

COMMONWEALTH OF THE BAHAMAS  
IN THE SUPREME COURT  
Commercial Division  
2023/CLE/gen/00208

**IN THE MATTER the Companies Act (Chapter 308, Statute Laws of the Bahamas 2001)**

**AND IN THE MATTER Bethel Baptist Church's Constitution and By-Laws dated April 1982 and its Memorandum and Articles of Association dated 28 July 2008**

**B E T W E E N**

**PATRICK MCFALL & OTHERS**

1<sup>st</sup> – 5<sup>th</sup> Claimants

**AND**

**ISHMAEL LIGHTBOURNE**

**(in his capacity as Vice President and Moderator of Bethel Baptist Church)**

Defendant

Before Hon. Justice Simone I FitzCharles

Appearances: Sharanna S Bodie for the Claimants

Gail Lockhart-Charles KC with Tracy Wells for the Defendant (in his capacity as Vice President and Moderator of Bethel Baptist Church)

25 April 2023, 28 April 2023, 05 May 2023, 12 May 2023, 03 August 2023

**RULING**

**FITZCHARLES, J.**

**Introduction**

1. On Saturday 22 April 2023, a group of persons who called themselves the "Concerned Members" of the historic Bethel Baptist Church made an ex parte application for an interlocutory injunction. They are Patrick McFall, Lavette McFall,

Laurie Bethell, Trevor Bethell and Deborah Hall (collectively the “claimants” in this action). These claimants, pursuant to Part 17 of the Supreme Court Civil Procedure Rules 2022 (the “CPR”), sought inter alia to stop impending elections for a new pastor, and succeeded in doing so about 2 days before the planned and announced elections were to occur. The fruit of their application was an interim Order granted by the Honourable Justice Donna Newton in the following terms:

“This Court Orders that:

1. The Bethel Baptist Church elections for Pastor, Church Officers, Members at Large for the Executive Council and Trustees scheduled for 24<sup>th</sup> April A.D., 2023 are hereby stayed for a period of seven (7) days pending the hearing of the Notice of Application pursuant to the Supreme Court Civil Procedure Rules, 2022 Part 17 filed herein on 10<sup>th</sup> March, A.D., 2023.
  2. That the costs of this application be costs in the cause...”
2. This Court subsequently received the application for hearing. During and after hearing full argument in relation to the injunction by Ms Sharanna Bodie for the claimants and Mrs Gail Lockhart-Charles KC for the defendant, I ordered that the interim injunction stay in place until the delivery of a determination on the claimants’ Notice of Application filed on 10 May 2023. This decision concerns the questions whether the ex parte interim injunction should be continued and whether the interlocutory injunction in terms originally sought by the claimants ought to be granted.
  3. By their Notice of Application the claimants seek the following relief:
    - (i) that the Defendant and the Executive Council of Bethel Baptist Church be prohibited from managing the spiritual and corporate affairs of the Bethel Baptist Church until the determination of this matter.
    - (ii) that an independent Interim Moderator or Moderators be appointed to oversee and manage the affairs of Bethel Baptist Church, subject to the provisions contained herein and to the Constitution and By-Laws and Memorandum and Articles of Association, until further Order of this Court.
    - (iii) that Ishmael Lightbourne, the Executive Council, Church employees, and leaders of all Committees, Auxiliaries, Departments or any other group of the Church be ordered to turn over all pending matters related to the Church to the appointed Interim Moderator or Moderators and to assist the Interim Moderator or Moderators by providing any information , document, electronic or paper file, software, hardware, report, work product of any kind whatsoever whether completed or not, access to banking accounts,

keys or other access to Church doors, offices, drawers, cabinets, gates, security codes, or anything else whatsoever that is needed to ensure the smooth continuation of the spiritual and corporate affairs of the Church.

- (iv) that the pending elections, including but not limited to the election of Officers, Trustees, and other Executive Council Members, be deferred until further Order of this Court.
  - (v) that all policies approved and/or implemented by the Executive Council since September 2021, which have not been approved by the Members in a proper meeting of the Church, be suspended until further Order of this Court.
  - (vi) that all decisions made by this Executive Council since September 2021, which have not been approved by the Members in a proper meeting of the Church, be suspended until further Order of this Court.
  - (vii) that the servants and or agents of Ishmael Lightbourne and other members of the Executive Council be prohibited from interfering with the Interim Moderator's or Moderators' oversight and management of Bethel Baptist Church until further Order of this Court.
  - (viii) that the servants and/or agents of Ishmael Lightbourne and other members of the Executive Council be prohibited from interfering with the work of the Auxiliaries, Departments, Committees, etc. of the Church until further Order of this Court.
  - (ix) that each party have liberty to apply.
  - (x) that the costs of this application be the costs in the cause.
4. The trouble in the Bethel Baptist Church which prompted the claimants to dash to the Court on Saturday 22 April 2023 is summarized, by their account, as follows:
- "i. On September 17, 2021, the pastor of Bethel Baptist Church passed away. The Church did not have any specific contingency plans in place to address the untimely death of their Pastor. As a result, the Church is obligated to be governed by the Constitution and By-Laws dated April 1982 ("Constitution"), and its Articles and Memorandum of Association dated 28<sup>th</sup> July, 2008. The Constitution specifically does not permit any external or internal boards, committees, or organizations whatsoever to

usurp the executive governmental or policy-making powers of the members of the Church.

- "ii. In contravention of this, the Defendant immediately declared himself to be the new President of the Church automatically and without the approval of the Church. He also declared that the Executive Council, now under his leadership, has the power to make whatever decisions it wishes without the need to seek the approval or ratification of the Church. The Claimants object to these declarations as they contravene the Constitution. Furthermore, the Defendant and the Executive Council under his leadership decided to disenfranchise hundreds of members of the Church by implementing what amounts to a membership fee for the Church whereby only persons who paid at least One Thousand dollars (\$1,000.00) per year could be a member in good standing and thereby eligible to vote or participate in leadership of the Church. Many persons in the Church, exceeding One Hundred (100) persons who were comfortable to go on record, objected to this. Despite the overwhelming objections, the Defendant blatantly disregarded and disrespected the express wishes of hundreds of members by not budging nor showing any meaningful consideration for a less divisive alternative.
  - "iii. To resolve the differences, we asked the Defendant and the Executive Council under his leadership to seek the opinion of an independent attorney or to have these matters resolved by mediation. They refused every attempt. Instead, the Claimant's efforts were met with a series of harmful, humiliating, disrespectful, and hurtful retaliatory behaviours by the Defendant and his closest allies, including but not limited to termination of staff members, insults, false public libelous statements, removal from ministerial offices, and many other forms of victimization, intimidation and bias against any and almost everyone who objected.
  - "iv. The Defendant and the Executive Council under his leadership have refused to discuss the outstanding issues with the Claimants to amicably and quietly resolve these matters within Bethel Baptist Church. As long standing and committed members of the historic Bethel Baptist Church, the Claimants seek the help of the Court to intervene in these matters."
5. The details of the evidence in support of the claimants' application are set forth in the Affidavit of Patrick McFall, the Affidavit of Lavette McFall, the Affidavit of Nichelle Bethell, the Affidavit of Laurie Bethell the Affidavit of Deborah Hall, the Affidavit of Cherica Whyly, the Affidavit of Cedric Whyly and the Affidavit of Chenique Wallace all filed on filed on 10 March 2023, along with the Second

Affidavit of Patrick Mc Fall and the Second Affidavit of Lavette McFall both filed on 10 May 2023.

6. Amongst the evidence produced for the claimants is a list of 100 signatures. The affiant, Patrick McFall, explained in his Affidavit that these were signatures of some of the members of the Bethel Baptist Church who are similarly concerned and who support the claimants' approach to the Court to resolve the disputes in the Church.
7. At the hearing of the application for an injunction, the Court received the affidavits and submissions of the parties relevant to the injunction. The claimants contended that they had to approach the Court on an urgency basis because since they served the defendant with their originating application, supporting affidavits and notice of application for an injunction, he "displayed a complete disregard for the existence of this matter and the fact that the Court has been asked to decide on the issues raised herein." The claimants reported that the defendant, after being served with their applications which were filed in the Court, evinced an intention to proceed quickly with elections before their applications could be heard. They contend they were therefore prompted to rush to the Court after reading in a Church bulletin dated Sunday 26 March 2023, the defendant's announcement as follows:

"We are seeking advice from our legal Counsel, Mrs Lockhart Charles KC, and will revert to members upon receipt of that advice as to the directions the Church should be taking in this matter. In the meanwhile, we are going full steam ahead with the search for the next Pastor for the Church with the expectation of having a Pastor Elect by the end of April 2023."

8. The defendant relied upon evidence in the First Affidavit of Ishmael Lightbourne filed on 4 April 2023, the second Affidavit of Ishmael Lightbourne filed on 25 April 2023, the First Affidavit of Raymond Winder and Craig Ferguson filed on 5 May 2023 and the First Affidavit of Natasha Dean filed on 27 April 2023.
9. It is gleaned from the evidence of the defendant that he was elected by an overwhelming majority of the Church's Executive Council on 20 September 2021 to be moderator of the Bethel Baptist Church. Some of that majority included one or more persons amongst the group of claimants now before the Court, but of course the claimants have indicated that they expected the defendant to comply with the governing documents of the Church when he was chosen. Based upon Mr Lightbourne's interpretation of the Articles of Association, the Executive Council is the body to govern the business of the Church. Further the Vice President is to perform the administrative duties of the President in the absence or disability of the President. As such, Mr Lightbourne (as Vice President) believes that by this Article he has the power to perform the duties of the President. However, because there was some disagreement over this amongst the Executive Council, they instead

appointed him as Moderator, to preside at business meetings and manage the affairs of the Church.

10. The defendant's position is that Reverend Patrick McFall is dissatisfied with the decision of the Council (in which he participated) to appoint Mr Lightbourne to the position he now holds. The defendant contends that the claimants are attempting "to dismantle the entire structure of Church governance through the Executive Council which structure has been in place for many years." The defendant's view appears to be that the claimants are coming to the Court because, having participated in a legitimate decision-making process of the Executive Council, and having been overruled by a majority, they now seek to utilize the Court to intervene in the hope that matters decided upon by the Executive Council will be turned in the claimants' favour.

### The Ex Parte Interim Order

11. The defendant contended that the Church had been planning the elections to install a new pastor for 19 months. Mr Lightbourne set out in his affidavit an elaborate set of steps taken to arrange the election for a new pastor which was to take place on Monday 24 April 2023. The defendant and deponents in support of him expressed surprise that the interim order was made in its terms since the Church was not a party to the action brought by the claimants. It was also argued for the defendant that he was deprived of a right to be heard without there being a cause for urgency, as the claimants failed to notify him of the ex parte hearing of 22 April 2023. The defendant contended, as well, that there was material non-disclosure by the claimants during the ex parte application in that they did not disclose that the defendant had served an affidavit on them which put his position in the application. It was submitted his affidavit was the only one which showed that the claimants sought to obtain orders which contravened the Articles of Association and prejudiced the Church which was not joined as a party.
12. On the issue of the urgency of the application before the Honourable Justice Donna Newton, it is clear the claimants knew (by their admission) since 26 March 2023 that the Church intended to have a new pastor elected by the end of April 2023. Their application for an injunction was not heard until almost one month after the claimants came by the knowledge of the timing of the intended elections. In the circumstances, it is difficult to imagine why they did not notify the defendant and/or legal counsel whose name was published in the Church bulletin of 26 March 2023 about the timing of the hearing of the application for an interim injunction. Were there good reasons for not giving notice to the defendant of the 22 April 2023 hearing? According to **CPR Rule 17.4 (3)** and **17.3 (4)**:



“(3) The Court may grant an interim remedy on an application made without notice if it appears to the Court that there are good reasons for not giving notice.

“(4) The evidence in support of an application made without giving notice must state the reasons why notice has not been given.”

13. There appears to be no evidence produced by the claimants setting out good reasons for not giving notice to the defendant of the ex parte application.
14. Further, on the Certificate of Urgency filed by the claimants on 12 April 2023 they omitted to disclose to the Court the existence of the Affidavit of the defendant with which they had been served and there is no mention of that Affidavit in the application made before the Honourable Justice Donna Newton. In her Order, Newton J set out all documents put before her by the claimants relevant to the application, and this list was devoid of any reference to the defendant's affidavit, which was served on the claimants. One might surmise that the Court should have been aware of the document since it was filed, but the claimants also represented in the Certificate of Urgency that the defendant “displayed a complete disregard for the existence of this matter and the fact that the Court has been asked to decide on the issues raised herein.” This statement is not accurate in that the claimants were aware that the defendant had filed his First Affidavit approximately 18 days prior to the hearing of the ex parte application. Moreover, it could not be argued that the First Affidavit of Ishmael Lightbourne was not material to the application especially since the defendant was not notified by the claimants so that he could attend and participate in the hearing.
15. The principles in relation to the duty of full and frank disclosure of a party who seeks to obtain relief from a court on an ex parte basis are well-rehearsed. In accordance with **Bank Mellat v Nikpour (Mohammed Ebrahim)** [1985] FSR 87, the plaintiff must disclose: (i) the nature of his case and (ii) any defence which the defendant has put forth in correspondence or in any other document or elsewhere. In **Brinks-Mat Ltd v Elcombe** [1988] 1 WLR 1350 the duty of full and frank disclosure of a plaintiff who applies for an injunction were set out by the English Court of Appeal. The plaintiff has to disclose material facts to the court of which the plaintiff has knowledge or would have known had he made proper inquiries. In a situation where there has been a failure to disclose material facts at the ex parte application, the court could discharge the injunction for non-disclosure. The court could also grant a new injunction but would not do so if the failure to disclose material facts was a result of a lack of due care or frankness.
16. This Court cannot say whether disclosure of the Affidavit of Ishmael Lightbourne would have convinced the Court that the injunction ought not to have been granted. However, it is my view the Court ought to have been made aware of the same

instead of being told by the claimants that the defendant completely disregarded the proceedings, for it could have influenced the manner in which the Court dealt with the case.

17. The interim order in its terms is directed towards the freezing of the elections of the Church until the Notice of Application can be determined. In my view, the claimants failed to properly constitute parties for their claim, seeking only to proceed against Ishmael Lightbourne, when in fact they sought to bind the Executive Council and the Church from performing certain actions inclusive of holding planned elections. A perusal of the Notice of Application brings into clear focus the fact that the parties are ill-constituted in this matter because Mr Lightbourne cannot perform or curtail on his own any action which the claimants seek to halt or have performed by their application.
18. In the circumstances, it is my view that the interim order of 22 April 2023 ought to be discharged. I move on to consider whether the interlocutory injunction pending trial sought by the Notice of Application ought to be granted.

## Law & Discussion

19. Pursuant to **section 21 of the Supreme Court Act (Chapter 53)**, in all cases where it is just and convenient, the Court has jurisdiction to grant an injunction, whether it is interlocutory or final and on such terms as the Court thinks fit. This provision is supported by **Part 17 section 1(b) of the Supreme Court Civil Procedure Rules 2022** which provides that an order for an interim injunction is amongst interim remedies which the Supreme Court may grant. By **Part 17.3**, an order for an interim remedy may be made at any time and, in befitting circumstances, even before a claim is filed or after judgment has been rendered.
20. It is settled law that the rules by which the Court is guided in deciding whether an interlocutory injunction should be granted were laid down by the English House of Lords in **American Cyanimid v Ethicon Ltd** [1975] AC 396. Broadly, the criteria which the Court considers are:
  - (1) Whether the Court is satisfied that there is a serious issue to be tried. An applicant must show his case has substance or is not frivolous and vexatious, but he need not show that he is likely to succeed at trial. (See **PPL (Nassau) Ltd v Baha Mar Ltd and another** [2015] 1 BHS J No 109 at par 28). It is important to note that the Court is not called upon at this stage to resolve conflicting evidence as to the facts set out in the parties' respective affidavits. (See **American Cyanimid** at p. 407). That is a matter for the trial of this action.



- (2) Whether damages would be an adequate remedy for any loss suffered by either party as a result of the injunction.
- (3) Whether the balance of convenience lies in favour of the plaintiff or the defendant (if damages would not adequately compensate either party).
- (4) If the balance of convenience is balanced between the parties, the Court should maintain the status quo.

21. In relation to whether there is a serious issue to be tried, Patrick McFall (for the claimants) and Raymond Winder (for the defendant) have attested to the creation of the 'members in good standing policy' by which a church member must contribute a total of \$1,000 in annual tithes in order to be considered in good standing with the Church and therefore able to meaningfully participate in the Church's elections for the new pastor. But Reverend McFall points out that Article 5 of the Articles of Association stipulates that there shall be one (1) class of members all having the same rights and privileges. He argues that as a result of the controversial members in good standing policy (to which some exempted categories for members exist) those who contribute less than \$1,000 but still pay tithes (and who do not fall within exempted classes) cannot vote and are therefore disenfranchised. Hence the forestalling of the elections planned for 24 April 2023 until the Court can conduct the trial of the matter. Reverend McFall has stated:

"The decision and policy are egregious, divisive and offensive to many members who have gone through the process defined by the Church, paid their tithes and offerings regularly (some of whom pay without completing tithes envelopes and thus are not acknowledged as members in good standing) and have served God through Bethel for many years...the implementation of this policy unfairly benefits the rich who can easily pay \$1,000 per year to retain membership in good standing and punishes the poor, of whose income the threshold represents a high percentage...The age criteria approved by Council for a member in good standing, in which a member is exempt from making financial contributions to the Church...is 73...[A]t the time of this policy, Ishmael Lightbourne was exactly 73 years old, and as a result, the policy was set exactly at the age for which he would be exempt."

22. The Constitution and By-Laws of the Church and its Articles of Association are free of any reference to the payment of a specified amount of contributions which a member has to pay in order to be considered in good standing. The Constitution and By-Laws set out the modes of receiving a person into the membership which are by baptism, by letter, by Christian experience and by restoration to the membership. The Articles of Association provide for similar modes of receiving members into the Church and proceed at Article 9 to specify that:

“Members shall be required to support the Association by their tithing, free will offering and faithful Christian service.” In Raymond Winder’s words, members must be “born again, baptized and demonstrate commitment to Bethel through frequent and regular church attendance and pay tithes in accordance with the church’s doctrines.”

23. Raymond Winder and Craig Ferguson in their First Affidavit defend the members in good standing policy. They state that the \$1,000 threshold “was chosen as it represented less than 10% of the annual minimum wages in The Bahamas. The membership framework of \$1,000 with all of the exemptions is both fair and reasonable compared to the more onerous burden of tithing.” They state that the policy was approved by a Committee and the Executive Council after studying in detail members’ contributions to the Church for the period from 2009 to 2021.
24. The Court considers that if elections go ahead, there will be persons who will not be able to vote because - although they may have been born again, baptized, demonstrated a commitment to the Church through regular and frequent attendance and paid tithes – they would not be considered to have paid enough to qualify to vote. It is not the Court’s role to determine how much any member should pay, but rather to solve for the parties the issue whether the policy contravenes the governing documents of the Church. This represents but one of the compelling issues placed before this Court.
25. I turn to the Originating Application which forms the basis of the claimants’ case. On a reading of that document, the Court is called upon to resolve the following issues:
  - (i) Whether the Constitution and By-Laws of the Church have primacy in governing the Church with the Memorandum and Articles of Association and any other rules, regulations or policies being subordinate to the Constitution and By-Laws of the Church;
  - (ii) Whether any policies which are contrary to the Constitution and By-Laws of the Church are void and actions taken by the Executive Council pursuant to such policies are of no effect;
  - (iii) Whether any decisions taken by the Executive Council which contravene the Constitution and By-Laws (including but not limited to appointment of Ishmael Lightbourne as Moderator and empowerment of the defendant to take on the duties of President or Pastor) are void ab initio and of no effect;

- (iv) Whether the government and control of the Church is vested in its members, or alternatively, in the Executive Council or the Joint-Board or some other body or persons.

26. In my view, there are serious issues to be tried in this case. Controversies abound between the dissenting claimants and those who support the defendant. One of the controversies pertains to voting rights of members. If it is accurate that persons will be disenfranchised who would otherwise have been able to vote but for the 'members in good standing' policy, this is a sufficiently serious matter to put before the Court. For clarity, the Court cannot and will not resolve conflicts in the parties' evidence or in their interpretations of the various documents filed at this juncture. But it suffices, at this time, to observe that the questions presented appear not to be frivolous or vexatious.
27. This and other issues raised by the claimants (such as the validity of a contested new human resources policy which allegedly supported capricious firings of staff) warrant consideration by the Court in a trial which is heard and concluded in a short time. Mr Winder pointed out that the Church has been without a pastor since September 2021 when Pastor Timothy Stewart died. The election to appoint a new pastor was to take place on 24 April 2023. This is quite some time after the death of the previous pastor. However, Mr Winder stated in his affidavit that "the absence of a pastor for any period of time is detrimental to the Church and the inability to elect a new pastor after 19 months of planning is especially damaging." He states that membership has been lost as a result of the failure to appoint a pastor, but Reverend McFall has sought to refute this in his evidence.
28. In the Court's estimation, if the election goes ahead without the parties first having their arguments as to their respective interpretations of the governing documents of the Church tested and their rights and obligations determined, and if in those elections the impugned members in good standing policy remains in force, there is a section of the membership of the Church who, though considered in good standing in accordance with the Constitution and By-Laws and/or the Articles of Association will not pass muster under the members in good standing policy and will therefore not be able to vote. This is one of the main concerns of the claimants and those persons who have signed their petition, and a reasonably persuasive point when considering the question of granting an injunction.
29. The question whether damages would be an adequate remedy to compensate members of the Church who have been disenfranchised and the members who argue that they wish to uphold the good governance of the Church may be answered in the negative. The type of damage apprehended - loss of a right to vote and loss of good governance to the detriment of members - are non-pecuniary and the harm can be irreparable. These factors tend to cast the option of preventing

the occurrence of an election until the parties' rights are determined at trial as a more reasonable choice for the Court. This is weighed against a possible further delay of the election for the parties to be heard at trial by the Court and to receive their judgment. The Court believes that the balance lies in favour of protecting the voting rights of those who may be disenfranchised. If the injunction is granted pending the determination of the issues, the elections will still occur albeit later. However, if the injunction is not granted and elections proceed before the Court determines the issues, the right to vote in those elections may be lost permanently for those affected. Moreover, if by this scenario the election must be repeated after the Court rules on the Originating Application, this may be even more destabilizing to the Church. Of course, the Court should ensure that a mechanism is put in place by which the defendants could be compensated, (in the event the claimants are unsuccessful at trial and the defendants establish their right to have the election with the current policies in force), for any loss and damage sustained by the defendants as a result of having to abort the elections of 24 April 2023.

30. Taking a closer look at the injunction sought by the claimants' notice of application, they have sought to convince the Court that it ought to freeze the powers of the defendant and the Executive Council so that pending the determination of the issues revealed in the Originating Application, the defendant and the Council cannot manage the affairs of the Bethel Baptist Church. The Court is asked to appoint one or more moderator(s) to oversee and manage the Church and to order that the defendant, the Executive Council, all Church employees and leaders of committees, auxiliaries, departments and any other group of the Church relinquish all pending matters related to the Church to the moderator(s). While some names of potential moderators have been suggested to the Court by Counsel in oral submissions, and there has been a representation that such person or persons may be willing to act, there has been no direct communication to the Court or evidence forthcoming from such potential moderator(s) that they are willing to take on the role and how they propose to do so or by what standard they plan to perform the role. I consider that any such moderator will be coming into an environment where there is a dispute as to which documents ought to have primacy in the governance of the Church.
31. During the hearings, the Court observed on more than one occasion that Bethel Baptist Church is relatively large and intricately-organized machine. It seems therefore that turning over all of these matters to a moderator newly appointed will likely present for the Church and the moderator too large, and perhaps burdensome an exercise. This has the potential for further significant disruption to the current flow of activities in the Church.
32. The Court is of the view that the claimants have met the test set out set out in **American Cyanimid**. In light of the foregoing analysis, I Order:

- (i) that an interlocutory injunction be granted pursuant to **Part 17** of the **Supreme Court Civil Procedure Rules 2022** to forestall elections of Bethel Baptist Church for a new pastor, officers, trustees, members of the Executive Council and any other positions in the election of which members of the Church customarily cast a vote, pending a determination of the Originating Application;
- (ii) that the Church be joined as a defendant in the proceedings;
- (iii) that pursuant to the grant of the interlocutory injunction, the claimants are to give the usual undertaking in damages;
- (iv) that the extant application of the claimants for a representation order shall be heard on 15<sup>th</sup> August 2023 or on the soonest mutually convenient date for Counsel and at the same time any directions for trial and any other interlocutory applications of the parties shall be entertained; and
- (v) the parties shall have liberty to apply.

33. For the speedy resolution of the issues raised in the Originating Application the Court has set aside some days in the month of September 2023 (subject to the availability of Counsel) for the trial.

Dated this 3<sup>rd</sup> day of August 2023.



Simone I Fitzcharles

Justice