

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

HIGH COURT CLAIM NO. 150 OF 2006

BETWEEN:

CIAN ALEXANDER

Claimant

V

THE ATTORNEY GENERAL
P.C. GERMANO DOUGLAS

Defendants

Appearances:

Mr. J.O.R. Martin for the Claimant

Ms. J. Jack for the Defendants

2007: December 5 & 17

JUDGMENT

PLEADINGS

- [1] **MATTHEW J (Ag.):** On March 28, 2006 the Claimant, a student of the Community College at Villa, initiated proceedings against the Defendants for assault, false imprisonment and wrongful arrest, among other complaints, committed by the Second Defendant against her on July 1, 2005.
- [2] The Second Defendant was at the material time, as he still is, employed as a police constable of the Royal St. Vincent and the Grenadines Police Force.
- [3] The First Defendant was joined in the action pursuant to Section 15 of the Crown Proceedings Act, Chapter 83 of the Laws of Saint Vincent and the Grenadines, Revised Edition 1990.

- [4] The Claimant alleged that on the day in question she was in the company of her parents, Joseph Allen and Joan Allen, outside the C.I.D. Office inquiring about her sister, Desra Allen, who was then in police custody.
- [5] She said while outside the office the Second Defendant ordered herself and her parents down the stairs in a loud and aggressive manner and while they were descending she asked what was the reason for them locking up her sister.
- [6] Upon her saying so the Second Defendant ran down the stairs and grabbed on to her hand and began pulling her up the stairs. On arriving at the top of the stairs the Second Defendant bent his right hand and struck the Claimant on her nose causing it to bleed whereby she suffered pain and suffering.
- [7] The Second Defendant then took the Claimant into the C.I.D. Office and ordered her to sit on a chair where she was held for about 3 hours before he told her she was free to go.
- [8] On April 20, 2006 the Defendants filed their defence. They denied that the Second Defendant ordered the Claimant and her parents down the stairs in a loud and aggressive manner. They also denied that the Second Defendant grabbed the Claimant and pulled her up the stairs. They further denied that the Second Defendant struck the Claimant.
- [9] The Defendants alleged that on the day in question the Claimant and her parents were being argumentative when they were simply ordered to go to wait downstairs.
- [10] The Defendants alleged that when they were asked to wait downstairs, the Claimant responded by using abusive and insulting language ("All you haul you arse, way does do all you police man").

- [11] The Second Defendant then went over to the Claimant and informed her that she had committed the offence of insulting language. He held on to the Claimant and she began to wrestle with the Second Defendant who used no force at any time.
- [12] The Defendants admitted that the Claimant was held in the reception area of the Criminal Investigation Department for about three hours and later she was discharged without any charge preferred against her.

EVIDENCE:

- [13] At the trial the Claimant gave evidence and called her parents as witnesses. Only the Second Defendant gave evidence for the defence.
- [14] The Claimant who said she was 20 years old gave a witness statement which was filed on August 11, 2006 and which did not differ materially from what had been pleaded. She denied making use of insulting and abusing language to the Second Defendant.
- [15] When she was cross-examined she said she did not visit a doctor nor has she a medical report. She said she was not lying and did not fabricate the story.
- [16] Joan Allen stated that when they met the Second Defendant at the C.I.D. he was very uncooperative and became annoyed when her husband asked him what was the reason for locking up his daughter. It was then he ordered all three of them down the stairs in a loud and aggressive manner.
- [17] She confirmed that the Second Defendant dragged the Claimant upstairs and then struck her on her nose.
- [18] Under cross-examination she said that at the time of the incident there were about three officers present, including the Second Defendant. She denied that Cian challenged the officer.

- [19] Joseph Allen stated that the Second Defendant was aggressive on that day and he saw her drag the Claimant up the stairs and struck her on the nose.
- [20] Police Constable No. 103 Germano Douglas stated that on the day in question he was attached to the C.I.D. and stationed at Central Police Station.
- [21] He said on July 1, 2005 he had occasion to apprehend Desra Allen of Biabou and took her to the Station where she was detained for questioning at the office of the C.I.D.
- [22] He said while there the Claimant and her parents came to the C.I.D. and identified themselves as Desra's parents and sister. He said he informed them of the charge against Desra after which they began to argue in a loud and aggressive manner, hurling insults and abusive language at him and the other officers present.
- [23] He said he asked the three persons to wait downstairs while they were processing Desra's matter. It was then that the Claimant responded with more insults and abusive language.
- [24] He then went to the Claimant and told her she had committed an offence and while talking to her he held on to her hand and she began to wrestle. He said he ushered her into the reception area where they had a polite conversation after which he decided to give her a chance and then discharged her from the Station.
- [25] Under cross-examination Douglas denied striking the Claimant and under re-examination he said there were three officers including himself but the other two are no longer in the police force. One of them is sailing and the other is in Anguilla.

CONCLUSIONS:

- [26] It seems strange to me that Joseph Allen, Joan Allen and Cian Alexander would be arguing in a loud and aggressive manner at the C.I.D. at Central Police Station and hurling

insults and abusive language at the Second Defendant and the other officers present and the Second Defendant would respond by kindly asking them to wait downstairs while the charge against Desra Allen was being processed.

[27] I do not believe that the Second Defendant would wait for more insults and abusive language to be hurled before he acted.

[28] The words allegedly used by the Claimant were "All you haul are yo arse, way does do all yo police man." Barring the unlikelihood of an 18 year old Community College student using such words in the presence and hearing of her parents, the words suggest that some sort of attack or approach was being made to the Claimant. They are not a likely response if one is asking for an explanation of her sister's detention and a reply is given.

[29] In any case I do not believe that either the Claimant or her parents on that day used abusive and insulting language to the Second Defendant and to the other officers who were present on the scene with him.

[30] I am of the view that the whole incident arose because police officers do not think they must be transparent in their activities. Quite recently I was reading a case in *A.P. Herbert's Uncommon Law* and came upon the passage: "Those who claim to interfere by law with property, persons, or proceedings of others should be able, on demand, to give a clear account of the source, text and scope of their authority." I accept that statement to be sound.

[31] Mr. and Mrs. Allen and their daughter went to the C.I.D. because they were concerned that their other daughter and sister, were in police custody and what they sought was the reason for her detention. And that I believe was denied them for the officers believe they are not answerable to anybody but the Court or a superior officer.

[32] The Claimant had a right to be displeased with a non-response to her inquiry and that was no reason for the rough treatment by the Second Defendant.

[33] I find that a battery was committed by the Second Defendant upon the Claimant after which he unlawfully arrested and falsely detained her for about three hours.

[34] In this case the battery cannot be said to be severe. There was no physical evidence of the injury and the Claimant did not produce a medical certificate. It could be said to have been slight.

[35] I am not sure that this is a fit case for aggravated damages having regard to the decided cases but I think the damages must be substantial.

[36] I order the Defendants to pay the Claimant damages in the amount of \$7,000 and costs in the sum of \$3,000.



Albert M. J. Matthew
HIGH COURT JUDGE (Ag.)