

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT

Public Law Division

2025/Pub/jrv/010

BETWEEN

PRINCE ALBERT SYMONETTE Jr

Applicant

AND

THE ATTORNEY GENERAL

First Defendant

COMMISSIONER OF POLICE

Second Defendant

Before: The Honourable Mr. Justice Franklyn K M Williams KC

Appearances: Mr. Bjorn Ferguson for the Applicant

Mrs. Olivia Pratt Nixon with her Ms. Nyane Orlander
for the Defendants

Hearing Dates: 2 June 2026; 16 June 2026; 27 July 2026

RULING

Williams J

Introduction

[1.] The applicant is a retired police sergeant, who at the time of his discharge was purported to have been re engaged pursuant s.16 (2) of the Police Force Act, 2009. The claimant was discharged from the Royal Bahamas Police Force (“the Force”) on 2nd December 2024 amidst allegations of corruption and charges of trafficking in dangerous drugs and firearms contained in a United States of America (“U.S.”) criminal indictment. At the same time, the claimant worked without a contract, having last made application for re – engagement on 25 November 2022.

[2.] On 10 November 2025, the claimant was granted leave to judicially review the decision to discharge him.

Claims for relief

[3.] The claimant seeks the following reliefs:

- (i.) *certiorari* to quash the decision
- (ii.) *mandamus* directing the defendants to follow the statutory procedure and regulations of the Force
- (iii.) a declaration that the decision of the first defendant to discharge the claimant was unlawful ultra vires, unlawful, irrational, procedurally improper and of no legal effect
- (iv.) consequential relief

- (v.) exemplary and aggravated damages
- (vi.) costs
- (vii.) any other relief the court deems just and appropriate

Grounds of challenge

[4.] The claimant enumerates numerous grounds; distilled, they are: the decision was: (i) *ultra vires* and unlawful; (ii) irrational (*Wednesbury* unreasonable); (iii) breach of natural justice; (iv.) procedurally improper

Factual background

[5.] The claimant became a police officer on 1 July 1994. He retired in 2017, having served twenty five years and obtaining the rank of sergeant. Thereafter, the claimant began a series of one year re – engagements, the last beginning on 21 November 2022.

[6.] According to the claimant, he was summoned to attend a meeting with the Commissioner of Police scheduled for 8 a.m. on 12 December 2024 at RBPF Headquarters.

[7.] Upon arrival, he says that he was relieved of police warrant card, firearms certificate and police service weapon by a senior officer. He was escorted to a conference room in which were what he describes as the Senior Executive Leadership Team.

[8.] The claimant says that he was, as he put it, verbally attacked by the Commissioner, who accused him of corruption, and handed a RBPF Discharge Certificate dated 2 December 2024. He was, he says, not afforded the opportunity of a response, or placed before a disciplinary tribunal, which he says is provided for by the Police Force Act, 2009.

[9.] At the close of the meeting, the claimant says that he was escorted by officers of the Security and Intelligence Branch (“SIB”), RBPF to his home where his uniform(s) and accoutrements were seized and taken without “his consent or any formal legal process.”

[10.] Clayton Fernander, Commissioner of Police states that the claimant offered his resignation, which he refused. Thereafter, he indicated to the claimant that he, not being properly contracted and, referring to the media reports, would likely cease to be an efficient lice officer per section 21(1)(c) of the Police Force Act.

[11.] The claimant appeared both to have accepted his discharge and the reasons therefor, sending a Whatsapp text to the Commissioner:

“Morning Commander. I am sorry if I let you down but its not the way they say. I pray one day that you can forgive me. I am truly sorry.”

[12.] The claimant does not deny that he was, or became aware of a US indictment alleging trafficking of dangerous drugs and guns of which he was listed as a defendant prior to the 12 December 2024 meeting.

The law

[13.] In the Police Force Act (“the Act”) “contracted officer” means a police officer of or below the rank of sergeant.

[14.] Section 15 of the Act:

“15. (1) Subject to the provisions of this Act, a contracted officer shall be appointed initially for a period of two years.

(2) A contracted officer's employment may be terminated
at any time in accordance with section 21 of this Act"

[15.] Section 16 speaks to re – engagement:

“16. (1) Subject to the satisfactory completion of the period required under section 15 of this Act, a contracted officer may be re – engaged for a period not exceeding five years, and. thereafter, for successive periods not exceeding five years until the completion of thirty years or the attainment of the age of fifty years, whichever is the sooner.

(2) Nothing in subsection (1) shall prevent the re – engagement of any contracted officer mentioned in that subsection successively from year to year for a period not exceeding a total of ten years after the completion of thirty years or the attainment of the age of fifty years, whichever is the sooner.”

[16.] Section 21 of the Act speaks to discharge of police officers during engagement:

“21. (1) Subject to the provisions of the Constitution, a police officer of or above the rank of Inspector may be discharged by the Governor – General acting in accordance with the advice of the Police Service Commission, and **a contracted officer may be discharged by the Commissioner** when –

...

(c) the Commissioner is satisfied that the contracted officer is unlikely to become or has ceased to be an efficient or effective police officer or for any other reason his discharge is deemed necessary in the public interest;”

(2) Any officer aggrieved by a decision of the Commissioner under the provisions of this section may appeal to the Governor – General **within seven days after such decision is made**, and the Governor – General shall in determining any such appeal, act in accordance with the advice of the Police Service Commission.”

[17.] Section 33 of the Police Service Commission Regulations:

“33. An offence against discipline or any other misconduct by a police officer of or above the rank of inspector shall be dealt with under the provisions of regulations 40 – 43 inclusive of these Regulations: ...
...”

and

42. (1) Notwithstanding the provisions of regulation 40 of these Regulations, if the Commissioner considers that

an officer to whom this regulation applies should be discharged on the grounds that he is unlikely to become or has ceased to be an efficient police officer, or that for any other reason his discharge is necessary in the public interest, he shall report the fact to the Secretary to the Cabinet who shall make a report thereon to the Director of Public Personnel. The Director of Public Personnel through the Secretary to the Cabinet shall inform the officer in writing that his discharge has been recommended and the grounds upon which the recommendation has been made and allow the officer an opportunity to show cause why he should not be discharged.”

Discussion

[18.] Cross examination of the claimant by counsel for the defendants exposed several contradictions. In examination in chief, the claimant claimed to have been stripped and searched. When cross examined, the claimant conceded that, in fact, he had not been stripped. When put to him that he had accepted that he was properly discharged, and that the Whatsapp message to the Commissioner was evidence of that, the claimant’s answer was, in my view, non committal. The claimant claims that he was at the time of his discharge re – engaged. The evidence of Chief Superintendent Allison Brooks was that the claimant last applied for re – engagement on 25 November 2022 for a period of one year. The claimant conceded that his last re – engagement ended in November 2023. Where the evidence of the claimant and that of the

Commissioner and Chief Superintendent Brooks differed, I preferred that of the latter two.

[19.] Counsel for the claimant made a number of submissions, which, in my view betray a fundamental, perhaps wilful even, misapprehension of the law and precedent, and of the particular facts of this case.

[20.] Counsel submits that the claimant's discharge was disciplinary, and not administrative. He says, authoritatively, and contrary to the evidence, that the claimant's discharge certificate records that the claimant was "*unbecoming of a police officer*". In fact, the certificate records discharge "*in accordance with Section 21(1) (c) of the Police Force Act 2009*" and that "*During the period of his service in the Royal Bahamas Police Force, his conduct and general character has been:*
UNSATISFACTORY"

[21.] Counsel submits, nay, insists that the first defendant was bound by the procedure laid out in section 42(1) of the Police Service Commission Regulations in discharging the claimant; this, notwithstanding that it plainly applies to officers of or above the rank of Inspector. The claimant's rank as at discharge was Sergeant. I find no procedural impropriety.

[22.] It is clear that the claimant's statutory contract had ended as of 25 November 2023. In my view, his continuation thereafter with pay and insurance coverage between 25 November 2023 and 12 December 2024 points to an unsatisfactory state of the administration of the Police Force Act, and not to a revival or extension of contract. The claimant is presumed to have known that the discharge power of the Commissioner was exercisable **at any time**, the more so if continuing without benefit of statutory contract. In effect, the claimant was an at will employee of the RBPF at the time of his discharge.

[23.] The claimant claims a legitimate expectation, founded upon an unblemished thirty year record, that any decision materially affecting the continuation of his service would be arrived at after following the standard re – engagement process, that is: application, recommendation by the Officer in Charge of the section in which the claimant worked , and consideration by the Commissioner.

[24.] On this issue of legitimate expectation, Lord Fraser of Tullybelton found:

“Legitimate, or reasonable, expectation may arise either from an express promise given on behalf of a public authority or from the existence of a regular practice which the claimant can reasonably expect to continue...But even where a person claiming some benefit or privilege has no legal right to it, as a matter of private law, he may have a legitimate expectation of receiving the benefit or privilege, and if so, the courts will protect his expectation by judicial review as a matter of public law.”

[25.] On the issue of lawful frustration of a legitimate expectation, Sir John Dyson SCJ:

“The initial burden lies on an Applicant to prove the legitimacy of his expectation . This means that in a claim based on a promise, the Applicant must prove the promise, and that it was clear and unambiguous and devoid of relevant qualification. If he wishes to reinforce his case by saying that he relied on the promise to his detriment, then obviously he must prove that too. Once these

elements have been proved by the Applicant, however, the onus shifts to the authority to identify any overriding interest on which it relies to justify the frustration of the expectation. It will then be a matter for the court to weigh the requirements of fairness against that interest.”

[26.] Assuming there to exist a practice of application, recommendation, and consideration by the Commissioner which process here wended over a period of months, there could no legitimate expectation in circumstances in which no application for re – engagement having been made at all, no contract existed. Further, in circumstances in which the claimant stood indicted on serious criminal charges in a foreign jurisdiction, any expectation would be displaced, and lawfully frustrated. To be certain, a police officer, whose remit is the enforcement of law, which currency is the public trust, but however regrettably finds himself in such circumstances, is presumptively “*unlikely to become or has ceased to be an efficient or effective police officer.*”

[27.] **PART 54.7 Civil Procedure Rules:**

“(1) On an application for judicial review the Court may, subject to paragraph (2)

(2) award damages to the applicant if –

(a) he has included in the statement in support of his application for leave under rule 3 a claim for damages arising from any matter to which the application relates; and

(b) the Court is satisfied that, if the claim had been

made in an action begun by the applicant at the time of making his application, he could have been awarded damages

(2) Any rule and any practice direction relating to the contents and form of a statement of case shall apply to a statement relating to a claim for damages in any application under this Part.

[28.] Klein J in *R v The Bahamas Medical Council, es parte Dr. Gauri Shirodkar* [2021/PUB/jrv/0003 held:

“...As a matter of principle, damages are not generally awarded by courts in judicial review proceedings. The purpose of public law proceedings is to ensure that public authorities exercise their powers lawfully, not to compensate individuals affected by any misuse or mistake in the exercise of such powers, or punish public authorities for any failing. As noted by Baroness Hale in R (on the application of Quark Fishing Ltd.) v Secretary of State for Foreign and Commonwealth Affairs [2005] UKHL 57 [96], “ Our law does not recognize a right to claim damages for loss caused by unlawful administrative action... There has to be a distinct cause of action in tort...” That statement of the English common law position applied equally in this jurisdiction.”

[29.] Crane – Scott, JA writing for the court in *Bruno Rufa v Regina & William Pratt* [SCCIVApp. No. 131 of 2016]:

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[29.] Crane – Scott, JA writing for the court in *Bruno Rufa v Regina & William Pratt* [SCCIVApp. No. 131 of 2016]:

“112. Undoubtedly, and as expressly provided in O.53, R.7 RSC, the Supreme Court has power on an application for judicial review to award damages to the applicant provided that the applicant has firstly, included a claim for damages in the supporting statement filed with the application as required by rule 3; and secondly, the court is satisfied that the applicant could have been awarded damages had he, at the time of applying for judicial review, also instituted a separate action.

113. The availability of an award of damages as a remedy in judicial review proceedings is explained at paragraph 15 -002 on page 582 of de Smith, Woolf and Jowell’s “Principle of Judicial Review” in the following terms: A claim for damages may also be included in an application for judicial review, but these will be awarded only if the applicant proves that an actionable tort has been committed by the respondent body. In practice, any claim for damages is usually adjudicated upon a separate hearing after the public law issues have been determined.

114. The following extract found at paragraph 19 – 025 page 999 of De Smith on “Judicial Review” is to the same effect: ‘A finding by a court that a public authority in performing a public function has breached a ground of judicial review does not of itself provide a basis for entitlement at common law to compensation... . To recover

*damages, a recognized cause of action in tort **must be pleaded and proved** such as negligence, the tort of breach of statutory duty, misfeasance in public office, false imprisonment or trespass. So while in some cases it may be a necessary condition, it is never a sufficient one for the award of damages that the act or omission complained of be 'unlawful' in a public law sense."*

[30.] Lord Devlin in ***Rookes v Bernard*** [1964] AC at page 1226 spoke to aggravated or exemplary damages:

"The first category is oppressive, arbitrary or unconstitutional action by the servants of the government."

[31.] The claimant's claim for damages fails; I find no negligence, breach of statutory duty, high handedness, bad faith, or arbitrary, malicious, unconstitutional or oppressive acts attributable to the first defendant Commissioner of Police, either in word or conduct.

[32.] The Police Force Act reposes in the Commissioner, the sole authority to discharge contracted officers. The claimant claims breach of natural justice, and failure to afford him due process. These claims are dismissed; the natural justice and due process requirement are met in section 21(2) of the Act. In other words, the claimant had, at the time of his discharge, both a right of appeal, which appeal would have brought his case before the Police Service Commission. The claimant failed to exercise that right. I find that the claimant voluntarily waived that right and accepted his discharge as just and appropriate in his Whatsapp communication to the first defendant:

"Morning Commander. I am sorry if I let you down but it's not the way they say I pray one day that you can forgive me. I

am truly sorry."

[33.] In the face of an available adequate alternative remedy, an appeal, there was nothing exceptional about the claimant's circumstances which warranted judicial review.

[33.] In the premises, *certiorari* refused, *mandamus* refused; I decline the declarations and or reliefs sought. These proceedings are dismissed with costs to the respondents to be taxed if not agreed.



Williams J

9 August 2026