



[2017] JMSC. Civ. 91

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE CIVIL DIVISION

CLAIM NO. 2008 HCV 02699

BETWEEN	JAHMEIL DODD	CLAIMANT
AND	THE ATTORNEY GENERAL	1st DEFENDANT
AND	DETECTIVE SERGEANT LEROY FALKNER / FAULKNER	2nd DEFENDANT

IN OPEN COURT

Ms. Danielle Archer instructed by Mrs. Jennifer Hobson Hector for the Claimant

Ms. Tamara Dickens instructed by the Director of State Proceedings for the Defendants

May 30th and June 26th, 2017

**Assessment of Damages – Malicious Prosecution – False Imprisonment –
Judgment on Admission**

McDONALD J

INTRODUCTION

[1] The matter before the Court is an Assessment of Damages in respect of a Claim for Damages for Malicious Prosecution and False Imprisonment filed by the Claimant on the 27th May 2008 and amended 3rd June 2010, alleging that during the period 13th April 2006 to 20th April 2006, he was detained by the 2nd

Defendant maliciously and without reasonable and/or probable cause, and that subsequent to that, he was prosecuted by the 2nd Defendant maliciously and without reasonable and/or probable cause, who preferred charges against him for Conspiracy to Defraud, Obtaining Money by Forged Documents, Uttering Forged Documents and Forgery.

- [2] The 2nd Defendant, Detective Sergeant Leroy Falkner, was at all material times an Officer in the Jamaica Constabulary Force and was acting as the servant and/or agent of the Crown in the course of his employment.
- [3] The 1st Defendant is sued as the legal representative of the Crown pursuant to the Crown Proceedings Act.
- [4] It is to be noted that the documents filed in relation to the matter contained two different spellings of the 2nd Defendant's surname as reflected in the heading of this judgment, however no issue was taken by either party in relation thereto.
- [5] Judgment by Admission having been entered for the Claimant against the 1st and 2nd Defendants by my brother the Hon. Mr. Justice Evan Brown on 23rd September 2015, the sole issue before this Court is what would be a reasonable sum to compensate the Claimant for the tortious acts committed against him.

THE PLEADINGS AND EVIDENCE

- [6] The Amended Particulars of Claim and the Claimant's evidence reflect that, on the 13th day of April 2006 at about 2:30 p.m., the Claimant, Jahmeil Dodd, who was at the material time a pump assistant employed to the Manor Park Shell Service Station situated in Constant Spring in the parish of St. Andrew, was taken from his place of work by Detective Sergeant Leroy Falkner and transported to the Fraud Squad at 34 Duke Street, Kingston, where he was detained and questioned by the 2nd Defendant. Mr. Dodd stated that he was advised by Sergeant Falkner that he was conducting further investigations and that Mr. Dodd could not be released. He was then handcuffed by Sergeant

Falkner, and later at about 8:00 p.m., transferred to the Half Way Tree Lockup, where he remained until Thursday 20th April 2006.

- [7] The Claimant stated that during his detention he was not given the opportunity to contact his family or friends, as his cellular phone had been taken by Sergeant Falkner on his arrival at the Fraud Squad on 13th April 2006.
- [8] It is to be noted that the Amended Particulars of Claim state that the Claimant's Attorney-at-Law, Mrs. Jennifer Hobson-Hector, attended on the Police Station on two occasions, the 14th and 15th April 2006, and applied for Bail on his behalf, which was refused on both occasions, and that on 15th April 2006, the Investigating Officer indicated that his detention was continuing since a Justice of the Peace had attended and extended the time for detention. However, in his witness statement, which remains unchallenged, the Claimant stated the above was done on 14th and 15th April 2008. Given the way in which the statement was written, the Court views this as an error, and considers that the correct dates are 14th and 15th April 2006 as pleaded in the Particulars, and as would logically fall within the period in which the Claimant avers to being incarcerated.
- [9] On 18th April 2006, Mrs. Jennifer Hobson-Hector made an Application for Habeas Corpus on the claimant's behalf, to which the Court ordered that the Claimant be charged or released by 20th April 2006.
- [10] The Claimant attended the Half-Way Tree Court on the 20th April 2006, where he was charged with Conspiracy to Defraud, Obtaining Money by Forged Documents, Uttering Forged Documents and Forgery. He was also granted bail on that occasion.
- [11] The Claimant averred that he was caused to attend the Resident Magistrate Court for the Parish of St. Andrew, holden at Half-Way Tree, on 18th April 2006, 20th April 2006, 24th May 2006, 17th July 2006, 7th September 2006, 13th

November 2006, 8th January 2007, 22nd February 2007, 16th March 2007, 20th April 2007, and 28th June 2007.

- [12] Sergeant Falkner failed to appear on 13th November 2006, 8th January 2007, 22nd February 2007, 16th March 2007, 20th April 2007, and 28th June 2007.
- [13] On 28th June 2007, a no order was made by the Court in that matter.

THE CLAIMANT'S SUBMISSIONS

- [14] For the tort of false imprisonment, Counsel for the Claimant submits that a reasonable award would be within the range of \$700,000.00 - \$1,000,000.00. Emphasis was placed on the fact that the Claimant was taken from his workplace, which it is submitted, indicates that the arrest was public, and also, that the Claimant was in custody for a period of seven (7) days, was deprived of his phone and not allowed to contact anyone who could have assisted him.
- [15] The Claimant relies on the authorities of **Maxwell Russell v The Attorney General for Jamaica and Corporal McDonald**, Claim No. 2006 HCV 4024, unreported, Delivered 18th January 2008, and **Kevin Skyers v The Attorney General** [2015] JMSC Civ. 86.
- [16] In relation to **Maxwell Russell's** case, The Claimant highlighted that the Court in calculating damages began with a daily rate of \$75,000.00 for the first day the Claimant had been incarcerated, which it is submitted updates to \$106,092.96, and then reduced the rate for the subsequent days, though the Court did not indicate the scale by which it should be reduced. It is submitted that, in the circumstances this Court should consider whether the global sum awarded considers the duration of incarceration.
- [17] The Claimant also urges the Court to consider that there was no evidence in **Maxwell Russell** of employment, whereas in the instant case the Claimant was

arrested at his place of work. It is further submitted that the condition of Mr. Dodd was more impactful than that of the Claimant in **Kevin Skyers** for the very same reason. The Claimant posits that the case of **Maxwell Russell** is most instructive as it does not consider the impact of reputation on the Claimant.

- [18] In relation to the head of Malicious Prosecution, the Claimant submits that a reasonable award would be within the range of \$700,000.00 - \$1,000,000.00, and asks the Court to consider the number of times the Claimant had to attend Court over a period of one (1) year and three (3) months for the charge that had no basis in law, and the impact that this would have had on the Claimant. It is submitted that the Claimant attended Court on eleven (11) occasions.
- [19] The Claimant relies on the authorities of **Maxwell Russell (supra)**, **Keith Nelson v Sergeant Gayle and the Attorney General of Jamaica**, unreported, Claim No. C.L. 1998/N – 120, Delivered April 20, 2007, and **Stephen Bell v The Attorney General of Jamaica** [2016] JMSC. Civ. 59.
- [20] It is submitted that, as in the case of **Maxwell Russell**, the charge in the instant case was one of fraud which carries a sentence of life imprisonment, and was 'hanging over the Claimant's head' for more than a year. The Claimant also submits that in **Stephen Bell**, that Claimant was also facing a similar sentence for a period of over two years.

THE DEFENDANTS' SUBMISSIONS

- [21] In relation to the head of false imprisonment, Counsel for the Defendant submits that a reasonable sum for compensation for the Claimant's loss of liberty for the period of seven (7) days is \$400,000.00 - \$410,000.00.
- [22] The Defendants submit that in arriving at the quantum of damages for the tort of false imprisonment, regard must be had to the principles of assessment laid

down in the cases of **Everton Foster v the Attorney General**, *unreported*, Suit. No. C.L. F-135/1997, delivered July 18, 2003 and **Denese Keane-Madden v The Attorney General** [2014] JMSC Civ. 23, and **Maxwell Russell v The Attorney General** (*supra*). The Defendants highlight the principles laid down in **Everton Foster** per Daye J (Ag.), and accepted in **Denese Keane-Madden**, wherein the learned judge relied on Downer JA's approach based on a passage extracted from McGregor on Damages, in which it was outlined that the what appeared to be included in general damages for this tort, was 'injury to liberty (loss of time), and injury to feelings, (the indignity, mental suffering, disgrace and humiliation), with any attendant loss of social status.

[23] Further, the Defendant highlights the words of Lord Woolf M.R. in the case of **Thompson v Commissioner of Police Themetropic** as cited by Mangatal J in **Maxwell Russell**, to the effect that the Claimant is to be awarded an additional sum for the first hour of imprisonment, because he would be entitled to a higher rate for the initial shock of being arrested, and thereafter a sum based on a reducing scale, so as to keep the damages proportionate with those payable in personal injury cases.

[24] It has therefore been submitted that an award for false imprisonment must take into consideration all the above factors such as loss of liberty, injury to reputation, injury to feelings, humiliation, disgrace, mental suffering and so on. The Defendants, however, wished to emphasize that the Claimant did not plead any injury to his reputation and his feelings, particularly that he gave no evidence that he suffered any additional injury other than that of his loss of liberty. It is submitted that the Claimant did not give any evidence to suggest that he suffered any indignity, disgrace, humiliation or distress arising from his detention and that the Court cannot take judicial notice of these losses, as these are losses which must be the subject of evidence. In the circumstances, the Defendants submit that, on the authority of **Everton Foster**, the Claimant is only entitled to compensation for his loss of liberty arising from the false imprisonment.

- [25] In coming to the conclusion that the Claimant was detained for a period of 7 days, the Defendants note the Claimant's evidence that he was arrested at 2:30 p.m. on 13th April 2006 and was bailed on 20th April, 2006. It is submitted that whilst the Claimant did not indicate what time he was bailed, considering the usual hours of the criminal courts, he would have been granted bail before 4:00 p.m. on 20th April 2006. It is to be noted that, although counsel for the Claimant had asserted on the first date of hearing that the detention period was eight (8) days, in her written submissions filed 5th June 2017 she conceded that the period of detention was seven (7) days.
- [26] On the authority of *Denise Keane-Madden*, in which the Claimant who had been handcuffed to a rail in view of the public, was awarded a sum of \$180,000.00 for six (6) days for false imprisonment, Counsel for the Defendants submit the updated sum of \$237,300.00 for the period of seven (7) days.
- [27] The Defendants also cited the case of **Conrad Thompson v The Attorney General**, Claim No. HCV 02530 of 2008, delivered May 31, 2011, in which the Claimant who was incarcerated for sixteen (16) days, was awarded the sum of \$850,000.00 for false imprisonment. It is submitted this would update to \$1,190,000.00, amounting to \$74,375 per day, and therefore seven (7) days would amount to \$520,625.00.
- [28] It is submitted that, if the Court takes the approach in *Russell*, the first twenty-four (24) hours should be compensated at the sum of \$75,000.00 (see paragraph 19 of judgment), which updates to \$150,000.00. It is further submitted that considering that the Claimant in the instant case showed no element of indignity, humiliation, loss of reputation or embarrassment, the sum of \$150,000.00 must be discounted to factor in the absence of all relevant elements of compensation for the tort.
- [29] It is therefore submitted that the first 24 hours should be compensated at \$85,000.00 and thereafter the remaining six (6) days should be calculated based

on the average of the daily awards in **Conrad Thompson** and **Keane-Madden**, which it is submitted is \$54,137.50 per day. The Defendants therefore submit that an appropriate award in the instant case would be \$409,825.00

[30] It is further submitted that the circumstances of the detention in the above cases are evidently more aggravating than the circumstances of the detention in the instant case, in that there is no evidence before this Court outlining the circumstances of the Claimant's detention. The Defendants assert that any case relied on outlining aggravating features and compounding circumstances would not be useful to the Court.

[31] In relation to the tort of Malicious Prosecution, the Defendant relies on the cases of **Conrad Thompson** (*Supra*), **Inasu Ellis v The Attorney General and Ransford Fraser (Constable)**, *unreported*, Suit C.L.E/050/1996, delivered March 21, 2001.

[32] In this regard, it is noted that in **Thompson** and **Ellis** the periods of prosecution were three (3) years and four (4) years respectively, longer than the Claimant in the instant case, who was prosecuted for a little over a year. The Defendants also seek to differentiate these cases from the circumstances of the instant case, in that, in **Ellis** the Claimant had significant standing in the community and could prove loss of reputation and the effect of the prosecution on him, and in **Thompson** there were aggravating circumstances.

[33] In spite of this assertion, the Defendants used those cases as a guide, and submitted that the award in **Russell** relied on by the Claimant is exorbitant. Using those cases as a guide, and considering that the Claimant was charged with more than one offence, the Defendants recommend that the sum of \$200,000-\$250,000.00 be awarded for malicious prosecution.

LAW AND ANALYSIS

FALSE IMPRISONMENT

[34] In assessing the quantum of damages for false imprisonment this Court considers the recent decision of **John Crossfield v The Attorney General of Jamaica and Corporal Ethel Halliman** [2016] JMCA Civ. 40, wherein the Court of Appeal, per Morrison P, had regard to the following passage from **McGregor on Damages** (Harvey McGregor QC, 17th Edn. Para. 37-007) as to what the Court will ordinarily consider when making such an award:

“The details of how the damages are worked out in false imprisonment are few: generally it is not pecuniary loss but a loss of dignity and the like, and is left very much to the jury’s or judge’s discretion. The principal heads of damage would appear to be the 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.”

[35] As noted above, both parties relied on the case of **Maxwell v Russel** (*supra*), in which Daye J (Ag.) as he then was, relied on the approach of Lord Woolf in the case of **Thompson v Commissioner of Police of the Metropolis** (*supra*) that would entail a sum being awarded for the first hour, and thereafter an additional sum being awarded on a reducing scale for the remaining period of detention or imprisonment. Both parties suggested that this is the approach that the Court should take in the instant case. It is to be noted, however, that the Court of Appeal in **The Attorney General v Glenville Murphy** [2010] JMCA Civ. 50, in commenting on the use of Lord Woolf’s approach by the learned trial Judge in the Court below, as well as the general approach that should be taken in these types of cases, opined the following at paras 20 and 21:

“It has always been recognized that there may be some difficulty in deciding on a reasonable compensatory amount to be awarded to a claimant for damages suffered. However, the practice in the courts in using comparable awards as the basis in making an award and applying the Consumer Price Index thereto, has not in any way worked prejudicially to a claimant. The object of applying the Consumer Price Index is to take care of inflation. We see no reason to depart from the usual practice and cannot say that we are in agreement with the learned trial judge that the suggested approach of Lord Woolf should be adopted.”

The fact that a successful claimant is entitled to reasonable compensation for damages for false imprisonment is not open for debate. Nor can it be disputed that injury to his liberty, his feelings and reputation are relevant. In making an award, each of these heads of damages must be considered but only a single award should be made”.

- [36] This approach was affirmed by the Court of Appeal, in the aforementioned case of **John Crossfield** (*supra*, para. 23).
- [37] Finally, in **The Attorney General of Jamaica v Gary Hemans** [2015] JMCA Civ 63, the Court of Appeal pointed out (at para. 28), that, although the Court must seek to achieve a level of uniformity in determining compensation in these types of cases, and therefore can have regard to comparable awards in previous cases, ‘the factual circumstances of each case must ultimately determine whether a mere indexation of previous awards will do justice to the case’.
- [38] Suffice it to say that the approach that this Court ought to take in arriving at a basic award is to consider comparable awards updated to account for inflation using the Consumer Price Index, having regard to all the relevant circumstances of the case, such as loss of the Claimant’s liberty, and injury to his feelings and reputation.
- [39] It should also be noted that in **Glenville Murphy** (*supra*), the Court of Appeal, at para 22, in considering whether the basic award for general damages should include a component for damage to his reputation, opined that the question that arose was whether there was sufficient evidence to show that the respondent had been held in contempt by right thinking members of society. The Court was of the view, that, despite the Respondent’s evidence before the trial judge of the treatment meted out to him due to the allegations, including physical attacks by persons in the district, this was insufficient to support a finding that the respondent had suffered loss of social status. There was no evidence of his social standing in the community, and consequently, it was found, there should have been no award in respect of injury to his reputation.

- [40] In the case at hand, the Claimant was taken from his work place, detained for a period of seven (7) days, after which he was released on bail. Though the Claimant's evidence quite clearly establishes a loss of liberty for which he must be compensated, as counsel for the Defendant rightly pointed out, the Claimant has neglected to give details and provide evidence as to the conditions under which he was arrested, or as to any loss or damage he may have suffered therefrom, such as injury to his feelings or damage to his reputation. Apart from the duration of his detention and the fact that he was arrested at work (quite likely in view of the public), the only other evidence before the court is that his cell phone was taken from him and that he was not allowed to contact family or friends. There is no indication of any lasting negative impact. In the circumstances, and on the authority of **John Crossfield**, I am of the view that the award ought not to contain a component for injury to reputation, as there is no evidential basis therefor.
- [41] I do however believe that it is within the Court's purview to infer from the public nature of the arrest that, quite likely, some amount of embarrassment would have been caused to the Claimant.
- [42] Of the cases cited by Counsel, I find **Keane-Madden** and **Kevin Skyers** (*supra*) to be most comparable. I have, however, considered all the cases put forward, and compared the similarities and differences to those in the instant case.
- [43] In **Keane-Madden**, the Claimant who was at the Norman Manley International Airport after having just returned from Trinidad, was taken into police custody on 17th September 2011 on suspicion of possession, dealing in and importing cocaine, after a bottle of downy she had in her possession tested positive for the presence of cocaine. The Claimant was charged on 21st September 2011, for the above-stated offences, but was later discharged on 19th December 2011, after forensic tests for the presence of cocaine in the downy came back negative. She spent a total of 94 days in custody, however, the learned trial judge was of the view that only six (6) of those days were compensable for false imprisonment as

the remainder was pursuant to a judicial order. The Court accepted submissions of Counsel that, the Claimant who had two previous convictions for drug related charges would have been familiar with the “system”, and this would have cushioned the impact of any possible trauma her detention and subsequent arrest would have caused. Accordingly, the Court found that the elements of injury to pride, reputation, self-esteem and dignity were absent, albeit that there would have been some embarrassment caused from being handcuffed to a rail. A sum of \$180,000.00 was awarded for false imprisonment for a period of six (6) days on 14th February 2014. This would amount to \$30,000.00 per day, which using the CPI for April 2017 updates to **\$33,879.19** per day.

[44] In *Kevin Skyers (supra)*, the Claimant who was shot by a police officer on 6th October 2006, was hospitalized and then discharged into the custody of the police where he remained until he was brought before the Resident Magistrate’s Court. On 20th June 2007, a no order was made in that matter. In the claim before the Supreme Court, the circumstances in which the claimant came to be injured and was arrested was hotly contested, with the learned trial judge concluding that the officers involved had reasonable and probable cause. However, the Court was of the view that the Claimant should recover for false imprisonment for being unnecessarily detained for an extended period of time before being brought before the Resident Magistrate’s Court. The sum of \$900,000.00 was awarded on 14th May 2015 for a period of 10 days, \$150,000.00 of which was for the first day. That sum would work out to an average of \$90,000.00 per day, which, using the CPI for April 2017, would update to **\$96,018.72**. It is to be noted that in coming to this decision the Court considered that there were no aggravating features.

[45] I do not find the case of *Maxwell Russell* to be as comparable. Though the Claimant in that case failed to plead any particulars of damage to reputation, the circumstances of his arrest were more egregious, in that Mr. Russell was shot in the back and upon being taken to the hospital, was handcuffed to his bed under

police guard and in full view of patients and visitors which caused him great embarrassment. The handcuffs were extremely uncomfortable and caused him pain and his wrist to become bruised. He was thereafter placed in a jail cell in deplorable conditions at a time when his wounds had not yet healed and still caused him great pain. He was also beaten by other prisoners whilst incarcerated. As a result, the Court considered that the Claimant had suffered 'quite a degree of humiliation, indignity and injury to his feelings and suffered distress, depression and great discomfort'. There is no evidence that the instant Claimant suffered any injury of that nature. Mr. Russell was awarded a sum of \$515,000.00 for false imprisonment for the period of twelve (12) days on 18th January 2008. This amounts to \$42,916.67 per day, which, using the CPI for April 2017 updates to **\$86,013.06**.

[46] The circumstances of **Conrad Thompson** were also vastly different from the one at hand, in that, similar to **Maxwell Russell**, that Claimant suffered grave abuse at the hands of law enforcement officer, to include five (5) gunshot wounds that required several surgical procedures and caused him immense pain. The Claimant also suffered the indignity of being thrown into the back of the police car after having been shot, and having to languish there whilst the police involved went to partake in drinks at a bar before taking him to the hospital. The claimant was assaulted on the 11th May 2003, admitted to the hospital on the same date, and discharged from the hospital on or about the 23rd May 2003. He was not under police guard whilst at the hospital. Shortly thereafter, the Claimant was taken into custody at the Stony Hill Police Station on 27th May 2003, where he remained until he was bailed on 12th June 2003. He was charged on 5th June 2003, and offered bail on 6th June 2003 when he first appeared before the Court. He was, on 31st May 2011, awarded a sum of \$850,000.00 for all the days he was detained (16 days), notwithstanding he had been offered bail on the 11th day. This amounts to \$53,125.00 per day, which, using the CPI for April 2017 updates to **\$74,343.93**.

[47] I find the cases of *Keane-Madden* and *Kevin Skyers* similar to the instant case, in that, the period of detention was relatively short, being of six (6) days and ten (10) days respectively. Further, there was no evidence of any aggravating factors such as physical or verbal abuse by the officers involved whilst in lock-up. Although, in *Keane-Madden*, the Claimant would naturally have suffered injury to feelings such as embarrassment and indignity, the Court was of the view that the fact that the Claimant had been arrested and convicted twice before on drug related charges would have cushioned any such feelings she may have felt. Thus, it appears the award in that case did not include a component for any such feelings. In the instant case, I am of the view that the award should contain a component for the embarrassment that he would have suffered from being arrested in public, albeit not to the degree as in other cases where specific evidence is pleaded as to the extent of the injury. There also is no evidence that this Claimant had been arrested or convicted of a crime previously.

[48] Taking into account the similarities and differences between the aforementioned cases and the instant case, and at a base rate of \$75,000.00 per day, I am of the view that **\$525,000.00** would be a reasonable sum to compensate the Claimant for false imprisonment for the period of 7 days.

MALICIOUS PROSECUTION

[49] It is well established in Jamaican law that for damages to be recoverable in an action for malicious prosecution the Claimant must prove the following on a balance of probabilities:

- i. That the law was set in motion against him on a charge for a criminal offence;
- ii. That he was acquitted of the charge or that otherwise it was determined in his favour;

- iii. That when the prosecutor set the law in motion he was actuated by malice or acted without reasonable or probable cause;
- iv. That he suffered damage as a result. [**Keith Nelson v Sergeant Gayle and The Attorney-General of Jamaica**, Claim No. 1998/N-120];

[50] In the instant case, having regard to the evidence before the Court, as well as the admission of liability by the Defendants, the aforementioned criteria has been met.

[51] It is also to noted that generally damages are recoverable under one of the following three heads:

- i. Damage to reputation;
- ii. Damage to person (for eg. Where Claimant's life, limb or liberty is endangered; or
- iii. Damage to property (as where he is put to the expense of acquitting himself of the crime with which he is charged}.

In the first two cases damages are implied (though they must be substantiated by grounds), however in the third case, actual damage must be pleaded and proved. [see **Atkin's Court Forms/Malicious Prosecution (Volume 25 (3))/Practice/4. Damage; Savile v Roberts** [1558-1774] All ER Rep 456; **Crawford Adjusters and others v Sagicor General Insurance (Cayman) Ltd and another** [2013] 4 All ER 8. The first two heads of damage are considered and incorporated into an award for general damages.

[52] Further, the Court of Appeal in **John Crossfield** (*supra*), after having considered the authorities of **McGregor on Damages** (para. 38-004) and the **Thompson v Commissioner of Police of the Metropolis and Hsu v Commissioner of Police of the Metropolis** [1997] 2 All ER 762, opined that it appeared that 'injury to reputation, injury to feelings – that is, the indignity, humiliation and distress

caused to the Claimant – and the overall length of the prosecution were all relevant factors the court should take into account in arriving at an appropriate award for damages for malicious prosecution’.

[53] The Claimants have asked the Court to rely on the cases of **Maxwell Russell** (*supra*), **Keith Nelson** (*supra*), **Stephen Bell** (*supra*), whilst the Defendants rely on **Conrad Thompson** (*supra*) and **Inasu Ellis** (*supra*).

[54] In **Maxwell Russell**, the Claimant, after having been himself assaulted, was charged with assault and was required to attend the Buff Bay Resident Magistrate’s Court on five occasions. The Court was of the view that, the Claimant having been subjected to that prosecution hanging over his head and being in peril for the lengthy period of nearly a year, an award of \$250,000.00 was appropriate. This figure updates to **\$501,046.90** using the CPI for April 2017.

[55] In **Keith Nelson**, the Claimant, who was an engineer by profession with a tertiary education, had to endure the humiliation of a prosecution for three months. Mr. Nelson was awarded a sum of \$400,000.00 in April of 2007. This updates to **\$929.320.38**.

[56] In **Stephen Bell**, the Claimant, who was a bearer, was pulled over whilst riding his motorcycle and detained and later charged on 19th November 2010 with illegal possession of firearm. He was taken to Court on 24th February 2011 and all charges were dismissed against him on 15th August 2012. The Court considered that the prosecution had lasted for over two years, so the charge would have been hanging over his head and would have occasioned embarrassment. The Court awarded a sum of \$1,400,000.00 on 9th March 2016, which updates to **\$1,461,055.38** (roughly **\$730,527.69** per year).

[57] In **Conrad Thompson**, the Claimant, after having been assaulted was charged on the 5th June 2003 with two counts of shooting with intent and illegal possession of firearm and made his first appearance before the Court on 6th June

2003. He was acquitted of all the charges on the 7th March 2006, almost three (3) years later. There was no indication of how many occasions he was required to attend court. The Claimant was awarded a sum of \$400,000.00 for the malicious prosecution, which updates to **\$1,397,372.26** using the CPI for April 2017 (roughly **\$465,790.75** per year).

[58] In *Inasu Ellis*, the Claimant was arrested and charged with several offences under the Larceny Act on 1st March 1991. The prosecution resulted in the dismissal of all charges against him on 4th October 1995. Thus, the prosecution lasted for over four years. Given that the Claimant was a government officer and a Justice of the Peace, who performed Lay Magistrate duties, he suffered significant embarrassment resulting in severe mental anguish as a result of the charges against him. Unlike the case at hand, the evidence before that Court was that the Claimant's reputation had been tarnished and his social standing greatly reduced. This was substantiated by evidence including that during his detention he suffered humiliation when a crowd of approximately 500 persons went to inspect him and made contemptuous remarks about him, which was later compounded when, on the first occasion he attended Court, a crowd of at least 750 persons went to view him. His arrest and the prosecution against him had been broadcasted on a popular radio station airing nationwide, and published in the Star Newspaper. He also gave evidence that he was shunned by his friends, his social life was destroyed, he was deprived of his lay Magisterial functions, and he became depressed and withdrawn. He was awarded a sum of \$150,000.00 for malicious prosecution on 21st March 2001, which updates to **\$633,963.26** (about **\$158,490.81** per year).

[59] The instant Claimant was charged with the very serious offences of for Conspiracy to Defraud, Obtaining Money by Forged Documents, Uttering Forged Documents and Forgery which he had hanging over his head for a period of one (1) year and two (2) months. He was required to attend court on eleven (11) occasions during that period, six (6) of which the 2nd Defendant failed to attend. I

also take into account the lack of pleadings as it relates to any damage to the Claimant's reputation or negative impact on his employment prospects or other areas of life. The Claimant who was at the material time a gas station attendant gave evidence that he was, at the time his witness statement was drafted, residing overseas.

[60] In the premises, and having considered the above authorities, I find a sum of **\$330,000.00** to be reasonable.

ORDER:-

1. Damages are awarded to the Claimant as follows:

False imprisonment	\$525,000.00
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Malicious prosecution	\$330,000.00
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2. Interest is awarded on the above sum at the rate of 3% per annum from 16th June 2008 to today's date.

3. Costs are awarded to the Claimant to be agreed or taxed.