are awarded to the Claimant, but such costs shall be proportionally reduced to reflect the quantum award. Therefore, a fixed sum of **\$15,000.00** is awarded for cost.

Post-script

[36]. The courtroom is not a forum for a windfall. It is a sanctuary where wrongs are redressed, not a lottery where litigants may expect to strike gold. While the Claimant was wronged, and while the

breach of his constitutional rights was neither trifling nor without consequence, the Court must balance fairness with restraint. The award must be reasonable, principled, and proportionate. It is not the function of the Courts to punish beyond what is just.

[37]. Mr. Williams sought over \$1,000,000 in damages, an amount wholly unmoored from precedent or legal justification. Such a figure could not be supported either by the evidence or by jurisprudence. Although the circumstances warranted an award for exemplary damages, the nature of the injury was not extraordinary enough to merit a sum of that magnitude.

[38]. The Court must be vigilant to protect rights, but also vigilant not to inflate their redress beyond what justice demands. Damages serve to vindicate, compensate, and deter; not to enrich. The Constitution is both a shield and a compass...never a bludgeon.

[39]. We are reminded that the law must act as a “bulwark against tyranny and abuse. But the law, like the sword of justice, must be wielded with discernment”.

Dated this 2nd day of June 2025

[Original signed & sealed]

**Renaldo Toote
Registrar (Acting)**