

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
CRIMINAL DIVISION
2026/CRI/BAL/000290**

BETWEEN

ANTONIO GLINTON

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honourable Madam Justice Jeanine Weech-Gomez
Appearances: Stanley Rolle Counsel for the Applicant
Brent McNeil Counsel for the Director of Public Prosecutions
Hearing Date: June 17th 2026

RULING – BAIL DECISION

Criminal Law – Bail – The Constitution – Bail Act, Chapter 103 (as amended) – Renewed application for admission to bail following prior refusal – Armed Robbery contrary to section 339 of the Penal Code, Chapter 84 – Causing Harm with a Matter of Aggravation contrary to section 275 of the Penal Code, Chapter 84 – Whether there is a material change of circumstances – Reasonable time – section 4(2) and (2A) of the Bail Act – Hepburn v The Attorney General – the general right to bail and the constitutional right to trial within a reasonable time – whether the deeming provision operates as a marker and not a limitation – Whether the Applicant is a fit and proper candidate for admission to bail – Application refused.

WEECH-GOMEZ, J.

INTRODUCTION

1. The Applicant, Antonio Ginton, is a Bahamian male who stands charged with one (1) count of Armed Robbery and one (1) count of Causing Harm with a Matter of Aggravation contrary to the relevant provisions of the **Penal Code, Chapter 84**. The offences are alleged to have occurred on 12 September 2025.
2. The Applicant was committed to this Court and remanded into the custody of the Bahamas Department of Correctional Services. He has been on remand since 2025.
3. This is not the Applicant's first application for bail in this matter. A previous application was heard and refused by the Honourable Madam Justice Archer-Minns, whose written ruling is dated 25th February 2026. By that ruling the Applicant was found not to be a fit and proper candidate for admission to bail, and he was ordered to remain on remand pending trial.
4. The Applicant now renews his application for bail. He moves this Court afresh, and invites this Court to admit him to bail notwithstanding the earlier refusal.
5. The Respondent opposes the application.

THE APPLICANT'S SUBMISSIONS

6. Counsel for the Applicant submitted, inter alia, that :
 - i. the Applicant is entitled to the right to personal liberty and the presumption of innocence, and remains innocent until proven or having pleaded guilty;
 - ii. whilst the Applicant's previous application for bail was refused, this Court has inherent jurisdiction to hear the matter afresh;
 - iii. the trial in this matter is fixed for October 2028, the Applicant having been remanded in 2025;
 - iv. relying upon **Hepburn v The Attorney General** SCCrApp & CAIS No. 276 of 2014, there runs through the law a golden thread, namely,

that where an accused's attendance at his trial can be reasonably ensured otherwise than by his detention, it would be unjust and unfair to deprive him of his liberty;

- v. further relying upon **Hepburn**, the Applicant is entitled to be released, either unconditionally or upon reasonable conditions, if he is not put to his trial within a reasonable time, or if it is unlikely that he will be so tried;
- vi. reasonable time is not a trump card by which the prosecution may hold a person in custody for three years, and the Applicant ought not to be detained for so protracted a period awaiting trial;
- vii. this is not a case in which the Applicant falls to be kept in custody for his own protection, nor does the Respondent assert that the Applicant is a threat to public safety and good order;
- viii. conditions can properly be imposed to ensure the Applicant's return to Court; and
- ix. in the premises, it would be unjust and unfair to deprive the Applicant of his liberty.

THE RESPONDENT'S SUBMISSIONS

- 7. Counsel for the Respondent opposed the application and submitted, inter alia, that –
 - i. the charges are serious in nature;
 - ii. the evidence against the Applicant is cogent and compelling;
 - iii. the Applicant has previous convictions and is not a person of good character;
 - iv. the Applicant has several convictions for breach of bail;
 - v. the Applicant has graduated to the commission of more serious offences; and
 - vi. there has been no serious delay in the prosecution of this matter.

ISSUES

8. Two questions arise for the Court's consideration. First, whether the Applicant has demonstrated a material change of circumstances since the refusal of bail by Archer-Minns, J. such as to warrant a fresh consideration of the question of bail. Secondly, and if so, whether the Applicant is now a fit and proper candidate for admission to bail.

THE LAW

- [9.] The Applicant is presumed to be innocent of the charges unless and until he is convicted. **Article 20(2)(a)** of the Constitution of the Commonwealth of The Bahamas provides:

***“20.(2) Every person who is charged with a criminal offence –
(a) shall be presumed to be innocent until he is proved or has
pleaded guilty.”***

- [10.] Article 19 of the Constitution guarantees the right to personal liberty, subject to lawful detention upon reasonable suspicion of having committed a criminal offence. Article 19(3) further provides that a person detained upon such suspicion who is not tried within a reasonable time shall be released, either unconditionally or upon reasonable conditions to secure his later attendance. It is nevertheless settled that the presumption of innocence does not equate to an automatic entitlement to bail, and that the right to liberty is qualified by statute and may be curtailed where necessary in the interest of public safety and the administration of justice.

- [11.] **Section 4(1)** of the **Bail Act, Chapter 103** (“the Bail Act”) provides that, where a person is charged with an offence mentioned in Part B of the First Schedule, the Court shall order that person to be detained in custody unless the Court is of the opinion that his detention is not justified. Armed Robbery is an offence of gravity attracting the heightened scrutiny for which the Act provides.

[12.] **Section 4(2), (2A) and (2B)** of the Bail Act provide, in respect of offences mentioned in Part C of the First Schedule:

“(2) ... any person charged with an offence mentioned in Part C of the First Schedule, shall not be granted bail unless the Supreme Court or the Court of Appeal is satisfied that the person charged – (a) has not been tried within a reasonable time; (b) is unlikely to be tried within a reasonable time; or (c) should be granted bail having regard to all the relevant factors including those specified in Part A of the First Schedule and subsection (2B)...

(2A) For the purpose of subsection (2)(a) and (b) – (a) without limiting the extent of a reasonable time, a period of three years from the date of arrest or detention of the person charged shall be deemed to be a reasonable time; (b) delay which is occasioned by the act or conduct of the accused is to be excluded from any calculation of what is considered a reasonable time.

(2B) ... in deciding whether or not to grant bail to a person charged with an offence mentioned in Part C of the First Schedule, the character or antecedents of the person charged, the need to protect the safety of the public or public order and, where appropriate, the need to protect the safety of the victim or victims of the alleged offence, are to be primary considerations.”

[13.] The proper construction of these provisions was considered by the Court of Appeal in **Hepburn v The Attorney General** SCCrApp & CAIS No. 276 of 2014, itself an appeal from the refusal of bail to a person charged with murder, a Part C offence. The Court identified two distinct rights to bail: a general right to be released unless there is sufficient reason under Part A of the First Schedule not to grant it, and an absolute right to be released where the constitutional guarantee of trial within a reasonable time has been, or is likely to be, breached. As to reasonable time, the Court held that the three-year

period in section **4(2A)** is to be construed as “a marker and not a limitation”; what is a reasonable time falls to be determined on a case-by-case basis, and may be more or less than three years. An applicant who invokes **section 4(2)(a) or (b)** must first raise the presumption of unreasonable delay by establishing that the lapse of time is, in the circumstances, inordinate, whereupon the burden shifts to the State to furnish a reasonable explanation – such as a want of judicial resources, systemic backlog, the complexity of the trial, or the conduct of the accused. Critically, the Court held that merely pointing to a future trial date some three years off was not, of itself, sufficient to demonstrate that the appellant was unlikely to be tried within a reasonable time.

- [14.] The factors the Court must take into account are set out in Part A of the First Schedule to the Bail Act, which requires the Court to have regard, among other things, to whether there are substantial grounds for believing that the defendant, if released on bail, would fail to surrender to custody or appear at his trial, commit an offence while on bail, or interfere with witnesses or otherwise obstruct the course of justice; and to the nature and seriousness of the offence and the nature and strength of the evidence against the defendant.
- [15.] **Sections 12, 12A and 12B** of the Bail Act address the position of an accused who commits a further offence, or breaches a condition, whilst on bail. **Sections 12A and 12B** criminalised the breach of bail conditions, reflecting the clear legislative intention that compliance with bail is mandatory and enforceable.
- [16.] The Court’s function on a bail application is not to conduct a mini-trial. In **Jonathan Armbrister v The Attorney General** SCCrApp No. 145 of 2011, the Court of Appeal affirmed that the seriousness of the offence and the penalty likely to follow upon conviction have always been, and continue to be, an important consideration, and that in cases of murder and other serious offences the seriousness of the offence weighs heavily against the grant of bail. That Court also cautioned, however, that a bare assertion that witnesses

are known to the accused, without more, is unfair to the accused and cannot stand alone.

- [17.] In **Hurnam v The State** [2006] 3 LRC 370, as applied in **Stephon Davis v The Director of Public Prosecutions** SCCrApp No. 108 of 2021, it was recognised that a person charged with a serious offence, facing a severe penalty if convicted, may well have a powerful incentive to abscond or interfere with witnesses; and that where such a risk cannot be effectively eliminated by the imposition of appropriate conditions, it will afford good grounds for refusing bail.
- [18.] In **Cordero McDonald v The Director of Public Prosecutions** SCCrApp No. 121 of 2023, the Court of Appeal reiterated that it is not the duty of a judge considering a bail application to decide disputed facts or law; the judge must simply decide whether the evidence raises a reasonable suspicion of the commission of the offence such as to justify the deprivation of liberty, and then consider the relevant factors and determine whether bail ought to be granted.
- [19.] As to the renewal of a bail application after a prior refusal, the position is settled. This Court, in hearing a fresh application, does not sit on appeal from, and does not review, the ruling of the Court that previously refused bail. The Court will not entertain a renewed application as a means of re-arguing that which has already been decided. A fresh application falls to be refused unless the Applicant can demonstrate a substantive or material change of circumstances since the earlier ruling, or can advance fresh matters not previously before the Court (see **R v Nottingham Justices, ex parte Davies** [1981] QB 38), an approach consistently applied in this jurisdiction.

THE APPLICANT'S ANTECEDENTS AND BAIL HISTORY

20. The material placed before Archer-Minns, J., and noted by this Court, discloses that the Applicant has appeared before the Magistrate's Court on several occasions, including twice for Possession of Dangerous Drugs, once for Deceit of a Public Officer, and for Causing Harm.

21. Of particular significance is that the Applicant was, on five separate counts, found to have violated conditions of his bail, having failed to keep his electronic monitoring device charged on each occasion. For those breaches he was fined, and his bail was not revoked.
22. The Respondent further asserts that the present offences are alleged to have been committed whilst the Applicant was on bail in respect of other serious matters. That notwithstanding, he now stands charged with Armed Robbery and Causing Harm with a Matter of Aggravation.

ANALYSIS AND DISPOSITION

(1) Whether there is a material change of circumstances

23. The starting point is that bail in this matter was refused by Archer-Minns, J. That refusal stands. The Applicant does not, and could not properly, invite this Court to sit in review of that decision. His remedy, if he wished to challenge the correctness of that ruling, lay elsewhere. What is before me is a fresh application, and the threshold question is whether the Applicant has shown a material change of circumstances since that refusal.
24. I accept, as Counsel for the Applicant submits, that this Court has jurisdiction to entertain a fresh application. The existence of jurisdiction, however, is not the same thing as the existence of grounds. The right to renew an application is not a right to have the same arguments heard afresh in the hope of a different result.
25. Much of what was urged upon me the presumption of innocence, the right to liberty, the Applicant's personal circumstances, and the submission that conditions could secure his attendance was, in substance, before Archer-Minns, J. These matters, standing alone, do not constitute a change of circumstances. They were considered and did not displace the risks the Court then identified.
26. The one matter which is genuinely new is the fixing of the trial for October 2028, against a remand commencing in 2025. That is a proper consideration,

and I address it directly below. Save for that, the Applicant has not established any material change since the earlier refusal.

(2) Reasonable time and the principle in Hepburn

27. Counsel for the Applicant submits, with force, that reasonable time is not a trump card by which a person may be held for three years awaiting trial. I accept the general proposition. The liberty of the subject is not to be surrendered lightly to the exigencies of listing, and this Court is alive to the hardship that protracted pre-trial detention occasions.
28. Counsel invoked **Hepburn v The Attorney General** as authority for what he described as a golden thread: that where an accused's attendance at his trial can be reasonably ensured otherwise than by his detention, it would be unjust and unfair to deprive him of his liberty. That principle, drawn from the judgment of the majority in **Hepburn**, I accept as a correct statement of the law. It is, however, a conditional principle. It operates where attendance can be reasonably ensured by means short of detention. Its application therefore turns upon whether, on the facts of this case, conditions would reasonably secure the Applicant's attendance and his compliance.
29. As to reasonable time, I bear in mind that section **4(2A)** deems a period of three years to be reasonable, but that, as the Court of Appeal held in **Hepburn**, that period is a marker and not a limitation. What is reasonable is not to be resolved by arithmetic or by any mathematical formula; it falls to be assessed in all the circumstances, and may be more, or indeed less, than three years.
30. It follows, again on the authority of **Hepburn**, that an applicant who invokes the reasonable-time guarantee under **section 4(2)(a) or (b)** must first raise the presumption of unreasonable delay by establishing that the lapse of time is, in the circumstances, inordinate. In **Hepburn** the appellant sought to do so by pointing to a trial date some three years after his arrest; the Court of Appeal held that this, without more, was not sufficient. The Applicant before me stands in no better position. He points to the October 2028 trial date and to his remand in 2025, but advances no evidence that the delay is inordinate, or that

it is attributable to any want of diligence on the part of the prosecution. The Respondent, for its part, asserts that there has been no serious delay. On the present material, the Applicant has not discharged the initial burden, and the reasonable-time limb of **section 4(2)** is not, at this stage, engaged. Should the trial date slip, or the deemed period be exceeded without trial, the position may fall to be reconsidered.

31. I return to the golden thread. Its premise is that the Applicant's attendance can be reasonably ensured otherwise than by his detention. That premise is not, in my judgment, made out on these facts. The appellant in **Hepburn** was a young man of good character with no previous convictions; and yet bail was refused. This Applicant, by contrast, has several convictions for the breach of bail conditions and is alleged to have committed the present offences whilst on bail. On such a record I am not persuaded that any condition, or combination of conditions, would reasonably secure his attendance and his compliance. I have not overlooked the powerful dissent of Conteh, J.A. in **Hepburn** as to the tension between the deeming provision and the constitutional guarantee of trial within a reasonable time; but that view did not command the majority, and I am bound to apply the law as the majority has declared it.

(3) The relevant factors and the assessment of risk

32. The reasonable-time limb not being made out, the application falls to be determined by reference to the factors in Part A of the First Schedule and the primary considerations in **section 4(2B)**: the character and antecedents of the Applicant, the need to protect the public and public order, and, where appropriate, the safety of the victim.
33. Armed Robbery is an escalated and grave offence involving violence, or the threat of violence, and weapons. Upon conviction it carries significant custodial exposure. The seriousness of the charge enhances both the incentive to abscond and the need for caution in the interest of the public.
34. As to the strength of the evidence, I remind myself that this is not a trial and that I do not weigh the evidence as a tribunal of fact. I note the Respondent's

position that the evidence is cogent and compelling, and I am satisfied that the material discloses a reasonable suspicion of the commission of the offences sufficient to justify the Applicant's continued detention were the other factors to warrant it. I say no more about the evidence than that.

35. The Applicant's antecedents and bail history are, in my judgment, decisive. His record discloses repeated engagement with the criminal justice system. Of particular concern are his several convictions for breach of bail conditions. Electronic monitoring is imposed not as an ornament but as a protective, primary mechanism of risk control. A repeated failure to comply with it cannot credibly be characterised as accidental oversight. The imposition of a fine, rather than revocation, on the earlier occasion represented measured judicial restraint; that restraint did not deter the conduct now alleged.
36. Bail rests upon trust. Where that trust has been undermined by repeated breach, it cannot lightly be restored. The question is not whether further conditions could theoretically be imposed, but whether they would realistically secure compliance and the Applicant's attendance at trial. Having regard to the Applicant's demonstrated pattern of non-compliance, I am not satisfied that renewed electronic monitoring, increased sureties, or other conditions would materially reduce the identified risks of absconding and of further offending.
37. As to the submission that this is not a case in which the Applicant is to be kept in custody for his own protection, and that the Respondent does not assert that he is a threat to public safety, I accept that those particular grounds are not the fulcrum of the Respondent's objection. They are not, however, the only considerations the Act makes relevant. Section 4(2B) makes the Applicant's character and antecedents a primary consideration in their own right, and the risks that concern this Court are those of absconding and of the commission of further offences, to which the Applicant's history speaks directly.

(4) Proportionality

38. The Court is mindful that pre-trial detention must not be, and must not become, a punishment. It is a precaution. Where, however, the statutory criteria are met and the identified risks cannot be mitigated by conditions, continued remand is not punitive but protective. On the material before me, the balance between the Applicant's individual liberty and the protection of the public weighs, at this time, in favour of the latter.

DECISION

39. The Applicant has not established a material change of circumstances since the refusal of bail by Archer-Minns, J. The single new matter the fixed trial date of October 2028 does not, applying **Hepburn**, engage the reasonable-time guarantee, the Applicant having advanced no evidence that the delay is inordinate; nor does it otherwise warrant a departure from the earlier refusal.
40. Even were the matter approached entirely at large, I would not be satisfied that the Applicant is a fit and proper candidate for admission to bail. The seriousness of the charges, taken with the Applicant's antecedents and his repeated breaches of bail, indicate a real and substantial risk of absconding and of further offending which cannot be adequately mitigated by conditions.
41. Accordingly, the application for bail is refused.
42. The Applicant shall remain remanded to the Bahamas Department of Correctional Services pending trial.
43. Should there be any material change in circumstances in the interim including, in particular, any alteration to the trial timetable such that the Applicant is unlikely to be tried within a reasonable time, the Applicant is at liberty to reapply.

Dated this 15th day of July 2026.

The Honourable Madam Justice Jeanine Weech-Gomez