

**IN THE COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
COMMON LAW & EQUITY DIVISION**

CLAIM NO: 2021/CLE/EQI/00962

BETWEEN

DEMETRIUS MAJOR-PYFROM

Plaintiff

AND

THE ATTORNEY GENERAL

First Defendant

AND

THE COMMISSIONER OF POLICE

Second Defendant

AND

ASP ROLLE

Third Defendant

AND

SGT SHERICO FARQUHARSON

Fourth Defendant

Before: Hon. Chief Justice Sir Ian R. Winder
Appearances: Mario Gray for the Plaintiff
Partick Sweeting, Zoe Bowleg and Perry McHardy for the Defendants

Hearing Date(s) 31 October 2024, 7 November 2024, 6 February 2025, 28 April 2026 and
4 May 2026.

JUDGMENT

WINDER, CJ

This is the claim of the Plaintiff (Pyfrom) for personal injuries sustained as a result of his arrest and detention by the Defendant Police Officers on 27 October 2020 in Harbour Island, Eleuthera.

[1.] Pyfrom's claim was commenced by Writ of Summons dated 30 August 2021. The short Statement of Claim indorsed thereon is settled in the following terms:

1. At all material times on the 27th October, 2020 the Plaintiff is/was a resident of Harbour Island and was arrested and detained in custody at the Harbour Island Police Station for questioning over a missing battery, which they suspected that he had stole from Mr. Riley.
2. At all material times the 3rd and 4th Defendants are/were Police Officers on duty at the said Station and are/were employed by the Royal Bahamas Police Force.
3. At all material times and without justification the 3rd and 4th Defendants named herein used unnecessary unlawful and excess force in dealing with the Plaintiff who was under arrest and in their care and custody by unlawfully beating the Plaintiff and stumping him to the concrete floor causing severe injuries to the Plaintiff including but limited to:
 - a. Several Broken Ribs
 - b. A broken Pelvis and Hip Bones
 - c. Near Death Suffocation
 - d. A Fractured Leg
4. As a result of the unlawful, unnecessary and excess force used by the Defendants and the resultant injuries, the Plaintiff endured much pain and great suffering and was taken to Spanish Wells Eleuthera Clinic but the injuries were so severe and serious that he was air lifted to New Providence the same night and admitted to Hospital on the 27th October, 2020 where he underwent multiple surgeries and spent several weeks in hospital fighting for his life and was discharged from hospital on 13th November 2020.
5. The Plaintiff is still unable to walk without crutches, still limps and still endures much pain and suffering and is undergoing therapy up to the filing of this writ.

[2.] The Defendants denied the claim in a Defence filed on 4 May 2022. At paragraphs 2 -6 of the Defence, it was provided as follows:

2. Save and except that on the 27th October, 2020 the Plaintiff, a resident of Harbour Island was arrested and cautioned and detained in custody at the Harbour Island Police Station for questioning with respect a missing battery which the Plaintiff was suspected of stealing, Paragraph 1 of the Plaintiff's Statement of Claim (herein referred to as "SOC")

is not admitted. The Plaintiff was suspected of having stolen the said battery from Mr. Jason Cartwright.

3. Paragraph 2 of the SOC is admitted.
4. Save and except that the Plaintiff was under arrest and in lawful custody, Paragraph 3 of the SOC is vehemently denied. While under arrest and in lawful custody of the Third and Fourth Defendants at Harbour Island Police Station, the Plaintiff attempted to escape custody. The Plaintiff ran out of the building/Police Station and in doing so, he collided with a table and some chairs. The sound of his collision with the furniture alerted the Fourth Defendant to his escape. The Fourth Defendant commanded the Plaintiff to stop. The Plaintiff failed to stop, and the Fourth Defendant pursued him to the outside of the building as he made good his escape. The Fourth Defendant caught the Plaintiff who vigorously resisted apprehension, prompting the Fourth Defendant to call out the Third Defendant for assistance. The Third Defendant came to the assistance of the Fourth Defendant and a struggle ensued as the Plaintiff continued his forceful resistance, causing them to all fall to the ground. The Plaintiff continued to grapple with the Third and Fourth Defendants as they brought the Plaintiff inside the building causing them all to fall to the floor being overpowered by the Plaintiff. The Third and Fourth Defendants called out to other officers for assistance and two additional officers, Inspector Leary and Corporal 3616 Austin provided further assistance enabling the restraint of the Plaintiff. The Third and Fourth Defendants were subsequently able to subdue the Plaintiff and return him to lawful custody. At no time did the Third and Fourth Defendants beat the Plaintiff or stomp him to the concrete floor or cause severe injuries as alleged in his *SOC*. The Defendants deny that they caused the Plaintiff to suffer several broken ribs, a broken pelvis, and hip bones, near death by suffocation or a fractured leg as alleged and will put the Plaintiff to strict proof thereof. Shortly, thereafter the Plaintiff complained of pain to his right side.

The Defendant aver that as Royal Bahamas Police Force officers, (hereinafter referred to as "*RBFP officers*") they are empowered to maintain law and order, to keep the peace, to prevent and detect crime, to apprehend offenders and to enforce all laws with which they are charged. The Defendants aver that the Third and Fourth Defendant used only the force necessary to restrain and apprehend the Plaintiff and that at no time did they beat the Plaintiff or stomp him to the concrete floor as alleged in the *SOC*.

5. Save and except that the Plaintiff was taken to the Spanish Wells clinic and that he was later airlifted to Nassau for further assessment, the Defendants forcefully deny paragraph 4 of the *SOC*. The Defendants affirm that they used only the force necessary to apprehend the Plaintiff during his attempt to escape lawful custody. Once apprehended and restrained the Plaintiff was returned to custody. Subsequently, the Plaintiff complained of pain to his right side. Based on his complaint the Third and Fourth Defendant transported the Plaintiff to the local clinic where he was examined

by the physician. Based on the referral notes the Plaintiff presented at the clinic with his "... right hip slightly swollen, tender..." and "slightly internally rotated..."; a tentative diagnosis of a right pelvic fracture or dislocation was indicated by the physician and the Plaintiff was referred to Spanish Wells Clinic for an X-ray. The X-ray showed a posterior hip dislocation and fracture of the acetabulum. The injury reflected on the X-rays is the direct result of the Plaintiff's escape and vigorous resistance to his apprehension.

Notwithstanding, the Plaintiff was airlifted to Nassau for further medical assessment. Hospital notes indicate that the patient was in distress when he was received. A Closed Reduction was performed in Accident & Emergency and Mr. Major-Pyfrom was then admitted to Orthopedics for preparation for skeletal traction, a Steinmann pin was implanted to his proximal right tibia. This procedure was completed with the Plaintiff having only local anesthesia or conscious sedation as normal institutional protocol dictates.

6. Paragraph 5 of the SOC is not admitted, and the Plaintiff is put to strict proof thereof.

[3.] At trial Pyfrom gave evidence and called Maxwell Pyfrom and Dr Winston Phillips as his witnesses. The Defendants called Kelsey Farquharson, Michael Rolle, Nigel Rolle and Jerad Austin as witnesses in their case.

Pyfrom

[4.] Pyfrom gave evidence that he is from Harbour Island, Eleuthera, and that he works as a handyman, an artist, and also does household painting on the side. He accepted that he had been arrested by the police on Harbour Island on 27 October 2020 and that he understood he was under arrest and in police custody. He also accepted that the arrest was in respect of a stolen battery. However, he denied that he behaved disorderly, resisted the officers, pushed them, or fought the police either at the time of his arrest, at his mother's house, or during the booking process at the police station.

[5.] Pyfrom's evidence was that, after being taken into custody and brought to the police station, he was shoved toward the main room and then taken into the courtroom to be interviewed. He said that on entering the room he noticed what he described as "a shirt with two gallons of water and a plastic bag there" and that Officer Farky asked him to lie on the floor, which he questioned because there were chairs in the room. He said Officer Farky then questioned him concerning stolen batteries and, when he said that he did not know anything about them, became frustrated, punched him in the stomach, and slapped him in the face.

[6.] Pyfrom further said that Officer Farky pushed him into the courtroom door, causing it to crack open, then pulled him back, and that ASP Rolle came in to assist. He said Officer Farky swiped his legs while Officer Rolle held him by both arms, at a time when he was handcuffed, and that they lifted him and slammed him to the ground, causing severe pain to his right hip and leg. His evidence was that, at the relevant time inside the courtroom, only he and Officer Farky were there initially, and that others came only after the commotion. He said there were people outside the station, including persons attending what he called the Harbour Island aid programme next door. In re-examination he clarified that the people were already outside when he was brought in, but that no one was inside the courtroom other than himself and Officer Farky when the incident began.

[7.] Pyfrom maintained that he had been handcuffed from the time of his arrest, with his hands cuffed to the front, and that this remained so up to and including the time he was in the station. He rejected the suggestion that he escaped from lawful custody, ran into furniture while fleeing, or was the author of his own injuries. Although he accepted that he was pushed toward the door and that the door opened, he said he never made it outside and was not trying to run away.

[8.] When questioned about the injuries pleaded, Pyfrom accepted that he did not sustain broken ribs and had not suffered near death by suffocation. He said instead that he had a dislocated pelvis and a chipped hip bone, and denied having a fractured leg. He also accepted that he had not told the nurse on 27 October 2020 that he had broken ribs or had been nearly strangled. He also said in re-examination that he had not been charged with disorderly conduct or resisting arrest, and that although the police had said something about batteries, he had never given a written statement, been interviewed for it, or gone to court for it.

[9.] In answer to questions from the Court, Pyfrom said that there were about four officers in the office area, including Officers Rolle, Austin and Farquharson, but that he sustained the injury in the courtroom. He said the table which he was shoved into was in the courtroom, in the area where the judge would be. The courtroom door led outside rather than back into the station. He said the door was wooden and burst open when he was pushed into it. He further said that no one would have been able to see him being picked up and slammed to the ground because he was in the courtroom and the other officers were still in the office area.

Maxwell Pyfrom

[10.] Maxwell Pyfrom is the father of Pyfrom. He gave evidence that he lives in Harbour Island, opposite the main clinic, and works as a caretaker of a private home.

[11.] He said that he was at the police station on 27 October 2020, but accepted that much of what his son had told him was his son's account and that he could speak only to what he himself observed. He said that the first time he saw his son was after persons outside told him that his son had been injured at the police station.

[12.] Maxwell Pyfrom said that he then went into the station and heard his son screaming from the back. According to his evidence, an officer at the front door told him that everything was okay. He accepted that this detail was not contained in his written witness statement, which stated only that he had been advised that Pyfrom was at the station, went there to check on his well-being, and upon seeing him noticed that he was in discomfort.

[13.] In re-examination, Maxwell Pyfrom clarified that he was not present when the incident itself occurred and that whatever had transpired had happened before he arrived. He said that he came to the station because someone outside stopped him and told him that his son had been injured inside. He further said that when he entered the station he spoke to Officer Omar Leary, who told him that his son was safe. He explained that Officer Leary was a family member and that he trusted him, which was why he stepped out. He also rejected the suggestion that, because he was supporting his son, he would do anything for him in the sense of giving false evidence. He said that he would stand beside his son if something wrong had happened, but that he would not lie for him.

Dr Winston Phillips

[14.] Dr. Winston Phillips gave evidence as an expert in orthopedic surgery. He stated that he is a consultant orthopedic surgeon at Princess Margaret Hospital, has an office at Hilltop Medical on East Terrace, Centerville, and has practised medicine in The Bahamas since 1989. He was accepted without objection as an expert in orthopedic surgery.

[15.] Dr. Phillips said that he was familiar with Pyfrom, who came as a patient to the Princess Margaret Hospital after what he described as “an altercation with the police”. He said that his team saw him and that he had prepared two reports, one dated 1 November 2024 and the other dated 29 January 2025. He explained that the first report was written through the hospital and did not contain all of his opinion, whereas the second report was an updated report providing his professional opinion on prognosis and Pyfrom’s current condition.

[16.] Dr Phillips’ evidence was that Pyfrom was first examined at Princess Margaret Hospital on 28 October 2020 and that the updated report summarized what took place at that time. Dr. Phillips confirmed that Pyfrom had tenderness of the lower right hip and was in painful distress. He also said that x-rays and subsequent CT scans were done. He explained that CT scans provide more detail than x-rays and are the standard of care for this type of injury.

[17.] Dr. Phillips’ evidence was that Pyfrom had a right hip dislocation and a right femoral head fracture. He explained that medically a fracture is the same as a broken bone. He described the injury as “pretty severe” and said that it required high energy and was not something a young person with normal bone would ordinarily get from slipping and falling in the house. He also

agreed that the injuries were basically limited to the femoral bone and hip area, while noting that the hip was dislocated as well.

[18.] In relation to other injuries alleged in the pleadings, Dr. Phillips said that he was not aware of fractured ribs, a fractured leg, or complaints of suffocation, and said that such matters did not appear in the material before him. He stated that if someone had come into Accident and Emergency with broken ribs or a fractured leg, that should have been listed.

[19.] Dr. Phillips explained that Pyfrom had been given a knee immobilizer, not because of any injury to the knee, but in order to protect the hip, prevent excessive flexion, and reduce the risk of the hip slipping out again. He said the maximum period for such immobilization would be six weeks, although in some cases compliance with instructions alone might make a brace unnecessary.

[20.] As to the mechanism of injury, Dr. Phillips said that this type of injury usually requires high energy and great force and is ordinarily seen in motor vehicle accidents or falls from heights. He said that a push might theoretically be possible as a cause, but was “unlikely” in a young person because much of the energy would dissipate in forward motion. He also said that blunt force trauma from repeated hitting with an object would not ordinarily produce this kind of injury; rather, he would expect the bone at the point of impact to fracture. He accepted that it was possible that a well-built 200-pound man falling on someone might cause such an injury, but emphasized that the injury required a lot of great force.

[21.] Dr. Phillips said that the history he received was that Pyfrom had been slammed to the ground by a police officer, landing on his right hip. He said that such a mechanism was likely to have produced the injury, provided that great force was used and Pyfrom landed on a hard immovable surface. He further stated that a reduction procedure was performed to put the hip back in place, and that the CT scan which diagnosed the fracture was done after the reduction. Although surgery had initially been contemplated, he said it was not ultimately carried out because the fragment was small and located in a relatively benign area, so it was left alone.

[22.] In relation to recovery, Dr. Phillips said that when Pyfrom was seen in clinic on 14 January 2021, he was asymptomatic, had normal range of hip motion, and this showed signs of recovery or improvement at that stage. He also said that physiotherapy should have been commenced much earlier, ideally from the time Pyfrom left the hospital.

[23.] Dr. Phillips said that, as at January 2025, Pyfrom still needed further physiotherapy because there was weakness and wasting of muscle around the hip. He agreed that physiotherapy and exercise could help prevent muscle wasting, and that sufficient therapy should have reduced such wasting, although he added that osteoarthritis and pain could also interfere with exercise. He also

addressed other possible causes. He said that while tuberculosis can in some cases affect bones, he saw no evidence of that on the x-rays. He further said that Pyfrom's current pain was aggravated by heavy work and that the problem now was osteoarthritis in the hip joint from wear of the cartilage, rather than any continuing dislocation.

Kelsey Farquharson

[24.] Kelsey Farquharson gave evidence that he was an Assistant Superintendent of Police at the time of trial and had been an inspector in 2020. His evidence was that he, together with other officers, saw and arrested Pyfrom, who was then holding a box in which a battery was found. He said that Pyfrom gave his name as Demetrius Pyfrom and was arrested and cautioned in relation to stealing and receiving that battery. He further stated that Pyfrom was subsequently charged and taken to court, and that, in relation to this matter, he was charged with one count of stealing and receiving and also with escape and either disorderly behaviour in a police station or disorderly behaviour.

[25.] Farquharson said that, both at the time of arrest and later at the station, Pyfrom was combative and uncooperative. He described Pyfrom in his statement as speaking loudly, pulling away, and refusing to comply with directions. His evidence was that, because of COVID protocols and the small size of the station, the attached courtroom was used for processing persons when court was not in session, and that he himself took Pyfrom into the courtroom for that purpose.

[26.] According to Farquharson, once inside the courtroom Pyfrom was uncuffed and was about to be processed when he made a dash for the door. He said that, in the course of that attempt, Pyfrom collided with furniture and was intercepted outside the courthouse. He said that he shouted for assistance, that Superintendent Rolle came to assist, and that they used sufficient force to restrain him and get him back inside the courthouse because he was struggling and did not return voluntarily.

[27.] He said that, when asked to explain the force used, they held on to Pyfrom while he was on the ground outside. He said that when he grabbed him they fell to the ground, and that Pyfrom was then brought back inside on his feet, although he was being pulled and pushed. He said it was only once Pyfrom was back inside that he complained of pain in his side.

[28.] As to the layout of the courtroom, Mr. Farquharson said that the table with which Pyfrom collided was about 12 feet from the door leading outside, and that after passing through the door Pyfrom got a further six to eight feet outside before being caught. He identified the table as the prosecution table and said that, when Pyfrom collided with it, he fell onto chairs in the room. He described the table as a very heavy mahogany-type table, not one that could be easily moved.

[29.] Mr. Farquharson denied Pyfrom's account that he had questioned him about other batteries, punched him, slapped him, or, together with Officer Rolle, lifted and slammed him to the ground. He maintained that Pyfrom's injuries occurred when he collided with the courtroom furniture while attempting to escape. He said that he was aware that Pyfrom had sustained injuries, but did not know their extent and did not know specifically that Pyfrom had suffered a dislocated pelvis.

Michael Rolle

[30.] Michael Rolle gave evidence that he is a Corporal in the Royal Bahamas Police Force and is currently attached to Harbour Island Police Station. He said that this was also his rank and attachment in October 2020. His evidence was that his involvement in the matter was limited.

[31.] Rolle said that, at the time of the incident, he was not on duty and was not at the police station when the incident transpired. He said that his first connection with the matter came when he was asked to assist in accompanying Pyfrom to New Providence by air ambulance. He also said that he was familiar with Harbour Island Police Station because he remained stationed there. When asked about cameras at the station, he said that there were cameras currently, but that he did not recall whether there were cameras there at the time of the incident and did not think so.

[32.] Rolle said that his evidence principally concerned a conversation he overheard between Maxwell Pyfrom and Demetrius Pyfrom. He said that Maxwell Pyfrom was about four feet away from Demetrius Pyfrom and that he himself was about two to three feet away from Demetrius at the time. He said that he did not recall Demetrius Pyfrom speaking to Maxwell Pyfrom about any injury, how he felt, how he sustained any injury, or about Maxwell traveling to Nassau to check on him. He said that the only part of the conversation he recalled was Maxwell asking Demetrius whether he had fought the police, and Demetrius's response. He maintained that he heard that exchange clearly.

[33.] Rolle further said that ASP Rolle gave Maxwell Pyfrom permission to speak with his son, who was seated in the rear seat of a vehicle, and that he was present to ensure that distance was maintained while they communicated. He said that he could not say how long the conversation lasted and could not recall anything else that was said beyond the exchange he had mentioned.

[34.] He also gave evidence about accompanying Pyfrom to Nassau. He said that he flew with him to Nassau and went with him to the hospital. He said that he believed Pyfrom was assisted onto the plane, although he could not recall whether he had been placed on a stretcher at the airport. He said that upon arrival in Nassau, Pyfrom stepped off the plane, was placed on a stretcher, and then put into the ambulance.

[35.] Finally, Mr. Rolle said that while at the hospital he turned Demetrius Pyfrom over to PC Forbes. He said that he did not learn what the actual injury was.

Jerard Austin

[36.] Jerard Austin gave evidence that he is now a corporal of police attached to the Wulff Road Police Station and that, in October 2020, he was attached to Harbour Island Police Station, Eleuthera Division. His evidence was that he was one of the officers involved in the arrest of Pyfrom on 27 October 2020. He said that after Pyfrom was arrested and cautioned for stealing and receiving, he immediately became disorderly. Mr. Austin explained that by “disorderly” he meant that Pyfrom became combative, used obscenities, pushed and shoved the officers, and pulled away. He said Pyfrom was handcuffed to the back at that time and was placed into the police vehicle by two officers.

[37.] Austin said that when the officers went to search Pyfrom’s residence, nothing was found there, but Pyfrom again became extremely combative, disorderly, and was cursing at the officers. He said that Pyfrom was again placed into the police vehicle by two officers and was then taken to the police station.

[38.] As to events at the police station, Austin said that once the search was completed, Pyfrom was taken to the station, booked in, and placed into the courtroom for processing. He said that Farquharson and Rolle took Pyfrom into the courtroom, while he remained in the station part of the building. He said that he then heard Mr. Farquharson shout that Pyfrom was trying to escape. When he went into the courtroom, he saw that Pyfrom had already run out through the court door, and he then assisted in retrieving him from outside the station.

[39.] He said that when he got outside, Mr. Rolle and Mr. Farquharson had already caught Pyfrom and were standing with him, escorting him back into the courtroom. According to Mr. Austin, by that stage Pyfrom was no longer fighting and was more compliant. He nonetheless said that he put a hand on Pyfrom and helped the other two officers bring him back into the courtroom. He agreed that all three officers were bigger than Pyfrom. He further said that after Pyfrom was brought back into the courtroom and sat down, he then began to complain of pain in his side.

[40.] In relation to charges, Mr. Austin said that, to his knowledge, Pyfrom was charged with stealing and receiving because he had been found in possession of a stolen battery, and also with escaping lawful custody. However, he could not say whether Pyfrom had been charged before he was airlifted to New Providence. He also said that he later left Eleuthera sometime in 2022 and had heard that Pyfrom did not return there for almost a year and three months.

[41.] Mr. Austin accepted that he did not see what happened between hearing Mr. Farquharson shout that Pyfrom was trying to escape and seeing the officers with Pyfrom outside. He said that

he did not see Pyfrom running, colliding with any table or chairs, or any other events in between. He also said that after Pyfrom was re-caught, his shift ended and he went home, leaving matters to the officers taking over from him. He denied the suggestion that Pyfrom had never been combative or disorderly, and maintained that Pyfrom had in fact escaped outside of the courtroom or station and had then been caught.

Nigel Rolle

[42.] Superintendent Nigel Rolle gave evidence that he is attached as officer in charge of the Rock Sound Police Station, Eleuthera, with the rank of superintendent, but that in October 2020 he was an assistant superintendent attached to Harbour Island Police Station.

[43.] Supt. Rolle's evidence was that on the day in question he first saw Pyfrom while he was in a marked police vehicle. He said that Pyfrom was about 20 feet in front of him, walking across the street, and then entered the yard of Christopher Riley on the corner of Nesbit and Barrack Street, Harbour Island. He said that Pyfrom had a box in his hand, placed it down in the yard, and was standing next to it when he and other officers approached him.

[44.] Supt. Rolle said that the police had prior information and informed Pyfrom that he was suspected of being in possession of stolen items. He said that the box was inspected in Pyfrom's presence and that inside it they discovered what he described as "a black rocket", which he explained was a car battery. Supt. Rolle said that Pyfrom was then cautioned and taken into custody, either by Inspector Farquharson or by himself. He said that once Pyfrom was told he was under arrest, Pyfrom immediately became upset, raised his voice, and said words to the effect that the battery was not his.

[45.] Supt. Rolle accepted in cross-examination that Pyfrom did not try to run away, but said that he was shouting, was not moving freely, and did not fully comply with the initial pat down search. He said that two officers had to assist Pyfrom into the police vehicle.

[46.] In relation to the search of Pyfrom's mother's house, Supt. Rolle said that he was part of the team executing the search warrant, although he remained outside and did not enter the home. He said that Pyfrom was inside the house with three officers and that, when the officers emerged with him, he observed Pyfrom cursing and carrying on, saying "mummy these f'ing police officers is be joking". He also said that, if he recalled correctly, Pyfrom was at that time refusing to get into the vehicle.

[47.] Supt. Rolle further gave evidence that Pyfrom was taken to the police station in handcuffs. He said that it was police policy for a detainee to remain handcuffed while basic booking information was obtained, rights were read, and a secondary search was carried out. He accepted, however, that he could not recall for sure whether a secondary search was in fact conducted in

relation to Pyfrom. He explained that, because of Covid protocols and the need to make adjustments, Pyfrom was placed in the courthouse area rather than in a cell, and that once procedures were completed he would not have remained handcuffed there but would have sat down while the process continued.

[48.] As to the events giving rise to the injury, Supt. Rolle said that at some point he went to his office and then heard Inspector Farquharson, followed by a loud crash. He said that he ran to the courtroom and assisted Inspector Farquharson in capturing Pyfrom, who had run outside the courtroom. He said there were no cameras in the courthouse itself, though there were cameras at the station focused on the station entrance, pathway and roadway, and he was not aware of any video showing Pyfrom escaping to the front.

[49.] Supt. Rolle stated that, while bringing Pyfrom back inside, Pyfrom continued to resist and did not move voluntarily. He said that he and Inspector Farquharson required assistance from two additional officers. He further said that all three of them fell when he tripped on a chair as they were pulling Pyfrom back into the courthouse, and that during that incident Pyfrom hit the table, while he himself fell on a chair and Inspector Farquharson also hit either a chair or the table. He accepted in cross-examination that some of these details, including his tripping on the chair and the other officers falling in different areas of the room, were not set out in his witness statement, but denied that this was a recent fabrication.

[50.] In re-examination, Supt. Rolle said that by “combative” he meant that Pyfrom was very loud and refused to follow simple basic instructions. He also said that Pyfrom “fought us in the courtroom when we was pulling him back in”, and that when he encountered Pyfrom outside, Inspector Farquharson was holding onto him with one hand while Pyfrom was calling out to someone across the street to “call my mommy”. He said that he held onto Pyfrom’s other hand and that the officers had to pull him from the outside back into the inside. He described Pyfrom as resisting and not cooperating at that time.

Pyfrom’s Submissions

[51.] Pyfrom’s submissions were that the evidence established liability on a balance of probabilities and that judgment ought properly to be entered in his favour. It was submitted that, when the evidence was properly analysed, there was a clear distinction between the coherent, corroborated and objectively supported case advanced by Pyfrom and the fragmented, inconsistent and unsustainable case advanced by the defence.

[52.] Pyfrom relied on his evidence, submitting that his account remained consistent from beginning to end. It was argued that Pyfrom gave direct evidence that, after being taken into

custody, he was subjected to force, lifted and slammed onto the ground, causing immediate injury to his right hip. Pyfrom denied resisting arrest, attempting to escape from police custody, or behaving violently towards the police officers, and it was submitted that his evidence on the mechanism of injury remained unchanged under cross-examination. Counsel further submitted that this consistency was significant, particularly as repeated suggestions of resistance, escape, and accidental or self-inflicted injury were firmly denied and did not weaken his evidence.

[53.] Pyfrom also relied on the evidence of Maxwell Pyfrom as corroborative support. Although he was not said to be an eyewitness to the assault itself, it was submitted that he saw his son shortly after the incident and that his testimony supported Pyfrom's post-incident condition, his injured state, and the seriousness of what had occurred.

[54.] A central feature of Pyfrom's case was the medical evidence of Dr. Winston Phillips. The submissions stated that Dr. Phillips was accepted as an expert without objection, and that there was no competing expert evidence or substantive challenge to his core conclusions. It was submitted that his evidence established that Pyfrom sustained a serious hip dislocation and fracture requiring substantial force to produce, and that he expressly accepted that Pyfrom's account of being lifted and slammed onto a hard surface was consistent with the injuries sustained. Counsel contended that this evidence provided independent and objective support for Pyfrom's account with no coherent competing medical explanation for the injuries.

[55.] Pyfrom says that the defence's case, was marked by inconsistency, contradiction and reconstruction. The evidence of Superintendent Nigel Rolle was said to illustrate these difficulties, in that language suggestive of serious resistance was, in cross-examination, reduced essentially to raised voice and incomplete compliance. It was further submitted that his acceptance that Pyfrom did not attempt to run away materially undermined the defence justification, and that his uncertainty as to who in fact effected the arrest weakened the reliability of his evidence.

[56.] Counsel also criticised the evidence of officer Farquharson, submitting that his attempt to explain the injuries by reference to a fall or collision with furniture was inconsistent with other defence evidence and irreconcilable with the medical evidence. It was argued that this theory appeared more fully in oral evidence than in his witness statement and was properly to be viewed as reconstruction or recent fabrication. As to Jerard Austin, the submissions were that his evidence introduced further divergence concerning what occurred, who was present, and how the injury may have been sustained, rather than curing the inconsistencies in the defence case. Michael Rolle's evidence was said to add little, since he was not present at the incident itself and his evidence related only to matters arising afterwards.

[57.] It was submitted that, taken collectively, the defence witnesses differed materially on Pyfrom's conduct, the extent of resistance, whether escape was attempted, how the injuries

occurred, and what force, if any, was used. Counsel submitted that these were not peripheral discrepancies but went to the core facts which the court had to decide.

[58.] It was submitted that the legal burden remained on Pyfrom, but that this burden had been discharged through Pyfrom's consistent firsthand evidence, the corroborative evidence of Maxwell Pyfrom, and the unchallenged expert evidence of Dr. Phillips. Counsel further submitted that, once that evidence was before the court, particularly the uncontroverted medical evidence demonstrating high-energy trauma, the defence bore an evidential burden to provide a coherent or plausible answer and failed to do so.

[59.] In conclusion, counsel submitted that Pyfrom's case was consistent, corroborated and objectively supported, whereas the defence case was contradictory, speculative and unsupported by any cogent explanation for the injuries. The court was invited to find that Pyfrom sustained his injuries in the manner alleged while in the custody of the Royal Bahamas Police Force, and accordingly to enter judgment in his favour, with damages to be assessed, together with interest, costs, and any other remedy the court deemed just.

Defendants' Submissions

[60.] The Defendants submitted that Pyfrom's case should be dismissed in its entirety. They say that, although the causes of action are not pleaded with precision, the claim appears to be advanced in false arrest, false imprisonment, assault, and battery, and that the burden lies on Pyfrom to prove, on a balance of probabilities, that the arrest was unlawful, the detention unjustified, and any force used unlawful or excessive.

[61.] As to the arrest, the defendants contend that the arrest was lawful because the officers had reasonable grounds to suspect Pyfrom's involvement in an offence concerning a stolen battery. On false imprisonment, the defendants submitted that the claim cannot succeed unless Pyfrom first establishes that the arrest was unlawful. Since, on their case, the arrest was lawful, they contend that the ensuing detention was reasonably incidental to that arrest and therefore lawful. They also rely on Pyfrom's acceptance in cross-examination that he understood he was under arrest and in police custody.

[62.] In relation to assault and battery, the defendants accepted that some force was used, but submit that this does not establish liability unless Pyfrom proves that the force was unlawful, excessive, or disproportionate. Their case is that Pyfrom was not compliant, but was loud, disorderly, resistant, and at one stage moved outside lawful custody, requiring several officers to regain control. They say the force used was necessary to effect the arrest, prevent escape, preserve custody, and control a resisting detainee, and that the mere existence of injury does not prove excessive force.

[63.] The defendants also challenge the reliability of Pyfrom's evidence. They submit that his account lacks precision because he has not clearly identified the act that caused the injury, the officer responsible, or the exact mechanism by which the injury occurred. They further rely on concessions made by Pyfrom in cross-examination that he did not suffer several of the injuries pleaded, including broken ribs and near death by suffocation, and say that these matters undermine his credibility on the central issue of causation.

[64.] As to the medical evidence, the defendants submit that it proves only that Pyfrom sustained an injury consistent with blunt force trauma, but does not establish how, when, or by whom that injury was caused. They say that the medical evidence is descriptive only, does not identify the mechanism of injury, and cannot by itself prove that any officer used excessive force. They rely in particular on the medical examiner's acceptance that, without an eyewitness account, he could not state with certainty how the injury was sustained, while noting only that it required high energy or great force.

[65.] The defendants further submit that the medical opinion was informed by the history given by Pyfrom and is therefore only as reliable as that underlying account. They contend that the surrounding circumstances disclosed a dynamic and physical interaction involving a resisting detainee, multiple officers, and a confined environment, such that the injury could plausibly have occurred through lawful restraint, a fall, a collision, or other incidental contact. In those circumstances, they say the medical evidence does not exclude explanations consistent with lawful conduct.

[66.] Finally, the defendants submit that Pyfrom has failed to discharge the burden of proof. They emphasize that injury alone does not establish liability and that Pyfrom must prove unlawful conduct and causation on a balance of probabilities. They rely on the case of **Rhesa Shipping Co SA v Edmunds (The Popi M)** [1985] 2 All ER 712 for the proposition that where the evidence discloses competing plausible explanations and the cause remains uncertain, the party bearing the burden of proof fails.

[67.] In conclusion, the defendants submit that the arrest was lawful, any force used was reasonable and necessary, Pyfrom has not proved that his injury was caused by any unlawful or excessive act of the defendant officers, and the claim should therefore be dismissed with costs.

Law Analysis and Discussion

[68.] I accept that this is not a case concerning unlawful arrest or false imprisonment and in any event no case was made to support any such claims. The case is one of assault and battery and causing unlawful harm. Likewise, contrary to the pleaded claim, there was no injury in relation to broken ribs, near death suffocation or fractured leg.

[69.] Section 11A of The **Criminal Procedure Code** provides as follows:

(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.

[70.] The Defendants assert that such injury occasioned to Pyfrom arose from his arrest or the effort to re-arrest him during an escape attempt. They say that the use of force by the officers involved was proportionate.

[71.] The learned authors of **Halsbury's Laws of England/Tort** (Volume 97 (2015))/3. *Torts to the Person*/(1) *Trespass to the Person*/ (ii) *Assault and Battery/a. Elements of Assault and Battery*/528, 'assault' is defined as follows:

"Assault is an intentional and overt act causing another to apprehend the infliction of immediate and unlawful force. The threat of violence exhibiting an intention to assault will give rise to liability only if there is also a present ability (or perhaps a perceived ability) to carry the threat into execution. An assault may be committed by words or gestures alone, provided they cause an apprehension of immediate and unlawful force. Thus it is an assault for one person to advance towards another in a threatening manner and with his fist clenched, with the intention of striking the other immediately; or to point or brandish a weapon at another with the intention of using it; or to present a firearm at another with a threat of shooting; or to pursue another in a threatening manner so as to compel him to run for shelter to avoid being beaten..."

With respect to the use of force, Halsbury's says the following:

"A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large. Therefore, as long as the force used is reasonable, there is no assault or battery."

[72.] This case turns heavily on whose version of the evidence I believe. While I do not accept the entirety of the account of Pyfrom, I do prefer his evidence and that of his witnesses to the Defendants' witnesses.

[73.] I am satisfied, on a balance of probabilities, that Pyfrom has proved his case. I accept that, while in police custody on 27 October 2020, he sustained the injury to his right hip as a result of force used against him by the defendant officers, and I reject the defence contention that the injury was caused merely by collision with furniture or in the course of a lawful and proportionate restraint during an attempted escape.

[74.] In reaching that conclusion, I place significant weight on the consistency of Pyfrom's account, the limited but supportive evidence of Maxwell Pyfrom as to his condition shortly after the incident, and, in particular, the expert medical evidence of Dr. Winston Phillips, which established that Pyfrom suffered a serious hip dislocation and femoral head fracture requiring substantial force and consistent with being slammed onto a hard surface. I also noted Phillips' evidence as to the unlikelihood of the injuries occurring as suggested in the accounts of the Defendants.

[75.] By contrast, I find that the defence evidence was marked by material inconsistency on the central issues of Pyfrom's attempt to escape, how he was apprehended, where and how the injury was sustained, and the extent of any resistance offered by him. Those inconsistencies were not peripheral; they went directly to the core of the defence's case and materially undermined its reliability.

[76.] I therefore find that Pyfrom has established liability against the defendants for assault and causing unlawful harm. There will accordingly be judgment for Pyfrom for damages, together with costs. I will hear the parties on directions for the assessment of damages.

Dated the 22nd day of May 2026



Sir Ian Winder
Chief Justice