

THE EASTERN CARIBBEAN SUPREME COURT

SAINT LUCIA

**IN THE HIGH COURT OF JUSTICE
CIVIL DIVISION**

CLAIM NO. SLUHCV2026/0317

IN THE MATTER OF an application for a writ of habeas corpus
ad subjiciendum pursuant to section 1022 of the Criminal
Code.

-and-

IN THE MATTER OF PART 57 of the Civil Procedure Rules
(Revised Edition) 2023.

-and-

IN THE MATTER OF an application by **JAHVIS ALFRED**
(Fugitive) unlawfully detained at the Bordelais Correctional
Facility.

BETWEEN:

JAHVIS ALFRED

Petitioner

-and-

[1] THE DIRECTOR OF THE BORDELAIS CORRECTIONAL FACILITY

[2] THE ATTORNEY GENERAL for and on behalf of **MARTINIQUE,**
FRENCH REPUBLIC

Respondents

Before the Honourable Mr. Justice Alvin Shiva Pariagsingh

Appearances:

Mr. Alberton Richelieu for the Petitioner

Mr. George K. Charlemagne and Mrs. Nichola George -Benjamin for the
Second Respondent.

2026: August 14 – Hearing
August 17 – Decision

JUDGMENT

Extradition – Habeas corpus – Committal for surrender – Sufficiency of evidence – Prima facie case – Misdirection by magistrate – Whether error fatal – Identity – Natural justice – Proceedings in absence of fugitive – Conviction in absentia – Retrial – Scope of habeas corpus review.

INTRODUCTON:

- [1] **PARIAGSINGH, J:** - The Petitioner, Jahvis Alfred, seeks his release by way of habeas corpus. He is presently detained at the Bordelais Correctional Facility pursuant to an order of Magistrate Bertlyn Reynolds, sitting in the First District Court, dated 28 July 2026 committing him for surrender to Martinique, French Republic. The learned Magistrate reduced her reasons into writing on 4 August 2026.
- [2] The Petitioner filed his petition for habeas corpus on 11 August 2026. The Court deemed the petition urgent and fit for hearing during the court's long vacation, abridged the time for filings and for the hearing of the petition, and heard the same on 14 August 2026¹. Prior to the hearing, the Second Respondent filed an affidavit of No. 221 Ag. Corporal Ashley Peter². Both parties also filed written submissions³.
- [3] The petition challenges the legality of the Petitioner's detention on a number of grounds. In substance, the Petitioner says that the Magistrate: (i) erred in law by ordering his surrender without determining whether a prima facie case had been established; (ii) failed to determine whether the law of Martinique guaranteed him a fresh trial following his conviction in absentia, or whether the grant of a retrial remained a matter of discretion for the foreign court; (iii) failed to properly address whether the Petitioner was the same person as the individual against whom the allegations were made; (iv) failed to consider whether, upon surrender, there is any mechanism by which the period spent on remand in Saint Lucia would be deducted from his sentence; and (v) acted in breach of the principles of natural justice by proceeding with part of the hearing on 23 July 2026 in his absence when he was said to be ill.

¹ Order made on 12 August 2026 whereby the Writ of habeas was issued on even date and made returnable on 14 August 2026.

² Filed on 14 August 2026.

³ Filed on 13 August and 14 August 2026 respectively.

[4] At the first hearing of this petition the Court directed the parties to specifically address two matters at the hearing of the petition. The first was the effect of the Magistrate's statement that the finding of a prima facie case was "not a matter for this court but rather for a Sufficiency Hearing Judge"⁴. The second concerned natural justice, specifically the treatment of identity and the continuation of the committal proceedings during the Petitioner's absence.

[5] Those issues go to the heart of the application. There is no dispute that extradition proceedings affect the liberty of the individual in a direct and serious way. The statutory requirements governing committal are set out in the **Extradition Act**⁵. At the same time, it must be borne in mind that the question for this Court is whether the detention is unlawful, not whether the Magistrate's reasons might have been expressed more carefully.

DISPOSITION:

[6] Having considered the petition, affidavits, written submissions, the committal order, the Magistrate's written reasons and the underlying extradition material, I am not satisfied that the Petitioner's detention is unlawful. These are the reasons for my decision.

The Court's function on habeas corpus

[7] **Part 57 of the Civil Procedure (Revised Edition) Rules 2023**⁶ governs applications for habeas corpus. **CPR 57.2** permits an application supported by affidavit. Under **CPR57.3** the Court may issue the writ and may, where appropriate, order the release of the person detained. The issue of the writ itself is therefore not a determination that the detention is unlawful. It requires the person responsible for the detention to justify it.

[8] **CPR 57.5** requires the return to state each cause of detention. **CPR 57.6** then requires the Court, upon the hearing of the writ, to make such orders as are just.

[9] In **Sebastian Day v The Attorney General**⁷, Cenac-Phulgence J (as she then was) explained that, in extradition proceedings, the superior court is entitled to look at the case

⁴ Paragraph 7 of the Reasons of the learned Magistrate.

⁵ Cap. 2.10 of the Revised Laws of Saint Lucia.

⁶ Hereinafter referred to as "CPR".

⁷ SLUHCV2020/301 (delivered 18 August 2020, unreported).

as it stood before the magistrate and consider whether a magistrate properly applying his or her mind to the evidence could reasonably have concluded that the evidential threshold for committal was satisfied. The judge stated as follows:

“The Court’s role is essentially limited to determining whether the magistrate abused her discretion in ordering the committal of the applicant. In cases relating to extradition and the return of fugitive offenders, it has been held that there is power in the superior court to review the case as it appeared before the magistrate, not only to look at the evidence before the magistrate, **but to consider whether any magistrate, properly applying his mind to the question, could reasonably have come to the conclusion that a strong and probable presumption of guilt had been made out, which would justify the magistrate in making the committal order.**” [Emphasis mine].

[10] The Court of Appeal in **Dexter Chance et al v Superintendent of Prisons et al**⁸ made clear that a habeas court in an extradition matter is not confined to examining the formal validity of the detention order. The Court may enquire into its substantial merits. Baptiste J.A. (as he then was) stated at paragraph 14 of the judgment that:

“...Thus on an application for habeas corpus in extradition proceedings, the High Court can enquire into the substantial merits of the detention order and is not confined to a review of the formal validity of the order..”

[11] That jurisdiction is not, however, an invitation to retry the criminal allegations. In **Dexter Chance**, the Court referred to **Armah v Government of Ghana**⁹ and observed that habeas corpus is not an appeal by which the court simply substitutes its own view of facts or reverses a discretion properly exercised.

[12] The distinction is useful in this case. This Court must be satisfied that the Magistrate acted within the statutory jurisdiction entrusted to her and that the detention rests upon a lawful committal. It is not for this Court to decide whether the Petitioner is guilty of the offences alleged in Martinique.

⁸ HCVAP2009/018 (unreported) delivered on 31 May 2010.

⁹ (1968) AC 192.

The Evidential Threshold

[13] The principal argument concerns the Magistrate's treatment of the evidential threshold.

Section 12 of the **Extradition Act** requires the Magistrate to determine whether the fugitive should be committed for surrender or discharged. In doing so, the Magistrate is to deal with the case, so far as appropriate, as if the person had been charged locally with an indictable offence. It states:

"12. Proceedings for Committal

- (1) A fugitive who is apprehended on a warrant issued under section 9 shall be brought before a magistrate as soon as practicable after the fugitive is apprehended.
- (2) **The magistrate before whom the fugitive is brought shall determine, subject to this Act, whether he or she should be committed for surrender or be discharged.**
- (3) **In making a determination under subsection (2), the magistrate shall deal with the fugitive and hear the case in the same manner, as nearly as may be, as if the fugitive had been brought before him or her and charged with an offence committed in Saint Lucia that is triable on indictment.**"[Emphasis mine].

[14] **Section 16** of the **Extradition Act** is more specific. In the case of an accused person, there must be evidence which, under domestic law as modified by the Act, would justify committal for trial had the extradition offence occurred in Saint Lucia. It states:

"16. Committal for surrender

- (1) Where a fugitive is brought before him or her under section 12, the magistrate shall, despite that section 6 appears to apply to the fugitive, issue a warrant for the committal of the fugitive to prison if—
 - a. when the fugitive is alleged to have been convicted of an extradition crime and to have been unlawfully at large, such evidence is produced before the magistrate as would, in accordance with the law of Saint Lucia, as modified by this Act, satisfy him or her that the fugitive has been so convicted and was unlawfully at large; or
 - b. **when the fugitive is accused of an extradition crime, such evidence is produced before the magistrate as would, in accordance with the law of Saint Lucia as modified by this Act,**

justify the committal of the fugitive for trial had the extradition crime occurred in Saint Lucia.

- (2) Upon committal of a fugitive to prison under subsection (1), he or she shall remain there until he or she is surrendered to the Commonwealth country or foreign State that is seeking his or her surrender or until he or she is discharged according to law.” [Emphasis mine].

[15] The Second Respondent relies on **Alie Baptiste v Commissioner of Police**¹⁰, where Price-Findlay J. (as she then was) at paragraph 32 described the task as determining whether sufficient evidence exists as would, in a domestic case, justify committal for trial. The Magistrate does not conduct the criminal trial itself. The judge stated:

‘The task of the Magistrate remains to determine whether sufficient evidence exists as would in a domestic case justify a committal for trial; he does not have to approach the matter as he would approach an actual trial in Magistrate’s Court ... per Buxton LJ, in **RE-AL-FARWAZ**.”

[16] In **Dexter Chance** the Court identified three matters which must be satisfied before committal. These requirements are cumulative and are:

- 1) the offence must be a relevant extradition offence;
- 2) the evidence must be sufficient to warrant trial if the offence had occurred within the jurisdiction; and
- 3) committal must not be prohibited by some other provision of the Act.

[17] I therefore accept the Petitioner’s central legal proposition. The Magistrate could not simply leave the issue of evidential sufficiency to another judicial officer, the sufficiency judge.

[18] The authorities relied upon by the Petitioner point in the same direction. Counsel referred to **Rhett Fuller v Attorney General (Belize)**¹¹ at paragraph 85 of which Mottley P. stated:

"Extradition Proceedings are generis. The common law did not recognize Extradition - -
- In order to give effect to these treaties domestic legislation had to be enacted."

¹⁰ GDAHCV2009/0470 (delivered 2 May 2012, unreported).

¹¹ [2010] 1 LRC 693 subsequently upheld by the Board in [2011] UKPC 23.

[19] In **Commissioner of Prisons v Farouk Warris**¹², Sharma CJ (Trinidad and Tobago Court of Appeal) emphasise both the statutory nature of extradition jurisdiction and the care which a court must exercise where the liberty of the individual is at stake. The Judge stated at paragraph 43:

"There has always been a sacred principle of English law that the liberty of the citizen is of paramount importance. Any legal process which purports to take away that freedom must adhere strictly to the legal requirements necessary before this can be done. A party who is threatened with loss of freedom is entitled to take any technical point and the Court is bound to sit up and take notice. This is particularly so, when a citizen of one country is being surrendered to another, with the Court's sanction, especially since the domestic courts will no longer enjoy jurisdiction over him. This principle is in no way at odds with another cardinal principle distilled from the Human Rights cases, where Extradition statutes are to be construed in a broad and generous manner as to facilitate extradition; it does not mean that strict adherence to the rules must be compromised."

At para [100], he continues:

"There is a note of caution, however notwithstanding the relaxation of the rules of evidence and substantive law in many jurisdictions, the Court must not, even unwittingly, allow itself to sacrifice, the liberty of the subject, at the altar of international comity and must insist upon strict compliance with the law, before the alleged offender is extradited. The Court might not and cannot be seen to lose sight of this objective and indeed is mandated to make certain that a proper balance is struck at all times to carry out this exercise."

The impugned passage in the Magistrate's reasons

[20] The difficulty arises from paragraph 7 of the written decision. Having recorded the submission made on behalf of the Petitioner that the material did not disclose a prima facie case, the Magistrate said: "Accordingly, the finding of a prima facie case is NOT a matter for this court but rather for a Sufficiency Hearing Judge."

[21] That statement followed her observation that the alleged offences corresponded with indictable offences under Saint Lucia's law and that the local procedure for such offences now involved case management rather than the former preliminary inquiry process.

¹² Civil Appeal No: 119 of 2004 (Trinidad and Tobago) (unreported) delivered on 3 May 2006.

[22] If that sentence stood alone, the Petitioner's argument would carry considerable force. Read literally, it suggests that the Magistrate did not regard herself as responsible for deciding whether the evidential threshold for committal had been met.

[23] That would be a misdirection. There would be no later sufficiency hearing in respect of these offences. The hypothetical exercise required by section 16 was one for the extradition Magistrate herself. It is nevertheless necessary to read the reasons as a whole.

[24] Immediately after the impugned statement, the Magistrate recorded the evidential case advanced by the requesting state. She referred to material said to identify the Petitioner, including victim identification, photographs of him in the company of co-defendants, material extracted from a mobile telephone and weapons said to be connected with the offences and recovered at the residence of his father. She recorded the submission that the material went "well beyond a prima facie case".

[25] The underlying French request is consistent with that account. It states that the alleged involvement of the Petitioner was supported by evidence recovered from the residence occupied by him at his father's home, including Category B weapons and telephones containing photographs of him with a firearm; telephone links with persons convicted of the offences and witness material, including descriptions by victims and the evidence of another witness who implicated him personally.

[26] The extradition bundle also contained mobile telephone extracts, photographs and investigation records. The Magistrate referred to those exhibits in her reasons.

[27] Having set out the competing submissions, she stated at paragraph 11 that she was "better persuaded" by the requesting state and concluded that surrender to Martinique was appropriate.

[28] There is then the formal order of 28 July 2026. Its language is significant. Before directing surrender, the order records:

"AND UPON being satisfied that there is sufficient evidence of an extradition crime committed in Martinique upon which the respondent can be committed for surrender..."

[29] The order then expressly invokes sections 9, 12, 14 and 16 of the Extradition Act. That is not merely a recital of jurisdiction in general terms. It is an express finding of evidential sufficiency.

[30] Corporal Ashley Peter's affidavit filed in response to the present petition also states that the Magistrate considered the evidence, the exhibited documents and the submissions of counsel and determined that there was sufficient evidence to justify committal had the offences occurred in Saint Lucia.

[31] The Second Respondent submits that the reference to a "Sufficiency Hearing Judge" was therefore an unfortunate way of distinguishing the Magistrate's function from that of a court determining guilt, credibility and contested questions of admissibility at a trial. They point to the remainder of the reasons and to the formal order as demonstrating that she did, in fact, undertake the required assessment. I consider that submission to be well founded.

[32] The phrase used by the Magistrate was imprecise and, taken literally, would lead to an error. However, it is clear from reading the reasons as a whole and the order made by the Magistrate that she knew and appreciated that she was required to determine whether the evidence reached the committal threshold, while leaving questions of ultimate guilt and the final weight to be given to contested evidence to the court in Martinique.

[33] The reasons show that the Magistrate considered the evidential material advanced by the requesting state. She recorded the argument as to whether the material reached the relevant threshold. She accepted the requesting state's case. The order which she ultimately made expressly states that she was satisfied that sufficient evidence existed upon which the Petitioner could be committed.

[34] In those circumstances, the objection is more properly characterised as an error in the language used to describe the nature of the inquiry than an abdication of the inquiry itself.

[35] The distinction matters. Habeas corpus is concerned with the lawfulness of the detention. It does not follow that an otherwise lawful committal is vitiated whenever a phrase in the reasons is capable of being criticised.

[36] **Rhett Fuller** and **Farouk Warris** properly emphasise strict adherence to the legal safeguards surrounding extradition but strict compliance with the statute does not require the Court to disregard what the record shows the Magistrate actually considered and decided.

[37] Nor does **Dexter Chance** compel a different conclusion. On the contrary, it permits the High Court to look at the substantial merits of the detention order rather than the form alone. The material before the Magistrate was plainly capable of meeting the committal threshold. This was not a case where there was no evidence connecting the person sought to the alleged offences.

[38] In **Dexter Chance**, the Court of Appeal also cautioned against treating habeas corpus as a factual appeal where the magistrate had considered the relevant material and reached a conclusion supported by evidence.

[39] I therefore do not accept that the wording in paragraph 7 renders the committal unlawful.

Identity

[40] The Petitioner also complains that the Magistrate failed to address her mind adequately to whether he was the same person as the individual sought by the French authorities.

[41] There is no dispute that identity is an essential part of the extradition process. A committal order cannot lawfully be made against a person unless the court is satisfied that he is the person sought.

[42] In **Sebastian Day v The Attorney General**, the Court observed that extradition material must contain sufficient information describing the identity and probable location of the person sought so as to establish that the person named in the request and the person before the court are the same. The Court also considered it relevant that the person concerned had not previously suggested that he was somebody other than the person named in the extradition papers.

The identification material in this case is substantial.

[43] The French arrest warrant identifies Jahvis Marlon Alfred, also known as Jahvis Mc Vane, born on 27 September 1999 in Castries, Saint Lucia, to Jeff Mac Vane and Merlika Alfred, and records his nationality as Saint Lucian.

[44] Corporal Peter states that those same names, alias, date and place of birth, parentage and nationality were used by the Royal Saint Lucia Police Force in locating and identifying the Petitioner. The French documentation also included the foreign warrant, the extradition request, the judgment, photographic identification material and witness evidence.

[45] The evidence before this Court does not show that the Petitioner put forward any positive case before the Magistrate that he was a different individual.

[46] The Respondents also point out that no alternative person sharing the same biographical details was identified and that counsel had the opportunity to cross-examine Corporal Peter on identity but did not do so.

[47] The written reasons, while not containing a separate section headed “identity”, referred to photographs said to show the Petitioner with co-defendants and to other material connecting him with the investigation.

[48] In my view the complaint places too much weight upon the form of the reasons and not enough upon the record as a whole. The question is not whether the Magistrate devoted a discrete paragraph to identity. It is whether there was evidence before her capable of establishing that the person before the court was the person sought. There plainly was.

[49] I am therefore not persuaded that the detention can be impugned on the ground of mistaken or unproved identity.

The proceedings on 23 July 2026

[50] The Petitioner next relies upon what occurred on the afternoon of 23 July 2026. His case is that he became ill, that counsel sought an adjournment, and that the Magistrate nevertheless continued the proceedings in his absence. He relies upon the ordinary requirements of natural justice and upon **Samuel Knowles Jr v Government of the United States of**

America et al¹³. in support of the proposition that a person whose liberty is at stake has a right to be present at proceedings affecting him.

[51] I accept the general proposition. A person facing extradition is entitled to a fair opportunity to participate in the proceedings and to instruct counsel.

[52] The question is whether the temporary continuation of this particular hearing deprived the Petitioner of that opportunity.

[53] Corporal Peter states that the Petitioner had participated in the earlier hearing by Zoom and was represented by counsel. On the afternoon of 23 July, Bordelais informed the Court that the Petitioner felt ill and did not wish to attend the second session. No medical report was provided to the Court substantiating an inability to participate.

[54] More importantly, the evidence shows that the continuation of the proceedings that afternoon was confined to the formal tendering of documents already exhibited to Corporal Peter's affidavits. No new substantive evidence was introduced. The documents had already been served and were in the possession of the Petitioner's counsel. Counsel remained present and had the opportunity to cross-examine Corporal Peter.

[55] The matter was not finally determined on 23 July. It was adjourned to 28 July so that the parties could file written submissions and raise further matters or applications.

[56] On 28 July both the Petitioner and his counsel were present. Both sides were permitted to make oral submissions before the committal decision was made.

[57] The Respondents relied upon **R v Hayward; R v Jones; R v Purvis**¹⁴. As summarised in their submissions, **Purvis** concerned a defendant who did not remain in attendance because of a medical complaint, but whose legal representatives continued to act and were able to advance his case. The English Court of Appeal did not regard the continuation of the proceedings in those circumstances as a breach of natural justice.

¹³ Civil Appeal No. 64 of 2006 (Bahamas) (Unreported) delivered on 23 January 2008.

¹⁴ [2001] EWCA Crim 168, [2001] QB 862.

[58] I do not treat that authority as establishing a rigid rule that representation by counsel will always cure the absence of the person concerned. The fairness of the proceedings must depend upon the particular circumstances.

[59] In this case, however, the Petitioner has not identified any piece of evidence tendered during his absence of which he had no prior notice. He has not identified instructions which he was unable to give, cross-examination which could not be undertaken, an objection which could not later be raised, or any material respect in which the hearing might have proceeded differently had the matter been adjourned immediately.

[60] Those are not minor omissions. They go directly to the question of prejudice. The Respondents make that point expressly in their written submissions.

[61] The Petitioner was represented throughout. No new substantive evidential case was introduced in his absence. The hearing was adjourned before any final determination was made. He and his counsel later appeared and addressed the Court before the Magistrate made the committal order.

[62] Looked at in that way, I am unable to find that the proceedings as a whole were unfair or that the temporary absence rendered the committal unlawful.

Conviction in absentia, the right to a fresh hearing and consideration of time spent on remand in Saint Lucia

[63] The petition also raises the fact that the Petitioner was convicted in absentia in Martinique and sentenced to 15 years' imprisonment.

[64] The concern expressed is that the Magistrate did not sufficiently establish whether, upon surrender, a fresh trial would be available as of right or whether it would remain a matter of discretion for the foreign court. He also contends that the Magistrate failed to consider whether there was any mechanism by which the period spent on remand in Saint Lucia would be taken into account in the event of his surrender.

The documents before the Magistrate address these points directly.

[65] Article 379-4 of the French Code of Criminal Procedure, in the translated material before the Court, provides that where a defendant convicted in absentia surrenders or is arrested before expiry of the sentence by limitation, the ruling of the Assize Court is void in all its provisions and the case is re-examined. The provision also permits the convicted person, within one month of arrest or surrender, to acquiesce in the original decision and thereby waive the fresh examination.

[66] The extradition request itself states the position plainly: if the person concerned does not acquiesce in the sentence, the sentence becomes void and the case is retried in its entirety.

[67] The Magistrate dealt with that mechanism in her written reasons specifically at paragraph 10. She recorded that if the Petitioner did not accept the conviction, it would be treated as void and he would be placed in the position of an accused person able to defend himself in fresh proceedings. She also recorded the Requesting State's submission that, if the Petitioner elected to acquiesce in the conviction, the sentence would take into account the period spent on remand since his arrest pursuant to the extradition application.

[68] None of these grounds therefore establishes unlawful detention.

COSTS:

[69] Although the Respondents sought their costs of these proceedings, I consider it to be fair that each party shall bear their own costs in the circumstances of this case. My view is buttressed by the fact that this application was neither frivolous nor was it unreasonable to bring the same.

POSTSCRIPT:

[70] I must place on record my immense gratitude to both sides and particularly Mr. George K. Charlemagne and Mrs. Nichola George - Benjamin of the Attorney General's Chambers for the well-researched and well-written submissions filed in less than 48 hours of being served with this petition. Their assistance was instrumental in the Court being able to prepare and deliver this judgment over the weekend.

ORDERS:

[71] For the reasons above, I make the following orders:

- 1) The petition for habeas corpus is dismissed.
- 2) The order of committal dated 28 July 2026 remains the lawful basis upon which the Petitioner is detained pending surrender in accordance with law.
- 3) Each party shall bear their own costs of this petition.

**Alvin Shiva Pariagsingh
High Court Judge**

By the Court,

Registrar