

COMMONWEALTH OF THE BAHAMAS

2021/PUB/jrv/000013

IN THE SUPREME COURT

Common Law and Equity Division

BETWEEN:

DEMIKO ROLLE JR

Plaintiff

AND

**PAUL ROLLE COMMISSIONER OF POLICE ROYAL BAHAMAS POLICE FORCE
COMMONWEALTH OF THE BAHAMAS**

First Defendant

AND

**THE HONOURABLE CARL BETHEL (THE ATTORNEY GENERAL AND MINISTER OF
LEGAL AFFAIRS) (OFFICE OF THE ATTORNEY GENERAL AND MINISTRY OF LEGAL
AFFAIRS) COMMONWEALTH OF THE BAHAMAS**

Second Defendant

Before: The Honourable Madam Justice Camille Darville- Gomez

**Appearances: Mr. Bjorn Ferguson and Ms. Shannon Fernander for the Plaintiff
Ms. Monique Millar and Mr. Kirk Mackey for the Defendant**

Hearing Dates: 14th and 15th July, 2022

The Plaintiff, a minor aged 17 years old at the time was arrested at his residence on the evening of 16th September, 2020 by officers of the Royal Bahamas Police Force (the "Police Force") and held at the Western Police Station for questioning until the afternoon of 17th September, 2020. The police officers claimed that they had reasonable suspicion that the Plaintiff was involved in organized crime and that dangerous drugs, firearms and ammunition were concealed on the premises. The Plaintiff claimed, but which was denied by the Defendants, that his arrest and subsequent detention for over seventeen (17) hours were both unlawful as there could be no reasonable suspicion for his arrest. He also claimed that the search warrant was not properly issued. The Plaintiff sought damages for breach of his constitutional rights pursuant to Articles 19(1)(d)(e) and (2), 21(1) and 25(1) of the Constitution of The Bahamas, 1973.

HELD: The Plaintiff's arrest and subsequent detention were both unlawful and I award damages in the sum of \$35,000 plus exemplary damages of \$15,000 and costs of \$12,000.

JUDGMENT

Darville Gomez, J.

1. By Writ of Summons filed on the 20th May, 2021 the Plaintiff sought the following relief:
 - (i) A declaration that the Plaintiff's fundamental rights and freedoms have been violated pursuant to Articles 19(1) (d) (e) and (2), 21 (1) and 25 (1) of the Constitution of the Commonwealth of The Bahamas which said rights have been infringed by members of the RBPF on the 16th September, 2020;
 - (ii) Damages for violation of the Plaintiff's fundamental rights and freedoms pursuant to Articles 19 (1) (d) (e) and (2), 21 (1) and 25 (1) of the Constitution aforesaid;
 - (iii) Damages for breach of constitutional rights;
 - (iv) Special Damages;
 - (v) Exemplary Damages;
 - (vi) Aggravated Damages;
 - (vii) Punitive damages;
 - (viii) Interest pursuant to the Civil Proceedings (Award of Interest) Act;
 - (ix) Costs; and
 - (x) Such further and/ or other relief as the Honourable Court may deem fit and just.

The Plaintiff's pleaded case

2. The Plaintiff, a minor aged 17 years old alleged that on or about the 16th September, 2020 after 9pm, he was peacefully at his residence situate in Adelaide when members of the Police Force without suspicion and/or reason entered his home and searched the same without a search warrant and/or consent of his mother and/or parents.
3. The said members of the Police Force intentionally, negligently, wrongfully and unlawfully arrested the Plaintiff and failed and/or refused to give reasons to the Plaintiff and /or his parents as to why he was being arrested.

4. The members of the Police Force transported the Plaintiff to the western police station and informed him that he was under arrest for "organized crime".
5. The members of the Police Force intentionally, negligently, wrongfully and unlawfully booked and detained the Plaintiff at the western Police Station on the 16th September, 2020.
6. On the 17th September, 2020 members of the Police Force intentionally, negligently, wrongfully and unlawfully transported the Plaintiff to the Central Detective Unit ("CDU") and detained him in a cell.
7. The Plaintiff's attorney inquired about information and made protest on behalf of the Plaintiff's constitutional rights which had been violated by members of the Police Force. The attorney and the parents of the Plaintiff were formally informed by the members of the Police Force that the Plaintiff was arrested for "organized crime".
8. On the 17th September, 2020 on or about 2:15 pm the Plaintiff was released from police custody without being interviewed or charged.
9. The Plaintiff was the Head Boy at Westminster College at the time of the intentional, negligent, wrongful and unlawful arrest and detention and was scheduled to sit three (3) Bahamas General Certificate of Secondary Education (BGCSE): English Language, Biology and History on the 17th and 18th September, 2020.
10. The Plaintiff alleged that he was caused extreme suffering, loss, damages, distress, indignity, disgrace, humiliation and embarrassment and injury to his reputation. He claims, exemplary and/or aggravated and/or punitive damages.

The Defendant's pleaded case

11. In their Amended Defence filed on 11th April, 2022 the Defendants denied that the Plaintiff was intentionally, negligently and unlawfully arrested on Wednesday, 16th September, 2020. They assert that the arrest was lawful and that they informed the Plaintiff's mother that they had reasonable suspicion that the Plaintiff was involved in Organized crime and that dangerous drugs, firearms and ammunition were concealed on the premises. Further, that the search warrant was given to the Plaintiff's parents to read.
12. The Defendants asserted that they are empowered to at any time enter and search the premises of any person whom they suspect of possessing unlicensed or unauthorized firearms or ammunition. They pleaded that the Plaintiff's parents were informed that he would be taken into custody and transported to the western Police Station. Further, that all

police procedures were followed and the Police Force discharged their duties in full compliance with the laws.

Issues

13. The following issues are to be considered by this Court:

- (i) Whether the Defendants lawfully and with reasonable suspicion arrested and detained the Plaintiff.
- (ii) Whether the Plaintiff is entitled to damages.

The Plaintiff's Evidence

14. The Plaintiff claimed that on Monday 14th September, 2020, he was hanging out with some friends when a gentleman known to him as 'Carroll' started an argument. He admitted that they were arguing for a while. His evidence is that Carroll began throwing stones at him and he threw a rock to scare him.
15. The incident led to some of Carroll's family members approaching the Plaintiff and his friends. He recalled a male he suspected to be Carroll's family member, a police officer who told him that he and his friends will be arrested.
16. The Plaintiff gave evidence that he went to the Western Police Station with his mother to report the incident and saw Carroll and his relative, the policeman who approached him earlier.
17. The Plaintiff testified that two days later on 16th September, 2020 he saw several police cars 'swarm' his yard with flashing lights. He locked the front door and ran to call his mother. He stated that some of the officers came up the stairs which is located on the outside of the house. He recalled some of them wearing masks with guns strapped on them, pistols on their sides, and some wearing body cameras. The Plaintiff said that the officers were banging on their door saying "open up the door". Eventually, his mom opened the door after the officers showed Demiko Sr. a warrant. He testified that his father was shown the warrant but not his mother.
18. The Plaintiff's evidence with reference to his unlawful arrest and detention was as follows:

- (i) He was handcuffed and thrown into the back trunk of a black SWAT police jeep in the front of his neighbours and that he felt humiliated as his neighbours saw him handcuffed and being escorted by the police officers. He was thrown into the back trunk of the jeep like an animal knowing that he had done nothing wrong. He said that he was not informed of any reason for his arrest even though he had asked several times, he had received no response.
- (ii) He said that two of his friends were also placed in the back of the trunk of the black SWAT police jeep along with him and it became very uncomfortable at this time as there were three of them jammed together in the back trunk of the police jeep.
- (iii) He said that at no point was he informed of his right to speak with his parents nor of his right to hire an attorney and speak privately with him or her. He said that while he was at the Airport Police Station he was not given any document to sign.
- (iv) He laid on the cement floor and barely slept and he was highly concerned about his health as the Covid-19 pandemic was going on and he was subjected to laying on the unclean cement floor in a small, indoor, enclosed environment along with other persons at a risk of contracting Covid-19.
- (v) On the following morning on Thursday 17th September, 2020 he was unable to take his scheduled Bahamas General Certificate of Secondary Education (BGCSE) Examination for History because he was in police custody.
- (vi) At approximately 2:15 pm on Thursday 17th September, 2020 he was released and during that time he was never advised of the reason for his arrest and was never questioned in relation to any criminal activity.
- (vii) As a result of his release after 2:15pm he was unable to take his BGCSE for Biology. Also, due to his experience with the police he was so mentally distressed and shaken that he was unable to sit the BGCSE examinations the following day for Math and English Language.
- (viii) His arrest and detention in police custody caused him extreme embarrassment and humiliation in front of his neighbours and strangers as well as temporary mental stress because he was never informed of the reason for his arrest, never questioned with reference to any criminal activity and was unjustly subjected to contracting Covid-19.
- (ix) He suffered financial loss as a result of having to pay to sit his BGCE in 2021 and additional mathematics lessons.

19. During cross examination, the Plaintiff said that the officer handcuffed him and his parents while they conducted a search of the residence. While conducting the search, the Plaintiff asked "where the guns and illegal drugs and the firearms and illegal drugs."
20. The Plaintiff admitted that officers advised him in the presence of his parents that the arrest was based on suspicion of his alleged involvement in organized crime.

Witness – Charrah Hall-Rolle

21. Mrs. Hall-Rolle testified that on 16th September, 2020, police officers visited her home claiming to have a search warrant for drugs and illegal firearms. She stated that prior to opening the door, she overheard the officers saying "Open this door before we break this door down." She testified that that she was never shown a warrant by officers and do not believe that one existed. Nonetheless, she said that they entered the home.
22. She admitted to the officer that there was an unlicensed firearm (shotgun) in the home which belonged to her husband. She said that the license had expired and was not renewed because of the Covid-19 pandemic.
23. She said that the officers never advised the reason for the Plaintiff's arrest for organized crime until they had already removed him from the home.
24. She testified that she was able to speak with the Plaintiff on the day following his arrest at around 7 a.m. (on the 17th September, 2020) when she arrived at the police station.

Witness – Demiko Rolle Sr.

25. Mr. Rolle recalled that on 16th September, 2020 around 9:00 p.m. he heard a group of men shouting at him "*Put your hand behind your back; get on the floor; do not move.*" He testified that the men never identified themselves nonetheless he complied with their orders. Soon after, he assumed the men were police officers because they came in marked and unmarked vehicles. Thereafter, he was led upstairs to his bedroom where he kept his firearm by the officers who were standing in the front area of his home. The witness testified that the Plaintiff was terrified and Charrah Hall- Rolle appeared extremely livid as he was handcuffed by officers.
26. The witness recalled that his wife continuously requested sight of the warrant to which the officers refused. Moments later, the officers showed him a piece of paper bearing the name "Tamekeo Rolle" and "Search Warrant" which were hand written on the paper in the presence

of the Plaintiff and his wife. He confirmed that the officers came to their residence stating that the search was for illegal drugs and unlicensed firearms.

27. He recalled that his wife's voice escalated and that is when he realized that the officers were taking his son away in handcuffs. When the question arose as to why the Plaintiff was being arrested, the officers replied that it was for organized crime. The witness said that his wife informed the officers that the Plaintiff was a minor therefore his guardian ought to be present during any questioning. He said that he later discovered that the Plaintiff was in police custody at the Airport Police Station. He testified that his son was unable to sit his Bahamas General Certificate of Secondary Education (BGCSE) Examinations for Mathematics, Biology and English Language.

Defendant's Witness – Inspector Akeem Wilson

28. He testified that in September 2020 he along with other members of the Police Force effected a search at the Plaintiff's residence. His evidence was that he allowed both of the Plaintiff's parents to read the search warrant which was for firearm and dangerous drugs.

29. He testified that Demiko Rolle Jr. was arrested and taken to the Western Police Station in connection with organized crime. He confirmed that he knew the Plaintiff was a juvenile and his parents were informed of the reason for his arrest. He said that the Plaintiff's parents were present while he was being processed at the station.

30. The witness testified that an un-licensed shotgun was recovered from the Plaintiff's father's bedroom and taken into police custody. He confirmed that upon completion of the search he gave Demiko Rolle Sr. certain instructions regarding the firearm which was confiscated.

Defendant's Witness – Sgt. 3295 Hurvis Curtis Jr.

31. During cross examination, the witness confirmed that on instructions received, he and other officers of the Police Force conducted a search of the Plaintiff's residence on the 16th September, 2020. He also affirmed that Demiko Rolle Jr. was arrested and an unlicensed shotgun was recovered during the search. However, he did not find the shotgun and had no dealings with it at all.

Defendant's Witness – Constable 4023 Jeraldo Frazer

32. The witness testified that he was attached to the Central Detective Unit in September 2020 and recalled that the Plaintiff was held in custody for suspected participation in organized crime. On 17th September, 2020, after receiving the Plaintiff's information, he received instructions from his superiors to release him from custody.

Witness Statement of Police Sgt. Craig Thompson

33. The witness stated that on the 16th September, 2020 the Plaintiff, who was the suspect at the time was turned over to him at the Western Police Station for processing. He maintained that the Plaintiff was informed of his right to communicate with a parent or guardian, and to retain and or instruct legal representation should he wish to do so. Officer Thompson stated that the witness refused to sign the acknowledgment form and was then searched and placed into a cell.

Issue (I): Whether the Defendants lawfully and with reasonable suspicion arrested and detained the Plaintiff.

34. In evidence, the Plaintiff and both his witnesses admitted that the officers informed them that they had a warrant to search for drugs and illegal firearms. However, the Plaintiff's evidence was that he was never shown the warrant and neither was his mother.

35. The Plaintiff's father, Demiko Rolle Sr. indicated that he had sight of a warrant bearing the name "Tamekeo Rolle" and "Search Warrant".

36. The Defendants Bundle of Documents exhibited a Search Warrant in the name of Demiko Rolle for dangerous drugs, firearms and ammunition and it was issued by Inspector Wilson.

37. The Plaintiff testified that the officers asked him "...where are the drugs or guns". He indicated that his mother responded that there were no guns or illegal drugs in the home.

38. A search was conducted of the home while the Plaintiff and his parents were handcuffed and nothing was found except an unlicensed firearm which the Plaintiff's father admitted having and explained that its license had expired.

39. It is settled law that a police officer can arrest a person, whom he suspects to have committed a crime without a warrant. **Section 31(2) of the Police Act, 2009** provides that:

"Without prejudice to the generality of the foregoing or any other provision of this Act, a police officer may, without a warrant, arrest a person –

(a) He reasonably suspects of having committed an offence;"

40. In the case of **Christie and Another v Leachinsky [1947] 1 All ER 567** Viscount Simon pronounced that an unlawful arrest and false imprisonment are the result of depriving a person of his liberty for any time, however, short, without lawful cause.

41. **Stewart J**, in **Kevin Renaldo Collie v The Attorney General SC 916 of 2017** repeated the dictum of Viscount Simon in relation to the test for reasonable suspicion:

"The test as I understand it is, what was the state of mind of the police at the time of the arrest. Why did they arrest him? If they arrested him because they believed he had committed a felony and therefore were reasonable grounds for believing they do not lose the protection of the law".

42. Further at paragraph 46,

"Accordingly, an arrest is unlawful if:-

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

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

43. Stewart J. in **Rod Andrew Bethel and The Commissioner of Police and The Attorney General 2017/CLE/GEN/00825** said at paragraph 70:

"To determine whether or not an arrest was unlawful, it must be proven that the arresting officer reasonably suspected an individual of committing an offence. The test is not whether the arresting officer acted with reasonable and probable cause."

44. The evidence is that the Plaintiff was arrested for organized crime pursuant to **section 90 (B) (1) (2) (3) of the Penal (Amendment) Code**. Such power granted to police officers in regard to offences under organized crime can be found in **section 40 (1) and (3) of the Firearms Act, Chapter 213** as rightly submitted by the Defendants.

45. During cross examination, the Plaintiff admitted that the officers advised him that he was being arrested on suspicion of being involved in organized crime while in the presence of his parents. Charrah Hall- Rolle also testified that she was informed of the reason for the Plaintiff's arrests when officers were putting him into the vehicle.

46. Counsel for the Plaintiff argued that the First Defendant unlawfully arrested the Plaintiff and did not reasonably suspect him of committing an offence. Further, that the officers did not satisfy themselves, nor formed a genuine suspicion that the Plaintiff was responsible for or involved in any organized crime.

47. Inspector Akeem Wilson, the arresting officer said in his witness statement that he received and confirmed information that Demiko Rolle Jr had firearms and ammunition and dangerous

drugs concealed on the premises which led him to orchestrate the operation on the 16th September, 2020 along with other officers.

48. The Defendants maintained that the arresting officer possessed the grounds to form a reasonable suspicion that the Plaintiff was suspected of committing or had committed an offence when he investigated and confirmed the information.
49. I do not agree.
50. First, the Search Warrant in the name of Demiko Rolle was for dangerous drugs, firearms and ammunition. The Plaintiff is Demiko Rolle Jr., and his father, Demiko Sr., therefore, in those circumstances it was not obvious to whom the warrant referred, that is, whether father or son.
51. Second, the father admitted to owning a firearm which license had expired. The evidence is contradictory regarding whether it was confiscated however, and in any event the father was never arrested in relation to his possession of it.
52. The basis for the search was dangerous drugs, firearms and ammunition per the Search Warrant. The Defendants' search of the premises occupied by the Plaintiff and his family revealed none of these items (save for the unlicensed shotgun which the Plaintiff's parents had admitted to having in their possession). Therefore, the Defendants had no further or other reason to suspect the Plaintiff or to arrest him in relation to the Search Warrant. However, the matter did not end there.
53. There was no evidence led by the police that upon their arrival at the Plaintiff's home that they held a reasonable suspicion that he had any involvement in organized crime. This allegation **never** arose (my emphasis added). Their warrant was for an entirely different offence. It would seem that the police officers would have needed to have reasonable suspicion that the Plaintiff had committed all of these offences at the time of his arrest. However, the evidence led was that they had a search warrant for dangerous drugs, firearms and ammunition and later, the Plaintiff was arrested for a reasonable suspicion of organized crime.
54. After the Plaintiff's arrest and detention he was never questioned or interviewed while in police custody with reference to organized crime or any offence for that matter. This raised great suspicion as to the true reason for the arrest. Further, this calls into question the grounds upon which the search warrant for dangerous drugs, firearms and ammunition was issued by a Justice of the Peace.

55. Therefore, having considered the two part test garnered from the cases, that is, (i) a genuine suspicion; and (ii) reasonable grounds for forming that suspicion. I find that the Defendants have failed to prove that the arrest was lawful.

56. In all the circumstances, I find that the Plaintiff was unlawfully arrested and detained. Therefore, the entire period of his detention was unlawful.

57. The parties agree that the Plaintiff was arrested around 9:00p.m. on the 16th September, 2020. The Plaintiff claimed to have been released on the 17th September, 2020 and the Defendants time of release on the detention record reflects 1:54p.m. Therefore, the Plaintiff was detained for approximately 17 hours before being released.

Issue II: Whether the Plaintiff is entitled to damages?

58. Having found that the Plaintiff's arrest and detention was unlawful, the Plaintiff is entitled to damages.

59. The Plaintiff claimed the following damages:

- (i) Damages for breaches of his constitutional rights pursuant to Articles 19(1)(d)(e) and (2), 21(1) and 24(1) of the Constitution;
- (ii) Special damages;
- (iii) Exemplary damages;
- (iv) Aggravated damages; and
- (v) Punitive damages

60. The Plaintiff's argued that there was a breach of his constitutional rights in accordance with articles 19 (1) (d) (e) and (2), 21 (1), and 25 (1) of the Constitution of the Bahamas. In this regard, he claims damages for the violation of his fundamental rights and freedoms which were infringed.

"Article 19(1) No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases —

(d) upon reasonable suspicion of his having committed, or of being about to commit, a criminal offence;

(e) in the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;

(4) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person.

21. (1) *Except with his consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.*

25. (1) *Except with his consent, no person shall be hindered in the enjoyment of his freedom of movement, and for the purposes of this Article the said freedom means the right to move freely throughout The Bahamas, the right to reside in any part thereof, the right to enter The Bahamas, the right to leave The Bahamas and immunity from expulsion therefrom."*

61. The Defendants argued that the Plaintiff's claim for constitutional breaches are an abuse of the process as there are alternative remedies available to the Plaintiff. Therefore, he is not entitled to such relief. The Defendants relied on **Article 28(2) of the Constitution** which provides :

"If any person alleges that any of the provisions of Articles 16 to 27 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Supreme Court for redress.

Provided that the Supreme Court shall not exercise its power under this paragraph if it is satisfied that adequate means of redress are or have been available to the person concerned under any other law."

62. In addition, the Defendants cited the case of **Antoine Justin Russell and the Attorney General and the Commissioner of Police SCCiv App. No. 186 of 2017** where the Court of Appeal noted at paragraphs 25 and 79 that:

"...where there is a parallel remedy, constitutional relief should not be sought unless the circumstances of which complaint is made include some feature which makes it appropriate to take the course. As a general rule there must be some feature which, at least arguably, indicated that the means of legal redress otherwise available would not be adequate. To seek constitutional relief in the absence of such a feature would be a misuse, or abuse, of the court's process..."

"In our judgment the appellant's claim for compensation for breach of his Article 19(1) right to personal liberty is adequately covered by his parallel claim for damages for wrongful arrest and false imprisonment...In short, this is a proper case for the proviso to Article 28(1) of the Constitution to be invoked. In other words, we are satisfied that the evidence in this case disclosed no special feature which would justify an award of damages by way of constitutional redress for which he could not be adequately compensated in his parallel claims in tort for wrongful arrest and false imprisonment. In the circumstances, we find that the appellant's claim for an award of damages by way of constitutional redress is an abuse of the court's process and it is dismissed."

63. Counsel invited the Court to award the Plaintiffs \$80,000.00 for Compensatory damages; \$50,000.00 for Exemplary Damages; plus special damages in the amount of \$120.

64. Additionally, Counsel for the Plaintiffs claimed costs in the amount of \$20,000.00.

65. Counsel for the Defendant submitted that should the Court find in favour of the Plaintiff that damages should only be given to compensate the Plaintiff and not to punish the defendant: ***Thompson v Commissioner of Police of the Metropolis, Hsu v Same [1998] QB 498.***

66. As it relates to the award of damages, Counsel for the Defendants further relied on **Thompson supra** and in particular, referred to the dicta below:

"(2)As the law stands at present compensatory damages are of two types. (a) Ordinary damages which we would suggest should be described as basic, and (b) aggravated damages. Aggravated damages can only be awarded where they are claimed by the plaintiff and where there are aggravating features about the defendant's conduct which justify the award of aggravated damages. (We would add that in the rare case where special damages are claimed in respect of some specific pecuniary loss this claim should be explained separately.)"

67. The Defendants asserted that there was nothing peculiar about the Plaintiff's case that warranted an award for aggravated damages and the basic award of compensatory damages would be more than sufficient.

68. Further, Counsel for the Defendants submitted that there was no evidence produced at the trial to suggest that the conduct of the officers were egregious, arbitrary, oppressive or malicious.

69. The Defendants submitted that should the Court consider damages in favour of the Plaintiff, damages at common law is an adequate remedy and concluded that an appropriate sum for basic compensatory damages for the Plaintiff's unlawful arrest and detention would be \$12,000.00.

70. In **Kevin Collie**, Stewart J. at paragraph 91 expressed that :

"There is no formula prescribed to follow when considering the amount to be awarded for the tortious breaches but factors which must be taken into consideration in determining a reasonable amount of damages include the circumstances of the detainment, the length of time and the treatment by officials of the detainee while in the custody of the state. The court must also consider

the fact that the liberty and freedom of movement of this Plaintiff has been infringed by the state executive and he is entitled to damages to vindicate these rights."

71. I refer to **Daran Neely v The Attorney General 2016 CLE/GEN/00623** where the Honourable Chief Justice stated:

"The requirement to take into consideration all of the facts and circumstances of the case means that the circumstances of the plaintiff must be taken into consideration as well. A person "known" to the criminal justice system will usually not be entitled to the same measure of damages as a citizen unaccustomed to such an environment, if unlawfully kept in custody for the same period of time.

72. I considered the case of **Brittney Neymour and Lillyetha Miller v The Attorney General of The Bahamas and The Commissioner of Police 2017 CLE/GEN/00770** where the Plaintiff had graduated from high school and therefore she was a similar in age as the Plaintiff in the instant action.

73. In the instant case, the Plaintiff was a 17 year student and Head Boy at Westminster College. There was no evidence led to suggest that he was as then Winder J, referred in the case in **Daran Neely v The Attorney General of The Bahamas and The Commissioner of Police** "known to the criminal justice system". He was handcuffed and thrown into the back trunk of a black SWAT police jeep in front of his neighbours and then two other individuals were placed in the back of the vehicle with him. He would have spent the night laying on the unclean cement floor during the time of the Covid-19 pandemic and during the time of the BGCSE examinations. After his arrest, he was detained for 17 hours which included overnight. He was never interviewed during this period of detention. His unlawful arrest and detention caused him to miss the sitting of two examinations that day and so mentally distressed that he was unable to sit two additional examinations the day following.

74. I accept that there is no special feature in the facts to justify an award of damages for constitutional relief in addition to an award for common law damages.

75. In the circumstances, I am of the view that the Plaintiff is entitled to compensatory damages for unlawful arrest and false imprisonment in the sum of \$35,000.00 and the amount of \$15,000.00 for exemplary damages.

76. I award the Plaintiff special damages in the sum of \$120.00.

77. I have fixed costs at \$12,000.

Conclusion

78. Accordingly, I make the following awards of damages to the Plaintiff:

(i)	Unlawful arrest and false imprisonment	\$35,000
(ii)	Exemplary damages	\$15,000
(iii)	Cost of BGCSE	<u>\$ 120</u>
		<u>\$50,120</u>

79. Interest is awarded at 3% from the date of the filing of the Writ of Summons to the date of judgment and to accrue thereafter pursuant to the Civil Procedure (Award of Interest) Act.

80. The Defendants shall pay the Plaintiff's fixed costs of \$12,000.

Dated this 13th day of November, A. D., 2023



Camille Darville Gomez