

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 501 OF 2009

In the Matter of an application for Judicial Review by the Plaintiffs under GCR O. 53

And in the Matter of Section 40 of the Public Service Management Law 2007

BETWEEN: (1) CARLOS POWELL
(2) ADRIAN ROWE

AND: (1) DIRECTOR OF PUBLIC WORKS DEPARTMENT
(2) CHIEF COMMISSIONER OF POLICE

PLAINTIFFS

DEFENDANTS

APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

To: The Clerk of the Court, Law Courts, George Town, Grand Cayman

Name, address and description of applicants:

Carlos Powell
Bodden Town
Grand Cayman

AND

Adrian Rowe
Prospect
Grand Cayman

Judgment, order, decision or other proceeding in respect of which relief is sought:

1. The actions of the Director of Public Works Department not to reinstate the First Plaintiff, Mr. Carlos Powell to the position of Manager of the Mechanical and Electrical and Plumbing Department and Second Plaintiff, Mr. Adrian Rowe to the position of Supervisor of the Electrical Department.

Despite the fact that the Police informed the Director of Public Works Department by email on 26th June, 2008 that no criminal charges will be laid against either of the Plaintiffs, the Director of the Public Works Department has refused to reinstate the Plaintiffs to their respective positions or to a similar position in accordance with section 40(5) of the Public Service Management Law 2007 Personnel Regulations, 2005.

2. Decision of the Chief Commissioner of Police not to provide the First and Second Plaintiffs with copies of the supporting affidavits which lead to the search of their respective homes on 21st September, 2007 on the grounds of suspicion of official corruption pursuant to section 90 of the Penal Code (2006 Revision). The Plaintiffs maintain that such affidavits are unfounded, frivolous and vexatious and have misled the Court in granting the search warrants. Suffice it to say the searches turned out to be fruitless. The Police have communicated to the Plaintiffs that the said affidavits will be given to them only if the Court orders them to do so.

Relief Sought:

A Mandatory Order (Order of Mandamus):-

1. That the Director of the Public Works Department reinstate the Plaintiffs to their respective positions pursuant to section 40(5) of the Public Service Management Law 2007 Personnel Regulations, 2006.
2. That the Chief Commissioner of Police delivers forthwith, a sworn copy of the Affidavits supporting an application for a search warrant of Messrs. Powell and Rowe's homes on 21st September, 2007, regarding suspicion of official corruption. The search warrants were issued pursuant to section 90 of the Penal Code (2006 Revision).

3. For an Order that the costs of and incidental to this application shall be paid by the Director of Public Works Department and/or The Chief Commissioner of Police or as the Court so orders.
4. Any other Order, relief and/or directions as this Honourable Court deems fit including but not limited to the future conduct of these proceedings.

Name and address of applicant's attorneys

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Dated this 12th day of October, 2009

Facey-Clarke & Associates

Facey-Clarke & Associates
Attorneys-at-Law for the Plaintiffs

This Application was filed by Facey-Clarke & Associates, Attorneys-at-Law for the Plaintiffs herein whose address for service is that of the said Attorneys-at-Law, Ground Floor, Unit 119, Elizabethan Square, Grand Cayman

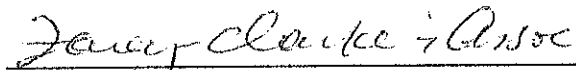
GROUND ON WHICH RELIEF IS SOUGHT

1. The Director of Public Works Department has failed to reinstate the Plaintiffs to their respective positions after being informed by the Police Department that they had completed their investigations and no charges will be laid against either Mr. Powell or Mr. Rowe. The actions of the Director of Public Works Department not to reinstate the Plaintiffs to their respective positions is unlawful and is inconsistent with section 40(5) of the Public Service Management Law, 2007 (Personnel Regulations, 2006). The unlawful actions of the Director of Public Works Department has caused the Plaintiffs to incur costs in bringing these proceedings and the Plaintiffs are entitled to recover their costs against the Director of Public Works Department.

2. The Plaintiffs have requested a copy of the affidavits justifying the granting of search warrants to search their respective homes and the business premises of the First Defendant on 21st September, 2007 but the Chief Commissioner of Police have failed to provide a copy of these supporting affidavits. The actions of the Chief Commissioner of Police not to disclose these affidavits to the Plaintiffs unless the Court orders them to do is unfair to the Plaintiffs. Such actions have caused the Plaintiffs to incur costs in bringing these proceedings and the Plaintiffs are entitled to recover their costs against the Chief Commissioner of Police.

3. The Plaintiffs intend to rely on their respective affidavits filed herein in support of their application.

Dated this 12th day of October, 2009



Facey-Clarke & Associates
Attorneys-at-Law for the Plaintiffs

These Grounds were filed by Facey-Clarke & Associates, Attorneys-at-Law for the Plaintiffs herein whose address for service is that of the said Attorneys-at-Law, Ground Floor, Unit 119 Elizabethan Square, Grand Cayman