

IN THE GRAND COURT OF THE CAYMAN ISLANDS

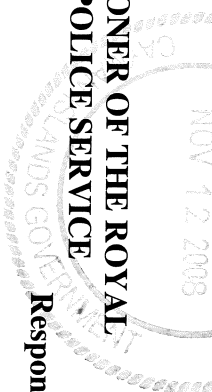
CAUSE NO. 595
of 2008

BETWEEN: THE QUEEN

AND: (1) MARTIN BRIDGER

(2) RICHARD COY

**(3) ACTING COMMISSIONER OF THE ROYAL
CAYMAN ISLANDS POLICE SERVICE**



Ex parte The Hon. Justice Alexander Henderson

Applicant

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 applicant	The Hon. Justice Alexander Henderson c/o Campbells, Attorneys-at-Law 4 th Floor, Scotia Centre Albert Panton Street George Town Grand Cayman Aggrieved person
Judgment, order, decision or other proceedings in respect of which relief is sought	The decision to arrest the Applicant, taken on or about 22 nd September 2008 ("the Decision") and executed on 24 th September 2008 ("the Arrest"), together with all actions consequent on the Arrest, including the Applicant's detention, bail and bail conditions.
<p style="text-align: center;">Relief Sought:</p> <ol style="list-style-type: none">Orders of certiorari in respect of the Decision and the ArrestDeclarations that the Decision and/or the Arrest and all actions consequent on the	

- Arrest were unlawful**
3. Damages, including aggravated and exemplary damages, for false arrest, trespass to the person and unlawful detention
 4. Destruction or return of all identification data (e.g. fingerprints, photographs, DNA samples etc) taken from the Applicant on 24th September 2008
 5. Costs
 6. Such further or other relief as this Honourable Court thinks fit

AND a direction that this application for judicial review be expedited, and that a return date for the substantive hearing be set on or before 28th November 2008 together with all other consequential directions

The Applicant requests an urgent *ex parte* hearing of this application.

Name and address of the Applicant's attorneys	<p style="text-align: center;">Campbells 4th Floor, Scotia Centre Albert Panton Street George Town Grand Cayman</p> <p>Ref: STM/KAH/sam/15730</p>	
Signed		Dated: 11/11/2008

GROUNDNS ON WHICH THE RELIEF IS SOUGHT:

The Decision made by *inter alia* Martin Bridger, a special constable of the Royal Cayman Islands Police Service (“the RCIPS”), on or about 22nd September 2008 and the Arrest, executed by Richard Coy, a special constable of the RCIPS, on 24th September 2008, and all actions consequent on the Arrest were unlawful, and the Applicant should be compensated, for the following reasons:

BACKGROUND

1. The Applicant was arrested by the Second Respondent without warrant shortly after 7am on 24th September 2008.

2. The Arrest was carried out by the Second Respondent on the instructions of the First Respondent, who had made the decision to arrest the Applicant on or about 22nd September 2008.
3. The Applicant was taken to the Central Police Station, where fingerprints, photographs and a DNA sample were taken from him and he was searched. He was kept in custody until approximately 5.30pm, when he was released overnight on bail, to return the following afternoon. His passport was confiscated and conditions were applied preventing the Applicant from speaking to certain persons. He surrendered to bail the following afternoon and was kept in custody until approximately 5.20pm, when he was again released on conditional bail.
4. At 9.05am on 24th September 2008, HE Governor Stuart Jack (“the Governor”) and the First Respondent addressed the Chief Justice and the staff of the Court concerning the Applicant’s arrest.
5. At approximately 11am on 24th September 2008, the Governor and the First Respondent held a press conference concerning the Applicant’s arrest. The contents of the press briefing and the Governor’s and the First Respondent’s comments, were published in print media, on the internet, and broadcast on radio and television, particularly in the Cayman Islands and in the Applicant’s native Canada, causing serious harm to the Applicant’s professional and personal reputation.
6. The Third Respondent is vicariously liable for the actions of the First and Second Respondents.

NATURE OF ILLEGALITY

7. Powers of arrest without warrant are defined in section 24(4) and 36(a) of the Police Law (2006 Revision).
8. A person may only be arrested without a warrant if the offence he is suspected of is an “arrestable” offence.

9. The Applicant was arrested on suspicion of having committed the offence of Misconduct in Public Office, contrary to common law (“the Offence”).
10. Arrestable offences are those set out in Schedule 1 to the Criminal Procedure Code (2006 Revision) (“the Schedule”).
11. The Offence is not expressly referred to in the Schedule.
12. The Schedule provides that, in the case of offences not referred to, they are arrestable if they can be punished by a term of 6 years imprisonment or more.
13. The Offence does not have a prescribed penalty in the Penal Code, or any other law in the Cayman Islands. Accordingly, punishment for the Offence is governed by s. 38(1) of the Penal Code, which provides that, if no penalty is expressly set out for any offence in the Code, a penalty of up to 4 years imprisonment and a fine can be imposed.
14. Accordingly, the Offence is not arrestable because it is not punishable with imprisonment of 6 years or more, as required by the Schedule.
15. In the circumstances, the Decision and the Arrest, and all consequent actions were unlawful.