

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
COMMON LAW AND EQUITY DIVISION
2023/CLE/GEN/00272

BETWEEN

TELVERN DEAN

Claimant

AND

THE COMMISSIONER OF POLICE

1st Defendant

AND

THE ATTORNEY GENERAL OF THE COMMONWEALTH OF THE BAHAMAS

2nd Defendant

Before: The Honourable Justice Camille Darville Gomez
Appearances: Mr. Ian Cargill, Jr. for the Claimant
Mrs. Tommel Stuart and Mr. Rayshon Deleveaux for the Defendants
Hearing Date: 17 March, 2026

*Civil Procedure – Relief from sanctions – Denton three-stage test - Witness Statements – Late filing –
Administrative oversight – Prompt remedy – No impact on trial date - Costs – Claimant’s legitimate
concerns – Costs awarded – Summarily assessed - Case Management – Discipline in compliance –
Future deadlines – Automatic strike-out consequences*

RULING

DARVILLE GOMEZ, J

[1.] The Defendants applied by Notice of Application filed on 25 February, 2026 for the following reliefs supported by an affidavit of Perry McHardy filed on the same date.

- (i) permission be granted to the Defendants to rely on the Witness Statements of ASP Renaldo Burrows, Sgt. 1061 D' Angelo Gaitor and Sgt. 2993 Ronald Cash, which was filed on the 23 February, A.D., 2026 but not served on the 20 February, A.D., 2026 pursuant to Part 29.11(1) of the Supreme Court Civil Procedure Rules, 2022 and/or the unfiled Consent Order granting the parties permission to file all witness statements on or before 20 February, A.D., 2026.
- (ii) Alternatively, the Defendants be granted Relief from Sanctions pursuant to Part 26.8 of the CPR (2022) regarding the failure to serve the Witness Statement on or before the date ordered by the Court and/or the unfiled Consent Order, namely the 20 February, A.D., 2026;
- (iii) That the Witness Statement of ASP Renaldo Burrows, Sgt. 1061 D' Angelo Gaitor and Sgt. 2993 Ronald Cash be regularized and accepted as if filed and served in time.
- (iv) Such further or other relief that the Honourable Court may deem just.
- (v) That the Costs of this application be costs in the cause.

[2.] The Claimant objected to the said application and filed an affidavit of Miguel L. Cleare on 16 March, 2026 in response.

[3.] I heard this application on the papers.

[4.] I thank both Counsel for their very helpful submissions.

[5.] The Court observed that the witness statements of ASP Renaldo Burrows, Sgt. 1061 D' Angelo Gaitor, and Sgt. 2993 Ronald Cash were filed on 23 February 2026, three days after the deadline of 20 February 2026. The explanation provided by the Defendants was that the delay was due to an administrative oversight. It was neither intentional nor deliberate, and once discovered, the breach was remedied promptly. Importantly, the trial date has not been affected.

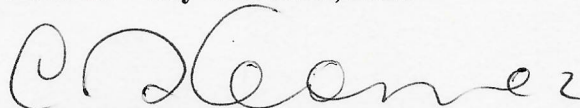
[6.] The Claimant raised concerns about the Defendants' history of non-compliance and a previous instance where an unless order were necessitated, albeit not before this Court. The Court acknowledged those complaints and takes them seriously. However, at this juncture, the witness statements have been filed and served, albeit three days late.

[7.] Applying the seminal case, **Denton & Ors v T H White Ltd & Ors [2014] EWCA Civ 906**, and the three-stage test therein, as followed in **Andrew Smith and Sophia Smith v**

First Caribbean International Bank (Bahamas) Limited and Insurance Management (Bahamas) Limited 2020/CLE/gen/00662, the Court finds that the breach is neither serious nor significant. Accordingly, it is unnecessary to consider the remaining two stages.

- [8.] The Court is guided by its previous decisions in **RBC Royal Bank (Bahamas) Limited formerly Royal Bank of Canada v Carla Marie Neely 2023/CLE/gen/00829** and **Myles Brennen v Stafford Prince Ferguson 2021/CLE/gen/00304**, where relief from sanctions was granted in circumstances where the breach did not affect the trial date.
- [9.] In the present case, the Court similarly finds that the breach has not jeopardized the trial date or the overall conduct of proceedings. Relief from sanctions pursuant to Part 26.8 of the Supreme Court Civil Procedure Rules, 2022 is therefore granted to the Defendants.
- [10.] However, given the Claimant's legitimate concerns about repeated non-compliance in the past and to ensure that the Defendants 'stick to the timetable', the Court will award the Claimant its costs of this application, which I have summarily assessed at \$800.
- [11.] In the circumstances, I make the following Orders:
- (1) The Defendants are granted relief from sanctions in respect of the late filing of the witness statements of ASP Renaldo Burrows, Sgt. 1061 D'Angelo Gaitor and Sgt. 2993 Ronald Cash.
 - (2) The witness statements of ASP Renaldo Burrows, Sgt. 1061 D'Angelo Gaitor, and Sgt. 2993 Ronald Cash, filed on 23 February 2026, are deemed properly filed and served, and shall stand as regularized on the record notwithstanding their late filing.
 - (3) The Claimant shall have its costs of this application to be paid by the Defendants, which I summarily assess at \$800.
 - (4) For the avoidance of doubt, the trial date fixed shall remain undisturbed.
 - (5) Unless the Defendants comply with any future filing or service deadlines as directed by the Court, any additional witness statements and/or pleadings shall stand struck out without further order.

Dated this 23rd day of March, 2026



Camille Darville Gomez
Justice