ANGUILLA

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

CLAIM NO. AXAHCV2009/0029

In the matter of an Application by Alrick Edson Smart for the Prerogative Writs of Certiorari Prohibition and Mandamus

And

In the matter of a Decision made by the Permanent Secretary on 4th March 2009 Dismissing the Applicant from his position of Principal Prison Officer

And

In the matter of a Decision by the Chief Immigration Officer on 4th March 2009 to revoke the Applicant's permission to reside on the Island of Anguilla

BETWEEN:

ALRICK EDSON SMART

Applicant

AND

SUPERINTENDENT OF PRISONS
CHIEF IMMIGRATION OFFICER
MINISTER FOR IMMIGRATION AND LABOUR
THE HONOURABLE ATTORNEY GENERAL

Respondents

Appearances:

Mrs. Josephine Gumbs-Connor and Ms. Tolulola Agbelusi instructed by JAG Gumbs & Co. for the Applicant

Mr. Ivor Greene for the Respondents

2009: July 14, 15, August 12

JUDGMENT

[1] **SMALL DAVIS, J (Ag)**: The Applicant was employed to the Government of Anguilla as a prison officer since 5 May 2006. Being a public servant, his employment was subject to the Statutory Rules and Orders and General Orders and overseen by the Public Services Commission[1]. Terms of his contract of employment were that he was employed during pleasure on a temporary month to month basis and allowed for termination on one month's notice. By letters dated 26th February and 4th March 2009, the Applicant's employment was terminated. Immediately upon his termination, the Chief Immigration Officer issued a Notice to the Applicant ordering him to leave the island forthwith.

[2] The Applicant complains that his termination was illegal and procedurally unfair in that it failed to follow the disciplinary procedure set out in the Code of Discipline for Prison Officers contained in the Prison Regulations and it was unreasonable because he had a legitimate expectation that given his employment over two years, his employment would not be terminated without good reason notwithstanding that it was on a month to month contract. He also complained that the request that he leave the country immediately was unreasonable.

The Evidence

[3] The Applicant gave evidence on his own behalf. The evidence on behalf of the Respondents came from the Superintendent of Prisons Mr. Conrad Gumbs, Mr.

[1] The Public Service Commission was created by section 65 of the Anguilla Constitution and advises the Governor on appointments, promotions, termination and disciplinary control of public officers.

Alistair Richardson, the Chief Immigration Officer Ms. Laureen Bryan and Mrs. Lana Horsford-Harrigan and Mrs. Carla Rogers of the Department of Public Administration.

The factual background

[4] The facts were not largely in dispute. The narrow area of dispute related to whether the Applicant was placed on suspension. These are the facts as I find them. On 4th February 2009 the Applicant was instructed to escort a prisoner ("Prisoner Rogers") to the Dental Unit. According to the Applicant, while he was engaged in this duty, he received a call from the prison requesting that he return to collect three other prisoners to take them to the doctor. This the Applicant declined to do, indicating to the caller that he "needed to take care of some personal business before returning to the prison". The Applicant, accompanied by Prisoner Rogers, went to a Digicel sales office to check the price of a cellular phone. The shackled prisoner, who is classified as a Category A prisoner, was taken into the Digicel office. After the Applicant had completed his personal business inside Digicel, he returned to the prison.

[5] On 16th February 2009 the Applicant was called into the Superintendent of Prison's office. In the presence of Mr. Alistair Richardson, Staff Development Officer, he was questioned about taking a prisoner into Digicel. He admitted to doing so. I prefer the evidence of Superintendent Gumbs and Mr. Richardson that initially the Applicant seemed to not recall taking the prisoner anywhere else but the Dental Unit that day until more direct questions were put to him by Superintendent Gumbs. I should say here that I found Superintendent Gumbs to be a witness of truth and I have accepted his evidence as he gave it both in writing and orally. Superintendent Gumbs pointed out the error in judgment in taking a prisoner, and in particular Prisoner Rogers, to Digicel and when asked if he realized what a serious breach it was, the Applicant replied "I know I am wrong and am willing to face whatever the consequences are". In cross examination, the Applicant agreed that taking the prisoner to a place like Digicel was not the right thing to do. Superintendent Gumbs told the Applicant that he would be suspended from his front office duties, that he would communicate with Public Administration and that the Applicant should pass by in the afternoon to find out what decision had been made. The Applicant immediately left the prison and did

not return as he had been instructed by Superintendent Gumbs to do. He did not attempt to contact the Superintendent at any time thereafter.

[6] That same day, Superintendent Gumbs consulted with Mrs. Lana Horsford-Harrigan, the Director of Human Resource Management at the Department of Public Administration ("Administration") . Mrs. Horsford-Harrigan advised Superintendent Gumbs that he should not suspend the Applicant, but rather that he should inform him that he should take vacation leave at that time. Superintendent Gumbs made numerous efforts to contact the Applicant by telephone to communicate this to him without success. The Public Services Commission took the decision to terminate the Applicant's employment. A letter dated 26th January 2009 terminating the Applicant's employment effective 10th March 2009 was prepared by Administration. No reason for the termination was given. The letter went on to say that the Applicant was deemed to have been on vacation from 16th February until 9th March 2009 and that he would be paid one month's salary in lieu of notice[2].

[7] On 3rd March 2009 the prison's security camera captured the Applicant talking to another prisoner at the perimeter fence of the prison and the police were called to remove the Applicant. That prisoner was shortly thereafter seen talking to the Prisoner Rogers. That night the two prisoners attempted to escape the prison by cutting through the bars of their cell windows. A search of both their cells turned up pieces of hacksaw blades. The perimeter fence was discovered to have been cut at a location where the security cameras did not cover.

[8] On the morning of 4th March 2009, Superintendent Gumbs contacted Mrs. Horsford-Harrigan to inform her of this turn of events and to request that the Applicant's employment be terminated with immediate effect. A letter was issued that same day advising the Applicant that his "temporary month to month appointment as Principal Prison Officer is terminated effective immediately".

[9] On the morning of 4th March 2009, upon his arrival home from a night shift security job, the Applicant found a number of policemen awaiting him. He was taken to The

[2] This letter was not delivered to the Applicant until 4th March 2009.

Valley Police Station and detained without being questioned for a period of about two hours. He was given the two letters. He was then questioned by police as to his whereabouts the previous night and his relationship with various prisoners and their families.

[10] Superintendent Gumbs also telephoned the Chief Immigration Officer to recommend that the Applicant be made to leave the island as soon as possible as he was considered to be a threat to the security of the prison. Superintendent Gumbs prepared a memorandum to the Chief Immigration Officer, in which he informed her that the Applicant's employment had been terminated. The Chief Immigration Officer issued a letter to the Applicant requiring him to leave the island forthwith and informing him that if he did not comply with the request, he would be liable to prosecution.

The Applicant's Complaints

[11] The Applicant made myriad complaints about the suspension and termination and the request that he leave the island immediately. He asserts that the suspension and termination as being an abuse of process in that:

(a) the Department of Administration was not competent in law to effect his dismissal;

(b) in ordering suspension and later effecting his dismissal the relevant authorities failed to follow the disciplinary procedure as set out in the Code;

(c) the relevant authorities failed to comply with the rules of natural justice in that he was not given an opportunity to speak in his own defence;

(d) the Department of Administration sought to arbitrarily deem the period of suspension as vacation and in doing so, sought to escape the obligation to pay for unused vacation days;

(e) seeking to terminate the employment on a contractual basis as opposed to the real reasons for dismissal followed by due process.

[12] The Applicant says that termination was unreasonable and irrational in that the Respondents failed to take into account his legitimate expectation that:

(a) he would be heard fairly and in accordance with due process of law in relation to charges against him and that no predetermination of guilt would be imputed to him;

(b) he would not be terminated without good reason despite being on a month to month contract;

(c) that he would not be arbitrarily or capriciously dismissed.

[13] At the end of the trial, the Applicant did not pursue some of the reliefs that he sought in the Amended Fixed Date Claim Form and accordingly made submissions seeking the following relief:

(A) Judicial review of the decision of the Permanent Secretary to terminate his employment by way of certiorari to remove to this Court and to quash the decision of the Department of Public Administration to terminate, with immediate effect, the Applicant's employment as a Principal Prison Officer by virtue of a letter dated 4th March 2009;

(B) A declaration that the dismissal of the Applicant from his employment was unlawful;

(C) A declaration that the dismissal of the Applicant from his employment was unreasonable;

(D) A declaration that the decision of the Chief Immigration Officer to order the Applicant to leave the island of Anguilla forthwith on 4th March 2009 was unreasonable;

(E) An order for lost wages and other emoluments due to the Applicant on account of the unlawful termination of employment;

(F) Costs.

The purported suspension

[14] The Schedule to the Prison Regulations sets out a Code of Discipline for Prison Officers. It provides that a prison officer commits an offence against discipline if guilty of disobedience to orders or neglect of duty. Section 2(d)(i) defines neglect of duty as including where an officer "neglects or without good and sufficient cause fails, promptly and diligently to do anything which it is his duty as a prison officer to do".

The disciplinary procedure to be observed where there is an offence against discipline is for a charge against the offending officer to be entered on a charge sheet as soon as possible after consideration of the evidence on which the charge is based. The charge sheet should specify the provision of the Code under which the charge is made and "shall contain such particulars as will leave the officer in no doubt as to the precise nature of the allegation on which the charge is based." The charge sheet should be handed to the officer together with the signed statements on which the charge is based which are proposed to be used in evidence and the names of the proposed witnesses. The accused officer has 48 hours in which to state in writing whether he admits or denies the charge or if he so desires, to answer the charge. Section 5 requires the Superintendent to hear the case as soon as possible, making a full record of the proceedings and the accused officer should sign the record. Section 6 gives the accused officer the right to cross examine witnesses, and of calling witnesses, making representation in his own defence and of having the assistance of another prison officer of his choice.

[15] Section 7 limits the Superintendent's powers upon hearing the evidence to either dismiss the charge, refer certain charges to the Governor, caution the officer or discipline him by admonition, reprimand or severe reprimand. The Superintendent's power to suspend an officer arises where he has referred a case to the Governor[3]. The Superintendent does not have any power to terminate a prison officer. This is the reserve of the Public Services Commission.

[16] Superintendent Gumbs' evidence is that he told the Applicant that he would suspend him from front office duties and that he would speak to Public Administration and let the Applicant know their decision. The Applicant admits that Superintendent Gumbs told him that and says that he was also told to come back for the suspension letter. As far as he was concerned, he was suspended. I accept the explanation given by Superintendent Gumbs that he was seeking guidance from Administration as to how to handle the matter. Superintendent Gumbs said although he had prepared a suspension letter it was never issued in light of his consultation with Mrs. Horsford-Harrigan. Counsel for the Respondents argued that Superintendent Gumbs'

[3] Section 14(1) Code of Discipline

indication of a suspension was not effective because he had been instructed by Mrs. Horsford-Harrigan not to suspend the Applicant and further, no suspension letter was issued. The Applicant never returned to pick up a suspension letter or to know what the Department's decision was. He could not have known the period of the suspension he believed himself to be under. I believe the evidence of Superintendent Gumbs and of Mr. Alistair Richardson as to the efforts to contact the Applicant and I am prepared to draw the inference that the Applicant was deliberately avoiding contact with the Superintendent.

[17] In my estimation therefore, such suspension as the Superintendent purported to make would at best be effective only for the remainder of that day when the Applicant was told to return to find out his fate. Had he returned as instructed, he would have learned that he was not on suspension.

[18] Much was made of the fact that the Applicant could not have been arbitrarily been told to take his vacation leave. I accept the explanation of Superintendent Gumbs and Mrs. Horsford-Harrigan that public servants were not permitted to carry over vacation leave from year to year without permission and that in the Applicant's case, he had been permitted to carry over 13 days' leave with the direction that he must take the leave early in the year. The Applicant did not challenge that evidence. I accept that it was entirely within the Department of Public Administration's authority to conditionally allow the carry over of leave and that in those circumstances it would not be an abuse of power for the Applicant to be told when he should use those leave days. I also accept the explanation of Mrs. Horsford-Harrigan and Ms. Carla Rogers that the Applicant was informed that he was deemed to be on leave since 16th February 2009 since as far as they were aware, he had not returned to work since that date and that his absence would therefore be deemed to be vacation days spent.

[19] There was a minor issue as to whether the correct calculation of the number of days had been made. This will be dealt with later down in this judgment.

The termination

[20] There is no doubt that the proper disciplinary procedure was not followed. There was no charge sheet, there were no statements and there was no hearing. It appears that Superintendent Gumbs conducted his own investigation into the incident where the Applicant took the prisoner to the Digicel store. Superintendent Gumbs then simply confronted the Applicant with the charge, though not formally made. The Applicant admitted the allegation made against him by Superintendent Gumbs. It is important here to put this incident in context. The prisoner who the Applicant had accompany him into Digicel, was a Category A prisoner. That meant he was "*to be held in accommodation of the highest level of security available and whose escape would be a danger to the public, the police or the nation*."[4] Superintendent Gumbs stated that only he or the deputy superintendent could give instructions for a Category A prisoner to be taken out of the prison and that he never gave the Applicant any instructions that day. The deputy superintendent could not have given instructions because he was on vacation. This prisoner was serving a life sentence for murder and had previously escaped the prison on two occasions. On his last prison escape, the Applicant had been on duty and was charged for negligence to which he pleaded guilty. This is the prisoner that the Applicant took with him out in public on his own.

[21] It appears to me that the Superintendent treated the matter summarily and given the Applicant's admission that his conduct was inappropriate and constituted a serious breach it is easy to see why the Superintendent fell into error. This was conceded by Counsel for the Respondents, however, the Respondents maintained that the Public Services Commission was fully entitled to opt to terminate the Applicant's employment on the basis of his being a month to month employee.

[22] Notwithstanding the fact that the Applicant's terms of employment were on a "*temporary basis terminable by a month's notice on either side*" and "*appointment during pleasure*", a belt and braces approach if there ever was one, the decision of the Public Services Commission to terminate the Applicant's employment on the contractual basis of one month's notice cannot be upheld. Undoubtedly the decision was based on the Applicant's conduct. Indeed, the Superintendent had delivered a

---

[4] Prison Regulations section 4(1) and Prison Officer Training Manual

memorandum dated 17th February 2009 to the Department of Public Administration setting out the case against the Applicant[5].

[23] **Gunton v London Borough of Richmond upon Thames**[6] is authority for the principle that a contract which provided for termination on one month's notice but which also incorporated regulations prescribing the procedure to be followed in disciplinary breaches is to be construed as giving the employer the power to dismiss on a month's notice on grounds other than disciplinary grounds and once disciplinary grounds are raised, the employer is required to carry out all the steps of the disciplinary procedure.

[24] In **Roberts v Attorney General**[7] the appellant was dismissed by the commissioner under the Police Act without the appellant being given an opportunity to reply to the allegations of certain offences. The Court of Appeal of Guyana quashed the order for dismissal on the basis that the commissioner had consciously bypassed the disciplinary procedure in relying on powers vested in him by the Police Act to dismiss officers in the public interest. The Court held that following any allegation of an offence against the disciplinary code, it became a condition precedent to any dismissal on the substantiation of such offence that the code should have been applied, including the rules of natural justice. The court followed the decision of the House of Lords in **Ridge v Baldwin**[8] which involved the dismissal of a chief constable of police and the failure of the watch committee to invoke the procedure laid down in police discipline regulations.

[25] The principle applied by the courts has always been that the principles of natural justice cannot be circumvented by utilizing a short cut in achieving the desired objective or removing an employee from office[9]. Lord Morris' statement in **Ridge v Baldwin** expresses my view exactly and I gratefully adopt his words with the appropriate substitutions:

---

[5] This Memorandum spanned incidents from the current incident and going back to August 2006, three months into the Applicant's employment and attached copies of warning letters given to the Applicant.

[6] [1980] 3 All ER 577

[7] (1998) 52 WIR 273

[8] [1963] 2 All ER 66

[9] **Roberts v Attorney General,** p. 278f

> "*The watch committee was under a statutory obligation to comply with the regulations made under the Act. They dismissed the appellant after finding that he had been negligent in the discharge of his duty. That was a finding of guilt of the offence of neglecting or omitting diligently to attend to or carry out his duty. Yet they preferred no charge against the appellant and gave him no notice. They gave him no opportunity to defend himself or be heard. Though their good faith is in no way impugned they completely disregarded the regulations and did not begin to comply with them. My lords, I cannot think that any decision so reached can have any validity and unless later events have made it valid it ought not to be allowed to stand. Had the regulations been applied but if there had been some minor procedural failure different considerations might have applied. There was however no kind of compliance with them. In my judgment once there was a report or allegation from which it appeared that a chief constable might have committed an offence it was a condition precedent to any dismissal based on a finding of guilt of such offence that the regulations should in essentials have been put into operation.*"[10]

[26] I did apply my mind to the fact that the Applicant essentially admitted the allegation made against him in considering whether that admission could dispense with the need for a hearing and strict application of the disciplinary procedure laid down by the Code. Whereas in **Ridge v Baldwin**, the watch committee was permitted to dismiss without a hearing if there was an admission of commission of the offence, the Prison Regulations and the Code do not give any such leeway until the charge has been preferred against the officer and he makes his admission in writing. I am therefore constrained to find that the decision to dismiss the Applicant was based on allegations of an offence against the disciplinary code and inasmuch as it was made without recourse to the proper disciplinary procedure, the purported dismissal on the contractual basis cannot be recognized as having any validity since the principles of natural justice were equally disregarded. The decision to terminate the Applicant was unlawful for procedural unfairness in that the First Respondent failed to follow

[10] Ridge v Baldwin, page 102F-G.

the disciplinary procedure as set out in the Code of Discipline for Prison Officers and is therefore quashed.

[27] In the course of her submissions, learned Counsel for the Applicant indicated that the Applicant was not seeking reinstatement but rather, would be content with damages as a consequential relief for the unlawful dismissal. Counsel for the Applicant and the Respondents have agreed that such damages are properly quantified by reference to the period that would in ordinary circumstances have allowed for disciplinary procedures to take its course. That period was agreed at four to six weeks. By clause 4.19 of the General Orders, an officer may be paid no less than half salary during the period while disciplinary charges are pending against him and it is the Governor's opinion that the public interest requires that he should cease his duties pending such proceedings. Accordingly, I will award the Applicant five weeks' pay at the rate of half salary in damages. The Applicant's employment shall be effective to the date five weeks from 4th March 2009 and the number of vacation days that would have accrued to him up to that date should be properly calculated and paid with deduction for the days when he failed to report for work from 17th February 2009 to 4th March 2009 which are deemed to be vacation days.

Chief Immigration Officer's Letter

[28] As regards the Chief Immigration Officer, the Applicant complains that she acted unreasonably because she failed to take into account that:

(a) he had received news of his dismissal on the same day as her Order and therefore would not have had opportunity to prepare for immediate departure from the island;

(b) he had been resident in Anguilla for two years and had a legitimate expectation that he would be given sufficient and reasonable time to remain on island to tie up loose ends;

(c) he has a second lawful employment from which he would have to resign;

(d) he has a legitimate expectation that his work permit would not be revoked without any proper investigation nor any regard paid to his other sources of employment;

(e) he had a legitimate expectation that he would be permitted to remain on island during the period of notice despite the fact that the intention was to pay him in lieu of notice;

(f) he had a legitimate expectation that he would be permitted to remain on island pending legal proceedings on the issue of the dismissal.

[29] Legitimate expectation arises from either an express promise or assurance given on behalf of a public authority or from the existence of a regular practice which the applicant can reasonably expect to continue: **Council of Civil Service Unions v Minister for the Civil Service**[11].

[30] The question that I must answer in coming to a conclusion whether the Chief Immigration officer acted unreasonably is whether the power under which she acts, the *Immigration and Passport Control Act*, which confers on her a broad discretion, has been improperly exercised or insufficiently justified.

[31] The Applicant was granted permission to remain in Anguilla by virtue of his employment to the Government. The permit was valid for a period of one year and was renewed each year as his employment was renewed. That being the case, the permit was coterminous with his employment so that once that employment was terminated, his right to remain would also expire. From the Chief Immigration Officer's evidence, it seems the practice is to allow a terminated employee a period of 14 days beyond the date of termination. The Applicant seems to concede that had the Chief Immigration Office issued a letter to the Applicant requiring to leave the island within 14 days, no complaint could have been made of that request[12].

[32] The Chief Immigration Officer gave evidence as to the circumstances in which she came to require the Applicant's immediate departure from the island. Ms. Bryan said that she received a number of telephone calls from the Superintendent on 4th March 2009 advising her that the Applicant's employment had been terminated by letter

---

[11] [1985] A.C. 374

[12] See paragraph 58 Applicant's Affidavit in response filed 28th May 2009

dated 26th February 2009, that he posed a security threat to the prison and requesting that he be asked to leave the island forthwith. The Chief Immigration Officer requested that the Superintendent provide her with a written request, in light of the usual practice is to give the terminated employee 14 days to sort out personal business before leaving the island. The Chief Immigration Officer clearly applied her mind to exceptional nature of the request and acceded to it only after she was given reasons which raised matters of security of the nation and of the Superintendent's own family.

[33] At the time of issuing the letter, Ms. Bryan did not know that the Applicant had not received any letter terminating his employment until 4th March 2009. She received copies of the two termination letters. She subsequently received an email[13] and a memorandum[14] from the Superintendent detailing the reasons for the request for the Applicant's immediate departure.

[34] The Applicant also complained that in being asked to leave the island and in cancelling the permit in his passport, the Chief Immigration Officer acted unreasonably in not taking into account that he had secondary employment on the island and his legitimate expectation that his work permit would not be revoked without investigation and regard to his other employment. It became evident that although the Applicant had the permission of the Governor to take up secondary private sector employment, he had not obtained a work permit regularizing such employment as he was required to do[15]. His passport therefore bore no evidence as to any other employment in Anguilla to which the Chief Immigration Officer should have paid regard.

[35] In **Schmidt v Secretary of State for Home Affairs**[16] a foreign student sought review of the Home Secretary's decision to refuse an extension of his temporary permit to stay

---

[13] Dated 5th March 2009

[14] Dated 6th March 2009

[15] No steps have been taken against him by either the Immigration or Labour Department for this omission.

[16] [1969] 2 Ch. 149

in the United Kingdom. It was contended that he ought to have been afforded a fair hearing. In rejecting this contention it was held that the question of a hearing depends on whether he had some right or interest or some legitimate expectation of which it would not be fair to deprive him of without hearing what he had to say. It cannot be said that the Applicant had an independent right to remain in Anguilla. His right to remain was predicated upon his employment to the Government of Anguilla. When that employment was terminated, his right to remain would have expired along with it, save such reasonable time to see about his personal affairs.

[36] As to the Applicant legitimate expectation of being allowed to remain on island during the period of notice and or pending legal proceedings challenging the dismissal, the Applicant has not established a basis for holding any such legitimate expectation. Moreover, at the time of making the decision to issue the letter, the Chief Immigration Officer could not have been aware of a legal challenge to the dismissal. According to the Applicant, it was after he had received the letter that he instructed solicitors, who then contacted the Chief Immigration officer to seek an extension of time for him to leave.

[37] I am of the view that in the circumstances, it was not unreasonable for the Chief Immigration Officer to have issued the letter given the facts as were presented to her. It is certainly impossible to say that it was so unreasonable that no reasonable decision maker would come to it. I therefore decline to make the declaration sought against the Chief Immigration Officer.

[38] Though in considering whether the Chief Immigration Officer acted unreasonably in issuing the letter I have only paid regard to the facts and matters that she attended to in making the decision, I must also remark here briefly on the Chief Immigration Officer's actions after the issue of the letter. The evidence is that in fact, the Immigration Department did not take steps to enforce the "asked to leave" letter as they usually would do and the Applicant was allowed to remain in Anguilla up to the present. This was as a consequence of a meeting between Ms. Bryan and the Applicant in which he informed her of the fact that he had only received the termination letters on 4th March 2009 and his personal circumstances. The Applicant

was even accommodated in travelling out of the country and allowed re-entry. It is evident that the Chief Immigration Officer exercised her discretion fairly when certain facts came to her attention.

Conclusion

[39] Counsel for the parties agreed costs in the sum of US$7,500. In the circumstances, the Applicant shall be awarded costs in that sum.

[40] The Order of the court is as follows:

(a) It is declared that the termination of the Applicant's employment with immediate effect by letter dated 4th March 2009 is unlawful for procedural unfairness in that the First Respondent failed to follow the disciplinary procedure as set out in the Code of Discipline for Prison Officers and is therefore quashed.

(b) The Applicant is awarded damages of half salary for a period of five weeks.

(c) The Applicant shall be paid for vacation days accrued to him up to 8th April 2009 except for the days when he failed to report for work from 17th February 2009 to 4th March 2009 which are deemed to be vacation days taken.

(d) The Respondents shall pay the Applicant's costs of these proceedings assessed in the sum of US$7,500.

Tana'ania Small Davis

High Court Judge (Ag)