IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN CIVIL DIVISION

CLAIM NO 2007 HCV 02493

BETWEEN	GERVAN BENNETT	CLAIMANT
AND	SERGEANT DEVON GRANT	1ST DEFENDANT
AND	THE ATTORNEY GENERAL	2ND DEFENDANT

Miss Anna Harry instructed by Nunes Schofield DeLeon & Co. for the Claimant

Miss Alicia McIntosh and Mr. Nigel Gayle instructed by the Director of State Proceedings for the Defendant

False Imprisonment – Malicious Prosecution – Complaint made to Police Officer – Whether officer acting reasonably in the circumstances

Heard: December 7, 2010 and May 16, 2011

McDonald J

On June 19, 2007 the claimant filed a Claim Form and Particulars of Claim in which he alleged that the 1st defendant acting as servant and/or agent of the Crown falsely imprisoned him and initiated a malicious prosecution against him. He claims damages for false imprisonment and malicious prosecution, and aggravated and/or exemplary damages with interest and costs.

The Claimant's Evidence

Mr. Bennett testified that although he is a cabinet maker he in fact builds all types of furniture. He made furniture for people in and around his community.

He said that he met Mr. Green, the virtual complainant in the criminal matter through a lady named Judy and that he agreed to build furniture for Mr. Green. In particular, the claimant testified that he agreed to build a queen size bed head, a bed bottom and two night tables for Mr. Green. He said that Mr. Green gave him money and some lumber to build the items commissioned, and that he gave Mr. Green receipts for the money paid.

He said that Mr. Green came to him about building the furniture in January 2005. Mr. Bennett testified that he agreed with Mr. Green a time frame in which to finish the furniture, but he could not remember whether or not it was to be completed in six months.

It is the claimant's evidence that in May 2006 Mr. Green called him about his furniture and he was aware that Mr. Green needed them at that time.

He said Mr. Green came to his house and looked at the furniture.

There is no dispute that the claimant was arrested on May 20, 2006 and that Mr. Green had not received his furniture up to May 20, 2006 when the claimant was arrested.

The claimant said that prior to his arrest, by the 1st defendant, he spoke to him on the phone. He recounted that during that conversation the 1st defendant asked him if he was building some furniture for Derrick Green and he responded in the affirmative.

He said that 1st defendant asked him where his workshop was and he told him to ask Mr. Green to take him there.

He testified that the 1st defendant identified himself and told him to report to him at the police station. He told the 1st defendant that he does not really work at the police station. He said Sgt. Gordon told him a lot of expletives.

He denied using expletives to the police officer telling him to come off the phone.

The claimant said that on May 20, 2006 the 1st defendant and twenty police officers came to his house. Sgt. Gordon knocked on the front door, and told him that he had come to lock him up for furniture, he never mentioned anything about a report. He denied that he tired to get away to the back of the premises and was stopped by two police officers.

He said that Sgt. Gordon held unto his shirt and pulled him through the doorway and took him to a minibus.

He said that Sgt. Gordon saw the unfinished furniture while he pulled him from his house doorway when they were passing the workshops to go up to where the mini bus and radio car were parked. He showed Sgt. Green the furniture and said to him "see the man furniture them".

He testified that he had shown Sgt. Gordon a queen sized bed head, a queen sized divan and two bedside tables made out of cedar which was the lumber given to him by Mr. Green. He said further that all that needed to be done was for him to spray them and he had not done so because Mr. Green had asked him not to as he was having differences with his girlfriend at the time.

The claimant said that he walked to the Main Road, his son came and handed him a pair of shoes. He went into the bus and was taken to the Mandeville police station where he was charged for fraudulent conversion.

He was locked up from May 20, 2006 and taken to court on May 24, 2006 for the first time and was last before the court on August 9, 2006.

In relation to the conditions of his detention, the evidence of the claimant is that he cell was about 6 feet by 4 feet. There were 8 of them in the cell which lacked ventilation. The floor was wet with sweat, the heat was unbearable, and the cell smelled very bad like a fowl coop.

He said that on the third night he was in jail, he spoke to a Sergeant about the condition and he took him and put him in the passage, which was sloppy, messy and wet but the ventilation was a little better.

Mr. Bennett testified that Mr. Green came to the Resident Magistrate's Court on at least two occasions and that he was present on the last occasion that the matter was before the court. According to the claimant, on one occasion Mr. Green 'chucked' him in his chest. He never told him why he did so, but he knew that he was angry and he agreed that he was angry because he never got his money or furniture back at that time. He was aware at that time that Mr. Green needed the furniture.

Mr. Bennett's evidence in chief is that on May 24, 2006 he was released on his own recognizance. However he admitted in cross-examination that he was offered bail by the court in the sum of $20,000 without a surety.

He said that on August 9, 2006 his lawyer Mr. Adedipe made a no case submission resulting in the charges against him being dropped and in his release. In cross-examination he said that no evidence was led by the crown and that his lawyer had arranged for Mr. Green to go and see the furniture and

indicate whether it was satisfactory, that Mr. Green did so and that this was told to the court on the said day. It was suggested to the claimant that what Mr. Adedipe reported to the court was that Mr. Green did not want to proceed anymore, and that a no order was made at his request. The claimant responded that he did not hear that argument and that Mr. Green never spoke to the judge about that.

He claims to have been injured in his character and/or reputation, suffered greatly in mind and to have suffered loss, damages and incurred expense.

The 1st Defendant's Evidence

Sergeant Gordon's evidence is that a complaint was made to him by one Derrick Green in which Mr. Green alleged that since January 15, 2005, he had given Mr. Bennett monies totalling (in excess) of $29,000 and lumber valued at $8,000 for Mr. Bennett to build certain items of furniture for him.

Mr. Green also informed him that he had been contacting the claimant for some time and he was unable to get the furniture or his money and lumber from the claimant.

Mr. Green contacted Mr. Bennett by cell phone and Sgt. Gordon spoke to him. He told him of the complaint made against him by Mr. Green and invited him to come to the Mandeville Police Station for an interview to discuss the allegations. In response Mr. Bennett told him several expletives and that he was not in any dealings with any police and that he was to come off his phone.

Mr. Green subsequently came to the police station and made a formal report, gave a statement and handed over several receipts showing payments made by him to Mr. Bennett.

After receiving the reports, Sgt. Gordon visited the claimant's premises on two occasions but on both occasions no one was there and the house was locked.

On May 20, 2006, at about 6:00am, Sgt. Gordon went to the claimant's house with three police officers. He called to the claimant and he came out. He told him about the report made by Mr. Green and he showed him some unfinished furniture which the claimant said belonged to Mr. Green.

The claimant was cautioned and informed of the charges at which time he attempted to escape by running towards the back of the property.

His escape was prevented by two of the three other policemen present around there and that is why he came back through the front door.

At the time of his arrest the claimant was not wearing a shirt but he requested time to put one on and was permitted to do so before he was taken to the police station. No force was used in the claimant's apprehension and he was not deprived of wearing his shoes. Once at the Mandeville police station the claimant was charged with fraudulent conversion.

Sgt. Gordon's evidence is that May 20, 2006, the date that the claimant was arrested, was a Saturday and that the next court date was Wednesday May 24, 2006 when the claimant was taken before the court. He explained that court was not held everyday in Mandeville.

It is Sgt. Grant's evidence that when he took the claimant to the station he handed him over to the station guard and had nothing more to do with him until he went to court.

In relation to bail, Sgt. Gordon testified that the claimant could have got bail he had made no objection to the grant of bail and that granting him bail at the station was the purview of the sub-officer-in-charge or Inspector present on that shift.

In examination in chief Sgt. Gordon testified that on May 20, 2006. The claimant was not on crutches at anytime. Sgt. Gordon testified that when he arrived at the claimant's house he knocked on the door. The claimant came to the door, saw him, and locked back the door and tried to escape through the back door of the house.

In cross-examination Sgt. Gordon said that the claimant showed him an unfinished dresser and some pieces of board.

It was suggested to him that he had said something different in his witness statement when he said that he was shown some pieces of unfinished furniture. He testified that he was not saying anything different in the witness stand from what he had said in his statement.

He also said that what was shown to him was nothing of the nature of what Mr. Green had commissioned.

It was suggested to Sgt. Gordon that he was shown a queen sized bed head and bed base and two night tables which needed to be sprayed. This suggestion was flatly denied.

On being asked whether when he went to the claimant's house he had already formed a conclusion that the claimant was guilty, Sgt. Gordon said that he had not.

He observed that he did not know the claimant. Sgt. Gordon also denied suggestions that he was angry with the claimant when he went to his house on May 20, 2006 as a consequence of the telephone conversation on which the officer testified that the claimant had told him expletives. Sgt. Gordon responded by indicating that he was a senior member of the police force and did not get angry over such behaviour but instead carried on his investigation.

He further testified in relation to a suggestion that he had roughed up the claimant, that he did not touch the claimant and that the claimant had walked to the bus by himself.

The Issue of Credibility

On the claimant's case a number of issues arise as to his credibility. Is the claimant to be believed when he testified that all that needed to be done with Mr. Green's furniture on May 20, 2006 was for it to be sprayed?

The claimant has admitted that he was commissioned to make certain items of furniture by Mr. Green in January 2005 and that in May 2006 Mr. Green had neither received the furniture nor the money he had paid.

The claimant has not sought to deny that the matter was reported to the police by Mr. Green.

It is undisputed by the claimant that Mr. Green gave a statement to Sgt. Gordon and handed over receipts evidencing payments made to build the items

commissioned. Why then would Mr. Green make a false report to the officer if the furniture had in fact been built and he had told the claimant not to spray the furniture as he was having differences with his girlfriend at the time.

His evidence is not that the claimant was to keep the furniture or to keep it until it was sprayed but that he was not to spray the furniture. Why had Mr. Green not received his furniture in May 2006? The evidence is that the claimant was on bail since May 24, 2006.

The court must ask itself the question why would Mr. Green have chucked the claimant in court because he wanted furniture that only needed to be sprayed. Why would Mr. Green have risked imprisonment or some other form of punishment by assaulting the claimant in open court because the claimant had furniture for him which only needed to be sprayed and which he had told the claimant not to spray. The claimant's evidence is that he did not know why Mr. Green chucked him but he knows that he was angry, he never got his money or furniture back. Why did the claimant not deliver Mr. Green's unsprayed furniture to him if he was in need of the furniture?

The claimant also did not deny that in August 2007 Mr. Green still had not received the furniture commissioned.

I do not find the claimant to be a credible witness. When he asserts that all that needed to be done with Mr. Green's furniture on the 20th May 2006 was for it to be sprayed I reject his evidence that he showed Sgt. Gordon furniture which he said the claimant had commissioned and which he had built. In cross-examination the claimant stated that Mr. Green came to him a few months before

he was arrested and that he explained to Mr. Green that he was ill and had to be hospitalized during the time that he was supposed to be building the furniture. He said that this medical problem was as a result of a gun court wound sustained some years ago. He offered this testimony as he reason for not completing the furniture up to May 2006. I find that this evidence contradicts his evidence that the furniture only needed to be sprayed. Later in cross-examination his evidence that in August 2007 the furniture was still not finished further buttresses my finding.

Mr. Bennett testified that he was unable to walk well without crutches. If he tries to walk "good", he falls down. He can neither walk nor run without crutches. He said that in 1974 he met an accident and since that time he has been using two crutches, and that it was just six years ago that he is able to walk with one crutch. It is the claimant's evidence that he walked to the door that morning with one crutch and while speaking to Sgt. Gordon, he leaned it up by his side at the doorway. He alleges that he walked to the police vehicle without any crutch. He did not bring the crutch with him when departing his house because he knew he was going to jail and did not need crutches in jail.

I reject that explanation as false.

It is the claimant's case that he sent for his shoes and that his son carried them to him by the mini-bus. I ask myself the same question posited by Defence Counsel ie if the crutches were as important as he claimed they were, would he not have asked that they be brought to him. They could not be less important than his shoes.

I find that the claimant is untruthful when he states that he cannot walk or run without a crutch.

In his evidence in chief the claimant states that Sgt. Gordon never gave him an opportunity to show him the furniture in his workshop. This evidence is clearly inconsistent with his evidence under cross-examination when he states that he showed him the furniture and enumerated the said items in his testimony to the court.

It is Sgt. Gordon's evidence in chief that the case came up several times in the Resident Magistrate's Court and on each occasion that the claimant attended he told the court that he was trying to repay Mr. Green. This evidence is unchallenged.

If in fact the claimant had built the furniture commissioned why then would he at that point be attempting to repay Mr. Green his money?

In cross-examination Sgt. Gordon testified that on the third occasion when he went to the claimant's house he did not see any of the pieces of furniture that Mr. Green had asked him to make and when he spoke to him on that day he could not pay back the monies he took from Mr. Green in relation to the furniture.

I do not find the claimant to be a credible witness, and at the end of the day I believe on a balance of probabilities that the 1st defendant's evidence is to be believed over that of the claimant.

Malicious Prosecution

I adopt the words of Mr. Justice Brooks in the case of **Keith Nelson v Sgt. Gayle & the Attorney General of Jamaica claim No. CL N120 of 1998** where he said

"In an action for malicious prosecution, in order to succeed the claimant must prove on a balance of probability the following:

1. That the law was set in motion against him on a charge for a criminal offence.
2. That he was acquitted of the charge or that otherwise it was determined in his favour.
3. That when the Prosecutor set the law in motion he was activated by malice or acted without reasonable or probable cause.
4. That he suffered damage as a result."

Although the complaint which resulted in the claimant's arrest was made by Mr. Green, the police exercised independent discretion in respect of whether or not to charge the claimant, and they were therefore responsible for instituting the prosecution of the claimant.

There is therefore no dispute that criminal proceedings were instituted against the claimant and that they were terminated in favour of the claimant.

The claimant is only left to prove the following facts in order to succeed on his claim for damages for malicious prosecution.

(a) that Sgt. Gordon acted either maliciously or without reasonable and probable cause in arresting and prosecuting him.

(b) that he suffered damages as a consequence of having been arrested and prosecuted.

Reasonable and probable cause was defined by Hawkins J in Hicks v Faulkner (1978) 8QBD 167 at 171

> "an honest belief in the guilt of the accused based upon a full conviction, founded on reasonable grounds, of the existence of a state of circumstances which, assuming to be true, would reasonably lead an ordinary prudent and cautious man, placed in the position of the accuser, to the conclusion that the person charged was properly guilty of the crime imputed."

The court is cognizant that for a police officer to have reasonable and probable cause there is no requirement for the evidence to be such as would necessarily secure a conviction for the police officer to satisfy himself that there is no valid defence to the charges {see Glinski v McIver (1962) AC 726 at 742-745 and 769-770}.

The duty of a police officer is not to decide whether or not an offence has been committed; that is the duty of the judge.

In the House of Lords case **of Herniman v Smith (1938) AC 305 at 319** Lord Atkin stated:

> "No doubt circumstances may exist when it is right before charging a man with misconduct to ask him for an explanation. But certainly there can be no general rule laid down, and where a man is satisfied, or has apparently sufficient evidence, that in fact he has been cheated, there is no obligation to call the cheat and ask for an explanation which may only have the effect of causing material evidence to disappear or be manufactured. It is not required of any prosecutor that he must have tested every possible relevant fact before he takes action. His duty is not to ascertain whether or not there is a defence, but whether there is reasonable and probable cause for a prosecution."

It is for the claimant to establish absence of reasonable and probable cause, not for the defendant to establish its presence.

In **Brown v Hawkes (1891) 2QB 718 at 722** Cave J defined malice

> "in its widest and vaguest sense, has been said to mean any wrong or indirect motive; and malice can be proved either by showing what the motive was and that it was wrong, or by showing that the circumstances were such that the prosecution can only be accounted for by imputing some wrong or indirect motive to the prosecutor."

What is to be demonstrated by an officer acting in the course of his duties is that he acted with the proper motive for a prosecution which is the desire to secure the ends of justice. See Glinski v McIver 1962 AC 726 and Clerk and Lindsell on Torts 15th Ed. para 18 – 27.

The claimant's Attorney-at-Law asked the court to find that there was no reasonable and/or probable cause for Mr. Bennett's arrest and prosecution. Miss Harry submitted that the information which was before Sgt. Gordon at the time of the prosecution of the claimant did not support his conclusion or belief, whether honest or otherwise, that a criminal offence had been committed. To the contrary, it was submitted that Sgt. Gordon's conclusion was based on flimsy and inadequate grounds, rather than on "grounds as would lead any fairly cautions may in the defendant's situation" to believe that Mr. Bennett was probably guilty of the crime of unlawful conversion, per Hawkins J in Hicks v Faulkner (supra). Such information as Sgt. Gordon had gleaned from his alleged 'investigations' justified civil action only, if any, and not criminal proceedings.

Miss Harry submitted that in light of the fact that Sgt. Gordon saw unfinished furniture at the claimant's house which the claimant said he identified as belonging to Mr. Green, there was no basis on which the Sgt. could either honestly or reasonably believe that such conversion had occurred, because the

evidence which was before him plainly indicated that the material and money which had been given to the claimant were being used in connection with the purpose for which they had been given to him.

The uncontroverted evidence is that a report was made by Mr. Green to Sgt. Gordon. I find that Sgt. Gordon spoke to the claimant on the phone telling him of the allegations made against him and instructing him to attend the station to discuss the matter. The claimant admits a phone conversation with Sgt. Gordon and that he instructed him to come to the station.

I accept his evidence that the furniture he saw there on his third visit was a dresser and some other pieces of wood and there was no furniture seen which Mr. Green had commissioned him to build.

The claimant does not deny that the place where he builds the furniture is open to observation, and there was no suggestion that a dresser was not under the shed at the time when the officer came there on May 20, 2006.

There was no suggestion that the claimant did not store all his unfinished work on the premises. In fact it is the claimant's case that on May 20, 2006 he showed Sgt. Gordon all the furniture that Mr. Green had commissioned him to make and it can be inferred that they were all together as it is his evidence that he showed them to him when they were passing his workshop.

I find that Sgt. Gordon is a credible witness and is telling the truth when he said that the claimant builds his furniture in a shed as he described, and that there was no bed head, bed bottom or night tables under the shed on any of the three occasions that he went to the claimant's house.

Given the time that passed between the commissioning of the furniture and when Sgt. Gordon observed that no such furniture was present in the workshop, and the claimant telling him that he could not pay back the monies he took from Mr. Green in relation to the furniture it was reasonable I find for Sgt. Gordon to conclude that there was a proper case to go before the court.

I agree with the observation of the Defence Counsel and so find that the evidence of the claimant at trial is an admission that the substance of the report made to the officer was true and the evidence of the officer is that his investigation and observations confirmed that truth on May 20, 2006.

False Imprisonment

The action of false imprisonment arises on proof of:

(a) the fact of imprisonment; and

(b) the absence of lawful authority to justify that imprisonment. See Clerk and Lindsell on Torts, 18th Ed. 2003 paragraph 13 – 19

In **Flemming v Myers and the Attorney General (1989) 26 JLR 525 at 530** Carey JA stated:

> "In my respectful view, an action for false imprisonment lie where a person is held in custody for an unreasonable period after his arrest and without either being taken before a justice of the peace or a Resident Magistrate."

The court having found that the arrest and charge of the claimant was lawful now has to consider whether it may become unlawful if the imprisonment is unreasonable.

In order for a good arrest not to become a bad one the correct steps prescribed by law after the arrest must be followed.

on the nature of the offence. It is Sgt. Grant's evidence that he handed him over to the station guard, and that he did not tell the claimant that he could get bail.

In compliance with section 23 of the Act, the claimant ought to have been taken before a Justice of the Peace on the Sunday, Monday or Tuesday for bail to be considered or before the officer or sub-officer in charge of the station to consider bail if he deemed it prudent.

In Flemming v Myers and the Attorney General (1989) 26 JLR Morgan JA said:

> "The purpose of bringing the accused before the Resident Magistrate or a Justice of the Peace within a reasonable time is similar to this provision [section 286 Judicative (Resident Magistrate's Court) Act] that is to have an examination for the purpose of a further remand or to offer bail so as to prevent or alleviate unnecessary detention."

As pointed out earlier section 24 and 24 of the Constabulary Force Act also permits a senior officer or officer to offer bail to an arrested person.

I find that steps ought to have been taken by the 1st Defendant or the officer or sub-officer in-charge of the station to secure the claimant's release on bail by the morning of May 21, 2006. The charge was not for a very serious offence.

I find that the claimant was unreasonably detained for four days and is therefore entitled to damages.

I find that the conditions under which he was kept at the police station would have caused him humiliation. The cell in which he was housed with eight other persons was very uncomfortable with little or no ventilation.

He alleged that the cell had a very fowl odour and that he was forced to sleep while sitting on the floor of the cell on newspaper with his back against the wall.

Damages for False Imprisonment

The claimant's Attorney relied on the case of **Baugh v Courts Jamaica Limited and the Attorney General** (unreported claim No. C.L. B099 of 1997 decided on October 6, 2006)

The claimant in Baugh was awarded $200,000 as reflecting "the preeminence given to the liberty of the subject" in circumstances where the claimant had been wrongfully detained for 2 days before being taken before a Resident Magistrate. This award updates to approximately $334,869.72.

Counsel for the claimant submitted that the claimant at bar is entitled to the application of an increase to the updated award in Baugh for false imprisonment, in light of the longer period in which the claimant was detained. She asserted that an award of $650,000 would be reasonable in the circumstances.

The defendant's attorney relied on the following cases.

Maxwell Russell v Attorney General and Corporal McDonald unreported (claim No. 2006/HCV 4024 Supreme Court delivered January 18, 2008.

Herwin Fearon v Attorney General and Constable Brown (unreported Claim No. C.L.F-046/1990 Supreme Court delivered March 31, 2005).

In Maxwell Russell's case the claimant was imprisoned for a period of 12 days. The court applied a reducing scale method awarding one rate ie $75,000 for the first day of imprisonment and another rate for each subsequent day.

Counsel for the defendant asked the court to adopt this method and recommended a rate of $150,000 for the first day and thereafter a reducing rate leading to a total award of $375,000.

In Herwin Fearon's case, the claimant was imprisoned for 3 ½ days. The court awarded $280,000 on March 31, 2005 which updates to $548,511.12.

In sum, the defendant's attorneys have asked the court to award a sum not exceeding $560,000.

In seeking further assistance in calculation of the award I have examined **Williams and Bennett v The Attorney General unreported CL 1993 W237 & B 309** delivered on January 26, 1996. in this case each claimant was awarded $180,000 for general damages in respect to 5 days incarceration. Updated this award amounts to $810,269.11.

In my judgment an award of $650,000 would be appropriate in the circumstances.

Exemplary and Aggravated Damages

Exemplary damages could only be awarded where there is evidence of oppressive, arbitrary or unconstitutional actions by the servants of the government per Rookes v Bernard (1964) AC 1129.

Aggravated damages are awarded where the commission of the tort is such as to injure the complainants proper feelings of dignity and pride (see Clerk and Lindsell on tort 19th Edition paragraph 29 – 137).

I find that on the facts of the case at bar, there would be no real basis for an award of exemplary damages as the 1st defendant's actions were neither arbitrary no oppressive so as to warrant punitive damages of any kind.

In Rookes v Bernard 1964 1All ER 367 at 140 Lord Devlin made it clear that aggravated damages were to be awarded only where the conduct of the defendant was such that it would be warranted.

In this case, I find that aggravated damages ought properly not to be awarded.

Special Damages

The claimant claimed $75,000 for legal fees and $840 for transportation to and from court.

Special damages must not only be specifically pleaded but also specifically proved.

The claimant in his witness statement asserted that he had to pay Mr. Adedipe to represent him in the court in Manchester, however he does not have any receipt, although he tried to get same from the attorney.

Contrary to this, he stated in cross-examination that he did get a receipt from the Attorney but cannot located it, and the reason why he did not get another one is because he stated owes the Attorney some money.

No receipt has been tendered in support of this payment and the sum claimed is disallowed. Likewise the expenditure of $840 claimed has not been proved and is therefore not allowed.

Judgment for the claimant in the sum of $650,000 being general damages for false imprisonment with interest thereon at the rate of 3% per annum from 6th July 2007 to today's date.

Costs to the claimant to be taxed if not agreed

Sections 23, 24 and 25 of the Constabulary Force Act, ('The Act') contain the applicable procedure.

If the detention is found to be longer than justified then this would amount to unreasonable delay and so result in false imprisonment.

There is no indication in the Act as to what amounts to reasonable time.

In Flemming v Myers and the Attorney General (supra) Morgan JA stated:

> "It is clear that in determining the reasonableness of time that elapses, the circumstances of each case must be the guiding principle; and that any unreasonable delay in taking an imprisoned person before the court will result in liability for false imprisonment."

It is not disputed that the claimant was taken into custody on Saturday May 20, 2006 and granted bail on May 24, 2006 by the court. An evidential burden is placed on the defendants to show that the period of detention was reasonable. Reasonableness is a question of fact to be determined in light of all the circumstances.

Sgt. Gordon testified that due to the day on which the claimant was arrested the next day on which he could be brought before the court was the Wednesday May 24, 2006 due to the fact that the Resident Magistrate's court did not sit everyday in Mandeville. There was no challenge by the claimant to this assertion.

This was a weekend arrest and the claimant was brought before the court on the available court day in Mandeville.

There is no evidence that the claimant was offered station bail or taken before a Justice of the Peace for the consideration of bail as he could have been based