THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

ANTIGUA AND BARBUDA

CLAIM NO.: ANUHCV2012/0646

BETWEEN:

KORI EMANUEL

Claimant

AND

THE COMMISSONER OF POLICE

Defendant

Appearances:

Dr. David Dorsett for the Claimant
Mr. Justin Simon QC for the Defendant

2012: October 22
November 13

RULING

[1] **Remy J.:** The Applicant Kori Emanuel is a butler. The Respondent is the Commissioner of Police.

[2] By Notice of Application filed on 5th October 2012, the Applicant applied for leave to apply for judicial review pursuant to CPR 2000 rule 56.3. The application was supported by an Affidavit of the Applicant filed on the 5th day of October 2012. Several exhibits were attached to the said Affidavit.

[3] The relief sought by the Applicant is as follows:-

i). A declaration that the decision of the Respondent to issue a "Police Certificate of Character "with respect to the Applicant bearing a judicially spent conviction, that is a

conviction with respect to a matter more than six (6) years old, is unfair and irrational and accordingly illegal.

ii). An order of certiorari quashing the decision of the Respondent to issue a "Police Certificate of Character" dated 4th October 2012 with respect to the Applicant containing a judicially spent conviction.

iii). Special damages of $25.00

iv). General damages

v). Interest pursuant to section 27 of the Eastern Caribbean Supreme Court Act;

vi). Costs

vii). Interest pursuant to section 7 of the Judgments Act;

viii). Any other relief that the court deems fit.

[4] The Grounds of Application were stated as follows:-

1) More than 15 years ago the Applicant, whilst a juvenile, was convicted of wounding and placed on probation for nine (9) months. Since that time the Applicant has not offended the criminal law.

2) The Applicant is a person who upon seeking employment is routinely required to produce a "Police Certificate of Character" ("a Certificate") issued by the Respondent. On occasion the Respondent issues a Certificate with respect to the Applicant without the judicially spent conviction; on other occasions the Respondent issues a Certificate with the judicially spent conviction.

3) The practice of the Respondent in issuing certificates with judicially spent convictions is unfair and oppressive in that it significantly and adversely curtails the employment prospects of the Applicant.

4) The said practice of reporting judicially spent convictions is also irrational and manifestly unreasonable.

5) The respondent is not empowered to act toward the Applicant in a manner that is illegal, irrational and unfair.

6) The Applicant is a person with sufficient interest in the subject matter of the application as he has been adversely affected by the decision which is the subject of the application.

SUBMISSIONS OF COUNSEL

[5] The submissions of Learned Counsel for the Applicant, Dr. David Dorsett, are as follows:-

i). The Applicant has an arguable case for judicial review. The test is as established by the case of Sharma. Some years ago, in the case of The Attorney General v Kohomo Holdings, the former Chief Justice, Adrian Saunders stated "that threshold is not a difficult threshold to achieve".

ii). This is a case in which the Respondent by means of his actions is acting in a manner that is irrational and manifestly unreasonable, and is acting in a manner that is unfair.

[6] Dr. Dorsett referred to Fordham's Judicial Review Handbook page 520, where the general heading, namely "Unreasonableness" states that "a body must not act unreasonably." Fordham identifies several spheres of unreasonableness, including that specifically referred to by Learned Counsel on page 523, paragraph 57.3.3, namely the sub-category of "Oppressive". Counsel contends that in looking at the whole issue of whether a public body has acted unreasonably or not, one cannot just ask the question whether they have the power to do X, Y or Z; but having the power, what is the effect of the exercise of that power. Counsel drew the Court's attention to the case of R (Khatun) v London Borough of Newham [2004] EWCA Civ 55, where Laws LJ stated:-

> "Clearly a public body may choose to deploy powers it enjoys under statute in so draconian a fashion that the hardship suffered by affected individuals in consequence will justify the court in condemning the exercise as irrational or perverse ... It may well be that the court's decision in such cases they would more aptly be articulated in terms of the proportionality principle.....At all events it is plain that oppressive decisions may be held to be repugnant to compulsory public law standards."

[7] Learned Counsel further submits that what the Commissioner of Police has done is done in a fashion that the hardship suffered by the Applicant is extremely severe and that the action of the respondent is an oppressive decision and action, because we're dealing with the effect of what he has done.

[8] Learned Counsel refers to the Affidavit of the Applicant, in particular to paragraph 9 of the said Affidavit, in which the Applicant deposes:-

> "The Commissioner of Police in reporting the judicially spent conviction on my Certificate is making life for me very difficult. I have it hard trying to find work in Antigua and I have been forced to obtain employment outside of Antigua to include in the Bahamas, the Turks and Caicos Islands, and St. Lucia. When I show my Certificate with the spent conviction to prospective Antiguan employers I am shunned. The fact that a conviction is shown on the Certificate is a convenient reason to deny me employment. They do not care that the conviction is many years old. They are not interested in getting into old-time story about how long I have kept out of trouble. Once the conviction is there on the Certificate that is that."

[9] Learned Counsel submits that "The Commissioner's practice in this manner is unfair, irrational and oppressive." He refers to the certificate - exhibit KE 3 - "Police Certificate of Character," dated 4th October 2012, which states:-

> "This is to Certify that there is no/a* Criminal Record –as under* in the state of Antigua against Kori Emanuel of Antigua who is seeking employment and is the holder of passport/permit No. ____-____ issued at ____-___ on ___-___.
>
> **CONVICTIONS**
>
> 21.2.97 – Wounding – Placed on Probation for 9 months.
>
> Commissioner of Police
>
> Signature of Holder "

[10] Learned Counsel contends that the Commissioner issues a certificate for employment purposes and is "motivated to record a matter from 1997 – (at least 15 years old)". Counsel states that, as he understands it, probation means the court is looking at the offender with a merciful eye and says

"you have done a wrong... but we are going to keep an eye on you." In this case for 9 months, provided you conduct yourself all shall be well. Counsel adds that, fifteen years later, the Commissioner is "harping back "to this matter of fifteen years ago. Counsel cites the case of Nagel v Falden & Others, [1966] 1 All E.R. page 689., and in particular where it was Held that "there was an arguable case that by the common law of England there was a right to work at one's trade or profession without being arbitrarily and unreasonably excluded by anyone having the governance of it..."

[11] Dr. Dorsett contends that the Applicant has a right to work and that the action taken by the Commissioner of Police is oppressive in its consequences and is unduly hampering the Applicant's right to work in his profession.

[12] It is the further submission of Dr. Dorsett that there is an arguable case and that in the circumstances, it is a case where leave ought to be granted. He adds that at least on one occasion, the Respondent issued a Certificate of Character to the Applicant where the effect would not have been oppressive. He argues that the Respondent is capable of doing and acting in a manner that is not oppressive, and that "since he can do so, he can do it again."

[13] The Honourable Attorney General Queen's Counsel Justin Simon opposes the application for leave. Learned Queen's Counsel submits that there is no basis in law for the application. He states from the outset that he is sympathetic to the Applicant; but that the issue before the Court is not one of sympathy, but one of law.

Counsel further submits that:-

(a) In the first place, there is no act in Antigua and Barbuda which speaks to spent convictions. Counsel states that, whereas in the U.K., there is the Rehabilitation of Offenders' Act where the law expressly stipulates what kind of convictions are spent and the time frame in respect of which these convictions must be considered spent, there is no such provision here in Antigua and Barbuda. While Dr. Dorsett speaks of judicially spent convictions, there is no such creature. What in fact happens, is that a trial judge having

convicted a defendant who has himself past convictions , will exercise his discretion as to whether these past convictions should be taken into consideration at the sentencing stage. It is a matter which each judge takes into consideration as a matter of discretion, not as a matter of law. There is no guidance stipulated in any law directing a judge so to do.

(b) As to the Applicant's right to work, of which Dr. Dorsett speaks, Learned Queen's Counsel agrees that it cannot be denied that the Applicant does have a right to work. He states that the Commissioner of Police is not preventing or obstructing the Applicant's exercise of that right.

(c) Looking at the case of Nagle, one must be careful when one extracts words from a judgment; words must be viewed in context, not in isolation.

(d) Dr. Dorsett cannot make the argument that the Commissioner of Police in indicating the convictions of the Applicant which in far as the same is true and not false, cannot be said to be acting capriciously or unreasonably.

(e) The police certificate of character – Exhibit 3 – is in a form printed in the Criminal Record office. The Applicant cannot deny, and he has not sought to deny, that he was found guilty of wounding. He was not sentenced nor fined. The Commissioner factually indicated that the Applicant was placed on probation for 9 months. There are no further writings on the Certificate.

[14] It is the further submission of Learned Queen's Counsel that:-

i). If as Dr. Dorsett alleges, the Commissioner was motivated to record the conviction, he was not motivated by ill-will, nor by dislike of the Applicant, nor was he motivated by anything that was not recorded on the Applicant's criminal record. He simply stated in clear and unambiguous terms, the true circumstances of the conviction. It is up to the prospective employer, looking at the record, to make a determination for himself. It is obvious on the record that there has been no convictions since. Counsel suggests that maybe the Applicant should bring the employer before the Court.

ii). Dr. Dorsett submits that the Commissioner is harping back to something that happened fifteen years ago. The Commissioner is not doing that. He is simply stating as a fact what happened fifteen years ago. Until the law is changed, he does not have a choice. If the Commissioner were not to record the truth and the Applicant commits an offence, the employer could justifiably say "had I been aware of the conviction, I would not have employed him. You are therefore liable."

iii). He is sympathetic to the Applicant's position; in the position which he holds, he is looking into the matter. However, until a law has been introduced which addresses the issue of spent convictions, the Commissioner of Police has no choice, but to indicate on the Applicant's criminal record certificate, all of his past convictions. The Commissioner has only one duty, namely the duty to record it faithfully and accurately.

iv). The application is ill-founded and ought to be dismissed. There are no further issues of law or matters of fact that remain open for further development or argument at any subsequent hearing.

[15] By way of rebuttal, Learned Counsel, Dr. Dorsett contended as follows:-

(a) His "heart was warmed" when he heard the Attorney General say that he is sympathetic; he ought to be; because, getting back to basics, what is the purpose of judicial review? Learned Counsel Dr. Dorsett referred to Fordham, page 7 at 2.1.1, the case of R v Secretary of State for the Environment ex parte Greater London Council; where the learned Judge stated that "judicial review ..... aims to provide a prompt remedy for an obvious injustice." Dr. Dorsett posed the question "How long is the Applicant supposed to wait for Parliament to get its act together?" Counsel opined that when the Court sees an injustice being done, the Court "cannot adopt the position of the High Priest."

(b) The issue here is a matter of public policy. It is arguable that the practice of reporting of issuing certificates of this nature in the year 2012 is simply bad public

policy and the Court can intervene and say and make a declaration to deal with what we argue.

(c) This is a reflection of a bad public policy and it is having an oppressive effect on the Applicant.

(d) The issue is not that the Respondent is the guardian of some society or club that is prohibiting the Applicant from working as a butler. The point of the case is to draw attention to a principle that there is a right to work and that right - which is perhaps more valuable than a right to property – ought not to be interfered with either directly or indirectly.

(e) The case of the Hockey Club is an instance of direct interference with the right to work. That which is being done in this instance is an indirect interference with the right to work. The effect is the same, whether direct or indirect, it is oppressive.

ANALYSIS

[16] Part 56 of the Civil Procedure Rules (CPR) 2000 governs applications for leave for judicial review. Part 56.3 (1) states that the Court's permission is required in order for a Claimant to proceed with a claim for judicial review. Part 56.3 (3) sets out what must be stated in the application. Part 56.3 (4) states that the application must be verified by evidence on affidavit which must include a short statement of all the facts relied on.

[17] In the instant case, the Court is satisfied that the application and Affidavit filed by the Applicant are in compliance with the above rules.

[18] According to Halsbury[1], "Permission should be granted if on the material then available the court considers, without going into the matter in depth, that there is an arguable case for granting the

[1] Halsbury's Laws of England, 5th Edition, Vol. 61, page 608, paragraph 666

relief sought by the claimant." The case of **Antoine v Sharma**[2], states that "an arguable case is one that has a realistic prospect of success."

[19] Permission will be refused where an application is frivolous, vexatious or hopeless; or a claim is made by 'busybodies with misguided or trivial complaints of administrative error'; or a claim is misconceived, unarguable or groundless. The permission stage "filters out unsustainable claims and allows for early case management.'

[20] The law is settled that the role of the Court in judicial review proceedings is a supervisory one. As stated by Blackstone Civil Practice 2011[3], judicial review is "a supervisory jurisdiction which reviews administrative action rather than being an appellate jurisdiction."

[21] In **Council of Civil Service Unions v Minister for the Civil Service**[4], Lord Diplock classified under three heads "the grounds upon which administrative action is subject to control by judicial review." These are; - illegality (unlawfulness), irrationality (unreasonableness) and procedural impropriety (unfairness).

[22] The first relief which the Applicant seeks is "a declaration that the decision of the Respondent to issue a "Police Certificate of Character" with respect to the Applicant bearing a judicially spent conviction, that is a conviction with respect to a matter more than six (6) years old, is unfair and irrational and accordingly illegal." The Applicant also seeks "an order of certiorari quashing the decision of the Respondent to issue a "Police Certificate of Character" dated 4th October 2012 with respect to the Applicant containing a judicially spent conviction."

[23] I will now address the Applicant's grounds for the application all of which have been adumbrated in paragraph 4 above. The main contention of the Applicant is that the Respondent is not empowered to act towards him in a manner that is illegal, irrational and unfair. He contends that the practice of the Commissioner of Police in issuing Certificates with "judicially spent convictions"

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[2] [2006] UKPC 57 at [14]
[3] page 1149, paragraph 74.1
[4] [1985] AC 374

is unfair and oppressive in its consequence and is unduly hampering his right to work in his profession.

(A) The allegation of Illegality

[24] De Smith's Judicial Review[5], states:-

> "The task of the Courts in evaluating whether a decision is illegal is essentially one of construing the content and scope of the instrument conferring the duty or power upon the decision-maker. The instrument will normally be a statute or statutory instrument, but it may also be an enunciated policy, and sometimes a prerogative or other "common law" power. The Courts when exercising this power of construction are enforcing the rule of law, by requiring administrative bodies to act within the "four corners" of their powers or duties." Another "test of illegality" is whether the decision-maker strayed outside the terms or authorized purposes of the governing statute."

[25] It would appear that the Applicant's claim that the Commissioner's decision is illegal, is based on his contention that the Commissioner has included a "judicially spent conviction" on his Certificate of Character.

[26] The difficulty with this allegation is, as submitted by Learned Queen's Counsel Justin Simon, that there is no law in Antigua and Barbuda with respect to "spent convictions.' In fact, Dr. Dorsett does not point to any statute or indeed any other provision in the Laws of Antigua and Barbuda which states that a conviction with respect of a matter of "more than six years old" is to be deemed "judicially spent". Further, that even if such a statute or provision existed, that such a conviction was, without more, automatically expunged from the criminal record.

[27] The Court is of the view, therefore, that, absent the legislation dealing with "spent convictions", the Commissioner cannot be said to be acting in excess of his jurisdiction, or that he is acting in contravention of the statute. His decision cannot therefore be said to be tainted with illegality.

(B) The allegation of irrationality or unreasonableness.

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[5] 6th edition at page 226, paragraph 5-003

[28] The Applicant also alleges that "the said practice of reporting judicially spent convictions is also irrational and manifestly unreasonable." In **Council of Civil Service Unions v Minister for the Civil Service** (supra) Lord Diplock stated:

> "By irrationality I mean what can now be succinctly referred to as 'Wednesbury unreasonableness'... It applies to a decision which is outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it."

[29] Cooke J, in the New Zealand case of **Webster v Auckland Harbour Board**[6] stated that what is required before the Court may intervene on this ground is that the decision is one outside the limits of reason.

[30] According to Blackstone Civil Practice 2011[7]:

> "A decision may be tainted by irrationality where the decision-making body allegedly:
>
> (a) Acted for an improper purpose;
> (b) Acted with bad faith
> (c) Fettered its discretion
> (d) Improperly delegated its functions;
> (e) Reached a conclusion that no body properly directing itself on the relevant law and acting reasonably could have reached;
> (f) Failed to take into account relevant matters or took into account irrelevant matters;
> (g) Abused its powers or infringed a legitimate expectation; or, possibly,
> (h) Acted in a disproportionate manner; or
> (i) Did not act consistently."

[31] Learned Counsel Dr. Dorsett is seeking the intervention of the Court to condemn the action of the Commissioner of Police as "irrational or perverse." It is important to examine the action of the Commissioner of Police which the Applicant contends is irrational, unreasonable and manifestly unfair. What the Commissioner of Police has done, as submitted by Learned Queen's Counsel Justin Simon, is to "simply state in clear and unambiguous terms, the true circumstances of the conviction."

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[6] [1978] 2 NZR
[7] page 1158, paragraph 74.11

[32] It is the further submission of Learned Queen's Counsel that "until a law has been introduced which addresses the issue of spent convictions, the Commissioner of Police has no choice, but to indicate on the Applicant's criminal record certificate, all of his past convictions. The Commissioner has only one duty, namely the duty to record it faithfully and accurately."

[33] I endorse the submissions of Learned Queen's Counsel. According to Supperstone & Goudie in the text Judicial Review[8];-

> "Lord Diplock's statement of principle underlines the crucial feature that the Court is not concerned with what it regards as the appropriate decision, but rather with the quite different test of whether sensible decision-makers, properly directed in law and properly applying their minds to the matter, could have regarded the conclusion under review as a permissible one."

[34] Learned Counsel Dr. Dorsett in his oral submissions to the Court posed the question "How long is the Applicant supposed to wait for Parliament to get its act together?" Counsel opined that when the Court sees an injustice being done, the Court cannot adopt the position of the High Priest. Dr. Dorsett contends that the issue here is a matter of public policy. He adds that it is arguable that the practice of issuing certificates of this nature in the year 2012 is "simply bad public policy and the Court can intervene and make a declaration to deal with what is being argued". He states that this is a reflection of a bad public policy and it is having an oppressive effect on the Applicant. I am of the view that if this proposition were to be followed to its logical conclusion, the Court, according to Dr. Dorsett, would be entitled to substitute itself for Parliament in the passing of laws which it was of the view ought to have been passed but were not. One merely has to state the proposition to be aware of its error.

[35] In **R (Khatun) v London Borough of Newham**[9] cited by Learned Counsel Dr. Dorsett and referred to in paragraph 6 above, the learned Judge stated that "the court has no role to impose what it perceives as ideal solutions under cover of the Wednesbury principle's application."

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[8] 4th Edition, page 193, para.8.3.5
[9] [2004] EWCA Civ. 55 [2005] QB 37 at [41]

[36] The Court is of the view that, applying the above test, it cannot be said that the Commissioner of Police, in accurately recording the fact that the Applicant had a conviction, has made a decision which no other decision maker would have regarded as permissible. The Applicant does not contend that the Commissioner has no lawful authority to issue certificates of character. Learned Counsel for the Applicant submitted that the Commissioner was "motivated to record a matter from 1997, at least 15 years old". He also submitted that the Commissioner "is still harping back to this matter of fifteen years ago." It may be that Learned Counsel Dr. Dorsett is contending that the Commissioner acted in bad faith or possibly for an improper purpose. However, as submitted by Learned Queen's Counsel Mr. Justin Simon, there is no evidence that the Commissioner "was motivated by ill-will, nor by dislike of the Applicant, nor was he motivated by anything that was not recorded on the Applicant's criminal record." There is also no evidence that the Commissioner's decision was affected by motives such as fraud, malice, or personal self-interest.

[37] The Applicant deposed in his Affidavit that: "on an occasion, namely on 6th December 2010, I was issued with a clean Certificate, that is to say a Certificate without convictions." That Certificate is exhibited to the said Affidavit as Exhibit KE1. With respect to this issue, it is the submission of Learned Counsel Dr. Dorsett that the issuance of that "clean Certificate" is proof that the Commissioner is "capable of doing and acting in a manner that is not oppressive". Dr. Dorsett argues "since he (the Commissioner) can do so, he can do it again."

[38] The learned writers of Judicial Review - A Practical Guide[10] state:-

> "Inconsistency has long been recognized as an error that allows the court to intervene because good public administration requires consistent decision-making. It is also linked to the concept of irrationality, as an inconsistent decision may be said to lack logic... Although it is clear that consistency is a matter that can be raised in an application for judicial review, the Administrative Court will be reluctant to find that a decision should be quashed simply because it is inconsistent with a decision in a an apparently similar case. The Administrative Court is aware that two cases will never be precisely the same. In practice, it is therefore very difficult to argue that a decision should be quashed because it is inconsistent with another decision. Indeed it has been suggested that it would only be possible to challenge a decision on the basis of inconsistency in circumstances in which there were inconsistent policies or policies that produce inconsistent results

[10] 2nd Edition, page 88, paragraph 2.13

and not in circumstances in which individual cases have been considered in an inconsistent manner."

[39] The Applicant has produced no evidence to show that what he refers to as "clean Certificates" have been issued to other persons who have had convictions. There is no evidence to show that it is the present Commissioner who issued the "clean Certificate" dated 6th December 2010. Further, it is entirely possible that the "clean Certificate" issued in December 2010 was the result of a clerical error whether due to incompetence or otherwise. In any event there is no evidence to lead the Court to conclude that the Defendant, namely the Commissioner, acted in a manner which was arbitrary or unreasonable.

[40] Based on all of the above, the Court is of the view that there is no evidence to support the Applicant's contention that the Commissioner, by means of his action is acting in a manner that is irrational and manifestly unreasonable and is acting in a manner that is unfair.

[41] The Court is also of the view that it is significant that what the Applicant is claiming is that the action of the Commissioner of Police is oppressive in its consequence and is unduly hampering the Applicant's right to work in his profession. The Applicant alleges that once a prospective employer has sight of the certificate of character in which the conviction is mentioned, then he is denied employment. He states that when he shows his Certificate to prospective Antiguan employers, he is "shunned." He adds that the fact that a conviction is shown on the Certificate is a "convenient reason" to deny him employment. It is significant that the Applicant does not state that the fact of the conviction is THE reason or the ONLY reason for his being denied employment. It may very well be that the Applicant is being denied employment for other reasons totally unrelated to the insertion of the conviction on his Certificate. In fact, the Applicant has not produced any cogent evidence, by way of email, letter or otherwise, to prove that he is "shunned" by prospective Antiguan employers, as a result of his conviction, or that he has been denied employment as a result.

[42] With respect to the contention of Dr. Dorsett that the action of the Commissioner is unduly hampering the Applicant's right to work in his profession, the Court is of the view that the case of Nagle V Feilden cited by Dr. Dorsett, does not assist the Applicant. In the Nagle case, the

Appellant, a woman, was excluded from being a trainer of race-horses on the ground of her sex. It was held that the practice of the stewards to exclude women was contrary to public policy. In the instant case, it cannot be said that the Commissioner of Police is interfering with the Applicant's right to work, either directly or indirectly, as submitted by Dr. Dorsett. The Applicant has neither alleged nor has he provided evidence that the Commissioner is responsible for making or deciding the policy which he contends is hampering his right to work.

[43] It is worth repeating that the Court's role in judicial review is one of review. Further, that judicial review is concerned, "not with the decision, but with the decision-making process." In the words of Lord Brightman in **Chief Constable of the North Wales Police v Evans**[11], "unless that restriction on the power of the Court is observed, the Court will, in my view, under the guise of preventing the abuse of power, be itself guilty of usurping power..... Judicial review, as the words imply, is not an appeal from a decision, but a review of the manner in which the decision was made."

[44] Learned Counsel Dr. Dorsett is inviting the Court to declare that "this practice of reporting of issuing certificates", namely to reflect a conviction which dates, as in the instant case, fifteen years previously when the Applicant was a juvenile, is "bad public policy". In the view of the Court, Learned Counsel is asking the Court to look into the merits of the decision and, under the guise of review, to "impose an ideal solution" for what the Applicant perceives as the Defendant's oppressive conduct. He is asking the Court to step outside the limits and boundaries of its role. In any event, the Court is of the view that the responsibility for deciding what the policy should be with respect to the issuance of Police Certificates and their contents, should be that of Parliament and not the Court.

[45] Has the Applicant succeeded in making a case for the grant of permission or leave to file judicial review proceedings? As stated above, the test to be applied is whether or not the Applicant has an arguable case, that is to say, one that has a realistic prospect of success. It is not enough that a case is "potentially arguable." In the view of the Court, the Applicant has not met that threshold. The Court is not satisfied "that there is a case fit for further investigation at a substantial hearing with all such evidence as was necessary on the facts and all such arguments as was necessary on

[11] [1982] 3 All ER 141

the law." The Court is of the view that in the instant case, the Applicant has not succeeded in establishing at least an arguable case that a ground for seeking judicial review exists.

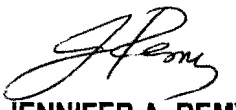
[46] The Court is of the view that, based on the material available before it, the relief sought by the Applicant, namely, "an Order of certiorari quashing the decision of the Respondent to issue a "Police Certificate of Character" dated 4th October 2012 with respect to the Applicant containing a judicially spent conviction", is unsustainable. The application for leave is therefore refused.

ORDER

My order is as follows:-

(a) Leave to issue is denied.

(b) There shall be no order as to costs.



JENNIFER A. REMY
Resident High Court Judge
Antigua & Barbuda