

## Letters to the Editor

### Minister Chuck has opened Pandora's box

The Observer



Dear Editor,

I cannot mind my own business.

It is unusual to write about the court, for who wants to play around with such powerful people who can't mix freely and who can't go anywhere freely and who have to be selective in the friends they keep?

However, the Minister of Justice, Hon Delroy Chuck, has opened Pandora's Box, so let us begin. When I hear the minister authoritatively state that judges must deliver prompt judgements, two things come to mind.

One, an old adage my mother used – 'Make haste slowly'; the other, 'the mills of justice grind slowly but they grind exceedingly fine'.

We have confidence in our judicial system. I am not a lawyer, but when I look at a 1,431-page tome on Landlord and Tenant Legislation, interpretation and precedence I think I should caution the minister.

We are told that one Supreme court judge in the United States may have as many as 16 clerks [all lawyers] helping to prepare the judgement that he or she delivers – and these lawyers are the brightest law graduates.

Therefore, let the support staff be in place before we talk about speed of judgements.

Just recently, the National Action Coalition won a major victory on behalf of deportees here, and the pages under review were 368 pages of legal opinions and precedences.

Last week, we saw an example of social psychological warfare, as applied against the Courts. In Westmoreland, one complainant who felt his case had not been tried properly, whether in haste or otherwise, was accused of killing the defendant and ran off, allegedly leaving behind the ominous threat that he was going to kill the judge and the defendant's lawyer. And yes, the *TVJ* movie last weekend was chosen to be *Cape Fear*, where a disgruntled defendant returned to kill the judge and defendant's lawyer. Now, that is a not too subtle message, for what inference will the uneducated criminal draw from such an association?

I could stop there, but I would be remiss if I did not mention the Appleton Estate case where myself and tens of thousands of people, especially in Saint Elizabeth, felt that an aloof, uncaring judge in his Supreme Court chambers had stopped the sugar factory from operating and thrown lots of people out of their jobs and laid waste to their crops.

The Supreme Court had no PR machinery and we were therefore left to our own thinking that all was not right with the Courts, only to have a brilliant lawyer write that the ball is in fact in Wray and Nephew's hands and the judgement given was both wise and sound.

Finally, the justice ministry would have us believe that being a judge requires no special qualification and 'any lawyer can be a judge'. This is base propaganda not normally worthy of comment, for how then would you explain the fact that we all don't trust lawyers – 'there are no lawyers in heaven' – yet we trust our courts?

Let the minister pick a fight with people who can publicly defend themselves – we prefer reasoned judgements. We do not want to undermine the court, for Pandora's Box being opened we may never be able to close it again.

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## Politicians Should Stay Out Of Judicial Matters – Attorneys

The Gleaner

[Anastasia Cunningham](#)



Calling it a dangerous move for politicians to interfere in judicial matters, at least two attorneys are advising Prime Minister Andrew Holness to stay out and allow persons trained in the law to carry out their duties, especially as it relates to the planned amendment to the Bail Act.

On Tuesday, during his contribution to the Budget Debate in Gordon House, Holness outlined a number of measures that the Government intends to implement to address the problem of crime and violence in Jamaica. One such measure is a proposed amendment to the Bail Act "such that persons charged with murder will be ineligible for bail under certain circumstances", Holness said.

Currently, anyone charged with any offence has a constitutional right to bail. However, it is left to the judge's discretion to make that determination.

"It is most unfortunate that the prime minister, who himself is not an attorney, should take on the responsibility of replacing the discretion of judges, who are trained in the law, with his instinct or belief that politicians should set standards for bail," attorney-at-law Linton Gordon told The Gleaner.

"The Bail Act, which is a fairly new bit of legislation, provides a fundamental principle, and it is that the right to bail is a constitutional right, which must be respected and must be honoured." Linton suggested that Holness go through the 2012 Court of Appeal case, Huey Gowdie, which he said set out a very detailed set of principles and guidelines that should govern the approach the court should take in granting bail.

"All the principles in this case were reviewed, analysed, and assessed by the court, so I don't think that any knee-jerk reaction to the crime situation is a solution, and in particular, I do not think that politicians should interfere with processes, procedures, and guidelines that have been set out clearly and easily to follow. Leave it to the discretion of the court, which is better able to assess each person appearing before them and to determine whether the person should be admitted to bail," he said.

## **VIOLATING PEOPLE'S RIGHTS**

Attorney-at-law Peter Champagnie said that while he applauded some of the measures the prime minister announced to deal with crime, he could not support the idea of persons not being eligible for bail because of the category of offence.

"It appears that they are proposing to take away the discretion of the judges completely, and it would violate the charter of rights in our constitution, Section 13 to be exact, which guarantees every citizen their right to liberty. This is a very dangerous move," said Champagnie, who is chairperson of the Criminal Law Practice and Procedure Committee of the Bar Association of Jamaica.

"Every time there is a spike in the crime rate, there is this knee-jerk reaction from the powers that be to implement legislation that does not work. The solution is to give the police and the State greater resources to fight crime. If someone considering committing a criminal offence recognises at the outset that the likelihood of being caught is a real possibility, then that in and of itself would be a major deterrent, but not allowing certain persons to get bail is not the solution." He continued: "I am awaiting the legislation to see what it will be like, but I am very worried with this development. It is a very dangerous path when Parliament seeks to take away completely the discretion of the judge or the judiciary in presiding over matters as it relates to the determination of bail because it does harm to the principle of separation of powers that the judiciary should be independent of the other arms of the State."

Attorney General Marlene Malahoo Forte and Minister of National Security Robert Montague are to provide further details when they make their presentations to the Sectoral Debate.

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## **Chuck Outlines Bold Proposals For Improving Delivery Of Justice**

The Gleaner

Andre Poyser

Minister of Justice Delroy Chuck has outlined an ambitious programme of reform, which he hopes to introduce as a means of speeding up the pace at which justice is delivered to Jamaicans.

Chuck, who delivered the main address at the General Legal Council Law Conference last weekend, was adamant that time lines were needed to determine how long cases should remain in the courts.

"We must put in some guidelines and timelines for the period when cases should be decided. For simple matters in the parish courts, they should be decided in weeks or months, and no case, in

my view, should last more than 18 months in the parish courts. In the same way in the Supreme Court, I think that we should work towards a timeline of two years," he said to applause from the lawyers present at the conference.

### **LENGTHY DELAYS**

Turning his attention to the delivery of judgments, Chuck lamented that far too many of these have not been delivered within six months. Describing as tragic the number of cases awaiting judgments, Chuck said, "I have spoken to the chief justice and she has indicated that it is not for want of moral suasion. There are a few judges who are giving the vast majority of judges a bad image because, to be frank, when you look at the list, the same names appear over and over."

Chuck disclosed that more students from the Norman Manley Law School would be employed as judicial clerks to assist the judges in doing research so that judgments could be delivered more speedily.

"I would hate to think that we would have to pass the law that Guyana passed - that judgement must be delivered in six months or it is judicial misconduct ... . There are some territories [where] you don't get your pay until you deliver your judgment. So if moral suasion does not work, we will have to take some of these steps to ensure that judgments are delivered," he said.

Speaking to the practice of cases not commencing on set trial dates, Chuck has asked judges to be firm with lawyers in this regard.

He also announced that all the courts would be equipped with audiovisual equipment so that cases would be on tape. This, he said, would minimise the practice of judges having to make extensive notes during trials.

Chuck said he was considering a constitutional amendment which would allow retired judges to be returned to the courts to serve as temporary judges.

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# Two Canadians Held With Cocaine At Sangster Airport



The Gleaner

Two Canadian men arrested on drug charges in separate incidents at the Sangster International Airport in St. James on Tuesday, are to appear in court soon.

Fifty-three-year-old Joseph Southhill of Dundas in Ontario, Canada and 52-

year-old Orville Brown of Kingston Road in Toronto, Canada have been charged with possession of, dealing in and attempting to export cocaine.

The police say Southhill was held about 11:50 p.m., when checks made on luggage belonging to passengers scheduled to board a flight destined for Toronto, Canada turned up irregularities. According to the police, a tin labelled as cocoa powder was removed from Southhill's suitcase and opened in his presence.

It was found to contain cocaine weighing approximately one and a half pounds.

Later, officers were again conducting security checks in the departure hall on passengers checking-in to board a flight destined for Toronto.

The police say Brown was searched and four parcels, containing cocaine weighing approximately two and a half pounds found.

According to the police, the illicit drugs have a combined estimated street value of almost \$2 million.

Southhill is scheduled to appear before the Montego Bay Parish Court on Wednesday June 1, while Brown will appear Monday, June 6.

## Student held with cocaine on return trip from Jamaica gets probation

The Observer



NEW YORK, United States (AP) — A Connecticut college student found with 1.3 pounds of cocaine in her luggage on a return trip from Jamaica has been sentenced to probation by a judge who ruled her smuggling conviction alone would include collateral punishments.

"There is a broad range of collateral consequences that serve no useful function other than to further punish criminal defendants after they have completed their court imposed sentences," Senior US District Court District Judge Frederick Block said in a ruling Tuesday.

The judge said sufficient attention has not been paid to those consequences, including restrictions on access to public housing, student loans and the right to vote and to serve on juries in some states. Restrictions on employment in child care services, hospice work, banks, the armed forces and labour unions are among other consequences, he noted.

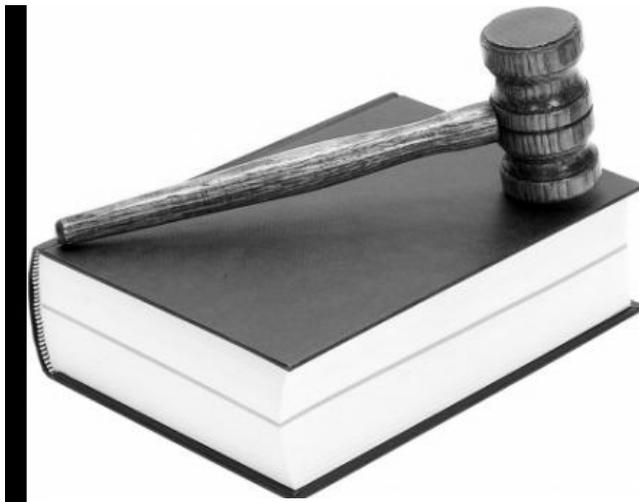
Chevelle Nesbeth was a 20-year-old college student from New Haven when she was arrested last year at John F Kennedy International Airport. The judge noted that, at the behest of a boyfriend, she was given two suitcases by friends who had bought her return airline ticket and was asked to take them to a person upon her arrival to the United States.

A probation report recommended a sentence of two years, followed by three years of supervised

release. The report noted Nesbeth was a first-time offender, is enrolled in college, is employed and "has otherwise lived a law-abiding life and is at a low risk of recidivism".

Nesbeth also received six months of home confinement and 100 hours of community service. Her court-appointed attorney did not respond to a request for comment on Wednesday. Prosecutors declined to comment on the judge's ruling.

## Four Convicted For Lottery Scamming To Be Sentenced June 3



The Gleaner

The four Westmoreland men who on last week pleaded guilty to lottery scamming in the Westmoreland Circuit Court are to be sentenced in June 3.

They are:

1. Steven Ricketts, 33-years- old, construction worker of Williamsfield, Westmoreland.
2. Romeo Campbell, 25-years- old, farmer of Williamsfield, Westmoreland.
3. Onick Clarke, 27-years- old, of Whithorn, Westmoreland.
4. Lourey Rodney, Travoy Taylor and Kenroy Rhoden of Westmoreland addresses.

They all appeared before court on charges of being in possession of identity information following intensive investigations by the Westmoreland Proactive Investigation Unit. Clarke, Campbell and Ricketts were arrested and charged on April 5, 2016 and pleaded guilty on Tuesday, May 17 in Westmoreland Circuit Court.

Rodney was arrested and charged on February 2, 2015 and pleaded guilty on Thursday, May 19. Taylor was arrested and charged on October 22, 2013, while Rhoden was arrested and charged on December 1, 2013.

They both pleaded guilty on Tuesday, May 17.

**The End**