

**EASTERN CARIBBEAN SUPREME COURT**

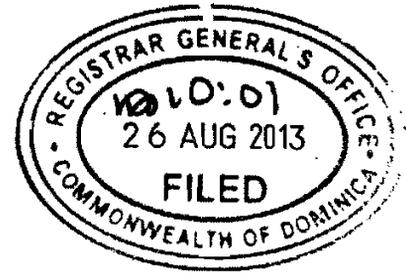
**COMMONWEALTH OF DOMINICA**

**IN THE HIGH COURT OF JUSTICE**

**DOMHCV2010/0271**

**BETWEEN:**

**IAN GUSTAFSON GEORGE**



Claimant

and

**ATTORNEY GENERAL**

**DIRECTOR OF PUBLIC PROSECUTION**

**HASANIE BLAIZE**

Defendants

**Appearances:**

Mrs. Gina Dyer-Munro for the Claimant

Ms. Pearl Williams and Ms. Sherma Dalrymple for Defendants

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2013: March 20<sup>th</sup>

April 2<sup>nd</sup>; 30<sup>th</sup>

August 26<sup>th</sup>

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**JUDGMENT**

[1] **Cottle, J:** The claimant was arrested by the police on Wednesday 3<sup>rd</sup> March 2010. He was placed in the cells at the Mahaut Police station. On Friday 5<sup>th</sup> March 2010 at 9.30 a.m. he was moved to the St. Joseph police station. He was released on Saturday 6<sup>th</sup> March 2010. The claimant says he was stopped by PC Blaize on the road

not far from his home around 10.00 p.m. He was told that he would be investigated for a robbery in the area. At the time he was on the telephone with his girlfriend Melean Angol. He says the constable took his cellular phone and ended the call. When Miss Angol called back, the police officer answered the telephone and told her she could not talk to the claimant. The claimant says the police refused to allow him to pass by his home to inform his parents that he was being taken to the police station. Whilst in custody he was not permitted to communicate with anyone.

- [2] The claimant also swore that he lost wages during the period of his incarceration and his parents incurred expenses in retaining a lawyer. He was released and no charges were laid against him. He brought the instant claim seeking damages for false imprisonment. The defendants deny that the arrest of the claimant was unlawful.

### **Submissions**

- [3] Counsel for the claimant submitted that the claimant was questioned for about 5 minutes before being placed in the cell. He was detained for no just cause. According to counsel for the claimant the reason given by the police for arresting the claimant for suspicion of burglary is because the claimant could not give to the police the names of the 'partners' that he was with at the time the burglaries occurred.
- [4] The case for the defendants is that on 3<sup>rd</sup> March 2010 the police received two reports of burglaries that occurred in the Check Hall area. PC Blaize investigated. They recovered some of the stolen items hidden in bushes along the bank of the Check Hall River. PC Blaize was told that the claimant was seen walking up and down the area where the stolen items were hidden while apparently talking on his cell phone. The police came upon the claimant in the same vicinity. They told him that they were investigating burglaries in the area. They asked the claimant to come with them to the police station to assist in the investigations. The claimant agreed. At the station the claimant was asked about his whereabouts on the day in question. Upon being told by the claimant that he had been 'hanging out with some partners', the officers asked for the names of these partners so the alibi could be checked. The claimant did not give any names and was thus arrested on suspicion for the burglaries.

### **The Law**

- [5] The constitution of the Commonwealth of Dominica at section 3 (1) (e) provides that a person may be deprived of his liberty upon reasonable suspicion of his having committed a criminal offence. Counsel for the claimant cited a text book Civil Action against the Police by Clayton and Tomlinson at page 164 where the learned authors refer to the well known case of Christie v Leachinsky as authority for the proposition that the arrested man must be told the reason for his arrest. The authors continue, "it

*is necessary for the suspect to be told the true ground for his arrest and sufficient detail of the allegation involved. Thus it would be unlawful if the suspect is told he is arrested for burglary without informing of when and where it was committed".*

[6] In the present case, the defendants say they informed the claimant that they were investigating two burglaries in Check Hall Valley. They asked the claimant where he was at the time of the burglary. As he refused to give them the names of the people he said he was with, the police could not verify his alibi. PC Blaize told the claimant he was arrested for the burglaries.

[7] The claimant in his witness statement says that he was told by the police that he was going to be investigated on a "robbery in the area". He lived in Check Hall Valley. He was arrested in Check Hall Valley and understood the area referred to by the police to be Check Hall Valley. It is not uncommon for lay persons to confuse a burglary with a robbery. I am satisfied by the state of the evidence from both the claimant and the defendants that the claimant was informed that he was arrested on suspicion of burglaries committed in the Check Hall area on the date of his arrest.

[8] In order to justify the arrest the defendants must show that they had reasonable suspicion. The position was put clearly by Wolf J in the case of Castorina v Chief Constable of Surrey 1988 WL 622865.

[9] There are three questions to be answered;

(1) Did the arresting officer suspect that the person who was arrested was guilty of the offense? The answer to the question depends entirely on the findings of fact as to the officer's state of mind.

(2) Assuming the officer had the necessary suspicion, was there reasonable cause for that suspicion? This is a purely objective requirement to be determined by the judge.

(3) If the answer to the two previous questions is in the affirmative, then the officer has a discretion which entitles him to make an arrest and in relation to that discretion, has it been exercised in accordance with the principles laid down by Lord Green M.R in Associated Provincial Picture Houses Ltd v Wednesbury Corporation [1948] 1KB 223?

[10] In the present case the evidence reveals that PC Blaize had received reports of two burglaries in the Check Hall Valley area on 3<sup>rd</sup> March 2010. Stolen items from the burglaries were recovered hidden in bushes on the banks of the Check Hall River. The claimant was reported to have been seen in the area at the time of the burglaries. The

claimant was met by the police in the area where the stolen goods were recovered. The claimant told the police he was with friends at the time of the burglaries but refused to supply the names of those friends so his alibi could be checked. Looking at the circumstances as a whole I find that PC Blaize suspected that the claimant had committed the burglaries and there were reasonable grounds for that suspicion.

[11] The claimant also complains that he was not allowed to contact his parents. The defendants do not deny this but the claimant was an adult at the time of his arrest. He was speaking to his girlfriend Ms. Angol. She gave evidence that she knew that the claimant was in the company of the police and that it was a police officer who had answered the claimant's telephone when she called back. It is true that the officers could have been more accommodating of any request by the claimant that his parents be informed of his whereabouts but this failure does not by itself in all circumstances of this case, render his arrest unlawful.

[12] Again I emphasize that in her written submissions, counsel for the claimant only raised one issue in her effort to convince the court that the claimant had been falsely imprisoned. She suggested that the claimant had not been informed of the true reason for his arrest. I have found that the evidence led does not support that contention.

[13] I conclude that the claimant has failed to show that he was wrongly arrested or falsely imprisoned. On the contrary, I find there existed reasonable grounds for his arrest and he was informed of those reasons. The claim is dismissed. In the exercise of my discretion in this case I make no order as to costs.



*Brian Cottle*

**Brian Cottle**

High Court Judge