

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE

CLAIM NO. ANUHCV2024/0059

BETWEEN:

DIRECTOR OF THE ONDCP

Claimant

And

KENROY CHRISTIAN

Defendant

Appearances:

Mr. Marvin Hall for the Claimant

Mr. Wendel Alexander for the Defendant

.....
2026: June 16th.
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JUDGMENT AFTER TRIAL

[1] **WILLIAMS, J.: THIS ACTION** having on 16th day of June 2026 been tried before the Honourable Justice Rene Williams without a Jury at the High Court of Justice and the Honourable Justice having on the 16th day of June 2026 directed that Judgment as hereinafter provided be entered for the Defendant as follows,

[2] This claim for forfeiture of the sum of EC\$172,736.65 came on for trial on 16th June 2026. However, at trial it was noted that the Claimant had not effected specific disclosure or filed witness statements in accordance with the Case Management Order of 14th July 2025. The Claimant had instead filed trial bundles but the documents which were contained in the bundles

had not been previously filed.

[3] **Rule 29.11** of the **Civil Procedure Rules (Revised Edition) 2023** prohibits a witness from giving evidence at trial unless a witness statement or summary has previously been filed. The Court does retain a discretion to grant permission to permit the witness to give evidence. The court is not satisfied that this is an appropriate case in which to grant permission under **CPR 29.11**. To do so would permit the Claimant to conduct the trial on material which had not been properly introduced into evidence and would deprive the Defendant of the procedural protections afforded by the rules.

[4] In the absence of any admissible evidence the Claimant has not discharged its duty to prove its case on a balance of probabilities. Accordingly, the claim must be dismissed.

[5] In terms of costs, the Defendant is the successful party and is entitled to his costs unless there is good reason to order otherwise. The court has considered **CPR 65.5** and the prescribed costs regime. However, the court is also required to ensure that any costs order is proportionate and just. In this case the Defendant's Defence had previously been struck out and the claim itself was dismissed due of the Claimant's failure to adduce admissible evidence rather than after a contested trial on the merits. In the circumstances the Court is satisfied that prescribed costs calculated by reference to the full value of the forfeiture claim would be disproportionate. Guided by the approach of the Privy Council in **Bertrand v Elias** [2023] UKPC 34, the appropriate order is that the defendant's costs be assessed if not agreed.

[6] **IT IS HEREBY ORDERED AND ADJUDGED THAT:**

1. The Claim for forfeiture is dismissed.
2. Costs to Defendant be assessed if not agreed within twenty-one (21) days of this order.
3. The Freezing Order made herein on 23rd February 2024 shall remain in effect until further order of this Court.

Rene Williams
High Court Judge

By the Court

Registrar