

IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

2022/CLE/gen/FP/00036

B E T W E E N

JASON HANNA

Claimant

AND

THE COMMISSIONER OF POLICE

First Defendant

AND

CHIEF SUPERINTENDENT SHERRY ARMALY

Second Defendant

AND

THE ATTORNEY GENERAL

Third Defendant

Before: The Honourable Madam Justice Constance Delancy

Appearances: Wendell Smith for the Claimant
Dr. David Whymns with Perry McHardy for the Defendants

Hearing date(s): 5th May 2025 and 23rd June 2025

Submissions: 14th May 2026 (Claimant)
28th May 2026 (Defendants)

JUDGMENT

DELANCY, J

[1.] The Claimant brings this action against the Defendants for unlawful arrest, false imprisonment, malicious prosecution, and alleged breaches of his constitutional rights.

Background

[2.] The Claimant is a businessman, the proprietor of Bahamas Maritime Solutions Limited (“BMS”), and a resident of the City of Freeport.

[3.] At 4:45 pm on 1 April 2021, Ms. Niya Walkine (“Ms. Walkine”) attended the Southwestern Police Station (also referred to as the Lucaya Police Station) and informed police officers that she wished to be reunited with her daughter, J. H. (“the minor child”), who was then with her father, the Claimant. Ms. Walkine alleged that the Claimant had breached a court order concerning custody of the minor child, and he allegedly threaten her via WhatsApp voice note (“the voice note”). It appears that the Claimant and Ms. Walkine had a turbulent relationship, providing relevant context to the events preceding the Claimant’s arrest.

[4.] There was a telephone conversation between the Claimant and Chief Superintendent Sherry Armaly (“Chief Supt. Armaly”), during which Chief Supt. Armaly informed the Claimant that Ms. Walkine required him to deliver the minor child to her. The Claimant invited Chief Supt. Armaly to his residence to collect the minor child. At approximately 5:17 p.m., police officers arrived at the Claimant’s residence before his arrival and sought to ascertain whether either the Claimant or minor child was present at the residence.

[5.] At approximately 6:17 p.m., the Claimant’s wife, Mrs. Phylisia Hanna (“Mrs. Hanna”), arrived at the residence and spoke with the police officers. Thereafter, Mrs. Hanna entered the residence for a period. At approximately 6:20 p.m., the minor child left the residence carrying a small bag and was escorted by Chief Supt. Armaly to a police vehicle.

[6.] At approximately 6:21 p.m., the Claimant arrived at the residence, where he encountered Chief Supt. Armaly and several police officers. The situation escalated, and Police Constable 4282 Rashawn Campbell (“PC Campbell”) arrested the Claimant. The Claimant was thereafter transported to the Southwestern Police Station.

[7.] At 10:57 am on 2 April 2021, the Claimant was questioned by Sergeant 3196 Adrienne Williams (“Sgt. Williams”), the investigating officer, concerning an alleged threat contained in the voice note sent by him to Ms. Walkine. The Claimant remained in custody at the Southwestern Police Station, Grand Bahama District until approximately 5:35 p.m. on 2 April 2021, when he was released on police bail.

[8.] The Claimant alleges that, on Friday, 2 April 2021, Sgt. Williams, acting under the direction of Chief Supt. Armaly, maliciously and without reasonable and probable cause charged him with threats of death, contrary to Section 418 of the Penal Code, Chapter 84.

Issues

[9.] The Court must determine:

- (i) Whether the Claimant's arrest was unlawful and, if so, the relief or damages to which the Claimant is entitled.
- (ii) Whether the Claimant's detention and imprisonment at the police station were unlawful and, if so, the relief or damages to which the Claimant is entitled.
- (iii) Whether the Defendants instituted criminal proceedings against the Claimant maliciously and without reasonable and probable cause, rendering them liable for malicious prosecution.
- (iv) Whether the Defendants infringed the Claimant's constitutional rights and, if so, the appropriate constitutional relief, including damages, declarations, or other redress.

Submissions

The Claimant

[10.] The Counsel for the Claimant contends that, on Thursday, 1 April 2021, the Claimant was arrested by police officers acting under the command of Chief Supt. Armaly. Counsel submits that the evidence establishes that the arrest was unlawful and that he was consequently falsely imprisoned and maliciously prosecuted by the Defendants. Counsel contends that the Claimant is entitled to the damages pleaded.

[11.] Counsel submits that PC Campbell ought not to be regarded as a credible witness, having regard to his demeanor while giving evidence. Counsel notes that PC Campbell admitted during the Magistrate's Court proceedings that he approached and arrested the Claimant after receiving instructions from Chief Supt. Armaly (see page 5 of the Magistrate's Court ruling). The voice note said to have precipitated the arrest was not produced at the criminal trial and relied upon by the Defendants in these proceedings. Counsel further submits that there is no evidence that PC Campbell listened to the voice note or that he spoke with Ms. Walkine before effecting the arrest.

[12.] Counsel for the Claimant invites the Court to find that the arrest was unlawful and that, as a necessary consequence, he was falsely imprisoned. In support, he relies upon **Gilford Lloyd v Chief Superintendent Cunningham** [2017] 2 BHS J. No. 76.

[13.] Counsel submits that Sgt. Williams, in her capacity as investigating officer, acted without any reasonable basis. During cross-examination, Sgt. Williams admitted that there was no supporting evidence that she had listened to the voice note. She further accepted that there was no evidence that the Claimant used the word "kill" in relation to Ms. Walkine.

[14.] Counsel relies upon the letter from Ms. Patricia Rolle (“Ms. Rolle”) of the Elnet Maritime Agency Limited (“Elnet”), which, he submits, was established at trial to provide a breakdown of the revenue lost by the Claimant. Counsel contends that he is entitled to recover damages flowing from the Defendants’ unlawful conduct.

[15.] Counsel for the Claimant submits that an award exceeding \$400,000.00 is warranted in respect of the unlawful arrest, false imprisonment, and malicious prosecution, having regard to the alleged loss of reputation and loss of earnings, as set out at paragraphs 37–40 of his written closing submissions. He further seeks exemplary damages in respect of the alleged constitutional breaches.

The Defendants

[16.] Counsel for the Defendants submit that the Claimant has failed to establish, on a balance of probabilities, that his arrest was unlawful; that his detention for the ensuing day was unlawful; that he was the subject of a malicious prosecution; and that his rights under Articles 19(1)(c) and (d) of the Constitution were breached.

[17.] Counsel further submits that the Claimant has not established an entitlement to the general, special, or exemplary damages pleaded. Counsel contends that the Claimant was lawfully arrested at his residence, having first been cautioned and informed that he was being arrested in connection with the offence of threats of death.

[18.] Counsel relies upon the voice note containing threats of death which, they submit, the Claimant does not dispute having sent to Ms. Walkine. Counsel further contends that the Claimant was an unreliable witness whose evidence ought to be approached with considerable caution.

[19.] Counsel submits that the Claimant is not entitled to recover alleged loss earnings arising from Elnet. The alleged loss concerns an anticipated subcontracting arrangement between Elnet and the Claimant’s company, BMS. Counsel contends that the Claimant has not proven that the arrangement would have proceeded or that the alleged loss was caused by the acts of the Defendants. Counsel further submits that the Claimant failed to take reasonable steps to mitigate any loss arising from the alleged breach of the subcontract with Elnet.

[20.] Counsel for the Defendants maintain that, on 1 April 2021, the Claimant made threats of death against Ms. Walkine, causing her to fear for her life and to make a complaint to the police. Counsel submits that the complaint prompted a thorough investigation, which resulted in the Claimant’s arrest and charge before the Magistrate’s Court.

Evidence

[21.] In determining the facts in this matter, the Court considered the witnesses’ testimony, documentary evidence, and video recordings adduced by the parties. The Court also assessed the

weight to be attributed to the evidence in its entirety, including the respective cases advanced by both parties.

[22.] As this is a civil action, the applicable standard of proof is the balance of probabilities. In applying that standard, the Court considered the reliability and credibility of the witnesses, together with the consistency of their accounts, and the extent to which their evidence is supported or contradicted by the contemporaneous documentary and video evidence.

The Claimant's Evidence

Jason Hanna

[23.] The Claimant, Jason Hanna, gave oral evidence which is summarised below.

[24.] The Claimant stated that he was released from police custody late in the evening of 2 April 2021. He testified that he and his wife owned BMS, which used the QuickBooks accounting system but did not maintain a separate accounting department. He described BMS's corporate structure and identified its principal officers. He further stated that none of BMS's employees were at work on the day of his arrest.

[25.] The Claimant testified that his co-parenting and custody arrangements with Ms. Walkine were regulated by an order of the Court. He described his relationship with Ms. Walkine as toxic. Although he alleged that Ms. Walkine had previously acted against him and his wife, he said that he had not made a criminal complaint, principally because she is the minor child's mother.

[26.] In relation to the events leading to his arrest, the Claimant stated that police officers came to his residence on a prior occasion carrying what he described as machine guns. He contended that, acting upon Chief Supt. Armaly's directions, the officers required him to surrender the minor child to Ms. Walkine. He testified that he thereafter sent Ms. Walkine the voice note and received a telephone call from Chief Supt. Armaly. The Claimant maintained that the voice note did not contain a threat of death. His evidence was that it conveyed that the relationship between himself and Ms. Walkine had irretrievably broken down.

[27.] The Claimant further stated that none of the police officers present informed him of the reason for his arrest. He testified that he was ultimately acquitted of the charge in the Magistrates' Court because, in his view, the prosecution failed to adduce sufficient evidence.

[28.] While in custody, the Claimant said that Elnet attempted to contact both him and BMS. He maintained that BMS conducted business with Elnet pursuant to an oral agreement, rather than a written agreement, and that BMS had a subcontracting arrangement with Elnet. The Claimant also testified that he was provided with a letter dated 18th May 2023.

[29.] The Court found the Claimant to be a credible witness. His evidence was coherent and consistent with the central features of his case. The Court nevertheless does not regard his recollection of the precise sequence of events during the altercation between him and the police officers on the day of his arrest as completely reliable. The Court took account of the distress he was likely to have experienced when he was arrested at his residence in the presence of his wife and child, as well as the considerable interval between the incident and the date upon which he gave evidence. This qualification does not displace the Court's acceptance of his evidence on the material matters identified above.

Patricia Rolle

[30.] Ms. Rolle gave oral evidence. She stated that she had been employed by Elnet for approximately 15 years and described the nature of her duties within the company. Ms. Rolle confirmed that Elnet had conducted business with the Claimant since 2018 pursuant to a verbal agreement. She also described aspects of Elnet's ship-launching operations.

[31.] Ms. Rolle further confirmed that, on 2nd April 2021, she sent an email to Mrs. Hanna, the Claimant's wife, enquiring as to the Claimant's whereabouts. That evidence is consistent with the Claimant's account that Elnet attempted to contact him, or BMS, while he was in police custody. The Court found Ms. Rolle to be a credible and reliable witness. Her evidence was clear, measured and confined to matters within her personal knowledge. The Court accepts her evidence.

The Video Recordings

[32.] The Court viewed the video footage from exterior cameras at the Claimant's residence, contained in the Agreed Bundles of Documents. The footage is not accompanied by audio nonetheless the Court found the same to be instructive.

[33.] The footage from the Claimant's driveway (Camera 01) on Thursday, 1 April 2021, records the following: at time stamp 16:17:17, two vehicles arrived at the residence; first, white marked police patrol vehicle occupied by Sargent 2877 Saunders ("Sgt. Saunders") and Reserve Corporal 1097 Glenville Johnson ("R/Cpl. Johnson"); and secondly, a large red-and-black golf cart occupied by Chief Supt. Armaly, Inspector Moncur ("Insp. Moncur"), PC Campbell and Police Constable 4272 Sturup ("PC Sturup"). Sgt. Saunders appeared to be wearing a protective vest and a holstered firearm. Insp. Moncur, PC Campbell and PC Sturup also appeared to be wearing protective vests and holstered firearms.

[34.] At time stamp 17:11:31, a large white vehicle briefly entered the frame on the road in front of the residence. Mrs. Hanna thereafter appeared and walked towards the residence.

[35.] At time stamp 17:20:11, the minor child, followed by Chief Supt. Armaly, appeared walking along the driveway towards the marked patrol vehicle. Their movement was partly

obscured by a black truck parked on the driveway. The rear door of the patrol vehicle was opened and the minor child was placed inside. Sgt. Saunders and R/Cpl. Johnson then entered the vehicle, which reversed from the driveway, crossed the road, and stopped. Chief Supt. Armaly, Insp. Moncur, PC Campbell and PC Sturup entered the golf cart and drove briefly out of frame. The golf cart then returned and was parked on the road in the vicinity of the marked patrol vehicle.

[36.] At time stamp 17:21:24, a white Range Rover entered the frame and parked on the driveway, parallel to the black truck. The Claimant emerged from the Range Rover and walked behind the black truck. He was approached by Insp. Moncur and Chief Supt. Armaly, followed by Sgt. Saunders, PC Campbell and PC Sturup. The Claimant appeared to gesture with his hands, after which Insp. Moncur appeared to push him in the chest.

[37.] The Claimant then walked between the Range Rover and the black truck in the direction of the residence. Chief Supt. Armaly, Insp. Moncur and PC Campbell followed. PC Campbell and Insp. Moncur stopped the Claimant and placed their hands on his upper arms. The Claimant was thereafter escorted to the apron of the driveway, where he was surrounded by Insp. Moncur, PC Campbell, Sgt. Saunders and PC Sturup. PC Campbell and PC Sturup appeared to handcuff the Claimant with his hands behind his back, while Chief Supt. Armaly held a cellular telephone in their direction.

[38.] Mrs. Hanna then entered the frame, approached the driveway, and interacted with Insp. Moncur, who appeared to gesture towards her with one hand. Sgt. Saunders then searched the Claimant's person and handed certain items to Mrs. Hanna. The Claimant was subsequently placed in the rear seat of the golf cart. Both the golf cart and the marked patrol vehicle thereafter drove out of frame.

[39.] The footage from the front porch (Camera 04) on the same date records the following: at time stamp 16:17:23, Chief Supt. Armaly and Insp. Moncur entered the foreground of the frame, while PC Sturup and Sgt. Saunders appeared in the background. Chief Supt. Armaly appeared to knock on a door, while Insp. Moncur approached a nearby window. Chief Supt. Armaly and Insp. Moncur then appeared to remain on the porch and were joined by PC Sturup and Sgt. Saunders.

[40.] At time stamp 17:11:54, Mrs. Hanna entered the frame and appeared to speak briefly with Chief Supt. Armaly before entering the residence. At time 17:19:41, the minor child exited the residence carrying a small bag and left the frame with Chief Supt. Armaly and Insp. Moncur. At time stamp 17:22:02, a woman clad in blue opened a door, stepped onto the porch, and then re-entered the residence.

The Defendants' Evidence

Chief Superintendent Sherry Armaly

[41.] Chief Supt. Armaly gave oral evidence. She stated that she had served as a police officer for approximately 30 years and that, at the material time, she was on duty at the Southwestern Police Station. She is presently the officer in charge of Police Prosecutions.

[42.] Chief Supt. Armaly testified that she had known Ms. Walkine for approximately 20 years and was familiar with the nature of the relationship between Ms. Walkine and the Claimant. She further stated that she is the godmother of Ms. Walkine's eldest child. Chief Supt. Armaly accepted that she had no definitive knowledge of the time at which Ms. Walkine attended the police station or the time at which Ms. Walkine received the voice note alleged to have been sent by the Claimant. Her evidence was that Ms. Walkine did not make a criminal complaint against the Claimant until 1st April 2021. She was also unable to recall whether Ms. Walkine showed her an order of the Court concerning custody of the minor child.

[43.] Chief Supt. Armaly stated that, at approximately 5:00 p.m. on the day of the arrest, she and the Claimant agreed to meet at his residence. Before attending there, she did not tell the Claimant that Ms. Walkine had made a complaint against him. She and other police officers attended the residence and waited for nearly one hour for the Claimant to arrive. When Mrs. Hanna arrived, Chief Supt. Armaly told her that she had come to collect the minor child on Ms. Walkine's behalf. Ms. Walkine later arrived at the residence separately in a police vehicle.

[44.] According to Chief Supt. Armaly, the Claimant arrived at the residence in a white jeep, which later departed. She stated that both the Claimant and his wife directed expletives towards her. The Claimant was not, however, charged with disorderly behaviour. Chief Supt. Armaly testified that PC Campbell cautioned and arrested the Claimant in respect of Ms. Walkine's complaint of threats of death. She denied directing PC Campbell to arrest the Claimant or instructing him as to the manner in which he should act. She also denied that PC Campbell had been untruthful when he gave evidence in the Magistrates' Court that she had instructed him to arrest the Claimant.

[45.] Chief Supt. Armaly further stated that there was no means of confirming whether Police Officer Bowe (who made entries in the Case Diary) had received the voice note from Ms. Walkine when Ms. Walkine made her complaint at the police station. She said that the Claimant was not charged with an indictable offence. She also denied that any officer who attended the Claimant's residence was armed with a machine gun.

[46.] Chief Supt. Armaly's evidence demonstrates an insufficient appreciation of the potential conflict arising from her personal relationship with Ms. Walkine. While the Court generally accepts

her evidence, it has some reservations about her account of the complaint, the attendance at Claimant's residence, and the circumstances leading to the Claimant's arrest.

Police Constable 4282 Rashawn Campbell

[47.] PC Campbell gave oral evidence. At the time of the events in question, he had served in the Police Force for approximately five years and had been attached to the Southwestern Division for three years. It is common ground that he was the officer who arrested the Claimant.

[48.] PC Campbell testified that, while at the police station, he heard Ms. Walkine's initial complaint that the Claimant had taken their child. He said that Ms. Walkine subsequently produced a voice note in which the Claimant allegedly threatened her. He maintained that he was in close proximity to Ms. Walkine when she made the complaint. He also stated that Ms. Walkine had a court order in her possession when she attended the station.

[49.] PC Campbell accepted that he prepared a police report in April 2021 in relation to this incident. That report does not state that he heard the Voice Note at the police station before the officers proceeded to the Claimant's residence. Nor does the Case Diary record that he heard it. Although he initially prepared the report as an account of the incident, he stated in his evidence that he no longer stood by its contents.

[50.] PC Campbell denied that Chief Supt. Armaly instructed him to arrest the Claimant. He also stated that the Claimant was not charged with disorderly conduct or with the use of obscene language. When questioned about the related Magistrates' Court proceedings, however, PC Campbell said that he could not recall whether he had given evidence in those proceedings.

[51.] The Court found PC Campbell's evidence to be of limited assistance. The Court accepts that he was the arresting officer and that he attended the police station and the Claimant's residence. The Court does not, however, regard his evidence as reliable on two matters of central importance: whether he had previously given evidence in the Magistrates' Court proceedings and whether he heard the voice note before the officers went to the Claimant's residence. Neither matter was recorded in the Case Diary or in his witness statement, despite its obvious relevance to the information available to him before the arrest.

[52.] The Court also found PC Campbell evasive when asked whether he independently made the decision to arrest the Claimant or acted upon Chief Supt. Armaly's instruction. His evidence was at times confused and could not readily be reconciled with his April 2021 police report, which he no longer adopted. The Court does not infer that his confusion was deliberate or calculated to mislead the Court. Nonetheless, the omissions, inconsistencies and evasiveness materially reduce the weight that can be attached to his account. The Court therefore does not accept PC Campbell as a reliable witness on the circumstances in which the decision to arrest was made, or on the

information upon which he acted before arresting the Claimant. His evidence on those matters must be approached with considerable caution.

Reserve Corporal 1047 Glenville Johnson

[53.] R/Cpl. Johnson gave oral evidence. He identified his rank, occupation and station at the time of the material events. He stated that he was informed of Ms. Walkine's complaint on 1 April 2021. According to his evidence, Ms. Walkine alleged both that the Claimant had threatened her and that he was improperly retaining their child, for whom she sought police assistance.

[54.] R/Cpl. Johnson stated that he was not shown the court order which Ms. Walkine alleged the Claimant had breached. He prepared a police report concerning the incident. He confirmed that the Claimant was not charged with disorderly conduct or obscene conduct arising from the incident. He further testified that, before his arrest, the Claimant handed the minor child over to Ms. Walkine in the presence of the police officers which is contradicted by the video footage.

[55.] R/Cpl. Johnson stated that he did not hear the voice note before he and the other officers left the police station to attend the Claimant's residence. He also stated that he did not hear Mrs. Hanna use obscene language towards the officers during the incident. Finally, he denied having been instructed by Chief Supt. Armaly to transport Ms. Walkine to the Claimant's residence.

[56.] The Court found R/Cpl. Johnson's evidence to be clear and generally helpful. There was, however, some uncertainty in his recollection of the sequence in which Ms. Walkine made her complaints, namely whether the complaint concerning the custody of minor child preceded the allegation that the Claimant had threatened her. That uncertainty is material because R/Cpl. Johnson was present at the police station when Ms. Walkine made the complaints.

[57.] The Court also notes R/Cpl. Johnson's evidence as to the police practice of attending to confront a suspect following a complaint of threats of death while the complainant was present. Nevertheless, his oral evidence was generally clear, measured and consistent on the material matters within his knowledge. The Court found him to be a credible witness and accept his evidence, subject to the qualification concerning his recollection of the order in which Ms. Walkine's complaints were made and transfer of the minor child at the Claimant's residence.

Sergeant 3196 Adrienne Williams

[58.] Sgt. Williams gave oral evidence. At the time of the material events, she had served as a police officer for approximately 17 years and was the investigating officer assigned to the complaint against the Claimant. She prepared the Record of Interview dated 2 April 2021. Although she could not recall whether the Claimant informed her of his occupation during that interview, she accepted that he explained that the voice note was not intended as a threat and sought to provide its meaning and context.

[59.] Sgt. Williams stated that she had listened to the voice note before the interview commenced. There is, however, no corresponding entry in the Case Diary and no reference in her witness statement to confirm that she had done so. Apart from her oral assertion, there is no documentary record corroborating that she was in possession of, or had listened to, the voice note before she charged the Claimant.

[60.] Sgt. Williams testified that she submitted a report to the Police Prosecutions Unit in which she characterized the voice note as threatening. This was notwithstanding that the Voice Note itself did not contain express words of violence against Ms. Walkine. She did not arrange or conduct a confrontation between the Claimant and Ms. Walkine, and she did not interview Ms. Walkine in the course of her investigation.

[61.] Sgt. Williams accepted that, at the time of her investigation, she was not in a position to determine whether the Claimant had breached the order of the Court concerning custody of the minor child. She made no further inquiries into the Claimant's allegation that Ms. Walkine had attempted to strike him with her vehicle. She stated that she obtained information from PC Campbell, rather than from Chief Supt. Armaly, in conducting her investigation. She also accepted that an investigating officer is required to consider the totality of the circumstances in determining whether there is sufficient evidence to charge an individual.

[62.] The Case Diary contains no entry recording that PC Campbell, the arresting officer, had heard the voice note before he arrested the Claimant. This was a matter of which Sgt. Williams was aware. It bears directly upon the information said to have been available to PC Campbell before the arrest and, more broadly, upon whether the investigation adequately tested the foundation for both the arrest and the charge.

[63.] The differences between Sgt. Williams's witness statement and her oral evidence are of considerable assistance in resolving the central issues in this matter, particularly whether a proper, fair and sufficiently balanced investigation was undertaken before the Claimant was charged.

[64.] In the Court's assessment, the investigation was deficient. Sgt. Williams did not interview Ms. Walkine, the complainant; did not investigate material matters raised by the Claimant; and did not obtain or record sufficient evidence as to the circumstances in which the voice note was received, heard, assessed and relied upon. Nor did she make adequate inquiries concerning the alleged breach of the custody order, notwithstanding that issue formed part of the factual background to the complaint. These were not peripheral matters. They were obvious and material lines of enquiry bearing on whether there was a proper basis to charge the Claimant.

[65.] Nevertheless, the Court found Sgt. Williams to be a credible witness. Her evidence was not, however, reliable on a number of material aspects of the investigation which she led, including

whether she listened to the voice note before interviewing and charging the Claimant, and the extent to which the available evidence was properly tested. Her evidence on those matters must therefore be treated with caution.

Discussion

Issue (i) Whether the Claimant's arrest was unlawful and, if so, the relief or damages to which the Claimant is entitled.

[66.] Counsel for the Claimant submits that the Claimant was unlawfully arrested having being handcuffed and the arresting officer failed to inform him of the reason for the arrest. The Claimant testified that he was not notified of the reason for his arrest until the following morning during the interview with Sgt. Williams. Counsel for the Defendants invites the Court to accept the evidence of their witnesses. Counsel for the Defendant submits that the evidence is that Chief Supt. Armaly, the Second Defendant, along with other officers were acting on a complaint of threats of death made against the Claimant.

[67.] Part V of the **Police Force Act** 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; ...

[Emphasis added]

[68.] Section 104(1) of the **Penal Code** 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.

[Emphasis added]

[69.] Section 31 of the Police Act codified the common law powers of the to arrest an individual without a warrant **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]

[70.] Counsel for the Claimant submits that at the time of the Claimant’s arrest PC Campbell had not formed a genuine suspicion was borne out in his witness statement and testimony. Counsel then posits that PC Campbell’s evidence should be rejected as contradictory and unreliable. That PC Campbell would have the Court believe that he did not testify in the Magistrate’s Court proceedings on the basis that the name of the witness “Renaldo Campbell” is not him but conceded that his police number is 4282. PC Campbell would have the Court reject the Magistrate’s Court testimony attributed to him and the contents of his 2021 Report.

[71.] 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]

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

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.**

[Emphasis added]

[73.] In **Lashawn Cooper v the Commissioner of Police and others** 2018/CLE/gen/01309 *Charles, Snr. J.* (as she then was) emphasized the importance of the right to be informed of the reason for arrest at paras. [51] to [53] thereof:

(51) In the landmark case of **Christie v Leachinsky** [1947] A.C. 573, H.L. (affirming the judgment of the Court of Appeal) it was held that “*it is a condition of lawful arrest that the party arrested should know on what charge or on suspicion of what crime he is arrested, and, therefore, just as a private person arresting on suspicion must acquaint the party with the cause of his arrest, so must a policeman arresting without warrant on suspicion state at the time [emphasis added] (unless the party is already acquainted with it), on what charge the arrest is being made or at least inform him of the facts which are said to constitute a crime on his part. Even if circumstances exist which may excuse this, it is still his duty to give the information at the first reasonable opportunity after the arrest. The exigency of the situation which justifies or demands arrest without a warrant cannot justify or demand either a refusal to state the reason of arrest or a mis-statement of the reason.*”

(52) Unquestionably, the law attaches superlative importance to the liberty of an individual. Indeed, that liberty is enshrined in the Constitution of this Commonwealth. It is the constitutional right of every citizen to know why he is being detained so that he will be in a position to know whether he is entitled to resist the arrest.

(53) In a classic passage in **Christie v Leachinsky** at page 587, after referring to a panoply of cases, *Viscount Simon* summarised the position in a series of propositions as follows:

“(1) If a policeman arrests without warrant upon reasonable suspicion of felony, or of other crime of a sort which does not require a warrant, he must in ordinary circumstances inform the person arrested of the true ground of arrest. He is not entitled to keep the reason to himself

or to give a reason which is not the true reason. In other words, a citizen is entitled to know on what charge or on suspicion of what crime he is seized. (2) If the citizen is not so informed but is nevertheless seized, the policeman, apart from certain exceptions, is liable for false imprisonment. (3) The requirement that the person arrested should be informed of the reason why he is seized naturally does not exist if the circumstances are such that he must know the general nature of the alleged offence for which he is detained. (4) The requirement that he should be so informed does not mean that technical or precise language need be used. The matter is a matter of substance, and turns on the elementary proposition that in this country a person is, *prima facie*, entitled to his freedom and is only required to submit to restraints on his freedom if he knows in substance the reason why it is claimed that this restraint should be imposed. (5) The person arrested cannot complain that he has not been supplied with the above information as and when he should be, if he himself produces the situation which makes it practically impossible to inform him, e.g. by immediate counter-attack or by running away. There may well be other exceptions to the general rule in addition to those I have indicated and the above propositions are not intended to constitute a formal or complete code, but to indicate the general principles of our law on a very important matter... If a policeman who entertained a reasonable suspicion that X has committed a felony were at liberty to arrest him and march him off to a police station without giving him any explanation of why he was doing this, the *prima facie* right of personal liberty would be greatly infringed. No one, I think, would approve a situation in which when the person arrested asked for a reason, the policeman replied "that has nothing to do with you, come along with me".

[Emphasis added]

[74.] The Court finds that PC Campbell did not form a suspicion, based upon reasonable grounds, that the Claimant had committed the offence of threatening Ms. Walkine with death before arresting him. PC Campbell produced no evidence that he had listened to the voice note before arresting the Claimant at his residence. Sgt. Williams accepted that the Case Diary would not establish that PC Campbell had listened to the voice note.

[75.] PC Campbell's position is further undermined by his departure from the account he gave during the Magistrates' Court proceedings and in his 2021 police report, namely, that Chief Supt. Armaly had instructed him to arrest the Claimant. The Claimant's evidence is that Chief Supt. Armaly directed PC Campbell to arrest him. Although Chief Supt. Armaly maintained, notwithstanding PC Campbell's Magistrates' Court testimony, that she had not given such an

instruction, the conflicting evidence does not assist PC Campbell in establishing that he independently formed the requisite suspicion on reasonable grounds.

[76.] R/Cpl. Johnson, who was also present at the scene, stated that he had not listened to the voice note before leaving the police station. Chief Supt. Armaly was likewise unable to confirm that every officer who travelled from the station to the Claimant's residence had listened to it.

[77.] The video footage from cameras at the Claimant's residence, although without audio, depicts a rapid escalation of events. After the Claimant exited his vehicle and encountered the officers on the property, he was first physically touched by Insp. Moncur. There was then an exchange between the Claimant and the officers near the vehicles, after which PC Campbell arrested him. Even if PC Campbell had established that he listened to the voice note at the police station, Sgt. Williams' evidence was that the voice note itself did not contain words that would indicate physical harm or destruction. The Claimant has consistently maintained that the voice note was not intended as a threat to Ms. Walkine of such seriousness as to constitute the offence with which he was charged. In support of the Claimant's position, it is the Court's view that PC Campbell did not have an honest suspicion based on reasonable grounds for arresting the Claimant.

[78.] The Claimant was only informed of the reason for his arrest during his investigatory interview with Sgt. Williams. The Claimant's evidence, which the Court accepts, is that PC Campbell arrested him and that the other officers then hauled him to their golf cart to transport him to the police station. The Court therefore finds that PC Campbell did not inform the Claimant of the reason for his arrest.

[79.] In those circumstances, and having regard to the failure to inform the Claimant of the grounds for his arrest, the Claimant's arrest was unlawful.

Issue (ii) Whether the Claimant's detention and imprisonment at the police station were unlawful and, if so, the relief or damages to which the Claimant is entitled.

[80.] Counsel for the Claimant submits that, because PC Campbell's arrest of the Claimant was unlawful, the Defendants falsely imprisoned him. The Claimant testified that he was not told the reason for his arrest until the following morning, when he was interviewed by Sgt. Williams. Counsel further submits that the Claimant was taken from his residence to the Police Station and detained overnight.

[81.] Counsel for the Defendants submits that the Claimant's arrest was lawful in the circumstances and that the claim for false imprisonment has not been proved. Counsel further argues that the Claimant was lawfully detained pending the ensuing investigation.

[82.] In the case of **Gilford Lloyd v Chief Superintendent Cunnigham** [2017] 2 BHS J. No. 76 *Charles J.* (as she then was) held that an unlawful arrest precedes false imprisonment beginning at para. 37 to 40 thereof:

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]

[83.] The Claimant was arrested at approximately 6:00 p.m. on 1 April 2021 and taken to the Southwestern Police Station, Grand Bahama District. He remained in police custody until

approximately 5:35 p.m. on 2 April 2021, when he was released. His detention was therefore for a period of almost 24 hours.

[84.] The Court having found that the Claimant was unlawfully arrested, there was no lawful basis for his detention for nearly one full day.

Issue (iii) Whether the Defendants instituted criminal proceedings against the Claimant maliciously and without reasonable and probable cause, rendering them liable for malicious prosecution.

[85.] Counsel for the Claimant submits that the Claimant was maliciously prosecuted by the Defendants. Counsel contends that there was no reasonable and probable cause for the Defendants to charge the Claimant with the offence of threats of death. Counsel invites the Court to consider the dictum of in *Wooding, CJ in Irish v Barry* (1965) 8 WIR 177 that “*the self-same circumstances showing that an arrest was without reasonable and probable cause may be sufficient to establish malice*”.

[86.] Counsel for the Claimant submits that there was a high level of high-handedness and abuse of power on the part of the Chief Supt. Armaly and police officers under her supervision against the Claimant. The conduct of the police officers goes against the procedures that can be expected by ordinary citizens from the members of the Police. Counsel for the Claimant also submits that Chief Supt. Armaly having admitted to being the godmother of Ms. Walkine’s the eldest child was instrumental in the Claimant’s arrest. That the Magistrate in his ruling observed that: “*officers are to be mindful so, so as to avoid conflicts of interest, as they carry their duties, as their roles as police officers during investigations should be seen as fair and unbiased*”. Chief Supt. Armaly’s supervisory role on 1st April 2021 resulted in the Claimant’s arrest and subsequent malicious prosecution.

[87.] Considering the dictum of *Stewart, J. in Rod Bethel v Commissioner of Police and another* 2017/CLE/gen/00825 in which she adopted the criteria for establishing malicious prosecution set out by the Privy Council at para.[109]:

The Privy Council in **Trevor Williamson (Appellant) v The Attorney General of Trinidad and Tobago (Respondent)** [2014] UKPC 29 set out the criteria for making out a claim for malicious prosecution,

11. In order **to make out a claim for malicious prosecution, it must be shown, among other things, that the prosecutor lacked reasonable and probable cause for the prosecution and that he was actuated by malice.** These particular elements constitute significant challenge by way of proof. **It has to be shown that there was no reasonable or probable cause for the launch of the proceedings.** This **requires the proof of a negative proposition, normally among the most difficult of evidential requirements.** Secondly, **malice must be established.** A good working

definition of what is required for proof of malice in the criminal context is to be found in **A v NSW** [2007] HCA10; 230 CLR 500, at para 91:

Page 4 “**What is clear is that, to constitute malice, the dominant purpose of the prosecutor must be a purpose other than the proper invocation of the criminal law — an ‘illegitimate or oblique motive’. That improper purpose must be the sole or dominant purpose actuating the prosecutor**”

12. An **improper and wrongful motive lies at the heart of the tort, therefore It must be the driving force behind the prosecution**. In other words, it has to be shown that **the prosecutor's motives is for a purpose other than bringing a person to justice**: **Stevens v Midland Counties Railway Company** (1854) 10 Exch 352, 356 per *Alderson B* and **Gibbs v Rea** [1998] AC 786, 797D. **The wrongful motive involves an intention to manipulate or abuse the legal system** **Crawford Adjusters Ltd (Cayman) v Sagicor General Insurance (Cayman) Ltd** [2013] UKPC 17, [2014] AC 366 at para 101, **Gregory v Portsmouth City Council** [2000] 1 AC; 426C; **Proulx v Quebec** [2001] 3 SCR 9. Proving malice is a “high hurdle” for the claimant to pass: **Crawford Adjusters** para 72a per *Lord Wilson*.

13. **Malice can be inferred from a lack of reasonable and probable cause — Brown v Hawkes** [1891] 2 QB 718, 723. **But a finding of malice is always dependent on the facts of the individual case. It is for the tribunal of fact to make the finding according to its assessment of the evidence.**

14. On the question of reasonable and probable cause, or the lack of it, a prosecutor must have **‘an honest belief in the guilt of the accused based upon a full conviction, founded upon reasonable grounds, of the existence of a state of circumstances, which, assuming them to be true, would reasonably lead any ordinarily prudent and cautious man, placed in the position of the accuser, to the conclusion that the person charged was probably guilty of the crime imputed’**: **Hicks v Faulkner** (1878) 8 QBD 167, 171 per *Hawkins J*, approved by the House of Lords in **Herniman v Smith** [1938] AC 305, 316 per *Lord Atkin*. The honest belief required of the prosecutor is a belief not that the accused is guilty as a matter of certainty, but that there is a proper case to lay before the court: **Glinski v McIver** [1962] AC 726, 758 per *Lord Denning*.”

[Emphasis added]

[88.] The Claimant must establish the essential elements of malicious prosecution: first, that the Defendants instituted or continued criminal proceedings against him; secondly, that those proceedings terminated in his favour; thirdly, that the proceedings were instituted or continued without reasonable and probable cause; and, fourthly, that they were actuated by malice. The

adequacy and fairness of the investigation are relevant considerations in determining whether reasonable and probable cause existed and whether malice has been established.

[89.] On the totality of the evidence, it is established that the Claimant was charged with making threats of death to Ms. Walkine, contrary to Section 418 of the Penal Code. It is also established that the criminal proceedings terminated in the Claimant's favour when he was acquitted by the Magistrates' Court at the conclusion of his trial.

[90.] The Court further finds, on a balance of probabilities, that Sgt. Williams instituted and continued the prosecution without reasonable and probable cause. As the charging and investigating officer, Sgt. Williams did not possess an honest belief, founded upon reasonable grounds, that the Claimant was guilty of the offence charged. The evidence does not satisfactorily establish that Sgt. Williams had listened to the voice note before interviewing the Claimant. Sgt. Williams maintained that, when she commenced her investigation, she received information from PC Campbell rather than from Chief Supt. Armaly. She was also aware that the Case Diary did not record whether PC Campbell himself had listened to the voice note before arresting the Claimant.

[91.] The Court also finds that the Claimant has established elements of malice. Sgt. Williams commenced her investigation in circumstances where Chief Supt. Armaly had, on the preceding day, spearheaded the operation which resulted in the Claimant's arrest and detention. Sgt. Williams was Chief Supt. Armaly's subordinate at the material time.

[92.] Chief Supt. Armaly admitted that she was a close friend of Ms. Walkine, the complainant. She was unable, however, to say when Ms. Walkine received the voice note. Sgt. Williams would have been aware that Chief Supt. Armaly knew both Ms. Walkine and the Claimant personally and was particularly close to Ms. Walkine. It is unnecessary to speculate as to Chief Supt. Armaly's ultimate objective, if any. The issue is whether the prosecution was pursued for the proper purpose of enforcing the criminal law on the basis of a proper and reasonable assessment of the available evidence, on the evidence, it was not.

[93.] The deficiencies in Sgt. Williams' investigation reinforce that conclusion. She did not interview Ms. Walkine, despite Ms. Walkine being the complainant and the person best placed to address material matters, including when she received the voice note and the surrounding circumstances in which it was sent. Sgt. Williams also made no meaningful attempt to ascertain the history and nature of the relationship between the Claimant and Ms. Walkine. Those matters were plainly relevant to whether the voice note amounted to a threat of death and whether there was a proper basis to prosecute the Claimant.

[94.] Accordingly, the Court finds that the Claimant was the subject of a malicious prosecution. When the evidence is considered as a whole, the prosecution before the Magistrates' Court was

instituted and continued without reasonable and probable cause, and malice was a material influence in that decision.

Issue (iv) Whether the Defendants infringed the Claimant's constitutional rights and, if so, the appropriate constitutional relief, including damages, declarations, or other redress.

[95.] The Court adopts the dictum of *Winder, CJ* in **Daran Neely v The Attorney General** 2016/CLE/gen/00623

114. The availability of constitutional relief in a case involving false imprisonment is circumscribed by **Article 28 of the Constitution, which contains a proviso that the Supreme Court is not entitled to exercise its original jurisdiction to provide redress for breaches of any of the provisions of Articles 16 to 27 (and therefore Article 19) if satisfied that "adequate means of redress" are or have been available under any other law.**

115. More particularly, where the gravamen of the complaint is that the plaintiff was unlawfully arrested and falsely imprisoned, **there must generally be special circumstances or some factor taking the case out of the norm for constitutional relief to be warranted in addition to an award of common law damages.** In **Antoine Russell v The Attorney General et al.** SCCivApp. No. 186 of 2017, *Crane-Scott JA* said at paragraphs 77 to 79:

77. We turn now to the issue of damages. It by no means follows from our finding that the learned judge erroneously dismissed appellants claims that he is automatically entitled to redress in the form of damages for breach of his Article 19(1) right to personal liberty. This was made very clear in the Privy Council case of **Attorney-General v. Ramanoop** [2005] UKPC 15.

78. Delivering the Board's decision in **Ramanoop**, *Lord Nicholls of Birkenhead* (after alluding at paragraph 23, to the proviso in Article 28 of the Bahamas Constitution which precludes the grant of constitutional redress if adequate means of redress are available) gave the following advice:

"25. 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 that course. As a general rule there must be some feature which, at least arguably, indicates 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. A typical, but by no means exclusive, example of a special feature would be a case where there has been an arbitrary use of state power."

[Emphasis added]

79. 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. While the arrest was unlawful, there was nothing capricious or arbitrary about the circumstances of the appellant's arrest which would make it appropriate to grant him Constitutional relief.** 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. [Emphasis added]

[96.] The decision in **Daran Neely v Attorney General** [2023] 2016/CLE/gen/00623, particularly the dictum of *Winder CJ* at paras. 114–115, is instructive. The Chief Justice made clear that, although unlawful arrest and false imprisonment may form a claim for constitutional redress, an award of constitutional relief is not automatic merely because common-law wrongs have been established. The Court must consider whether the circumstances disclose a constitutional contravention for which ordinary common-law damages would not provide adequate redress. In **Neely, supra.**, *Winder CJ* found that there were no special circumstances warranting constitutional relief beyond the damages available at common law. The decision was subsequently considered in **Jinnah Forde, Reshenda Forde and A.B. (a Minor) v Attorney General and Royal Bahamas Police Force** [2025] BS 2025 SC 278.

[97.] In **Emerson Bethel v Commissioner of Police and Attorney General** [2025] BS 2025 SC 293, *Farquharson J* at para. 101, further identified factors relevant to an award of constitutional damages for unlawful arrest and imprisonment. Those factors include: the circumstances of the case as a whole; the duration of the detention; the treatment of the detainee while in custody; the manner in which the arrest was affected; the location at which the arrest occurred; and the state of the detainee's public reputation at the time of arrest.

[98.] The Court, having reviewed the evidence in its entirety, finds that the Claimant's constitutional rights under Article 19(1)(c) and (d) were infringed and he is entitled to damages. However, the Court does not find the circumstances disclose a constitutional contravention for which ordinary common law damages for unlawful arrest, false imprisonment and malicious prosecution would not provide adequate redress. Therefore, the Claimant is not entitled to aggravated and exemplary damages.

[99.] It is trite law that parties are bound by their pleadings. The Claimant seeks special damages for loss of income arising from services which he alleges he was unable to perform for Elnet because of his detention by the Defendants. In his evidence, the Claimant stated that he was a boat captain and the proprietor of a limited company in which he and his spouse were shareholders. The company was neither joined as a claimant nor otherwise made a party to these proceedings. It is also trite law that a limited company is a separate legal entity from its shareholders. Any loss arising from the company's inability to perform services was therefore a loss suffered by the

company, rather than by the Claimant personally. Accordingly, the Claimant's claim for special damages is not allowed.

Disposition

[100.] The Court hereby declares that the Claimant's legal and constitutional rights have been infringed by his unlawful arrest, malicious prosecution and detention in police custody from 1st April 2021 to 2nd April 2021. Damages to be assessed by a Registrar.

[101.] Costs awarded to the Claimant to be assessed by a Registrar if not agreed.

Dated the 17 day of September 2026

[Original signed and sealed]

Constance Delancy
Justice