



**IN THE SUPREME COURT OF JUDICATURE OF JAMAICA**

**IN THE FULL COURT**

**CLAIM NO. SU2025CV03788**

**BEFORE: THE HONOURABLE MR JUSTICE DAVID BATTS  
THE HONOURABLE MR. JUSTICE DALE PALMER  
THE HONOURABLE MRS JUSTICE TARA CARR**

<b>BETWEEN</b>	<b>RUEL REID</b>	<b>1<sup>st</sup> APPLICANT</b>
	<b>FRITZ PINNOCK</b>	<b>2<sup>nd</sup> APPLICANT</b>
	<b>SHARON REID</b>	<b>3<sup>rd</sup> APPLICANT</b>
	<b>SHARELLE REID</b>	<b>4<sup>th</sup> APPLICANT</b>

<b>AND</b>	<b>JEWEL HOGARTH (THE CLERK OF THE COURTS)</b>	<b>1<sup>st</sup> RESPONDENT</b>
	<b>HER HONOUR MS. SANCHIA BURRELL</b>	<b>2<sup>nd</sup> RESPONDENT</b>
	<b>FINANCIAL INVESTIGATIONS DIVISION</b>	<b>INTERESTED PARTY</b>

*Renewed application for leave to apply for judicial review – Parish Court Judge – Ruling that Order for Indictment properly made – Whether appeal an alternate remedy – Whether ruling intra vires – Whether application has real prospect of success- Award of costs.*

**Hugh Wildman, Carolyn Chuck, Shannon Clarke and Shamar Bryan instructed by Hugh Wildman and Company for Applicants.**

**Lisa White and Janoi Pinnock instructed by the Director of State Proceedings for Respondents.**

## **Richard Small and Sean Steadman for the Interested Party**

**Heard: 3<sup>rd</sup> and 27<sup>th</sup> February 2026**

### **In Open Court**

- [1] Having heard the renewed application, for permission to commence a claim for Judicial Review, we reserved our decision for the 27<sup>th</sup> February 2026. We are grateful to counsel for their industry and the concise manner in which oral submissions were presented. This was possible because each party filed detailed written submissions beforehand and, on the day, agreed to limit the time for oral submissions to 50 minutes each. We will not in this judgment repeat those submissions and will reference them only to the extent necessary to explain our decision. Counsel should rest assured they were carefully considered and, of much assistance. The factual background can be briefly stated, and we do so with reference to the nicely tabulated Judges' Bundle filed by the Applicants.
- [2] The Applicants were brought before the Parish Court for Kingston & St. Andrew on several Informations. Although not all exhibited before us, it is common ground that, the Informations were separately numbered and contained charges referable to five accused persons who were named in one or other or several of them. On or about the 13<sup>th</sup> October 2025 (paragraph 7-9 in the affidavit of Fritz Pinnock dated 16<sup>th</sup> January 2026, Tab B Judges Bundle) the Second Respondent, who is a judge of the Parish Court of Kingston and St. Andrew, made an order for an Indictment against the five accused four of whom are the Applicants before us (exhibit JH3 to the Affidavit of Jewel Hogarth filed 28<sup>th</sup> November 2025, Tab M Judges Bundle). The order was endorsed on the back of the first Information laid with respect to the First and Second Respondents only. The Order of Indictment, endorsed by the Parish Court Judge on the back of that Information, commenced with the words:

*“Indict the accused herein charged before me this day for the offences of.”*

The Order thereafter listed some thirty-five offences to be added as counts to the Indictment. Each made specific reference to the offence and the Information number to which that offence related but did not name the accused. The Indictment, prepared pursuant to the Order for Indictment, particularized the name of the offender, the offence and the detailed circumstance of each charge, (exhibit JH4 to the affidavit of Jewel Hogarth, Tab M Judges Bundle). All four Applicants are named in the Indictment and the Information, relevant to each of them, is expressly referred to on the back of Information number 1 on which the Order for Indictment is endorsed. The front of Information number 1 has only the First and Second Applicants named. A copy of the proposed Indictment was served on counsel on the 7<sup>th</sup> October 2025. The Order for Indictment was made after the judge heard submissions of counsel on the 11<sup>th</sup> October 2025 (see counsel’s notes of proceedings Exhibit JH1 to the affidavit of Jewel Hogarth, Tab M Judges Bundle). The five accused were then pleaded.

- [3] The trial commenced on the 16<sup>th</sup> October 2026 and the Crown called its first witness. At 12:20pm, on that date, counsel for the Applicants raised an issue related to the alleged defect in the Order for Indictment. He submitted that the proceedings were, for that reason, void. He urged that the trial should therefore come to an end. Mr. Wildman, in oral submissions before us, explained that he took the point immediately after he obtained sight of the Order for Indictment. Having heard submissions from all parties the Parish Court Judge reserved her decision until the 17<sup>th</sup> October 2025. On that date she ruled:

***“I am satisfied that all the Accused persons fall within the ambit of the Indictment order. The trial will continue and the Crown will call its second witness at the appropriate time.”***

(See counsel's notes page 43 of Exhibit JH1 to the affidavit of Jewel Hogarth filed 28<sup>th</sup> November 2025, Tab M to Judges Bundle).

- [4] The Applicants come before this court for permission to seek judicial review of the decision of the Parish Court Judge. The application is premised on the notion that the Parish Court, is an inferior tribunal amenable to the supervisory jurisdiction of this court because it, is established by statute and has no inherent power. It is submitted that sections 272 and 273 of the Judicature Parish Court Act are to be strictly complied with. The decisions of the Court of Appeal in, ***R v Joscelyn Williams et al (1958) 7 JLR 120, R v Monica Stewart (1971) 12 JLR 465, Michael Francis v R [2021] JMCA Crim 6*** (unreported judgment 29<sup>th</sup> January 2021) and, ***Anthony Skeen v R, RMCA 16/2006*** (unreported judgment 27<sup>th</sup> April 2007), are relied on in that regard.
- [5] The Applicants contend that the law requires that the person, in respect of whom an Order for Indictment is made, must be named in the Information on which the Order for Indictment is noted. The Order for Indictment must be in writing and endorsed on the Information referable to or on which the individual to be charged is named. It will not suffice to identify the person by reference to another Information. Only the name of the individual to be charged, appearing on the Information on which the Order for the Indictment is made, will suffice. This not having been done, it was submitted, the consequence is that the entire proceeding is a nullity. The Indictment prepared, pursuant to that Order for Indictment, is a nullity and must be treated as if it never existed. The trial should therefore be vacated. The Applicants seek our permission to articulate these arguments before the Court of Judicial Review.
- [6] The test at this stage of the proceeding is well established. Our purpose, when considering leave, is only to determine whether there is an arguable case with a real, not fanciful, prospect of success, see ***Sharma v Brown-Antoine et al***

**[2007]1 WLR 780**. The idea is to prevent frivolous claims for judicial review and hence save the court's time and resources. It also has the tangential purpose of preventing unnecessary and wasteful interruption of public administration. We are mindful that the test is a low bar as the litigant, who claims redress against a public or statutory authority, ought not to be lightly or too easily driven from the seat of justice. He should be afforded his day in court whenever possible.

[7] This notwithstanding, having considered the law, the facts, and circumstances of this case, we are satisfied that permission to apply for judicial review should be refused. Our decision conforms with the earlier position of Nembhard J, (see her judgment at **[2026] JMSC Civ.06** (unreported delivered 16<sup>th</sup> January 2026). However, as we are not sitting as an appeal from that decision, we do not propose to comment on that judgment. In this renewed application the entire matter was considered de novo. The application fails for reasons set out below:

[8] In the first place the intended claim is made on a false premise. The Parish Court is a court of law. Indeed, section 10 of the Judicature Parish Court Act describes it as a Court of Record. Although often referred to as an "*inferior*" court, mainly due to its members' security of tenure not being protected by constitutional provisions, it is still a court of law. The consequence is, unlike other inferior tribunals, its remit includes the determination of both questions of law and fact. It means also that the Parish Court can answer questions related to its own jurisdiction. This is so well recognised that citation of authority is unnecessary however, see ***Brown and others v The Resident Magistrate, Resident Magistrates Court, St. Catherine (1995) 48 WIR 232 per Carey JA at 236 (b) to (e)***.

[9] If therefore decisions on the law and jurisdiction are part and parcel of the Parish Courts' function certiorari by judicial review, on the basis of ultra-vires principles, will not issue to quash such a decision. To put the point in classical terms a judge, when acting within jurisdiction to make a decision of law, is entitled to be right or wrong on that. A court of judicial review will not enquire into its correctness. Judicial review lies against inferior tribunals for, illegality (acting outside the power

given by statute and this includes making an error of law), irrationality, (making a decision so unreasonable that no tribunal in that position could have made) and, procedural impropriety (usually involving a breach of natural justice which demands a fair hearing before an impartial tribunal). Breach of any of the above constitutes ultra vires conduct that is conduct in excess of jurisdiction (when used in its widest sense), see ***Council of Civil Service Unions and others v Minister for the Civil Service [1984] 3 AllER 935 per Lord Diplock at 950 to 951***. In the Commonwealth Caribbean, it has been suggested, we have a fourth category being unconstitutionality of conduct or legislation, (see **Albert Fiadjoe “Commonwealth Caribbean Public Law” page 15 et seq**). Constitutional relief does not require leave but is provided for, in Order 56 of the Civil Procedure Rules, alongside claims for judicial review

[10] The Parish Court Judge, when ruling on the question whether the Order for Indictment was properly made, was exercising power within her remit. The mixed question of law and fact was for her to determine. She has not exceeded her statutory power and therefore has not acted illegally or in excess of jurisdiction. The appropriate way to challenge a judge or court which has made an error of law is by way of appeal, (see **section 293 of the Judicature Parish Court Act**). One should be careful when applying cases from other jurisdictions on this question as many involve decisions of lay magistrates exercising summary power or concern committal proceedings not trials. It is significant that all the cases cited in paragraph 4 above were on appeal from a lower court and not applications for judicial review.

[11] The second second reason we refused permission to claim judicial review, is that the Applicants have an alternative remedy. Even if we are wrong, and the judge’s decision as to whether she had jurisdiction to try this matter could properly be the subject matter of proceedings for judicial review, the fact that there is an alternative remedy available to the Applicant is a bar to the grant of leave. The alternate remedy is by way of an appeal. Prerogative remedies are always discretionary. In this case we bear in mind that the Applicants have been before the court since

2019. Their trial has now commenced. It is a case that has attracted great public attention as it involves allegations which impact directly the public purse and public trust. In these circumstances it is in the public interest that the trial proceeds. It ought not to be interrupted in this way. A remedy by way of an appeal exists and the Appellants should avail themselves of it, if the need arises. This has been recently stated by the Court of Appeal in ***Fritz Pinnock et al v Financial Investigations Division [2020] JMCA App 13*** (unreported judgment delivered 3<sup>rd</sup> April 2020) at para 42.

[12] These procedural issues aside this court is also of the view that on the substantive question the Applicants have no prospect of success real or imagined. The decision of this court will not be binding on the Court of Appeal and hence there is no prejudice to the Applicant by our articulating our reasons. The intended claim turns largely on an interpretation of sections 272, 273, and 274 of the Judicature Parish Courts Act. These provide:

*“272. On a person being brought or appearing before a Judge of the Parish Court in Court or in Chambers, charged on information and complaint with any indictable offence, the Judge of the Parish Court shall, after such enquiry as may seem to him necessary in order to ascertain whether the offence charged is within his jurisdiction, and can be adequately punished by him under his powers, make an order, which shall be endorsed on the information and signed by the Judge of the Parish Court, that the accused person shall be tried, on a day to be named in the order, in the Court or that committal proceedings shall be held in accordance with the Committal Proceedings Act, 2013 with a view to a committal to the Circuit Court.*

*273. It shall be lawful for any Judge of the Parish Court, in making any order under section 272 directing that*

*any accused person be tried in the Court, by such order to direct the presentation of an indictment for any offence disclosed in the information, or for any other offence or offences with which, as the result of an enquiry under the said section, it shall appear to the Judge of the Parish Court the accused person ought to be charged and may also direct the addition of a count or counts to such indictment. And, upon any such enquiry, it shall be lawful for the Judge of the Parish Court to order the accused person to be tried for the offence stated in the information, or for any other offence or offences, although not specified in the information, and whether any such information in either case did or did not strictly disclose any offence.*

*274. The trial of any person before a Parish Court for an indictable offence, shall be commenced by the Clerk of the Courts preferring an indictment against such person and there shall be no committal proceedings.”*

Contrary to the Applicants' suggestion there is nothing implicit or express in these provisions which require that, where multiple accused persons are before the court on several Informations, the Order for Indictment for each accused must be noted on the Information relative to that accused. It may be advisable, or an admirable practice, but it is not required by the legislation. In a case like this, with several accused persons and several offences with respect to each, such a practice could result in an administrative nightmare. It is certainly more convenient to use one Information and endorse the Order for Indictment, with respect to each accused, on the back thereof.

[13] Neither do the sections quoted above expressly or by implication require that the name of the accused be noted. It suffices that when the Order for Indictment is made the individual to which the Information relates is identifiable. The Order for

Indictment did so and indeed the Indictment when laid clearly set out the identity of the accused and the facts alleged with respect to each. It suffices that the Order for Indictment was clear and unambiguous as to who was charged, the offence for which they are charged and, the information relative to that accused. The authorities cited are not in *pari materia* to the facts of this case. It is important to note that when counsel was asked what prejudice his clients suffered because of the alleged breach he offered none. There could not be prejudice. They had been before the court for many years, in some cases since 2019, they were aware of the content of the Information and, they participated in the hearing when the decision to indict was made. They were all pleaded to a correctly drawn Indictment.

[14] In the final analysis therefore permission to proceed to file a Claim for Judicial Review is refused. The subject matter is inappropriate for this process as no question of an excess of jurisdiction arises and the Applicants all have an alternate remedy. We find also that their intended case is unmeritorious, they have no arguable ground for judicial review with a real prospect of success.

[15] On the matter of costs, we agree with the Interested Party's submissions in that regard. The Respondent's costs of this renewed application will be paid by the Applicants. Such costs are to be agreed or taxed.

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David Batts, Puisne Judge

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Dale Palmer, Puisne Judge

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Tara Carr, Puisne Judge.