

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

2022/CLE/gen/FP/00129

B E T W E E N

PHILLIP WALLACE

Claimant

AND

THE COMMISSIONER OF POLICE

First Defendant

AND

CONSTABLE 2905 DANERO MILLER

Second Defendant

AND

CONSTABLE 4265 DENIKO SAMPSON

Third Defendant

AND

THE ATTORNEY GENERAL OF THE COMMONWEALTH OF THE BAHAMAS

Fourth Defendant

Before: The Honourable Madam Justice Constance Delancy

Appearances: Wendell Smith for the Claimant
David Whyms with Perry McHardy for the Defendants

Hearing date(s): 23 and 24 June 2025

JUDGMENT

DELANCY, J

[1.] The Claimant brings this action for damages arising from his alleged unlawful arrest, false imprisonment, assault and battery, and the alleged infringement of his constitutional rights by uniformed members of the Royal Bahamas Police Force.

Background

[2.] On 24th August 2022 the Claimant commenced an action against the Defendants, via specially endorsed Writ of Summons, seeking:

- (1) Damages
- (2) Damages for false imprisonment
- (3) General Damages for assaults and batteries
- (4) Exemplary Damages for assaults and batteries
- (5) Exemplary Damages
- (6) Damages for breaches of fundamental rights under Article 17(1) and 19(1)(c) and (d)
- (7) Compensation under Article 19 (4) of the Constitution
- (8) Vindictory Damages
- (9) Interest on each of the foregoing pursuant to the Civil Procedure (Award of Interest) Act Chapter 80
- (10) Costs on a full indemnity basis
- (11) Such further and other relief as to the Court may seem just

[3.] On 5th October 2022 the Defendants filed a Defence denying the claim and putting the Claimant to strict proof.

Issues

[4.] The Court must determine:

- (a) Whether the Claimant was unlawfully arrested and falsely imprisoned by the Defendants?
- (b) Whether the Claimant was assaulted by the Defendants?
- (c) Whether the Defendants' breached the Claimant's constitutional rights?

Evidence

Claimant's evidence

[5.] The Claimant's evidence is contained in his filed witness statement and oral testimony at the trial. He was a 49-year-old male, a self-employed mason at the time of his arrest. On cross-examination he denied that he was unemployed and that the notation on the hospital forms with reference to his employment status was incorrect.

[6.] On or about 10 January 2022 he went to Snake's Bar also known as Top Dawg Bar ("the Bar") in Seagrape, Eight-Mile-Rock, Grand Bahama, Bahamas to purchase a Bush Crack beer.

While at the Bar another patron coughed on him and they got into a verbal confrontation; the Bar owner came to the front area of the Bar and asked him to leave, and he immediately complied. On cross-examination he denied threatening anyone at the Bar with a knife.

[7.] The Claimant stated that he did not purchase the beer nor was he drinking on the day in question. On cross-examination he conceded that he consumes alcohol but not every day. In his own words, he sometimes took “*a little shot now and then*”. He frequents the Bar as it is nearby his home. The Claimant maintained that contrary to the entry in the detention record that he appeared to be “*heavily intoxicated*” he was not intoxicated at the time of his arrest or at the Eight-Mile-Rock Police Station (“the Police Station”).

[8.] On the day in question, the Claimant was arrested outside the Bar by police officers and handcuffed with his hands behind his back. He alleged that the arresting officer did not inform him of the reason for his arrest. The Claimant further alleged that, while being transported to the Police Station in a police vehicle, police officers struck him in the stomach.

[9.] Upon arrival at the Police Station, he asserted that he was removed from the vehicle and dropped on his head, he blacked out and when he awoke Police Officer Sampson (“PC Sampson”) was stomping him on his shoulders, chest and head. On cross-examination he stated that he could not see who stomped him, his eyes were blurry and he was unable to identify a specific Police Officer however he confirmed the contents of his witness statement were accurate. He denied being disorderly, using obscene language, acting aggressively, kicking, spitting, attempting to bite Police officers, or causing the injuries complained of by fighting with the Police.

[10.] The Claimant stated that, upon his arrival at the Police Station, he was informed for the first time that he had been arrested for using obscene language and engaging in disorderly behaviour. He was thereafter placed in a holding cell. Shortly thereafter, he began vomiting blood and was transported to the Rand Memorial Hospital, where he underwent emergency surgery.

Police Constable 2905 Danero Miller

[11.] Constable Danero Miller’s (“PC Miller”) evidence was contained in his witness statement, his undated report and oral testimony at the trial. On 10 January 2022, at about 8:00 p.m., while on duty with PC Sampson at the Police Station he received certain information with reference to a person threatening people at the Bar with a knife. Inspector Davis (“Insp. Davis”), the driver, PC Sampson the front seat passenger, and he, the rear seat passenger, travelled to the Bar via caged Police vehicle.

[12.] In his witness statement PC Miller stated that upon arrival at the Bar, PC Sampson and Insp. Davis exited the vehicle and spoke with the Bar's owner Mr. Ricardo Swan. He remained inside the vehicle. He observed Insp. Davis and PC Sampson approach the Claimant, Insp. Davis attempted to search the Claimant and he knocked Insp. Davis' hand away and saying: "*Don't touch me cuz y'all ain't f***** searching me*".

[13.] Thereafter, PC Sampson returned to the police vehicle and opened the vehicle door to allow him to exit the vehicle. He approached the Claimant, restrained him, and cautioned him concerning his conduct. He observed a strong odour of alcohol emanating from the Claimant and questioned him as to the whereabouts of the alleged knife. The Claimant denied possessing a knife and again directed obscene language towards the police officers. Acting on Insp. Davis' instruction, he arrested the Claimant for assaulting a police officer and using obscene language. Insp. Davis searched the surrounding area; however, no knife was found.

[14.] He and PC Sampson walked with the Claimant back to the vehicle where he placed the Claimant in the rear seat (cage) and he sat next to him. Insp. Davis and PC Sampson were seated in the front; and while in vehicle the Claimant said: "*why y'all locking me up, y'all ain't find no knife on me*";

[15.] On cross-examination he recalled being interviewed under caution by officers of the Complaints and Corruption Unit ("**the CCU**") of the Royal Bahamas Police Force with reference to a complaint of excessive force brought by the Claimant against him. He told CCU while in the police vehicle he '*ginked*' (which he defined as "*an elbow motion*") the Claimant in his side after the Claimant assaulted him.

[16.] PC Miller accepted that the Claimant's hands were behind his back when handcuffed, the handcuffs were not removed on the way to the Police Station in the police vehicle, or upon arrival at the Police Station, and that during the time that he interacted with the Claimant he was handcuffed behind his back.

[17.] PC Miller stated that the Claimant hit his head on the Police vehicle's window, however accepted that he was the only one who asserted that the Claimant hit his head on the window.

[18.] PC Miller accepted that when the Claimant was removed from the police vehicle upon arrival at the Police Station he "*belt threw*" the Claimant to the ground. The action of "*belt throwing*" someone to the ground when removing them from a vehicle was not standard Police procedure. He stated that the Claimant kicked him in the left leg which caused him severe pain because he was already undergoing physiotherapy for a previous injury but did not produce document to support this assertion to CCU or the Court.

[19.] PC Miller agreed that at the conclusion of the CCU investigation a recommendation was made for him to be brought before the Police Disciplinary Tribunal. He was found guilty, fined, reduced in rank and lost his seniority.

[20.] PC Miller testified that he did not observe any “*visible injuries*” on the Claimant before arrest, in the police vehicle, after he was removed from the vehicle, or when handed over to an officer at the Police Station. When shown the Police medical form he agreed that it stated that it was recorded that the Claimant was “*subdued during arrest*”. PC Miller maintained that he was unaware and could not say how the Claimant got his injuries. The handcuffs remained on the Claimant until they were removed by an officer at the Police Station.

[21.] The Claimant and the arresting officer, PC Miller, were the only the witnesses called and cross-examined. No independent witnesses were called to testify although they were available. The Court found that the Claimant’s testimony remained largely unchallenged although he appeared to downplay his behaviour when approached by PC Miller and other officers on the date in question. The Court found the evidence of PC Miller was evasive and he was reluctant to agree with anything put to him on cross-examination even when shown the relevant entries on the documents contained in the Agreed Bundle of Documents (“the ABOD,”).

Law and Analysis

Unlawful Arrest

[22.] Part V of the Police Force Act (“**the PFA**”) applies to Powers, Duties and Privileges of Police Officers. Section 31 (1) and 31 (2) states as follows:

[1.] The members of the Force **shall have all powers, authorities, privileges, advantages and immunities and be liable to such duties and responsibilities as constables and peace officers** now have or hereafter may be invested with, either by common law, or by virtue of any Act now or hereafter to be in force in the Bahamas, or as may be directed and imposed by any regulations made under this Act.

[2.] Without prejudice to the generality of the foregoing or any other provision of this Act, **a police officer may, without warrant, arrest a person-**

- (a) he **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 that 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;**
- (d) who **obstructs a police officer while executing his duty;** ...

[23.] Section 104(1) of the Penal Code (“**the PC**”) mirrors the provisions of Section 31 of the Act:

Any peace officer and all persons whom he shall call to his assistance may arrest and take persons into custody without a warrant in the following cases —

- (a) ...
- (b) **any intoxicated or idle or disorderly person whom he finds in any way disturbing the peace, whether in a public or private place, and causing public annoyance, or guilty of any other offence; ...**
- (c) any person whom any other person charges with having committed an aggravated assault, **if the peace officer has good reason to believe that such an assault has been committed, although not within his view, and that by reason of its recent commission a warrant could not have been obtained for the apprehension of the person charged.**

[24.] Counsel for the Claimant submits that on the facts, the Claimant's evidence as presented was largely unchallenged: that he was arrested after leaving the Bar, handcuffed behind his back, not informed of the reason for arrest, beaten in the stomach in the police vehicle, thrown to the ground upon arrival at the Police Station, and later vomited blood before being taken to hospital for emergency surgery.

[25.] Counsel for the Claimant relies on the dicta of *Lord Steyn* and *Lord Hope of Craighead* in the House of Lords case of **O' Hara v Chief Constable of the Royal Ulster Constabulary** [1997] A.C. 286, *Lord Steyn* and *Lord Hope of Craighead* at 292 and 298 of thereof:

292.In *Civil Liberties & Human Rights in England and Wales*, (1993), Professor Feldman lucidly explained the difference between two classes of statutes, at p. 199;

"Where reasonable grounds for suspicion are required in order to justify the arrest of someone who turns out to be innocent, the [Police and Criminal Evidence Act 1984] requires that the constable personally has reasonable grounds for the suspicion and it would seem to follow that he is not protected if, knowing nothing of the case, he acts on orders from another officer who, perhaps, does have such grounds (emphasis). On the other hand, under statutes which require only the objective existence of reasonable grounds for suspicion, it is possible that the officer need neither have the reasonable grounds nor himself suspect anything; he can simply follow orders."

298. My Lords, the test which section 12 (1) of the Act of 1984 has laid down is a simple but practical one. It relates entirely to what is in the mind of the arresting officer when the power is exercised. In part it is a subjective test, because he must have formed a genuine suspicion in his own mind that the person has been concerned in acts of terrorism. In part also it is an objective one, because there must also be reasonable grounds for the suspicion which he has formed. **But the application of the objective test does not require the court to look beyond what was in the mind of the arresting officer. It is the grounds which were in his mind at the time which must be found to be reasonable grounds for the suspicion which he has formed. All that the objective test requires is that these grounds be examined objectively and that they be judged at the time when the power was exercised.**

[Emphasis added]

[26.] Counsel for the Defendants invites the Court to accept the evidence of PC Miller. Counsel submits that PC Miller, PC Sampson and the other officers were responding to a complaint that a person was wielding a knife at the Bar. The Bar owner identified the Claimant, who was standing in the nearby road, as the person alleged to have had a knife. Counsel further submits that the Claimant was intoxicated, aggressive and used obscene language.

[27.] Counsel for the Defendants directs the Court to observations of the learned authors of **Halsbury's Laws of England, Police and Investigatory Powers**, Vo.84 (2019) at para.1-394 which provides:

A lawful arrest requires two elements: (1) a person's involvement or suspected or attempted involvement in the commission of a criminal offence; and (2) reasonable grounds for believing that the person's arrest is necessary. Both elements must be satisfied, and it can never be necessary to arrest a person unless there are reasonable grounds to suspect him of committing an offence: Code G. para 2.1

[Emphasis added]

[28.] Counsel for the Claimant also relies on **Kevin Renaldo Collie v The Attorney General** [2020] 1 BHS J. No. 59. The Court is guided by the dictum of *Stewart, J.* at para. [46] thereof:

46. Accordingly, an arrest is unlawful if:-

46.1 the arresting officer has not sufficiently satisfied himself that a suspect is responsible for the commission of an offence and therefore arrests a suspect without reasonable suspicion; and/or

46.2 the arresting officer does not inform the suspect of the reason for his arrest as soon as practicable.

47. ...An officer with the power to deprive a private citizen of his liberty should not do so just because he was told to do so. He should exercise his powers of arrest only if his belief is based on accurate, verified information that would cause him to believe that there is a chance that the person has actually committed an offence..."

[Emphasis added]

[29.] In the present case, the arresting officer acted upon the direction of his senior officer. PC Miller's evidence was that having made his own observations and enquiries on the evening in question, he formed the view that the Claimant ought to be arrested. The Court accepts PC Miller's evidence as it concerns the events leading to the Claimant's arrest.

[30.] The Court is satisfied that there were reasonable grounds for the Claimant's arrest. Information received at the Bar identified the Claimant as the person likely to have been involved in the disorderly conduct that took place in the Bar. This was consistent with the Claimant's own evidence that he had engaged in arguments with at least two people at the Bar. Further, when the police encountered him, the Claimant was in the immediate vicinity of the Bar. In those circumstances, his arrest was lawful.

False Imprisonment

[31.] Counsel for the Claimant submits that the Claimant was falsely imprisoned by the Defendants having been handcuffed, the arresting officer failed to inform him of the reason for the arrest. The Claimant testified that at the Police Station he was advised that he had been arrested for obscene language and disorderly behavior.

[32.] In the case of **Gilford Lloyd v Chief Superintendent Cunningham** [2017] 2 BHS J. No. 76 *Charles J* (as she then was) held that an unlawful arrest is a false imprisonment beginning at paragraph 37 of the judgment she states:

“37. False imprisonment is defined by **Clerk and Lindsell on Torts**, 17th ed. (1995) pp. 592-593, para 12-17 as “complete deprivation of liberty for any time, however short, without lawful cause.” The work then quotes the “Termes de la Ley”: **“Imprisonment is no other thing but the restraint of a man’s liberty, whether it be in the open field, or in the stocks, or in the cage in the streets or in a man’s own house, as well as in the common gaols; and in all the places the party so restrained is said to be a prisoner so long as he hath not his liberty freely to go at all times to all places whither he will without bail or mainprise or otherwise”**.”

38. The principle was explained by *Deyalsingh J* in **Bostien v Kirpalani’s Ltd** (1979) High Court of Trinidad and Tobago, No. 861 [unreported], per *Deyalsingh J*: see page 13 in this way: “It is clear from the authorities that to constitute false imprisonment there must be restraint of liberty...a taking control over or possession of the plaintiff or control of his will. **The restraint of liberty is the gist of the tort. Such restraint need not be by force or actual physical compulsion.** It is enough if pressure of any sort is present which reasonably leads the plaintiff to believe that he is not free to leave, or if the circumstances are such that the reasonable inference is that the plaintiff was under restraint even if the plaintiff was himself unaware of such restraint. There must in all cases be an intention by the defendant to exercise control over the plaintiffs movements or over his will, and it matters not what means are utilised to give effect to this intention....”

39. False imprisonment as a form of trespass to the person is actionable per se. In **Murray v Ministry of Defence** [1988] 1 W.L.R. 692 at 703-704, H.L. overruling **Herring v Boyle** [1834] 1 CM. & R. 377, *Lord Griffiths* stated that **“the law attaches supreme importance to the liberty of the individual and if he suffers a wrongful interference with that liberty it should remain actionable even without proof of special damage.”**

40. **No doubt, an unlawful arrest is a false imprisonment, and if the requirements of the law as to making it clear to the arrested person that he is under lawful restraint, or informing him promptly of the grounds of his arrest, or taking him before the appropriate authorities within a reasonable time are not complied with, an arrest which might otherwise have been justified will be unlawful and ground an action for false imprisonment.”**

[Emphasis added]

[33.] Counsel for the Defendants submits that the arrest of the Claimant was lawful in the circumstances, and the Claimant has not proven the claim of false imprisonment.

[34.] The Court notes that the Statement of Ricardo Swan aka Snake, contained in the ABOD, given to the CCU states that he saw the Claimant, who was known to him, in the Bar on the date question and after receiving information from his girlfriend he asked the Claimant to leave.

[35.] Notably, none of the people who gave evidence at the CCU hearing were called at the trial except PC Miller. Their evidence was therefore not subjected to cross-examination before this Court, and the Court is unable to assess its reliability or attach weight to it. The evidence of PC Miller was that the Claimant was arrested for assaulting a Police Officer and using obscene language. The Claimant, however, recalled being informed only upon his arrival at the Police Station that he had been arrested for disorderly behavior and obscene language.

[36.] As the Court has found that the arrest was lawful it follows the Claimant has not proven the claim of false imprisonment.

Assault and Battery

[37.] Counsel for the Claimant directs the Court's attention to PC Miller's evidence, who on cross-examination, conceded that he "ginked" the Claimant who was handcuffed behind his back. Further he agreed that "belt throwing" the Claimant to the ground was not standard Police procedure. PC Miller also stated that during course of his entire interaction with the Claimant, the Claimant remained handcuffed. PC Miller also conceded that he was found guilty before the Police Disciplinary Tribunal of using unnecessary violence against the Claimant. Counsel submits that the severity of the injuries sustained by the Claimant whilst in the Defendants' custody proves that the force used by the Defendants was not reasonable.

[38.] Counsel invites the Court to accept the definition of assault and battery as stated by the learned authors of **Halsbury's Laws of England Volume 97A 2021 Torts to the Person, Trespass to the Person, Assault and Battery:**

Assault is an intentional and overt act causing another to apprehend the infliction of immediate and unlawful force.

Battery is an act of the defendant which directly and intentionally or recklessly causes some physical contact with the person of the claimant without his consent.

[Emphasis added]

[39.] Counsel for the Claimant submits that the Criminal Procedure Code ("the CPC") sets out the general mode of arrest by a peace officer at Section 11 thereof:

(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.

[Emphasis added]

[40.] Counsel the Claimant further submits that the Defendants in executing their powers of arrest are enjoined by the provisions of Section 103(1) of Penal Code:

Any person may, with or without warrant or other legal process, arrest and detain another person who has committed a felony, and may, if the other person, having notice or believing that he is accused of felony, avoids arrest by resistance or flight or escapes or endeavours to escape from custody, use any force which is necessary for his arrest, detention or recapture, and may kill him, if he cannot by any means otherwise be arrested, detained or re-taken.

[Emphasis added]

[41.] Counsel for the Claimant also contends that Section 103 of Penal Code must be read in conjunction with Section 99 thereof which states:

Notwithstanding the existence of any matter of justification for force, force cannot be justified as having been used in pursuance of that matter —

- (1) which is in excess of the limits hereinafter prescribed in the section of this Title relating to that matter;
- (2) which in any case extends beyond the amount and kind of force reasonably necessary for the purpose for which force is permitted to be used.

[Emphasis added]

[42.] The Court notes that the evidence of the Claimant was that he was punched about the body and stomach by a police officer enroute to the Police station; upon arrival he was removed from the vehicle and dropped on his head, temporally blacked out and awoke to being stomped on his shoulders, chest and stomach. PC Miller admitted to having “ginked” (elbowed) the Claimant and that he “belt threw” the Claimant to the ground.

[43.] Counsel for the Defendants submits that PC Miller’s action was necessary in the circumstances or self-defense (see **Palmer v R [1971] AC 814**). PC Miller testified that his actions were in reaction to the Claimant kicking him on a leg that had a previous injury but led no evidence to support the claim of a previous injury. On cross-examination he accepted that his actions were not standard police practice; and he accepted that he had been fined, demoted and lost his seniority as result of the disciplinary hearing into the complaint brought by the Claimant against him reference to his actions on the date in question.

[44.] Counsel for the Claimant submits, which the Court accepts, that the Defendants did not specifically plead self-defense in their Defence. Further, self-defense can only be relied upon if (i) the battery is committed in actual defense from an attack and not in response after an attack (see **Yearwood v Grant, Commissioner of Police and Attorney General of Belize Claim No 500 of 2014**); and (ii) self-defense must be reasonably commensurate with the attack (see **Ashby v Chief Constable of Sussex Police** [2008] 1 AC 962). The onus of proof is on the Defendants to show, (i) that there was an honest and reasonable belief that PC Miller had to act in self-defense, and (ii) that the actions taken were reasonable having regard to all the circumstances herein.

[45.] It is not disputed that the Claimant was transported from the Police station to the hospital on the date in question. The Claimant testified that he vomited up blood, transported to the Hospital and underwent emergency surgery. The Medical Report of Dr. Freeman Lockhart, which is contained in ABOD states among other things that the Claimant was seen on the 10 January 2022 with a history of abdominal pain due to an alleged assault. Surgery was performed to wash out the abdominal cavity and repair the Duodenum and serosa of the transverse colon. A feeding jejunostomy tube was also inserted during the surgery. The Court deems the contents of the medical report as admissible (see **Colina Insurance Ltd. v Enos Gardiner SCCivApp & CAIS No. 117 of 2015**).

[46.] The Court having reviewed the evidence, and the medical report in the ABOD which illustrates the severe nature of injuries, finds that PC Miller's actions did not conform to the standard police practice; and the force used against the Claimant was excessive.

Constitutional redress

[47.] The Claimant made a claim for Constitutional redress in paragraph 19 of his Statement of Claim for breach of his rights under Article 17(1) and 19 (1) (c) and (d) of the Constitution of The Bahamas. Article 17(1) provides: "*No person shall be subjected to torture or to inhuman or degrading treatment or punishment.*"

[48.] Article 19 of the Constitution provides protection from arbitrary arrest or detention. Article 19 (1) (c) and (d) specifically provides:

No person shall be deprived of his personal liberty save as may be authorized by law in any of the following cases-

- (c) for the purpose of bringing him before a court in execution of the order of a court;
- (d) upon reasonable suspicion of his having committed, or of being about to commit, a criminal offence;

[49.] Counsel for the Defendants submits that the Claimant has not made out a claim for Constitutional redress as set out in paragraph 19 of his Statement of Claim. That the Claimant

did not advance evidence to support the claim that his rights under Article 17(1) and 19 (1) (c) and (d) of the Constitution were breached (see **Donna Dorsett-Major v DPP et al** 2020/CRIM/Con/00005). Further where there is adequate remedy in tort a claim for constitutional remedies is duplicitous and an abuse of process.

[50.] The Court finds guidance in the dictum of *Crane-Scott, JA* the Court of Appeal case of **Immigration Officer Norman Bastian v Claudia Edwards Bethel et al** [2024] BS 2024 CA 089 para. [62-63] she observed:

62. As for Mrs. Bethel's **claim for assault and battery** (i.e. the sexual assault by Mr. Bastian) **this is a standalone claim for a common law tort which obviously does not directly involve the breach of a constitutionally protected right.**

63. In my view, the **tortious injuries sustained by Mrs. Bethel in connection with both these torts can adequately be redressed by the usual award to her of common law damages.** In this regard, see the England & Wales King's Bench Division authority of **Alseran & Others v. Ministry of Defence**, [2019] Q.B. 1251

[Emphasis added]

[51.] Having regard to the manner in which the Claimant was treated while in police custody, from the time of his arrest until his conveyance to the Police Station; his being restrained and thereby unable effectively to defend himself; the nature and extent of the injuries sustained; and the fact that those alleged to have assaulted him were police officers, the Court finds that the circumstances are sufficiently exceptional to engage the principle identified by *Winder CJ.* in **Daran Neely v Attorney General** [2023] 2016/CLE/gen/00623, at paragraphs 114–115.

[52.] Accordingly, an award of common-law damages alone for the tortious violations inflicted upon the Claimant's person would be insufficient and would not, in the circumstances, adequately vindicate his constitutional right under Article 17. Having considered the decision of the Court of Appeal in **Ramon Lop v Attorney General et al** [2024] BSCA 10, at paragraphs 182–186, concerning a breach of Article 17(1) of the Constitution, I am satisfied that the Defendants' treatment of the Claimant while he was in their custody amounted to degrading treatment.

[53.] Officers and agents of the Royal Bahamas Police Force are required to maintain the highest standards in their treatment of persons in their custody. That obligation subsists irrespective of the conduct alleged against, or exhibited by, the person detained. The Court finds that the Claimant is entitled to vindictory damages in the circumstances.

Deposition

[54.] For the reasons set out above, the Court finds that the Claimant was lawfully arrested on 22 January 2022 and was thereafter lawfully detained. The claims for unlawful arrest and false imprisonment are accordingly dismissed.

[55.] The Court declares that the force used by the Defendants' servants or agents against the Claimant was excessive and amounted to a violation of the Claimant's rights under Article 17(1) of the Constitution. The Court finds the Claimant has made out his claim for assault and battery and is entitled to damages to be assessed by a Registrar.

[56.] The Claimant shall have his costs of this action to be assessed if not agreed.

Dated the 30 day of September 2026

[Original signed and sealed]

Constance Delancy
Justice