

Courts to Receive Additional Support in Handing Down Judgments

[Shelly-Ann Irving](#)

JIS



Photo: Rudranath Fraser Minister of Justice, Hon. Delroy Chuck (left), is in light conversation with Opposition Spokesperson on Justice, Senator Mark Golding (centre), and Chairman of the General Legal Council, Allan Wood, at the Council's Law Conference on May 22, at Jamaica Conference Centre,

downtown Kingston.

Minister of Justice, Hon. Delroy Chuck, says that submission has been made for the hiring of 10 additional judicial clerks to assist courts in handing down judgments.

A judicial clerk is a qualified attorney who aids a judge in researching issues before the court, writing opinions and making legal determinations.

Minister Chuck, who was addressing the General Legal Council's Law Conference at the Jamaica Conference Centre, downtown Kingston, on May 22, said the additional support will ensure more timely delivery of judgments.

He said the Ministry is also willing to hire Norman Manley Law School students to provide assistance in conducting research.

Minister Chuck informed that he continues to consult with stakeholders in the justice system towards establishing reasonable timelines for the disposal of cases before the courts.

He cited New Zealand and Canada, as among countries that have instituted laws to dismiss criminal cases that have remained before the courts over a specified period without trial.

He said that this approach is worthy of consideration for Jamaica.

“I have been in consultation with a number of stakeholders and will continue... to analyse whether this approach will be workable in Jamaica. It cannot be that cases lag in the courts forever,” he said.

Earlier this year, Minister Chuck put forward the proposal of setting timelines for the disposal of cases in order to ensure greater efficiency in the justice system and protect the rights of Jamaicans.

At the time, he urged judges to push to dismiss cases that are in the system for five years and more, by the end of this year, arguing that it was unfair to have litigants going to court for such a long time to have their cases settled.

The Justice Minister said he is of the view that no case should last more than 18 months in the parish courts and no more than two months in the Supreme Court.

He said that while these timelines may not be possible in the next few years, “certainly, we must find ways and means to ensure that we have no case lagging at least in the criminal courts for five years.”

“Hopefully, by the end of 2017, we must put in place provisions to ensure that cases drop to below four years and that by 2020, no cases will go beyond three years as we work towards a lower timeline. It is absolutely important for us to do so,” Mr. Chuck stressed.

Justice Minister calls for Partnerships to Reduce Crime

By [Douglas McIntosh](#)

JIS

Justice Minister, Hon. Delroy Chuck, has underscored the need for multi-stakeholder partnerships to curb crime and violence, as the problem could pose challenges for the Government’s attainment of economic growth and job creation.

Central to this, the Minister said, are Justices of the Peace (JPs), who can play a proactive role in helping to reduce crime.

The Minister was speaking at the installation ceremony for 14 newly appointed JPs for St. Thomas, at the Whispering Bamboo Cove at Retreat in the parish, on May 26.

Expressing concern over the extent to which crime and violence is affecting the society, Mr. Chuck encouraged the JPs to support the Ministry’s “social crusade” aimed at reducing criminal activities.

“I also urge all of you to join in partnerships with the police, ministers’ fraternal, teachers, and other decent citizens who are willing to lift the quality of life in your communities. If you are all prepared to pull together to remove whatever is wrong in our communities, it can be removed,” the Minister said.

Mr. Chuck further encouraged JPs to be the “conscience” of civil society, who are prepared to demand change.

“In your own way, you have to send that signal that you are demanding appropriate behaviour in your communities, that you are demanding decency and civility, and when you know of wrongdoing, you collectively pull together and bring it to the attention of the police,” he added.

More Training for JPs

By [Douglas McIntosh](#)

JIS



Photo: Melroy Sterling Justice Minister, Hon. Delroy Chuck (right), shares pleasantries with Permanent Secretary in the Ministry, Carol Palmer, during Thursday’s (May 26) installation ceremony for 14 newly appointed Justices of the Peace for St. Thomas, at the Whispering Bamboo Cove Resort at Retreat in the parish. Mr. Chuck was the

keynote speaker.

Justices of the Peace (JPs) are to benefit from additional training to better enable them to carry out their duties.

Minister of Justice, Hon. Delroy Chuck, said the annual training programmes, scheduled to get underway shortly, will cover a number of areas.

These include rehabilitating youth offenders; inspecting prisons and police lock-ups; and administering the proposed expanded use of mediation in parish courts.

He was speaking during Thursday's (May 26) installation of 14 new JPs for St. Thomas at the Whispering Bamboo Cove Resort in Retreat.

Mr. Chuck said the training for the JPs is intended to "empower and strengthen" them "to rescue and restore" communities plagued by crime and violence.

"We should have at least four training sessions in each parish," he said, noting that each JP will be required to attend at least one session.

"We are looking at making the training mandatory. We are going to insist that the JPs get the training and serve," the Minister added.

In her remarks, Permanent Secretary in the Ministry, Carol Palmer, noted that part of the overall justice sector reform strategy entails greater engagement of the JPs within the legal system.

As such, she encouraged them to "join with us in the Ministry to keep our justice system on track and reduce the stress on our courts."

There is need for a tougher Bail Act

The Observer



As was expected, members of the private Bar have come out swinging against Prime Minister Andrew Holness's announcement of the Government's intention to have the Bail Act amended.

Mr Holness made the disclosure in his budget presentation on Tuesday, but did not elaborate, stating only that the intention was for an amendment to the act "such that persons charged with murder

will be ineligible for bail under certain circumstances".

Without details of the Government's proposal, we are unable to give our view one way or the other. However, readers of this column will know that we have often argued the point that bail is too easily granted to some accused individuals and that there needs to be a review of the law.

We cannot forget the brutal murder of Special Constable Troy Foster in Malvern, St Elizabeth, in January 2013 by gunmen who engaged a police patrol in the town.

After the shooting, it emerged that one of the gunmen — Tyrone Edmond, who was also shot dead in that encounter — was out on bail, having been charged with the murder of 60-year-old pensioner, Mr Cecil Bennett in Top Hill, St Elizabeth, in 2010.

We also remember very well that in August 2012 one of the three suspects held for the cold-blooded murder of 26-year-old used car dealer Mr Michael Rochester was on bail. The suspect, the police reported, was facing charges of murder and shooting with intent.

There have been myriad cases in which offenders on bail have committed serious crimes, including murder. Indeed, one infamous gang leader, who was arrested and charged for a triple murder, was released on bail only to be arrested again and charged with a fourth murder three months later. But, surprisingly, he was granted bail again.

After all that, who can blame the police and indeed public prosecutors for feeling frustrated? Indeed, the police have often lamented that the ease with which some accused individuals are granted bail is hobbling their crime-fighting efforts.

We recall some years ago Assistant Commissioner of Police Wray Palmer expressing a desire on behalf of the Police Officers' Association that the courts review the administration of bail.

“We need to consider the freedom of a violent criminal versus the security of the nation,” Mr Palmer said at the time.

It is a view that was shared by former Prime Minister PJ Patterson who, in 2005, called for a review of the policy governing bail.

“There are too many cases of too many persons who have been bailed intimidating witnesses or committing other offences,” Mr Patterson told senior journalists at a Jamaica House news briefing.

This problem, we note, is not unique to Jamaica for, in October 2012, British newspapers published Government data showing that every 10 days a murder is committed in Great Britain by offenders on bail.

According to those statistics, at least 37 criminals were convicted of murder while on bail for another offence in the year 2011 — an average of three every month.

In addition, the data showed that in 2011, a total of 65,627 criminals were convicted for a new offence they had committed while on bail.

While the figures here in Jamaica are not as frightening, we cannot ignore the reality to which they speak.

Jamaica needs to get to the point where the principles of justice and the rights of individuals are observed, while the safety of the community is protected.

Jury Bill Passed In Upper House

The Gleaner

The Senate yesterday hurried through the bill to amend the Jury Act that will allow guilty verdicts to be passed by a majority of jurors.

The Jury Act 2015 had reduced the requirement for the number of jurors required to try non-capital murders from 12 to seven.

Leader of Government Business Kamina Johnson Smith said that the bill was intended to rectify omissions made in the legislation which came into force on February 1, 2016.

The bill was passed during Wednesday's sitting of the House of Representative, paving the way for yesterday's passage in the Senate.

Justice System Anomaly

Johnson Smith explained that the bill was being hurried to correct an existing anomaly in the justice system.

"What we are seeking to do today is to correct an anomaly that occurred as a result of the passage of the Jury Amendment Bill last year," said Johnson Smith.

She said that there was a clause in the bill which was not adjusted along with other changes that were made.

Expressing gratitude to the Senate for facilitating the passage, Johnson Smith said that the aim was to make provision for the number of jurors required for guilty verdicts in cases of non-capital murder.

As it was at Wednesday's sitting of the House, the bill enjoyed full support of the Senate.

With Attorney General Marlene Malahoo Forte on Wednesday impressing on the House of Representatives the urgent need for a review of the system, Opposition Senator Wensworth Skeffery warned against continuously reducing the jury pool after the reduction from 12 to seven.

Other participants included Government Senators Charles Sinclair, Pearnel Charles Jr, Ransford Braham and Acting Leader of Opposition Business K.D. Knight.

gary.spaulding@gleanerjm.com

Minister Chuck is simply calling a spade a The Observer



Minister of Justice - Delroy Chuck

Dear Editor,

I refer to Dr Ford's letter headlined 'Minister Chuck has opened Pandora's box' in yesterday's edition of

the Jamaica Observer.

Dr Ford appears to be taking on a role akin to WWF, his victims being the judges. Here is what he must remember:

The justice system includes all who work to deliver justice; this includes witnesses, police and all those in-between, up to the judges. So, all of them, in some way, contribute to the poor delivery — along with the unprecedented volume of crimes upon the land.

Often, the police and Director of Public Prosecution Paula Llewellyn get the lion's share of the blame for poor delivery of justice in criminal cases, while other people, up to the judges, seem to escape culpability. Is this fair? Are judges the most efficient workers, such that they never contribute to the poor delivery of justice?

Minister Chuck is simply calling a spade a spade — that some judges are not pulling their weight and must shape up. These protected species are not paid to sit at the top of society and work at a pace out of sync with the reality in the country. They, like everyone, have to do better with the resources available.

One is left to speculate that the 37 per cent of murders that Prime Minister Andrew Holness speaks of may be the manifestation of untimely delivery from the courts in civil matters, such that people take the law into their own hands.

Norman Lee

Brampton, Ontario

namronlee@rogers.com

Public Defender Appeals For Extension Of 6-Year Statute Of Limitation For Tivoli Residents

The Gleaner

The public defender is again appealing to Justice Minister Delroy Chuck to extend the current six-year statute of limitations to allow persons in west Kingston who were impacted by the May 2010 police-military operations to seek redress.

Public Defender Arlene Harrison-Henry announced that her office has filed suit against the government on behalf of the estates of about 30 persons who died and some 40 others who were either injured or detained during the police/military operations.

This appeal has come amid concerns that residents in the west Kingston community were running out of time to seek legal redress for injuries and damage done to their homes and other personal belongings during the operation.

Over 74 civilians and one member of the Jamaica Defence Force were killed in the operations, which were aimed at capturing then fugitive Christopher 'Dudus' Coke.

Gordon Robinson | Don't Rush To Judgment

The Gleaner

Somehow, a Jamaican Bar Association (JBA) letter to the chief justice complaining of delays in delivery of judgments found itself in The Gleaner.

On May 15 ('End delays from the Bench! Bar Association calls on judges to speedily hand down judgments'), it was quoted extensively. Some might have formed the impression that Jamaica's justice system's problems were the fault of these delinquent judges.

The JBA's letter included: "We're of the view these many outstanding judgments underscore the problem of chronic delays in the timely delivery of justice within the Supreme Court"

But, if you ploughed through the entire report, you'd notice only 62 delinquent judgments were listed over 10 years (an average of six per year). Now, all judgments should be delivered promptly, but a proper context ought to be provided so readers aren't misled into believing THIS is the problem.

In 1994, then attorney-at-law David Batts, with Stacy Mitchell (now Fraser), presented an excellent paper, 'Delays in the Justice System Civil Jurisdiction'. At that time, Mr Batts (now Mr Justice Batts) noted the absence of available statistics regarding pending Supreme Court cases, but was able to record that, in the appeal court (1990), 352 cases were filed, 90 disposed of, and 245 of 430 settled.

In the absence of statistical assistance, the Batts-Mitchell project team conducted a study and concluded, in 1994:

"The median or 50th percentile age from placement on the Cause List to expected disposition date ... is 16 months. The 75th percentile was 21.6 months."

That 1994 study went on:

"More alarming is the age of the pending caseload from the time the case is filed The 50th percentile time from filing to expected disposition is 33.5 months, while the 75th percentile is 57.5 months."

REASONS FOR DELAYS

In 1994, Mr Batts, then a member of the JBA, gave as reasons for Supreme Court delays:

(a) The existing backlog: itself caused by past slow disposal of cases. New cases moved to the back of the line;

(b) Civil procedure system: operated hostile to efficiency (few settlements or agreement of certain issues);

(c) Administrative difficulties (especially the registry's operation): "Files cannot be located. It takes forever to obtain dates. Information is difficult to access. Letters are either not answered or responses are late in coming. Formal orders and judgments in default take months to be executed."

(d) Attitude of counsel: Many at the civil Bar don't seem to acknowledge their roles as officers of the court with a vested interest in getting things done. Why spend three days in court when an adjournment means one can produce more lucrative work in chambers? " ... Many of us don't give matters the consideration they require before entering that courtroom. Documents aren't agreed, pretrial discovery not utilised sufficiently; witnesses aren't prepared ... and the court isn't given the type of assistance which could lead to a smoother flow of cases."

(e) Judges: If both parties to a civil matter agree to adjourn, there may be little a judge can do, "however, a judicial attitude can make a world of difference. One need only cite the rather extreme example of a certain judge at the Revenue Court".

One Monday morning, as I was leaving to conduct a Revenue Court trial, I was summoned by telephone to an emergency appeal court hearing. I asked junior counsel in the chambers to go to the Revenue Court, explain my urgent dilemma, and ask for a postponement until I could attend.

Said "extreme example" (long ago dearly departed) informed junior counsel: all parties were present. He was alleged to be a lawyer, so the trial would begin. By the time I arrived, the matter had proceeded almost to conclusion and poor junior counsel was completely stressed out, facing some of Jamaica's most senior advocates.

WORSE SITUATION

Twenty years later, with new Civil Procedure Rules, case management and "mandatory" mediation, the situation is worse. The Economic and Social Survey Jamaica (ESSJ) 2015 remains devoid of Supreme Court civil case statistics. The appeal court had 1,388 appeals carried forward from the previous year (738 Supreme Court Civil); 253 new appeals filed (118 SCCA); and only 169 appeals (approximately 10 per cent) disposed of. At the end of the year, 1,472 appeals remained pending. The decline in new appeals from 1990 (352) to 2015 (253) is itself a product of the snail's pace at which Supreme Court trials are concluded.

My usually reliable sources estimate many thousand Supreme Court civil cases were carried forward in each of the past five years and between 7,000 and 8,000 new cases filed in the civil division each year, including more than 3,000 matrimonial matters.

Why the unending, burgeoning backlog? Because 62 judgments were egregiously delayed over the past 10 years? Of course not. Supreme Court judges are as much victims of the system as we are. The reasons for the delays set out by Mr Batts in 1994, compounded by 20 more years of political neglect and professional arrogance by lawyers, are the reasons today.

1. About 30 Supreme Court judges are expected to sit all day, every day (criminal AND civil), hearing a list of about five matters per day in chambers; five per week in open court. Three weeks in civil court can be immediately followed by three weeks on circuit. There's no system for a regular week off to write judgments.

2. Conditions of work are archaic, shambolic, embarrassing and counterproductive. There are more than 300 law-school graduates annually, but no judge has a rotating staff of at least three young lawyers as judicial clerks to assist with research and judgment writing. Support staff and services are woefully inadequate and outdated. One 'secretary' will type for five judges but doesn't assist with appointments or anything else. Most judges don't have dedicated registry clerks to attend to their diaries and fixtures. Registry staff are generally underpaid, demotivated and inadequately trained. Clerks have duties to judges in court AND filing/office duties elsewhere. It's an administrative morass, and a judge, who should have three judicial clerks, a dedicated registry clerk and secretary, is left to fend for him/herself AND is lambasted when judgments are late;

3. The production of verbatim trial transcripts is a joke despite the presence of alleged verbatim recorders with computerised equipment. Recently, a complex libel trial was conducted five years after suit was filed. After trial, it took one year-plus to produce notes of evidence for the judge's consideration. Judgment was delivered promptly and appealed. The same Supreme Court that delivered notes to the judge was unable to produce the same notes of evidence for the appeal, so lawyers had to produce or deliver the notes or wait ad infinitum for the appeal to be heard. The appeal was heard three years after the trial. WTH?

4. Updated law reports are as rare as Phalaenopsis blooms; reporting of local judgments haphazard at best; judges' security non-existent; and their woefully inadequate remuneration,

terrible pension arrangements and inadequate health plans, still controlled by the Ministry of Justice, are insults.

5. The infrastructure is pathetic. Criminal and civil courts are housed side by side. Prisoners are escorted by police through civil-law litigants waiting for their cases to be heard. The recently refurbished old NCB building (intended to separate criminal and civil courts), is a perfect example of how to waste space. The problem remains.

ESSJ 2015 refers to "justice-sector reform", which promised "a review of the court-based automatic mediation process and the preparation of a report, which included recommendations for the expansion and improvement of automatic mediation"

DWL! Three years later, WHERE IS IT? Gathering dust on somebody's desk? Meanwhile, parties send representatives to mediation who are unable to take final decisions or who only intend to go through the motions. There's no sanction. If you turn up with an attitude so anti-mediation, you succeed in creating another year's delay - no biggie. Mediators, claiming "confidentiality", won't expose these system manipulators in court. You see, doctors differ and patients die, but lawyers differ and both get rich.

JBA, stop crying about a few outstanding judgments. Agitate for REAL systemic improvements beginning with a truly independent judiciary with its own budget administered by the chief justice, proper remuneration, staffing and working conditions for judges, judicial specialisation and proper case-management procedures, time off to write judgments, and greater due diligence in making appointments.

Until these fundamental changes are made at the problem's root, it's a miracle that No. 62 isn't 620!

Peace and love.

- Gordon Robinson is an attorney-at-law. Email feedback to columns@gleanerjm.com.

Attorney Surprised Gov't Again Mooting Bail Act Amendment

Sherine Williams, Gleaner Writer

One of the lawyers who worked to have changes to the Bail Act declared unconstitutional five years ago, says he's surprised the government is again planning to make similar amendments to the law.

Attorney, Marcus Greenwood, says he believes the government's plan to deny murder suspects bail will fail just as it did in 2011.

Marcus Greenwood was one of the attorneys in the case in which two murder suspects successfully challenged the 2010 amendments to the Bail Act which allowed murder suspects to be detained for 60 days without bail.

The suit was prompted after a resident magistrate in Mandeville, citing the amendments, denied the two murder suspects bail but subsequently granted another murder accused bail.

The two murder suspects then filed a suit against the government in the Supreme Court in 2011 and the court ruled that it was unconstitutional to hold the suspects for sixty days without bail.

The ruling trashed the amendments made by the Bruce Golding administration, as the court held that the Bail Act was effective in dealing with crime without unconstitutionally denying murder suspects bail.

However, fast forward to 2016, and the Andrew Holness administration is looking to change the Bail Act again so that murder suspects can be denied bail under certain circumstances.

Greenwood says he's still against arbitrarily denying murder suspects bail and maintains the new plan won't work because it offends Jamaica's constitution.

Greenwood says the police and citizens may be pleased with the proposed changes which appear to be tougher crime-fighting laws.

But he says the true deterrent to crime is convicting persons so that a clear message can be sent to other potential perpetrators.

In his Budget presentation Prime Minister Andrew Holness said the Justice Minister and the Attorney general would further explain how the amendments to the Bail Act will work.

Legal Fight Looms Over Firing Of RADA Boss

Livern Barrett and Christopher Serju

The Rural Agricultural Development Authority (RADA) has been given seven days to negotiate a resolution to the impasse surrounding the employment status of Lenworth Fulton as its executive director.

This was revealed yesterday by attorney-at-law John Junor, who confirmed that his law firm, Knight, Junor & Samuels, has been retained by Fulton to fight an attempt by RADA to remove him.

"If they do not respond within the time given, we will take certain actions," said Junor, signalling that he would go to court to seek an injunction barring RADA from dismissing Fulton.

Permanent Secretary in the agriculture ministry Donovan Stanberry told The Gleaner yesterday that Fulton was informed last Friday that his contract had been terminated but declined to comment further.

According to Junor, Fulton received a letter from RADA last Friday "purporting to terminate a contract which had already expired" and indicating that it would not be renewed. In addition, he said his client was stripped of the keys to his office and the motor vehicle assigned to him by the agency.

New Three-Year Contract

However, Junor is contending that Fulton was given a new three-year contract dated May 2 this year by a "duly constituted board" [of directors] before the expiration of its tenure.

"He has a signed contract," the attorney insisted, adding that he had evidence indicating that this was included in the minutes of a board meeting.

Despite this, Junor said his client was willing to negotiate a resolution to the impasse.

"We are quite clear that if you wish to terminate the services, then you are going to pay him for the period that you contracted him for. I have indicated to the acting chairman [of RADA] that if they are prepared to negotiate, we would be more than willing to sit around the table with them," he reasoned.

He said this position was communicated two days ago and indicated that the state-run agency has seven days to respond before the intervention of the court is sought.

A trained agriculturalist, Fulton took office as the top man at RADA on Wednesday, May 1, 2013, transitioning from the Jamaica 4-H Clubs, where he had served as executive director for 12 years. He took over from Harold Spaulding, who had been confirmed in the post in January of that year, following the dismissal of Al Powell from the top position a year before.

Potential Sale Of Jamaica’s Long-Shuttered Palmyra Resort Reported

[HOTEL & RESORT](#) | [BRIAN MAJOR](#) |



There may be signs of life — and a potential sale — at one long-stalled Jamaican resort project.

The *Jamaica Gleaner* is [reporting](#) financial services firm Sagicor Group Jamaica has emerged as the “preferred buyer” of the shuttered Palmyra resort in Montego Bay’s Rose Hall district.

TOUR OPERATOR

Sagicor has been selected from among a group of “overseas bidders” and is expected to pay \$50 million for the partially complete, 280-room hotel and condominium complex, located on 16 acres of beachfront land in Montego Bay. Palmyra has been mostly shuttered and in receivership

since July 2011, earning an unwanted distinction as Jamaica's version of the Bahamas' incomplete [Baha Mar mega-resort](#).

Launched in 2005 by developer Robert Trotta, Palmyra was to feature three towers, of which two are complete. Of the complex' 200 completed residences, 97 are reportedly available for sale. Palmyra's originally planned 88 studio suites, 11 three-bedroom villas, 12,000 square feet of banquet and meeting facilities and 30,000-square-foot spa remain in various stages of construction.

Sagicor plans to complete the Palmyra development, according to the source cited in the *Gleaner* report. Sagicor currently operates three Jewel resorts properties in Jamaica and one hotel, Hilton Rose Hall, located within close view of the Palmyra property.

The Palmyra resort entered receivership after Trotta's Palmyra Resorts & Spa Limited allegedly defaulted on debt totaling \$110 million. The National Commercial Bank Jamaica and RBC Jamaica assumed control of the property, placing it into receivership.

Two years ago the developer filed suit in Jamaica's Supreme Court to determine the property's rightful owner. A hearing in the case will take place in four months, according to the *Gleaner* article.

Sagicor is the latest prospective buyer in a line of failed deals for the incomplete Palmyra development since 2012, when RBC Jamaica auctioned the complex but failed to find a successful bidder despite an international marketing campaign that sought buyers throughout the world.

Firearm seized, man arrested in Manchester

The Observer



MANCHESTER, Jamaica — The Mandeville police say they have seized a Glock 9mm pistol, 43 rounds of ammunition and arrested a man during an operation in Kingsland district in the parish on Thursday.

Reports are that between the hours of 11:00 am and 6:30 pm, lawmen were on operation when a man was seen allegedly acting in a suspicious manner. He was accosted, searched and the weapon allegedly found.

He was subsequently arrested and charged for illegal possession of firearm and ammunition.

He is 19-year-old Derval Henry of Hopeton district, Manchester. He is scheduled to appear in the Mandeville Residents Magistrate's Court on Tuesday.

Guard claims he bought suitcase at garage sale with ganja hidden inside

Covering the courts with Tanesha Mundle

The Observer



A security guard, who was reportedly caught at the airport with one pound of ganja in his suitcase, claimed he bought the suitcase at a garage sale and did not know that it contained drugs.

Sean Ellis was arrested and charged with possession of ganja, dealing in, possession, and taking preparatory steps to export ganja after the drug was reportedly found in his suitcase when he checked in to board a flight to Barbados.

On Friday when Ellis appeared in court, he pleaded guilty to the possession and dealing charges. When asked by Judge Pusey why he had pleaded not guilty to the other charge, he told her that he bought the suitcase at a garage sale.

“So which yard sale was that?” the judge asked. “I think in Mandeville,” Ellis answered. “So how come you didn’t invite me?” the judge asked further. “Maybe if I knew you before,” Ellis answered.

Judge Pusey then told him: “Most people don’t like me when they meet me.” But Ellis told her that he thought she was a decent person. She then questioned Ellis about his occupation and why he was visiting Barbados.

He told her that he was a security guard and before that had worked as a chef, and was going to the Caribbean country on vacation. Judge Pusey then asked Ellis where he was going to stay and he told her was planning to stay at Casablanca Resort.

“That is a five-star hotel. Where you get the money to pay for the ticket and the hotel?” she asked. Ellis, who had told the court that he had earned \$16,000 per month as a guard, said that he had been saving for years.

“And you think you can come to me with that story ‘bout you buy suitcases at garage sale? No matter how wonderful you think I am, I’m not buying that story,” the judge told Ellis before remanding him in custody. He will next appear in court on June 15.

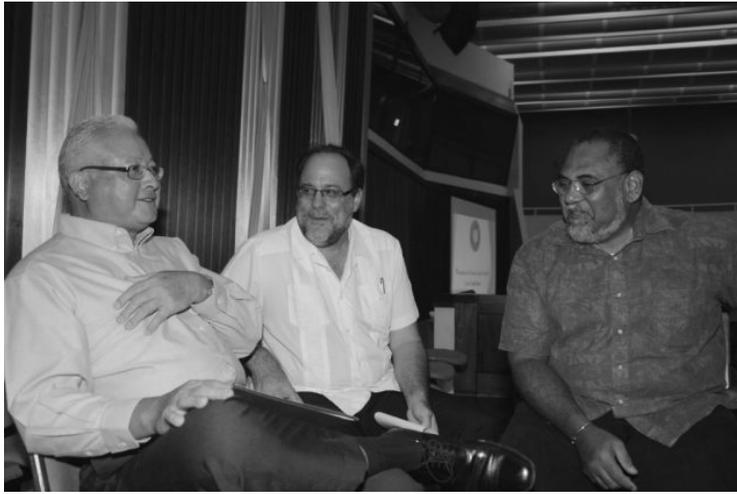
The End



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downtown Kingston.

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More Training for JPs

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keynote speaker.

Justices of the Peace (JPs) are to benefit from additional training to better enable them to carry out their duties.

Minister of Justice, Hon. Delroy Chuck, said the annual training programmes, scheduled to get underway shortly, will cover a number of areas.

These include rehabilitating youth offenders; inspecting prisons and police lock-ups; and administering the proposed expanded use of mediation in parish courts.

He was speaking during Thursday's (May 26) installation of 14 new JPs for St. Thomas at the Whispering Bamboo Cove Resort in Retreat.

Mr. Chuck said the training for the JPs is intended to "empower and strengthen" them "to rescue and restore" communities plagued by crime and violence.

"We should have at least four training sessions in each parish," he said, noting that each JP will be required to attend at least one session.

“We are looking at making the training mandatory. We are going to insist that the JPs get the training and serve,” the Minister added.

In her remarks, Permanent Secretary in the Ministry, Carol Palmer, noted that part of the overall justice sector reform strategy entails greater engagement of the JPs within the legal system.

As such, she encouraged them to “join with us in the Ministry to keep our justice system on track and reduce the stress on our courts.”

There is need for a tougher Bail Act



The Observer

As was expected, members of the private Bar have come out swinging against Prime Minister Andrew Holness’s

announcement of the Government's intention to have the Bail Act amended.

Mr Holness made the disclosure in his budget presentation on Tuesday, but did not elaborate, stating only that the intention was for an amendment to the act "such that persons charged with murder will be ineligible for bail under certain circumstances".

Without details of the Government's proposal, we are unable to give our view one way or the other. However, readers of this column will know that we have often argued the point that bail is too easily granted to some accused individuals and that there needs to be a review of the law.

We cannot forget the brutal murder of Special Constable Troy Foster in Malvern, St Elizabeth, in January 2013 by gunmen who engaged a police patrol in the town.

After the shooting, it emerged that one of the gunmen — Tyrone Edmond, who was also shot dead in that encounter — was out on bail, having been charged with the murder of 60-year-old pensioner, Mr Cecil Bennett in Top Hill, St Elizabeth, in 2010.

We also remember very well that in August 2012 one of the three suspects held for the cold-blooded murder of 26-year-old used car dealer Mr Michael Rochester was on bail. The suspect, the police reported, was facing charges of murder and shooting with intent.

There have been myriad cases in which offenders on bail have committed serious crimes, including murder. Indeed, one infamous gang leader, who was arrested and charged for a triple murder, was released on bail only to be arrested again and charged with a fourth murder three months later. But, surprisingly, he was granted bail again.

After all that, who can blame the police and indeed public prosecutors for feeling frustrated? Indeed, the police have often lamented that the ease with which some accused individuals are granted bail is hobbling their crime-fighting efforts.

We recall some years ago Assistant Commissioner of Police Wray Palmer expressing a desire on behalf of the Police Officers' Association that the courts review the administration of bail.

“We need to consider the freedom of a violent criminal versus the security of the nation,” Mr Palmer said at the time.

It is a view that was shared by former Prime Minister PJ Patterson who, in 2005, called for a review of the policy governing bail.

“There are too many cases of too many persons who have been bailed intimidating witnesses or committing other offences,” Mr Patterson told senior journalists at a Jamaica House news briefing.

This problem, we note, is not unique to Jamaica for, in October 2012, British newspapers published Government data showing that every 10 days a murder is committed in Great Britain by offenders on bail.

According to those statistics, at least 37 criminals were convicted of murder while on bail for another offence in the year 2011 — an average of three every month.

In addition, the data showed that in 2011, a total of 65,627 criminals were convicted for a new offence they had committed while on bail.

While the figures here in Jamaica are not as frightening, we cannot ignore the reality to which they speak.

Jamaica needs to get to the point where the principles of justice and the rights of individuals are observed, while the safety of the community is protected.

Jury Bill Passed In Upper House

The Gleaner

The Senate yesterday hurried through the bill to amend the Jury Act that will allow guilty verdicts to be passed by a majority of jurors.

The Jury Act 2015 had reduced the requirement for the number of jurors required to try non-capital murders from 12 to seven.

Leader of Government Business Kamina Johnson Smith said that the bill was intended to rectify omissions made in the legislation which came into force on February 1, 2016.

The bill was passed during Wednesday's sitting of the House of Representative, paving the way for yesterday's passage in the Senate.

Justice System Anomaly

Johnson Smith explained that the bill was being hurried to correct an existing anomaly in the justice system.

"What we are seeking to do today is to correct an anomaly that occurred as a result of the passage of the Jury Amendment Bill last year," said Johnson Smith.

She said that there was a clause in the bill which was not adjusted along with other changes that were made.

Expressing gratitude to the Senate for facilitating the passage, Johnson Smith said that the aim was to make provision for the number of jurors required for guilty verdicts in cases of non-capital murder.

As it was at Wednesday's sitting of the House, the bill enjoyed full support of the Senate.

With Attorney General Marlene Malahoo Forte on Wednesday impressing on the House of Representatives the urgent need for a review of the system, Opposition Senator Wensworth Skeffery warned against continuously reducing the jury pool after the reduction from 12 to seven.

Other participants included Government Senators Charles Sinclair, Pearnel Charles Jr, Ransford Braham and Acting Leader of Opposition Business K.D. Knight.

gary.spaulding@gleanerjm.com

**Minister Chuck is simply calling a spade a
The Observer**



Minister of Justice - Delroy Chuck

Dear Editor,

I refer to Dr Ford's letter headlined 'Minister Chuck has opened Pandora's box' in yesterday's edition of the Jamaica Observer.

Dr Ford appears to be taking on a role akin to WWF, his victims being the judges. Here is what he must remember:

The justice system includes all who work to deliver justice; this includes witnesses, police and all those in-between, up to the judges. So, all of them, in some way, contribute to the poor delivery — along with the unprecedented volume of crimes upon the land.

Often, the police and Director of Public Prosecution Paula Llewellyn get the lion's share of the blame for poor delivery of justice in criminal cases, while other people, up to the judges, seem to escape culpability. Is this fair? Are judges the most efficient workers, such that they never contribute to the poor delivery of justice?

Minister Chuck is simply calling a spade a spade — that some judges are not pulling their weight and must shape up. These protected species are not paid to sit at the top of society and work at a pace out of sync with the reality in the country. They, like everyone, have to do better with the resources available.

One is left to speculate that the 37 per cent of murders that Prime Minister Andrew Holness speaks of may be the manifestation of untimely delivery from the courts in civil matters, such that people take the law into their own hands.

Norman Lee

Brampton, Ontario

namronlee@rogers.com

Public Defender Appeals For Extension Of 6-Year Statute Of Limitation For Tivoli Residents

The Gleaner

The public defender is again appealing to Justice Minister Delroy Chuck to extend the current six-year statute of limitations to allow persons in west Kingston who were impacted by the May 2010 police-military operations to seek redress.

Public Defender Arlene Harrison-Henry announced that her office has filed suit against the government on behalf of the estates of about 30 persons who died and some 40 others who were either injured or detained during the police/military operations.

This appeal has come amid concerns that residents in the west Kingston community were running out of time to seek legal redress for injuries and damage done to their homes and other personal belongings during the operation.

Over 74 civilians and one member of the Jamaica Defence Force were killed in the operations, which were aimed at capturing then fugitive Christopher 'Dudus' Coke.

Gordon Robinson | Don't Rush To Judgment

The Gleaner

Somehow, a Jamaican Bar Association (JBA) letter to the chief justice complaining of delays in delivery of judgments found itself in *The Gleaner*.

On May 15 ('End delays from the Bench! Bar Association calls on judges to speedily hand down judgments'), it was quoted extensively. Some might have formed the impression that Jamaica's justice system's problems were the fault of these delinquent judges.

The JBA's letter included: "We're of the view these many outstanding judgments underscore the problem of chronic delays in the timely delivery of justice within the Supreme Court"

But, if you ploughed through the entire report, you'd notice only 62 delinquent judgments were listed over 10 years (an average of six per year). Now, all judgments should be delivered promptly, but a proper context ought to be provided so readers aren't misled into believing THIS is the problem.

In 1994, then attorney-at-law David Batts, with Stacy Mitchell (now Fraser), presented an excellent paper, 'Delays in the Justice System Civil Jurisdiction'. At that time, Mr Batts (now Mr Justice Batts) noted the absence of available statistics regarding pending Supreme Court cases, but was able to record that, in the appeal court (1990), 352 cases were filed, 90 disposed of, and 245 of 430 settled.

In the absence of statistical assistance, the Batts-Mitchell project team conducted a study and concluded, in 1994:

"The median or 50th percentile age from placement on the Cause List to expected disposition date ... is 16 months. The 75th percentile was 21.6 months."

That 1994 study went on:

"More alarming is the age of the pending caseload from the time the case is filed The 50th percentile time from filing to expected disposition is 33.5 months, while the 75th percentile is 57.5 months."

REASONS FOR DELAYS

In 1994, Mr Batts, then a member of the JBA, gave as reasons for Supreme Court delays:

(a) The existing backlog: itself caused by past slow disposal of cases. New cases moved to the back of the line;

(b) Civil procedure system: operated hostile to efficiency (few settlements or agreement of certain issues);

(c) Administrative difficulties (especially the registry's operation): "Files cannot be located. It takes forever to obtain dates. Information is difficult to access. Letters are either not answered or responses are late in coming. Formal orders and judgments in default take months to be executed."

(d) Attitude of counsel: Many at the civil Bar don't seem to acknowledge their roles as officers of the court with a vested interest in getting things done. Why spend three days in court when an adjournment means one can produce more lucrative work in chambers? " ... Many of us don't give matters the consideration they require before entering that courtroom. Documents aren't agreed, pretrial discovery not utilised sufficiently; witnesses aren't prepared ... and the court isn't given the type of assistance which could lead to a smoother flow of cases."

(e) Judges: If both parties to a civil matter agree to adjourn, there may be little a judge can do, "however, a judicial attitude can make a world of difference. One need only cite the rather extreme example of a certain judge at the Revenue Court".

One Monday morning, as I was leaving to conduct a Revenue Court trial, I was summoned by telephone to an emergency appeal court hearing. I asked junior counsel in the chambers to go to the Revenue Court, explain my urgent dilemma, and ask for a postponement until I could attend.

Said "extreme example" (long ago dearly departed) informed junior counsel: all parties were present. He was alleged to be a lawyer, so the trial would begin. By the time I arrived, the matter had proceeded almost to conclusion and poor junior counsel was completely stressed out, facing some of Jamaica's most senior advocates.

WORSE SITUATION

Twenty years later, with new Civil Procedure Rules, case management and "mandatory" mediation, the situation is worse. The Economic and Social Survey Jamaica (ESSJ) 2015 remains devoid of Supreme Court civil case statistics. The appeal court had 1,388 appeals carried forward from the previous year (738 Supreme Court Civil); 253 new appeals filed (118 SCCA); and only 169 appeals (approximately 10 per cent) disposed of. At the end of the year, 1,472 appeals remained pending. The decline in new appeals from 1990 (352) to 2015 (253) is itself a product of the snail's pace at which Supreme Court trials are concluded.

My usually reliable sources estimate many thousand Supreme Court civil cases were carried forward in each of the past five years and between 7,000 and 8,000 new cases filed in the civil division each year, including more than 3,000 matrimonial matters.

Why the unending, burgeoning backlog? Because 62 judgments were egregiously delayed over the past 10 years? Of course not. Supreme Court judges are as much victims of the system as we are. The reasons for the delays set out by Mr Batts in 1994, compounded by 20 more years of political neglect and professional arrogance by lawyers, are the reasons today.

1. About 30 Supreme Court judges are expected to sit all day, every day (criminal AND civil), hearing a list of about five matters per day in chambers; five per week in open court. Three weeks in civil court can be immediately followed by three weeks on circuit. There's no system for a regular week off to write judgments.

2. Conditions of work are archaic, shambolic, embarrassing and counterproductive. There are more than 300 law-school graduates annually, but no judge has a rotating staff of at least three young lawyers as judicial clerks to assist with research and judgment writing. Support staff and services are woefully inadequate and outdated. One 'secretary' will type for five judges but doesn't assist with appointments or anything else. Most judges don't have dedicated registry clerks to attend to their diaries and fixtures. Registry staff are generally underpaid, demotivated and inadequately trained. Clerks have duties to judges in court AND filing/office duties elsewhere. It's an administrative morass, and a judge, who should have three judicial clerks, a dedicated registry clerk and secretary, is left to fend for him/herself AND is lambasted when judgments are late;

3. The production of verbatim trial transcripts is a joke despite the presence of alleged verbatim recorders with computerised equipment. Recently, a complex libel trial was conducted five years after suit was filed. After trial, it took one year-plus to produce notes of evidence for the judge's consideration. Judgment was delivered promptly and appealed. The same Supreme Court that delivered notes to the judge was unable to produce the same notes of evidence for the appeal, so lawyers had to produce or deliver the notes or wait ad infinitum for the appeal to be heard. The appeal was heard three years after the trial. WTH?

4. Updated law reports are as rare as Phalaenopsis blooms; reporting of local judgments haphazard at best; judges' security non-existent; and their woefully inadequate remuneration, terrible pension arrangements and inadequate health plans, still controlled by the Ministry of Justice, are insults.

5. The infrastructure is pathetic. Criminal and civil courts are housed side by side. Prisoners are escorted by police through civil-law litigants waiting for their cases to be heard. The recently refurbished old NCB building (intended to separate criminal and civil courts), is a perfect example of how to waste space. The problem remains.

ESSJ 2015 refers to "justice-sector reform", which promised "a review of the court-based automatic mediation process and the preparation of a report, which included recommendations for the expansion and improvement of automatic mediation"

DWL! Three years later, WHERE IS IT? Gathering dust on somebody's desk? Meanwhile, parties send representatives to mediation who are unable to take final decisions or who only intend to go through the motions. There's no sanction. If you turn up with an attitude so anti-

mediation, you succeed in creating another year's delay - no biggie. Mediators, claiming "confidentiality", won't expose these system manipulators in court. You see, doctors differ and patients die, but lawyers differ and both get rich.

JBA, stop crying about a few outstanding judgments. Agitate for REAL systemic improvements beginning with a truly independent judiciary with its own budget administered by the chief justice, proper remuneration, staffing and working conditions for judges, judicial specialisation and proper case-management procedures, time off to write judgments, and greater due diligence in making appointments.

Until these fundamental changes are made at the problem's root, it's a miracle that No. 62 isn't 620!

Peace and love.

- Gordon Robinson is an attorney-at-law. Email feedback to columns@gleanerjm.com.

Attorney Surprised Gov't Again Mooting Bail Act Amendment

Sherine Williams, Gleaner Writer

One of the lawyers who worked to have changes to the Bail Act declared unconstitutional five years ago, says he's surprised the government is again planning to make similar amendments to the law.

Attorney, Marcus Greenwood, says he believes the government's plan to deny murder suspects bail will fail just as it did in 2011.

Marcus Greenwood was one of the attorneys in the case in which two murder suspects successfully challenged the 2010 amendments to the Bail Act which allowed murder suspects to be detained for 60 days without bail.

The suit was prompted after a resident magistrate in Mandeville, citing the amendments, denied the two murder suspects bail but subsequently granted another murder accused bail.

The two murder suspects then filed a suit against the government in the Supreme Court in 2011 and the court ruled that it was unconstitutional to hold the suspects for sixty days without bail.

The ruling trashed the amendments made by the Bruce Golding administration, as the court held that the Bail Act was effective in dealing with crime without unconstitutionally denying murder suspects bail.

However, fast forward to 2016, and the Andrew Holness administration is looking to change the Bail Act again so that murder suspects can be denied bail under certain circumstances.

Greenwood says he's still against arbitrarily denying murder suspects bail and maintains the new plan won't work because it offends Jamaica's constitution.

Greenwood says the police and citizens may be pleased with the proposed changes which appear to be tougher crime-fighting laws.

But he says the true deterrent to crime is convicting persons so that a clear message can be sent to other potential perpetrators.

In his Budget presentation Prime Minister Andrew Holness said the Justice Minister and the Attorney general would further explain how the amendments to the Bail Act will work.

Legal Fight Looms Over Firing Of RADA Boss

Livern Barrett and Christopher Serju

The Rural Agricultural Development Authority (RADA) has been given seven days to negotiate a resolution to the impasse surrounding the employment status of Lenworth Fulton as its executive director.

This was revealed yesterday by attorney-at-law John Junor, who confirmed that his law firm, Knight, Junor & Samuels, has been retained by Fulton to fight an attempt by RADA to remove him.

"If they do not respond within the time given, we will take certain actions," said Junor, signalling that he would go to court to seek an injunction barring RADA from dismissing Fulton.

Permanent Secretary in the agriculture ministry Donovan Stanberry told The Gleaner yesterday that Fulton was informed last Friday that his contract had been terminated but declined to comment further.

According to Junor, Fulton received a letter from RADA last Friday "purporting to terminate a contract which had already expired" and indicating that it would not be renewed. In addition, he said his client was stripped of the keys to his office and the motor vehicle assigned to him by the agency.

New Three-Year Contract

However, Junor is contending that Fulton was given a new three-year contract dated May 2 this year by a "duly constituted board" [of directors] before the expiration of its tenure.

"He has a signed contract," the attorney insisted, adding that he had evidence indicating that this was included in the minutes of a board meeting.

Despite this, Junor said his client was willing to negotiate a resolution to the impasse.

"We are quite clear that if you wish to terminate the services, then you are going to pay him for the period that you contracted him for. I have indicated to the acting chairman [of RADA] that if they are prepared to negotiate, we would be more than willing to sit around the table with them," he reasoned.

He said this position was communicated two days ago and indicated that the state-run agency has seven days to respond before the intervention of the court is sought.

A trained agriculturalist, Fulton took office as the top man at RADA on Wednesday, May 1, 2013, transitioning from the Jamaica 4-H Clubs, where he had served as executive director for 12 years. He took over from Harold Spaulding, who had been confirmed in the post in January of that year, following the dismissal of Al Powell from the top position a year before.

Potential Sale Of Jamaica's Long-Shuttered Palmyra Resort Reported

[HOTEL & RESORT](#) | [BRIAN MAJOR](#) |



There may be signs of life — and a potential sale — at one long-stalled Jamaican resort project.

The *Jamaica Gleaner* is [reporting](#) financial services firm Sagicor Group Jamaica has emerged

as the “preferred buyer” of the shuttered Palmyra resort in Montego Bay’s Rose Hall district.

TOUR OPERATOR

Sagicor has been selected from among a group of “overseas bidders” and is expected to pay \$50 million for the partially complete, 280-room hotel and condominium complex, located on 16 acres of beachfront land in Montego Bay. Palmyra has been mostly shuttered and in receivership since July 2011, earning an unwanted distinction as Jamaica’s version of the Bahamas’ incomplete [Baha Mar mega-resort](#).

Launched in 2005 by developer Robert Trotta, Palmyra was to feature three towers, of which two are complete. Of the complex’ 200 completed residences, 97 are reportedly available for sale. Palmyra’s originally planned 88 studio suites, 11 three-bedroom villas, 12,000 square feet of banquet and meeting facilities and 30,000-square-foot spa remain in various stages of construction.

Sagicor plans to complete the Palmyra development, according to the source cited in the *Gleaner* report. Sagicor currently operates three Jewel resorts properties in Jamaica and one hotel, Hilton Rose Hall, located within close view of the Palmyra property.

The Palmyra resort entered receivership after Trotta's Palmyra Resorts & Spa Limited allegedly defaulted on debt totaling \$110 million. The National Commercial Bank Jamaica and RBC Jamaica assumed control of the property, placing it into receivership.

Two years ago the developer filed suit in Jamaica's Supreme Court to determine the property's rightful owner. A hearing in the case will take place in four months, according to the Gleaner article.

Sagikor is the latest prospective buyer in a line of failed deals for the incomplete Palmyra development since 2012, when RBC Jamaica auctioned the complex but failed to find a successful bidder despite an international marketing campaign that sought buyers throughout the world.

Firearm seized, man arrested in Manchester

The Observer



MANCHESTER, Jamaica — The Mandeville police say they have seized a Glock 9mm pistol, 43 rounds of ammunition and arrested a man during an operation in Kingsland district in the parish on Thursday.

Reports are that between the hours of 11:00 am and 6:30 pm, lawmen were on operation when a man was seen allegedly acting in a suspicious manner. He was accosted, searched and the weapon allegedly found.

He was subsequently arrested and charged for illegal possession of firearm and ammunition.

He is 19-year-old Derval Henry of Hopeton district, Manchester. He is scheduled to appear in the Mandeville Residents Magistrate's Court on Tuesday.

Guard claims he bought suitcase at garage sale with ganja hidden inside

Covering the courts with Tanesha Mundle

The Observer



A security guard, who was reportedly caught at the airport with one pound of ganja in his suitcase, claimed he bought the suitcase at a garage sale and did not know that it contained drugs.

Sean Ellis was arrested and charged with possession of ganja, dealing in, possession, and taking preparatory steps to export ganja after the drug was reportedly found in his suitcase when he checked in to board a flight to Barbados.

On Friday when Ellis appeared in court, he pleaded guilty to the possession and dealing charges. When asked by Judge Pusey why he had pleaded not guilty to the other charge, he told her that he bought the suitcase at a garage sale.

“So which yard sale was that?” the judge asked. “I think in Mandeville,” Ellis answered. “So how come you didn’t invite me?” the judge asked further. “Maybe if I knew you before,” Ellis answered.

Judge Pusey then told him: “Most people don’t like me when they meet me.” But Ellis told her that he thought she was a decent person. She then questioned Ellis about his occupation and why he was visiting Barbados.

He told her that he was a security guard and before that had worked as a chef, and was going to the Caribbean country on vacation. Judge Pusey then asked Ellis where he was going to stay and he told her was planning to stay at Casablanca Resort.

“That is a five-star hotel. Where you get the money to pay for the ticket and the hotel?” she asked. Ellis, who had told the court that he had earned \$16,000 per month as a guard, said that he had been saving for years.

“And you think you can come to me with that story ‘bout you buy suitcases at garage sale? No matter how wonderful you think I am, I’m not buying that story,” the judge told Ellis before remanding him in custody. He will next appear in court on June 15.

The End