

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Common Law and Equity Division**

Claim No. 2024/CLE/GEN/00521

BETWEEN

QUINCY HUDSON

Claimant

AND

**THE COMMISSIONER OF POLICE OF THE COMMONWEALTH OF THE
BAHAMAS**

First Defendant

AND

THE ATTORNEY GENERAL OF THE COMMONWEALTH OF THE BAHAMAS

Second Defendant

Before: Madam Acting Justice Gail Lockhart Charles KC

Appearances: Ms. Christina Galanos and Ms. Kristina Saunders for the Claimant

Mr. Perry McHardy with Mr. Randolph Dames for the Defendants

Hearing Dates: 11–12 February 2026; 27 April 2026

JUDGMENT ON LIABILITY

LOCKHART CHARLES KC, Justice (Acting) Introduction

1. This is my judgment on liability in the Claimant's claim for damages arising out of his arrest and detention by officers of the Royal Bahamas Police Force on 17 June 2023.

2. Mr Quincy Hudson alleges that he was unlawfully arrested and falsely imprisoned by Police Constable 4674 Turnquest and Police Constable 4650 Simmons. He further alleges that, in the course of such arrest, he was assaulted and battered by the application of handcuffs which were fastened too tightly, causing injury. The Second Defendant is sued pursuant to section 12 of the Crown Proceedings Act 1964.
3. The trial proceeded on liability only. If liability is established, damages will be assessed at a later hearing. For the reasons set out below, I find for the Claimant on liability.

Background and facts

4. On 17 June 2023 at about 11:40am, the Claimant, a licensed taxi driver, was working in the vicinity of Prince George Wharf and Charlotte Street, Nassau. He was neatly dressed and wore his licensing credentials on a lanyard around his neck. He was calling out to tourists in the area, offering tours and transport services, a commonplace activity for taxi drivers in that location. Police Constable 4674 Turnquest approached him.
5. A confrontation ensued. The Claimant got the worst of it. He was handcuffed and escorted by two officers to the Tourism Police Station, where he was handcuffed to a chair. He was then taken to Central Police Station, booked, and transported to Princess Margaret Hospital for medical attention after complaining that the handcuffs had been fastened too tightly and had injured his wrists. Following his discharge from hospital he was returned to Central Police Station and placed in a holding cell, where he remained until about 6:45pm, when, it is asserted by him, a senior officer directed his release and apologised to him.
6. The Claimant was never interviewed and was not charged.

The Issues

7. The central issues for determination are:
 - i. Whether the arrest was lawful; ii. Whether the use of handcuffs constituted assault and battery; iii. Whether the Claimant was falsely imprisoned.

The Pleadings

The claim

8. The Claimant pleads that, on 17 June 2023 in New Providence, agents of the First Defendant arrested him without lawful cause, applied handcuffs excessively tightly causing injury, and detained him for about seven hours. He alleges that these actions by the police caused him physical injury, distress and humiliation, and that the Defendants are liable for unlawful arrest, assault and battery, and false imprisonment.
9. He seeks, amongst other relief, general damages and aggravated and exemplary damages.

The defence (as amended)

10. The Defence pleads that at about 11:40am on 17 June 2023 Police Constable 4674 Turnquest saw the Claimant in the roadway calling out to tourists, offering taxi services, and obstructing the flow of traffic.
11. The original (unamended) Defence pleaded that the arresting officer approached the Claimant to arrest him “for the offence of soliciting”.
12. Paragraphs 7–9 of the original Defence (filed 22 July 2024) are material. They pleaded:
 7. The Defendants will say that on 17 June 2023 Police Constable 4674 Turnquest, along with Police Constable 4650 Simmons, were on duty in the area of Charlotte Street and Woodes Rogers Walk. Around 11:40am PC 4674 Turnquest noticed the Claimant in the middle of the road calling out to tourists, offering services as a taxi driver and obstructing the flow of traffic.
 8. The Claimant, when approached by PC 4674 Turnquest, identified himself as Quincy Hudson of Ross Davis Estates and provided his date of birth as 14 April 1974. **A warning was given to the Claimant at this time by PC 4674 Turnquest informing him that soliciting tourists is prohibited.**
 9. The Defendants assert that despite this verbal warning being given to the Claimant by PC 4674 Turnquest, **he was seen shortly after soliciting another group of**

tourists in the area. Consequently PC 4674 Turnquest **approached the Claimant to caution and arrest him for the offence of soliciting.** The Claimant was also acting in a disorderly manner at this time which led to PC 4650 Simmons assisting PC 4674 Turnquest to restrain the Claimant and execute the arrest. (Emphasis supplied)

13. The original Defence therefore pleaded, in clear terms, that the warning given to the Claimant was that “soliciting tourists is prohibited” and that, following an alleged further incident, the officer approached him “to caution and arrest him for the offence of soliciting”.

14. The allegation that the arrest was for anything other than soliciting first appeared in the amended Defence filed on 21 March 2025.

15. The amended Defence revised the pleaded reason for arrest. In particular, paragraph 9 was amended to add the words “*and disorderly conduct*” and to allege, additionally, that “*the Claimant was further cautioned and arrested for the offence of resisting arrest*”. The amended paragraph 9 (additions underlined) reads:

9. The Defendants assert that despite this verbal warning being given to the Claimant by PC 4674 Turnquest, he was seen shortly after soliciting another group of tourists in the area. Consequently PC 4674 Turnquest approached the Claimant to caution and arrest him for the offence of soliciting **and disorderly conduct.** The Claimant was also acting in a disorderly manner at this time which led to PC 4650 Simmons assisting PC 4674 Turnquest to restrain the Claimant and execute the arrest. **The Claimant was further cautioned and arrested for the offence of resisting arrest.**

16. Two entirely new paragraphs, 10 and 13, were also added, which state:

“10. Additionally, the Defendants rely on section 31 of the Police Force Act 2009, which provides that police officers may, without a warrant, arrest an individual

(a) reasonably suspects of having committed an offence;

(b) Alleged to have committed aggravated assault, in any case in which he reasonably believes that the assault has been committed, although not in his presence, [and

where,] by reason of the recent commission of the offence, a warrant could not have been obtained for the apprehension of the offender; (c) who commits a breach of the peace in his presence.”

“13. The agents of the First Defendant not only had a reasonable suspicion that an offence had been committed, but also witnessed the Claimant commit a breach of the peace in their presence. Accordingly, the arrest was lawful.”

17. The amended Defence therefore changes the original position from Police Constable Turnquest approaching the Claimant to caution and arrest him “for the offence of soliciting” (which, it is common ground, is not an arrestable offence and would render the arrest unlawful if it were the sole basis) to a case that Police Constable Turnquest approached to caution and arrest him for soliciting and disorderly conduct.

18. The Amended Defence also relied, for the first time, on section 31 of the Police Force Act 2009 (power to arrest without a warrant for breach of the peace).

19. As to the handcuffs, the Defence admits that the Claimant complained that they were too tight and pleads that they were adjusted to minimise discomfort. It is admitted that he was taken to Princess Margaret Hospital with complaints of wrist pain, received treatment, and was discharged.

20. The Defendants otherwise deny that the Claimant suffered the injuries alleged, and deny that their conduct was arbitrary, oppressive or unconstitutional. They plead that the Claimant was treated fairly and with dignity, and that he was arrested without harm or injury caused.

Witnesses and evidence

21. The Claimant gave evidence on his own behalf. I found him to be a straightforward and consistent witness. His account was corroborated by Mr Lafayette Johnson, a fellow taxi driver who witnessed the incident and recorded it on his iPhone. The recording was admitted as Exhibit LJ-1 and is of central importance.

22. Exhibit LJ-1 captures the handcuffing. The Claimant is seen to be compliant, with his hands behind his back. He is not resisting. He repeatedly complains that the handcuffs are too tight and that he is in pain. But he is not refusing in anyway to submit to the officers decision to carry him the station. Both officers are seen attempting to adjust or remove the handcuffs. Onlookers are heard questioning why there is a need to handcuff him.

23. At the start of the recording the Claimant can be heard saying that he had not been told why he was being arrested. The Claimant says: "I'm telling you he hasn't informed me of anything." Police Constable Turnquest announces, addressing the query clearly and without hesitation: "He is arrested for loitering and soliciting." The Claimant repeats: "Loitering and soliciting."

24. The Claimant repeats to Mr Lafayette Johnson, who is recording: "Loitering and soliciting... you hear what they say? Loitering and soliciting." Mr Johnson then asks, "Where your taxi badge?" The camera focuses on the credentials hanging on a lanyard around the Claimant's neck, and Mr Johnson comments, "That's your taxi badge? You loitering and soliciting? What sense that make, man?"

25. Despite the comments by the Claimant and others, and the apparent consternation over the stated reason that the arrest is an arrest for loitering and soliciting, there is no correction or clarification offered by Police Constable Turnquest, who appears to stand by his announcement. Nor is any clarification provided by the arresting officer in response to the comments and queries suggesting that loitering and soliciting make no sense as a basis for the arrest.

26. The Claimant can be heard crying out in pain from the handcuffs. He remains compliant. As he is led away, he calls out to Mr Johnson asking him to contact his brother. After taking a few more steps, as the Claimant continues to cry out in pain, the officers try again to adjust the handcuffs. After some difficulty with the mechanism they manage to loosen them and then escort the Claimant to the station.

27. Consistent with what the arresting officer had informed the onlookers as to the reason for the Claimant's arrest, the detention record (Exhibit JT-2(a)), made at or shortly after the arrest, records the "Reason for Arrest" as "loitering soliciting".

28. Police Constable Turnquest and Police Constable Simmons gave evidence for the Defendants. Under cross-examination, Police Constable Turnquest accepted that soliciting was not a criminal offence. He maintained, however, that his concern was the Claimant's alleged obstruction of the roadway. He said the following in response to questions put to him by Ms. Galanos in cross-examination:

Q. Okay. So would it then be correct to say that your issue was not the fact that Mr Hudson was soliciting to the tourists, but rather your issue was that, according to you, Mr Hudson was soliciting to the tourists while he was on the pedestrian crossing? That was your issue?

A. In the middle of the road. In the middle of the road. There was two occasions. First time he's in the middle of the road, the second time he's on the pedestrian crossing.

Q. So your true issue, then, because we just agreed that soliciting is not a crime, your true issue was that Mr Hudson was in the middle of the road. That was your true issue on the initial approach? Is it correct to say that? A. Causing obstruction, yes.

Q. Okay. Not soliciting?

A. Soliciting -- yeah, soliciting in the middle of the road causing obstruction --

Q. But soliciting --

A. Speaking to a group of tourists.

Q. But hold on now. Let's go back. Soliciting is not a crime. We figured that out.

A. Right.

Q. We're agreeing there. So soliciting is not a crime, would you agree with me that your issue was that Mr Hudson was in the middle of the road, according to you?

A. Yes. He was in the middle of the road.

29. Police Constable Turnquest also admitted that, in the video recording, he stated that the Claimant was arrested for "loitering and soliciting". He conceded that he did not mention "disorderly conduct" or "resisting arrest" in the video.

30. Under cross-examination by Ms Galanos, Police Constable Simmons confirmed that Police Constable Turnquest told the cameraman that the Claimant was arrested for loitering and soliciting. He said:

Q. Okay. Now, were you present when Officer Turnquest was asked what he was arresting Mr Hudson for? A. Yes, I was there.

Q. And to your recollection, did you ever hear Officer Turnquest state that he was arresting Mr Hudson for disorderly conduct?

A. He told the cameraman what he was arrested for. He didn't say that to Mr Hudson. He told the camera what he was arrested for.

Q. And did he say disorderly conduct in his response?

A. No.

Q. He said loitering and soliciting, yes?

A. Yes.

31. Police Constable Simmons also admitted that he had to assist because Police Constable Turnquest did not have his handcuff key with him and was unable to slacken the cuffs when the Claimant complained of pain due to them being fastened too tightly. Police Constable Turnquest said the following under cross-examination:

Q. Do you agree with me that upon placing the handcuffs on Mr Hudson, you saw the need to slacken or remove the handcuffs? Do you agree with that?

A. Yes. After he keep swinging his hand to the front, I saw where it got too tightened, and my partner, PC Simmons, assisted with loosening the handcuff because I did not have my keys on me at the time.

The Submissions

Claimant's Submissions

32. Ms. Galanos, on behalf of the Claimant, submits that the Defendants are liable for wrongful arrest, assault and battery, and false imprisonment. It is argued that the arrest was unlawful,

as the stated reasons, “loitering and soliciting”, are not recognised as arrestable offences under Bahamian law. The arresting officer, PC Turnquest, later attempted to justify the arrest on alternative grounds, such as disorderly conduct, resisting arrest, and breach of the peace, none of which were mentioned at the time of the arrest or recorded in the detention record. Ms. Galanos submits that the Claimant was not informed of a valid reason for his arrest, another reason the arrest was unlawful.

33. Recognising quite correctly that once it is established that a claimant was detained the burden shifts to the Defendants to prove that the detention was lawful, Ms. Galanos submits that the Defendants have failed to discharge that burden and to demonstrate that they had lawful authority to arrest the Claimant. She also points to the inconsistencies between the statements made at the scene, the detention record, and the alternative grounds upon which the officers later sought to justify the Claimant’s arrest at trial. She also maintains that it is significant that, while in custody, the Claimant was never questioned or charged with any offence.
34. In relation to the claim for assault and battery, Ms. Galanos asserts that the Claimant suffered injuries to his wrists due to the excessive and negligent use of handcuffs by PC Turnquest. The handcuffs were applied too tightly, causing pain and visible indentations. Furthermore, the officer did not possess a key to remove the handcuffs, necessitating assistance from another officer. Ms. Galanos argues that the use of handcuffs was unwarranted, as the Claimant was neither violent nor resisting arrest, and furthermore that handcuffing him to a chair at the police station was unnecessary given his cooperation.
35. Ms. Galanos therefore invites the Court to find the Defendants liable for wrongful arrest, assault and battery, and false imprisonment, and to order that the Defendants pay the Claimant’s costs, to be taxed if not agreed.

Defendants’ Submissions

36. Mr. McHardy submits that the behaviour of the Claimant at the time made it necessary to arrest him due to a breach of the peace being committed in the arresting officer’s presence. He submits that the officers arrested the Claimant for standing in the middle of the road on more than one occasion blocking the flow of traffic.
37. Mr. McHardy further submits in reliance on *Lashawn Cooper v Commissioner of Police 2018/CLE/gen/01309* that the requirement that the person arrested should be informed of the reason why he is seized naturally does not exist if the circumstances are such that he must know the general nature of the alleged offence for which he is detained. He submits that Mr. Hudson must have known that standing in the middle of the road, obstructing the flow of traffic and shouting at police officers in an aggressive manner, coupled with him resisting arrest would warrant a lawful arrest.

38. He also maintains that excessive force was not used, and he maintains that this can be seen from the fact that the handcuffs were removed and the Claimant was permitted to walk to the station without the handcuffs to avoid any injuries.

Legal framework

Arrest without warrant

39. The police are entrusted with great powers, including the power to instantly deprive a citizen of his or her liberty. Those powers are not, however, unlimited and must be exercised lawfully. The social contract operates reciprocally: citizens are required to submit to the authority of officers of the State, and those officers are required to exercise their authority within the bounds of the law.

40. The Court of Appeal in *Jerone Thompson Sr and Jamecko Thompson v The Attorney General and Lynden Saunders* (SCCivApp No. 2 of 2023) confirmed at [51] that “*it is well known and accepted that our law has recognized that there are arrestable offences and those which are not.*”

41. Section 104(1) of the Penal Code (Ch. 84) specifies the circumstances in which a peace officer may arrest without a warrant. There is no dispute that “loitering” and “soliciting” (in the sense alleged here) are not arrestable offences under section 104.

42. It is also a legal requirement that police officers when executing an arrest must tell the person the reason for the arrest. In the leading decision of the House of Lords in *Christie v Leachinsky* [1947] AC 573, Viscount Simon graphically illustrated the importance of this requirement saying the following (at 588):

No one, I think, would approve a situation in which when the person arrested asked for the reason, the policeman replied " that has nothing to do with you : come along " with me." Such a situation may be tolerated under other systems of law, as for instance in the time of lettres de cachet in the eighteenth century in France, or in more recent days when the Gestapo swept people off to confinement under an over-riding authority which the executive in this country happily does not in ordinary times possess. This would be quite contrary to our conceptions of individual liberty. If I may introduce a reference to the well-known book Dalton's Country Justice, that author, dealing with arrest and imprisonment, says at

p. 406 : "The liberty of a man is a thing specially favoured by "the common law." And there are practical considerations, as well as theory, to support the view I take. If the charge on suspicion of which the man is arrested is then and there made known to him, he has the opportunity of giving an explanation of any misunderstanding or of calling attention to other persons for whom he may have been mistaken, with the result that further inquiries may save him from the consequences of false accusation.

43. Lord Simonds stated compellingly (at 591–592):

Putting first things first, I would say that it is the right of every citizen to be free from arrest unless there is in some other citizen, whether a constable or not, the right to arrest him. And I would say next that it is the corollary of the right of every citizen to be thus free from arrest that he should be entitled to resist arrest unless that arrest is lawful. How can these rights be reconciled with the proposition that he may be arrested without knowing why he is arrested? It is to be remembered that the right of the constable in or out of uniform is, except for a circumstance irrelevant to the present discussion, the same as that of every other citizen. Is citizen A. bound to submit unresistingly to arrest by citizen B. in ignorance of the charge made against him? I think, my Lords, that cannot be the law of England." Blind, unquestioning obedience is the law of tyrants and of slaves: it does not yet flourish on English soil. I would, therefore, submit the general proposition that it is a condition of lawful arrest that the man arrested should be entitled to know why he is arrested, and then, since the affairs of life seldom admit an absolute standard or an unqualified proposition, see whether any qualification is of necessity imposed upon it.

44. Lord du Parc stated as follows (at 598):

" The omission to tell a person who is arrested at, or within a reasonable time of, the arrest with what offence he is charged cannot be regarded as a mere irregularity. Arrest and imprisonment, without a warrant, on a charge which does not justify arrest, are unlawful and, therefore, constitute false imprisonment, whether the person making the arrest is a policeman or a private individual..."

45. It follows that for an arrest without a warrant to be lawful, the arresting officer must, in ordinary circumstances, inform the person arrested of the true ground of the arrest. A

misstatement of the reason, or the giving of a reason that is not the true reason, renders the arrest unlawful. Likewise, arresting for an offence that is not an arrestable offence without more will render the arrest unlawful.

46. It is well accepted that these principles apply in The Bahamas. As was stated by the Court of Appeal in *Immigration Officer Norman Bastian v Claudia Edwards Bethel SCCivApp & CAIS No. 34 of 2023* at [41] per Crane-Scott JA:

"The common law has always required that before a person can be lawfully arrested and deprived of his personal liberty, not only is the person making the arrest required have 'reasonable cause to suspect' the person of having committed a specific criminal offence; but where an arrest is being made without a warrant, the common law also requires the suspect to be informed of the offence for which he (or she) is being arrested. See *Christie v Leachinsky* [1947] AC 573."

False imprisonment

47. In *R (Lumba) v Secretary of State for the Home Department; Kadian Mighty v Secretary of State for the Home Department* [2011] UKSC 12, the Supreme Court reiterated that, to establish false imprisonment, the claimant need prove only the fact of imprisonment; the burden then shifts to the defendant to justify the detention as lawful. Lord Dyson stated at [65]:

"All this is elementary, but it needs to be articulated since it demonstrates that there is no place for a causation test here. All that a claimant has to prove in order to establish false imprisonment is that he was directly and intentionally imprisoned by the defendant, whereupon the burden shifts to the defendant to show that there was lawful justification for doing so. As Lord Bridge said in *R v Deputy Governor of Parkhurst Prison, ex parte Hague* [1992] 1 AC 58, 162C-D: 'The tort of false imprisonment has two ingredients: the fact of imprisonment and the absence of lawful authority to justify it.'"

Assault and battery

48. The absence of lawful authority to arrest renders the accompanying use of force, including handcuffing prima facie unlawful. The burden then shifts to the defendant to demonstrate

that the force used was nevertheless reasonable and necessary in the particular circumstances, for example, to prevent the claimant from causing injury to himself or others. In the absence of justification, the use of handcuffs will amount to a battery.

49. There is also the question as to whether the use of force and degree of force was reasonable and proportionate. In the context of arrest, the use of force may be justified if it is reasonable. What is reasonable force depends on the particular facts of the case. See per Hon. Mr. Justice Winder (as he then was) in *Erica P Morris v RSGT 340 Johnson and others* 2017/CLE/gen/00079 where he said: “ ...*What is to be considered excessive force is not hard and fast and is not defined in legislation. Each case must be considered individually...*”

50. Section 11 of the Criminal Procedure Code reinforces that force is only to be used if it is necessary. S 11 provides:

11. (1) In making an arrest the peace officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

(2) If the person to be arrested forcibly resists the endeavour to arrest him or attempts to evade the arrest, the peace officer or other person concerned may use all means necessary to effect the arrest:

Provided that nothing in this section contained shall be deemed to justify the use of greater force than was reasonable in the particular circumstances in which it was employed or was necessary for the apprehension of the offender.

Findings and discussion

51. I have considered all of the evidence. I make the following findings of fact and apply the law to those findings:

1. The reason given for the arrest at the time was loitering and soliciting.
2. The Claimant was arrested for the reasons “Loitering” and “soliciting”.
3. The Claimant was not informed of any alternative basis for arrest.
4. The Claimant was compliant and did not resist arrest.
5. The Claimant complained of pain caused by excessively tight handcuffs.
6. The Claimant was detained for approximately seven hours and released without charge.

52. I accept that the officers acted in good faith but under a mistaken understanding of the law.

The ground of arrest

53. The contemporaneous evidence is clear and consistent. In the recording (Exhibit LJ-1) Police Constable Turnquest states that the Claimant is being arrested for “loitering and soliciting”. The detention record (Exhibit JT-2(a)), made at or shortly after the arrest, records the reason for arrest as “loitering soliciting”. The original Defence pleaded soliciting as the reason for the arrest. I therefore find that the reason for the arrest communicated at the time, and recorded contemporaneously, was loitering and soliciting.
54. I do not find that either officer acted in bad faith or with malice. They did not intend to cause the Claimant harm or injury. In fact, they were doing their best to alleviate the discomfort that the Claimant was expressing by conscientiously trying to slacken the handcuffs. I also accept that they genuinely believed they were acting lawfully. However, I find that they were mistaken as to the lawful scope of their powers. They erroneously believed that loitering and soliciting were arrestable offences and that they could lawfully arrest the Claimant for “loitering and soliciting”. That mistake explains why those matters were entered on the detention record and why Police Constable Turnquest, when asked, announced without hesitation that the Claimant was being arrested for loitering and soliciting.
55. I accept the Claimant’s evidence that he was not informed that he was being arrested for disorderly conduct or resisting arrest or any reason other than “Loitering and Soliciting”. This is consistent with the contemporaneous documentary evidence.
56. I accept the Claimant’s evidence that he complained, immediately and repeatedly, that the handcuffs were too tight and that he was in pain. That is corroborated by Exhibit LJ-1 and by the officers’ own evidence. The Claimant was taken to hospital.
57. The Claimant was detained for approximately seven hours. He was not charged and I accept that he was released on the direction of a senior officer, who apologised to him.

(1) Was the arrest lawful?

58. The Defendants bear the burden of justifying the arrest and detention as lawful. Ms. Galanos is correct, they have not discharged that burden.

59. I have found as a fact that the ground of arrest communicated at the time was “loitering and soliciting” and that PC 4674 Turnquest in fact arrested him for these reasons under the erroneous belief that those were lawful grounds for arrest without a warrant. The arresting officer was wrong. Those are not arrestable offences. Accordingly, the officers had no lawful authority to arrest without warrant on that basis.
60. Further, even if other grounds are now relied upon (disorderly conduct, resisting arrest, breach of the peace) per the amended Defence, those grounds were not communicated to the Claimant at the time of arrest.
61. The principle in *Christie v Leachinsky* is that a person arrested without warrant is entitled to be told, in substance, the true ground of arrest. I find that the Claimant was told the true ground of arrest and that was “loitering and soliciting”. These were not valid grounds for arrest without a warrant, but they were indeed the true grounds upon which the Claimant was arrested. I find that the Claimant was never given any valid ground for being arrested without a warrant.
62. The late amendment of the Defence to introduce disorderly conduct and resisting arrest, after disclosure of Exhibit LJ-1, reinforces the conclusion that those were not the true grounds at the time of the arrest, nor were they the grounds that were communicated to the Claimant. The contemporaneous record and the video evidence point consistently to “loitering and soliciting” as the stated basis for arrest.
63. I find that the circumstances were not such that the Claimant must have understood his arrest to be for disorderly conduct or breach of the peace. Far from it. If, while he is being handcuffed and placed under arrest, it is announced by the arresting officer that the reason for the arrest is loitering and soliciting, I do not see how it could have been obvious to the Claimant that he was being arrested for anything else.
64. For those reasons I find that the arrest was unlawful.

(2) *Assault and battery (handcuffing)*

65. The application of handcuffs involves the intentional application of force and will constitute a battery unless it is consented to or carried out with lawful authority. Where the arrest is unlawful, the use of force to effect it is prima facie unlawful.

66. Applying those principles, I am satisfied that the handcuffing of the Claimant amounted to a battery. First, because the arrest was unlawful, there was no lawful basis to use force to effect it. Secondly, even if (contrary to my finding) the arrest had been lawful, the evidence does not justify the use of handcuffs. Exhibit LJ-1 shows the Claimant to be compliant; there was no attempt to flee and no violence or aggression. The handcuffs were applied so tightly that the Claimant immediately cried out in pain, and both officers struggled to slacken them. The Claimant was later taken to hospital. Thirdly, I note that on the evidence PC 4674 Turnquest did not have his handcuff key with him. An officer who applies handcuffs should be in a position to remove them if needed. The inability to remove the handcuffs that were causing pain further supports my conclusion that the handcuffing was unreasonable on these facts.

67. Accordingly, the Defendants are liable for assault and battery.

(3) False imprisonment

68. The Claimant was deprived of his liberty for about seven hours. Since I have found the arrest unlawful, the consequent detention was also unlawful unless the Defendants can show lawful authority for it. They have not done so.

69. I therefore find the Defendants liable for false imprisonment.

Conclusion

70. For the reasons set out above, I find that the Claimant has established liability for unlawful arrest, assault and battery, and false imprisonment arising out of the events of 17 June 2023.

71. There will be judgment for the Claimant against the First and Second Defendants on liability. Damages are to be assessed.

72. The Claimant is entitled to his costs of the liability trial, to be taxed if not agreed.

Order

IT IS HEREBY ORDERED THAT:

1. Judgment on liability is entered for the Claimant against the First Defendant and the Second Defendant, with damages to be assessed.
2. The First Defendant and the Second Defendant are liable to the Claimant for unlawful arrest, assault and battery, and false imprisonment arising out of the incident on 17 June 2023.
3. The Defendants shall pay the Claimant's costs of the liability trial, to be taxed if not agreed.

Dated this 30th day of April 2026

Gail Lockhart Charles KC

Justice (Acting)