



[2026] JMSC Civ. 74

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

CIVIL DIVISION

CLAIM NO. SU2019CV00413

BETWEEN RAYMOND GEORGE CAMPBELL CLAIMANT
AND THE ATTORNEY GENERAL OF JAMAICA DEFENDANT

IN OPEN COURT

Miss Catherine J. Minto for the Claimant.

Mr. Janoi Pinnock instructed by the Director of State Proceedings for the Defendant.

Heard: April 27, 2026, and June 12, 2026

Tort – False Imprisonment – Whether the delay in bringing the Claimant to court for the offences charged constitute false imprisonment – Malicious Prosecution – Whether the Claimant is entitled to Aggravated or Exemplary Damages.

CARR, J

Introduction

[1] Raymond George Campbell (**the Claimant**) filed a claim form on February 8, 2019, supported by an amended particulars of claim filed on February 20, 2019, seeking to recover damages against The Attorney General of Jamaica (**the Defendant**) for false imprisonment and malicious prosecution. The Claimant averred that he was arrested wrongfully and without reasonable cause for the offences of illegal possession of firearm and ammunition on September 1, 2016. The Defendant has denied the claim.

The Claimant's case

- [2] The Claimant filed a witness statement on June 23, 2025, that stood as his evidence in chief. He outlined that on the day in question he was employed to Adams Security Management Unit and was assigned duties at a new residential development at Innswood Estate in the parish of St. Catherine.
- [3] He was dressed in his uniform that was clearly marked so that he could be identified as a security guard. The gates to the development were open however one of the gates was being manned by the security guards. At about 4:00pm he observed a police vehicle at the gate. One of the police officers asked for the contractor. The Claimant directed them to the other gate. He states that the officer became belligerent and he walked away to get the project manager.
- [4] The officer drove to the other gate, entered the property and exited the vehicle. The police officers searched seven to eight people in the yard including the Claimant. They entered the building and instructed them to remain outside. The police officers did not indicate to them that they were in possession of a search warrant, and no warrant was shown to the Claimant.
- [5] After some time, the police officers returned with a firearm. The Claimant along with the other security guards were taken to the Spanish Town Police Station. The Claimant was charged with the offences of illegal possession of firearm and illegal possession of ammunition. He stated that he remained in custody for two weeks without being offered bail until he was granted bail on September 16, 2016. His case was concluded on May 30, 2017, after the prosecution offered no evidence on the charges. While in custody he incurred legal fees and was unable to work.

Issues

- [6] The issues for determination are as follows:
- I. Whether the Defendant is liable to the Claimant for the tortious act of false imprisonment and/or malicious prosecution.

- II. If the Defendant is found to be liable for either or both tortious acts, is he entitled to damages.
- III. Whether an award for aggravated or exemplary damages ought to be made.

Whether the Defendant is liable to the Claimant for the tortious act of false imprisonment and/or malicious prosecution.

The Law

- [7] The law regarding the tort of false imprisonment is well settled. In the text Clerk & Lindsell on Torts¹ the authors classified false imprisonment as,

...the unlawful imposition of constraint on another's freedom of movement from a particular place. The tort is established on proof of:

(1) the fact of imprisonment; and

(2) absence of lawful authority to justify that imprisonment.

Imprisonment is the complete deprivation of liberty for any time, however short, without lawful cause.

- [8] In the case of **John Crosfield v the Attorney General of Jamaica & Anor**² Morrison JA (Ag.), as he then was, stated,

For the tort of false imprisonment to triumph it must be shown that the Claimant was detained against his will without legal justification. The legal justification may be pursuant to a valid warrant of arrest or whereby statutory powers a police officer is given a power of arrest in circumstances where he honestly and on reasonable grounds believes a crime has been committed.

- [9] For the tort of malicious prosecution, the Claimant has the burden of proving the following:

¹ Clerk & Lindsell on Torts 19th edition at p. 891-892

² CLAIM NO. CL E 219 OF 2001, Judgment delivered on 10th September 2009, page 3

- I. *That the law was set in motion against the claimant on a criminal charge; and*
- II. *That the claimant was acquitted of that criminal charge, or that the same was otherwise determined in his favour; and*
- III. *That the prosecutor set the law in motion, either without reasonable and/or probable cause, or that in having so set the law in motion, the prosecutor was actuated by malice; and*
- IV. *That the claimant suffered damage as a result.*³

Submissions on behalf of the Claimant and the Defendant

[10] Miss Minto argued in her submissions that the Claimant's prosecution and detention was unlawful as the police officers had no reasonable grounds for believing that the Claimant had committed the offences for which he was charged. If the court held otherwise, it was further submitted that even where the initial arrest may have been unlawful an action for false imprisonment may still lie where a person is held in custody for an unreasonable period before being brought before the court.

[11] She submitted that it is the Claimant's evidence that he remained in custody for approximately two weeks before being charged. Until he was charged, he could not have had the opportunity to seek bail. It was not until September 16, 2016, that the Claimant was taken before a court – 15 days after his initial arrest. She further submitted that no evidence was tendered to justify the delay and that the delay in bringing the Claimant before the court could not be considered reasonable in any circumstances. Therefore, the Claimant is entitled to damages for false imprisonment. Counsel relied on the case of **Flemming v Myers and the Attorney General of Jamaica**⁴.

³ See *Delroy Thompson v the Attorney General of Jamaica & Anor* [2016] JMSC Civ. 78, para. 29

⁴ (1989) 26 JLR 525

[12] Mr. Pinnock asked the court to find that there was sufficient evidence upon which the police officers could find and hold a reasonable suspicion that offences had been committed by the Claimant. It was also submitted that there was no inordinate delay before the Claimant was placed before the court as the Claimant was arrested on September 1, charged on September 5 and had his first court date on September 16.

Analysis and Discussion

[13] Section 33 of the Constabulary Force Act (**CFA**) states that:

Every action to be brought against any Constable for any act done by him in the execution of his office, shall be an action on the case as for a tort; and in the declaration it shall be expressly alleged that such act was done either maliciously or without reasonable or probable cause - and if at the trial of any such action the plaintiff shall fail to prove such allegation he shall be non-suited or a verdict shall be given for the defendant.

[14] The torts of false imprisonment and malicious prosecution although based on somewhat different considerations are subject to the same requirement under law by virtue of Section 33. The Claimant must prove that the action of the police officers was void of reasonable or probable cause or was done maliciously.

[15] Section 15 of the CFA provides as follows:

It shall be lawful for any Constable, without warrant, to apprehend any person found committing any offence punishable upon indictment or summary conviction and to take him forthwith before a Justice who shall enquire into the circumstances of the alleged offence...

[16] There is no challenge to the fact that the possession of an illegal firearm and possession of ammunition are indicatable offences under the Firearms Act. In the circumstances therefore the police officers did not require a warrant to arrest the Claimant once they found that he had committed any such offence.

[17] It is also accepted that the Claimant was held in custody at the Spanish Town Police Station until he was granted bail on September 16, 2016.

[18] What is in issue and to be determined by the evidence is whether the police officers who arrested the Claimant did so either maliciously or without reasonable or probable cause.

[19] In the case of *Hicks v Faulkner*⁵, Hawkins J gave the following definition of reasonable and probable cause;

...an honest belief in the guilt of the accused based upon a 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.

[20] The test is said to be both subjective and objective. The court must be satisfied that the police officers were convinced based on the circumstances surrounding the arrest and detention of the Claimant that there were reasonable grounds for finding that he had committed the offences of illegal possession of firearm and ammunition. If that is established in the evidence then an objective assessment must then be made to determine if an ordinary and prudent person in that position, assuming those grounds to be true, would find that the Claimant was probably guilty of the crime imputed.

[21] The Claimant was cross-examined. He told the court that on the day in question he was one of several security guards on the premises. He was the head security guard, and he agreed that he was in control of all the other security guards. He agreed that he refused to let the police officers on to the premises but said that this was after they became boisterous and disrespectful.

[22] The Claimant admitted that he was previously the holder of a firearm license and that he had been trained in the use of firearms. He denied that he had a firearm on that day. He agreed that he was in control of the premises that day. As head

⁵ (1882) 8 QBD 167, p. 171

security he conducted routine inspections of the premises, and he knew the ins and outs of the premises.

- [23] He also agreed that the police officers showed him a firearm while he was on the premises. It was accepted that the police officers conducted a search of the entire premises, but he said that this was not in his presence. He denied that the firearm that was shown to him was found in his presence.
- [24] He denied that when the police arrived there was a firearm on his person and that he walked away from them and went into the premises. He denied that he took the firearm from his person and placed it in a building on the premises.
- [25] In re-examination he explained that there were other people in control of the premises such as the project manager and the site supervisors, but that he was the only one in charge of security. He also indicated that he was not the only one that conducted routine inspections of the premises.
- [26] The sole witness for the Defendant was Sgt Jermaine Gordon. A witness summary was filed on his behalf and as such he gave viva voce evidence and was cross-examined.
- [27] Sgt Gordon told the court that on September 1, 2016, he was on patrol with Det. Cpl Dunstan. They received information and proceeded to Silver Sun Estate. On his arrival he observed a man at the gate to the premises. The man was dressed in security gears, and he was standing at the entrance to the gate. He identified himself to the man and told him that they would like to gain access to the premises. The man was not known to him before. The Claimant was identified in court as the man he saw at the gate.
- [28] The Claimant told him he could not gain access to the premises and that he would have to speak to the project manager. The Claimant quickly turned his back and walked away. Sgt Gordon said that he observed a bulge to the Claimant's waist band, and he pointed out this observation to Det. Cpl Dunstan.

- [29]** He ran on to the premises using a different gate, he walked towards a building and caught up with the Claimant who he observed coming from inside the building at the doorway. He realized that the bulge to his side was no longer there and so he requested a search of his person. He told the Claimant that he suspected that he had a firearm on his person and that he would like him to accompany him back to where he saw him coming from.
- [30]** The Claimant began to resist and indicated that he would not be following him anywhere. He let go of him and searched the cupboard that was behind the Claimant. At that time the Claimant was standing at the door. Inside the cupboard he found a black rubber handle firearm. He showed it to the Claimant and asked him if he had a firearm permit and the Claimant responded no. He advised him of the offences of illegal possession of firearm and ammunition and cautioned him. The Claimant was taken to the Spanish Town CIB, and he was charged on September 5, 2016.
- [31]** In cross-examination he was asked about the information he received that led him to the premises. He indicated that he did not hear what was said to Det Cpl Dunstan, but it was based on that information that they went to the premises. He did not try to secure a search warrant at the time. I pause here to state that Ms. Minto's submissions included a reference to evidence obtained due to an illegal search and the fact that this evidence would therefore be inadmissible. That is not the law as it stands in Jamaica. Although it is desirable to obtain a search warrant before entering premises there is no legal principle which states that this evidence is inadmissible.
- [32]** Sgt Gordon indicated in cross-examination that he drove on to the premises with Det. Cpl Dunstan, this is inconsistent with his evidence in chief where he stated that he ran onto the premises using a different gate. He also said that the Claimant locked the gate on the approach of the police, this was not mentioned before. Apart from this he maintained that he saw the Claimant with a bulge to his waist and that the Claimant entered the building where he located the firearm in the cupboard.

[33] In assessing his evidence, I consider the grounds on which he arrested the Claimant:

- a. He received information and proceeded to the location where the Claimant was seen standing at a gate.
- b. He asked the Claimant to open the gate and he refused.
- c. He observed the Claimant with a bulge to his waistband and entered the premises through another gate.
- d. The Claimant was seen entering a building on the premises and he returned and there was no bulge.
- e. He searched the building and, in a cupboard, he found a firearm containing ammunition.

[34] I find and accept that Sgt Gordon had reasonable and probable cause to arrest the Claimant on suspicion of the offences of illegal possession of firearm and ammunition. There is no denial that a firearm was found and no denial that the Claimant was present at the premises on the day in question. The Claimant was not known to the officers before, he was not the only one arrested on that day. Other people were also taken into custody.

[35] If the information and the sequence of events is accepted as true, there was sufficient evidence upon which an ordinary and prudent person in that position would find that the Claimant was probably guilty of the crime imputed. Ms. Minto has argued that Sgt Gordon ought not to be believed as if he saw the Claimant with a bulge to his waist and he followed him into the building there would be no need to arrest the other security guards at the premises. The difficulty I have with that submission is that the other security guards were never placed before the court for these offences, based on the evidence, it was only the Claimant.

[36] The court must make a finding as to what is in the mind of the officer at the time of arrest at this stage of these proceedings, I am therefore not concerned with the outcome of the case. Although he was challenged as to the sequence of events he held firmly regarding his evidence. The Claimant himself agreed that the officers entered the premises through another gate because he refused them entry to the first gate. He accepted that the officers exited the vehicle and that a firearm was found in the building. Apart from the inconsistency regarding how he entered the premises Sgt Gordon was not disturbed in cross-examination.

[37] I therefore find that neither Sgt Gordon nor Det. Cpl Dunstan acted maliciously on the day in question. Further it is my considered view that based on the evidence there was reasonable and probable cause to arrest and detain the Claimant. The Claimant has failed to prove the tort of malicious prosecution.

[38] I will now consider Ms. Minto's submissions as to the purported delay in bringing the Claimant before the court. The police officers have a duty to bring a person who has been arrested and charged for a criminal offence before the court within a reasonable time. What is reasonable is a question of fact based on the circumstances of each case.

[39] Section 3 (2) of the Bail Act provides as follows:

A person who is charged with an offence shall not be held in custody for longer than twenty-four hours without the question of bail being considered.

[40] The Claimant was taken into custody on September 1, 2016. There is no explanation that has been provided as to the reason he was not charged until September 5, 2016. Further, there is no evidence that prior to his court date of September 16, 2016, that he had been given an opportunity to be heard on the issue of bail.

[41] The length of time that the Claimant remained in custody from his arrest until he was brought before the court far exceeds twenty-four hours. There being no explanation provided by the Defendant as to the circumstances surrounding the

delay in having the Claimant brought before the court, there is no evidence that can be examined to lead me to make a finding that it was reasonable. I therefore find that the Defendant is liable for the tort of false imprisonment for the protracted delay in bringing the Claimant before the court and therefore entitled to damages.

Assessment of Damages

[42] An assessment of damages for claims for false imprisonment is limited to that of an award in general damages. In *McGregor on Damages*⁶ it was outlined in this way:

The details of how damages are worked out in false imprisonment are few: generally, it is not a pecuniary loss but a loss of dignity and the like and is left much to the jury's or judge's discretion. The principal heads of damages would appear to be injury to liberty, i.e. the loss of time considered primarily from a non-pecuniary viewpoint, and the injury to feelings, i.e. the indignity, mental suffering, disgrace and humiliation, with any attendant loss of social status and injury to reputation.

[43] In the case of **John Crossfield v The Attorney General**⁷, it was held that damages for false imprisonment are measured by reference to the period of detention up to the accused's first court appearance, since any remand in custody thereafter is pursuant to a court order and therefore lawful.

[44] Ms. Minto relied on the cases of **Greg Martin v A.G.**⁸ and **Ceon Allen v Percival Johnson & Anor**⁹ in submitting that an award of Four Million Dollars (\$4,000,000.00) would be appropriate in this case. Mr. Pinnock asked the court to consider the case of **Delroy Thompson v Attorney General et al**¹⁰ where the Claimant in that case was awarded Six Hundred and Fifty Thousand Dollars (\$650,000.00) after being falsely imprisoned for six days. That figure updates to

⁶ *McGregor on Damages* 17th ed. Pg. 1396 para. 37-007

⁷ [2016] JMCA Civ 40

⁸ 2007 HCV 01096 (unreported) dated September 19, 2011

⁹ [2022] JMCA Civ. 16

¹⁰ [2016] JMCA Civ. 78

One Million Seventy Thousand Five Hundred and One Dollars and Fourteen Cents (\$1,070,501.14).

- [45] The case of **Greg Martin** is akin to the Claimant's case. In that case the claimant was falsely imprisoned for 11 days, and he was awarded the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) in September 2011 (CPI 67.4). That updates to approximately \$3,280,415.43 using a CPI of 147.4 (April 2026).
- [46] The Claimant although outlining the conditions in custody did not specifically set out the impact his imprisonment had on his loss of reputation or status in his community. He did however indicate that he was taken into custody in the presence of others. An award of Three Million Five Hundred Thousand (\$3,500,000.00) is appropriate in the circumstances.

Aggravated Damages

- [47] The principles governing an award of aggravated damages were set out in **Denese Keane-Madden v the Attorney General of Jamaica and Corporal T. Webster**¹¹. Edwards J, as she then was, stated at paragraph 45:

Aggravated damages are imposed on a Defendant whose conduct increased the injury to the Claimant, causing distress, embarrassment and or humiliation and damage to reputation. In McGregor on Damages 17th edition, the learned editors in considering the factors tending to lend support to an award under this head said at page 1400 paragraph 37-012:

“The manner in which the false imprisonment is effected may lead to aggravation or mitigation of the damage and, hence of the damages. The authorities illustrate in particular the general principle stated by Lawrence L. J. In Walter v Alltools “that any evidence which tend to aggravate or mitigate the damage to a man’s reputation which flows naturally from his imprisonment must be admissible up to the moment when damages are assessed. A false imprisonment does not merely affect a man’s liberty; it

¹¹ [2014] JMSC Civ 23

also affects his reputation. The damages continue until it is caused to cease by an avowal that the imprisonment was false”.

[48] Lord Woolf MR in **Thompson v Commissioner of Police of the Metropolis**¹² also made the following observation:

...Such damages can be awarded where there are aggravating features about the case which would result in the claimant not receiving sufficient compensation for the injury suffered if the award were restricted to a basic award. Aggravating features can include humiliating circumstances at the time of arrest or any conduct of those responsible for the arrest or the prosecution which shows that they had behaved in a high-handed, insulting, malicious or oppressive manner either in relation to the arrest or imprisonment or in conducting the prosecution.

[49] Ms. Minto said that the police officers acted in an arbitrary manner and that expletives were used in the arrest of the Claimant. The evidence does not support such a finding. It was never suggested to Sgt Gordon that he verbally abused the Claimant during the arrest. He explained that he searched the Claimant because he saw a bulge in his waistband. There is no evidence of any other search that was conducted or any other action which was outside the usual scope of the duties of the police officers. I do not find that the evidence meets the high threshold required to establish an award for aggravated damages and as such I decline to make such an award.

Exemplary Damages

[50] As Lord Devlin explained in **Rookes v Barnard**¹³, exemplary damages are a special category of damages. Unlike the object of ordinary damages, which is to compensate, the purpose of exemplary damages is “to punish and deter”. Lord

¹² [1998] QB 498

¹³ [1964] 1 All ER 367

Devlin went on to state three categories of cases in which an award of exemplary damages would be appropriate. These are cases in which:

- i. the claimant has been the victim of oppressive, arbitrary or unconstitutional actions by servants of the government;
- ii. the defendant's conduct has been calculated by him to make a profit for himself which may well exceed the compensation payable to the claimant; and
- iii. the award of exemplary damages is expressly authorised by statute.

[51] Per Edwards J. in **Denese Keane-Madden v the Attorney General of Jamaica and Corporal T. Webster-Lawrence** at paragraph 58,

Whether or not to make an award in this category is at the discretion of the judge. It is generally exercised in favour of the claimant where a defendant exhibits unacceptable and or outrageous behaviour towards the Claimant which connotes malice, ill-will, cruelty, insolence and fraud.

[52] Miss Minto invited the court to have regard to the fact that the Claimant's home was allegedly searched without a warrant. There was no such evidence before the court. There is no justification for an award under this head of damages.

Disposition

[53] The actions of the police officers on September 1, 2016, were lawful, however the detention of the Claimant for a period of fifteen (15) days deprived him of an opportunity to have a court enquire into his suitability for bail. That lengthy period of detention in the absence of an explanation was unreasonable in the circumstances. The Claimant is therefore entitled to damages.

Orders:

1. The Claimant is awarded the sum of Three Million Five Hundred Thousand Dollars (\$3,500,000.00) in General Damages with interest at the rate of 3% per annum from February 12, 2019 to June 12, 2026 for the tort of false imprisonment.
2. Costs to the Claimant to be taxed if not agreed.