

**IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CIVIL)**

SAINT LUCIA

CLAIM NO. SLUHCV2006/0187

BETWEEN:

TREVOR ST. LUCE

Claimant

and

**1 HILARY HERMAN – Director of Bordelais Correctional
Facility c/o Bordelais Correctional Facility – Dennerly**

2 The Attorney General

Defendant

Appearances :

Mr. Colin Foster for Claimant

Mrs. B. Portland-Reynolds for Defendants

2008: May 20;
June 20.

JUDGMENT

[1] **COTTLE, J.:** The Claimant is a Correctional Officer. He has served 10 years in that capacity. He has brought the present claim against his employers for negligence in failing to provide adequate measures to secure his safety at work. The facts are not disputed.

[2] On September 11 2005 the Claimant was on duty at the Bordelais Correctional Facility. He was assigned to transport an injured inmate to the Dennerly Hospital for medical attention to an injured hand.

- [3] The inmate was classified as dangerous. He was taken to hospital in leg shackles while no handcuffs were used out of concern for his injured hand. The visit to the hospital was routine. The inmate was attended to and discharged.
- [4] On return to the Bordelais Correctional Facility the Claimant attempted to place the inmate in his cell. He did not have the assistance of any other officer. The facility was very short staffed. The Claimant says he asked for assistance. It is clear that another prison officer was nearby, the officer who had driven the party to and from the hospital. It is unclear why this officer was not helping the Claimant return the prisoner to the cell but the Claimant opted to act on his own rather than wait for support.
- [5] It was as he removed the shackles from the inmate that the Claimant was attacked. He resisted. He struck the inmate repeatedly with his baton. He used his pepper spray. He was able to subdue the inmate and lock him in his cell.
- [6] During the struggle the Claimant was injured. The medical report of Dr. Glensford Joseph revealed that the Claimant had suffered a fracture to the distal third of his left ulna. There was also a small laceration. The Claimant received medical attention which included surgery to repair the fracture and a course of physiotherapy. The medical and related expenses amounted to \$7,898.00. The defendant paid this sum.
- [7] The case for the Claimant is that the defendants breached their duty of care to the Claimant by permitting a situation to develop wherein the Claimant was left alone to return a dangerous inmate to his cell.
- [8] There was no established procedure to place an inmate in his cell before removing his shackles. The doors to the cells do not have a flap at the bottom to facilitate the removal of leg shackles as in the case with the flap in the upper part of the door to remove handcuffs.

- [9] Hilary Herman gave evidence. He is the Director of the Bordelais Correctional Facility. He admitted that in an ideal situation the Claimant would have had two additional officers working with him in the particular unit on that day. But the situation was not ideal. There was a shortage of staff and this position was exacerbated by absenteeism on weekends. He also admitted that there has been an error of judgment not to have an admittedly dangerous inmate handcuffed as well as shackled.
- [10] There was no written manual detailing the correct way of putting on or removing handcuffs and shackles. The Claimant had received no specialized training in dealing with high risk offenders.
- [11] Mr. Foster also in his submissions introduced an issue of breach of statutory duty under the Employees Occupational Health and Safety Act. This was new. It was not pleaded. No evidence was led in it. I disregard it for the purposes of this case.
- [12] The question now for the court is whether, on the facts as outlined above there was a breach by the defendants of their duty of care to the Claimant. I must answer that question in the negative.
- [13] There was a safe system of work. The occupation of a Correctional Officer is inherently hazardous. It involves the securing of large numbers of dangerous and perhaps desperate men. The Claimant knew this. He is described by his employers as a seasoned officer. They rely heavily on his experience.
- [14] On the day in question there was a lamentable lapse in judgment, though an understandable one.
- [15] The Claimant did not handcuff the inmate out of concern for an apparent injury to the inmate's hand.

[16] He also failed to wait for assistance to return the inmate to his cell. Again this demonstrated bad judgment by the Claimant but with the staffing situation one understands why he may have opted to act alone rather than wait for assistance. I do not consider these acts by the Claimant to constitute a failure by the defendants to provide a safe system of work.

[17] Consequently I find the Claimant has failed to prove his case.

[18] I give judgment for the defendants. I award the defendants prescribed costs as per the case management conference order in the sum of \$14,000

BRIAN S. COTTLE
HIGH COURT JUDGE