

**IN THE EASTERN CARIBBEAN SUPREME COURT  
SAINT CHRISTOPHER AND NEVIS  
NEVIS CIRCUIT  
IN THE HIGH COURT OF JUSTICE**

**CLAIM NO. NEVHCV2022/0034**

**BETWEEN:**

**SEON JONES**

**Claimant**

**v**

**THE ATTORNEY GENERAL OF ST CHRISTOPHER AND NEVIS**

**Defendant**

**Appearances:**

Mr. Patrice Nisbett for the Claimant

Mr. Christopher Forde and Ms. Kiwana Browne for the Defendant

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2025: June 23, 27  
August 1  
November 10  
2026: August 21

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**JUDGMENT**

**Factual Background**

- [1] **THOMPSON JR. J:** In November 2021, Seon Jones (“the Claimant”) and Asha Edwards were a couple. Mr. Jones lived in an apartment at Maynard Ground, Gingerland and it seems that Ms. Edwards would spend time with him there.
- [2] On the night of November 21, 2021 the Claimant and Ms. Edwards had a dispute. According to the Claimant the dispute arose because he was having a conversation with a woman who was assisting him with a loan. The dispute became physical. As a result of the dispute, Ms. Edwards called the Gingerland Police Station.
- [3] WPC Matthew-Best, PC Ambris, PC Ollivierre and PC Rohoman were the only officers at the Gingerland Police Station on the night that Ms. Edwards called and made her report. The report was

received by PC Ambris and PC Rohoman drove G-810 to where the Claimant and Ms. Edwards were living. PC Rohoman was accompanied by PC Ollivierre and WPC Matthew-Best.

- [4] According to the Police when they arrived at the premises, Ms. Edwards met them outside and then they all entered the premises. The Claimant was lying on his bed and according to Rohoman appeared to pretending to be asleep. Everyone agrees that the Claimant had a bump on his head. Ms. Edwards says she lightly splashed a little bit of water on the Claimant with her four fingers.
- [5] The Claimant opened his eyes and saw the police. The Claimant says he told the police that he wanted Ms. Edwards out of his house and he wanted to be taken to the Hospital. According to the Claimant, he was arrested by the police and placed in handcuffs and taken to the Gingerland Police Station. The Police say they did not handcuff the Claimant and said that they only took him to the Gingerland Police Station before they took him to the hospital because they needed to collect a police medical form from the police station.
- [6] At the Gingerland Police Station, they took the Claimant out of the police vehicle and brought him inside the Station. The Claimant says that he was kept in a cell for almost an hour at the Gingerland Police Station and that during this time he kept begging the police to take him to the Hospital.
- [7] The Police offered varying explanations for why it was necessary to take the Claimant out of their vehicle while they collected the Police medical form. According to them, they did not stay at the police station for an hour and did not place the Claimant in a cell.
- [8] The Claimant and the Police then all journeyed to the Alexandra Hospital in Charlestown. The parties do not agree about what happened at the Alexandra Hospital. According to the Claimant, the Police beat and choked and otherwise assaulted him at the Hospital. On the other hand, the Police say that the Claimant became aggressive and violent with them at the Hospital and that any assault by them on the Claimant was because they needed to repel his assaults on them.
- [9] The Claimant was treated by the doctor and released into the care of the Police. The Police then took the Claimant back to the Gingerland Police Station. The Claimant said that he was then assaulted by Matthew-Best, Rohoman and Ollivierre at the Gingerland Police Station when they got back from the Hospital. The Police deny assaulting the Claimant at the Gingerland Police Station. Rohoman and Ollivierre (and Matthew-Best?) then traveled back to the apartment and picked up Ms. Edwards and took her to the Hospital. The Claimant was thus left at the Gingerland Police Station in the custody of PC Ambris.
- [10] While at the Hospital, the Police received a call indicating that the Claimant had collapsed while he was at the Gingerland Police Station. An ambulance and EMT's were dispatched and the Claimant was taken back to the Hospital where he was treated.

[11] On October 17<sup>th</sup>, 2023, the Claimant filed a claim seeking damages for the Claimant's unlawful arrest, false imprisonment, personal injury and loss of income as a result of his unlawful arrest and false imprisonment. In their defence to the Claimant's claim, the Defendant denied the Claimant's claim thus necessitating the trial of these proceedings. I have sought to organize the arguments made by counsel and my findings under various headings since the evidence disclosed a number of separate events on the night in question.

#### The domestic dispute

[12] The Claimant called two witnesses. He called himself and Ms. Edwards. Both the Claimant and Ms. Edwards agreed that they had a domestic dispute at his house at Maynard Ground, Gingerland on the night of November 20, 2021. According to the Claimant he received a phone call from a female who was assisting him about a loan. Apparently, Ms. Edwards did not take kindly to this conversation and Ms. Edwards struck the Claimant with a pot on his head.

[13] Ms. Edwards did not dispute striking the Claimant with a pot on his head but was of the view that she and the Claimant had a disagreement which turned into a tussle in which they both got physical with each other. According to her, the Claimant struck her with the pot and she then took the pot and struck him. It was Ms. Edwards's evidence that her tussle with the Claimant continued for about 30 minutes after she had struck him with the pot. According to her, the Claimant wasn't unconscious when he got hit with the pot and that she called the police when the Claimant laid down on the floor and shut his eyes. Ms. Edwards's evidence was at odds with the Claimant's evidence that after he got struck in the head with the pot he was knocked out.

[14] Mr. Forde for the Defendant argued that the Claimant's account of what transpired in the home before the police arrived was inconsistent with Ms. Edwards's evidence. In Mr. Forde's view this inconsistency was important and went to the issue of their credibility on other matters.

[15] This court carefully considered the evidence of the Claimant and Ms. Edwards and is satisfied as to the following matters. Firstly, Ms. Edwards testified that the incident was some time ago and that she couldn't recall for instance the Claimant being on the telephone as the basis for the tussle. The tussle was 4 years ago and the lapse of time between incident and testimony at trial may well explain that inconsistency.

[16] Secondly, this court is satisfied that the true position lay somewhere in between the evidence given by the Claimant and Ms. Edwards. I am satisfied that Ms. Edwards was unwilling to accept that the phone call with the other female was the genesis of the argument between herself and the Claimant since that may present her in an unflattering light. In the same vein, I am satisfied that the Claimant was unwilling to accept that he had struck Ms. Edwards since this would present him in a less flattering light as well.

[17] In his witness statement, the Claimant accepts that both he and Ms. Edwards had sustained minor injuries. To my mind, it is unlikely that Ms. Edwards inflicted injuries on herself which meant that the Claimant had inflicted those injuries on her. In any event, at paragraph 3 of his witness statement the Claimant accepted that he had hit Ms. Edwards.

[18] In those circumstances, I accept Ms. Edwards's evidence that the tussle continued for longer than indicated by the Claimant. I accept her evidence that the Claimant picked himself off the floor and went to the bed. I am satisfied that the nature and scope of the tussle was serious enough for Ms. Edwards to seek the intervention of the police. In this regard and on this issue, I prefer the evidence of Ms. Edwards to that of the Claimant. That preference does not inevitably mean that I am compelled to reject the remainder of the Claimant's evidence.

[19] Jurors in criminal trials are often directed that they are entitled to reject part of the evidence of a witness and accept part of the evidence of a witness. Those jurors are also directed that if there is an inconsistency in the evidence of a witness they just first decide whether the inconsistency is important and whether there is an explanation for the inconsistency.

[20] A trial judge in a civil case is performing the same fact finding mission as the juror in a criminal trial. The only difference is whether the fact finder in a criminal trial is satisfied beyond a reasonable doubt of the facts as opposed to the civil standard of a balance of probabilities.

[21] I adopt and apply the foregoing approach in arriving at my findings. I am satisfied that the inconsistencies on this aspect are not material. I accept that Mr. Nisbett did not raise these matters with the Claimant in re-examination but these matters are not so significant as to be fatal to the Claimant's entire case.

#### The house

[22] Everyone agrees that the Claimant was lying in his bed when the police entered the home. The Police say that the Claimant was not asleep when they entered the home as they could see his eyelids fluttering. Ms. Edwards says she lightly sprinkled some water on the Claimant to wake him up. The Claimant recalled this as well while the Police did not.

[23] Everyone agrees that the Police helped the Claimant to sit up in bed and that he had a bump on his head and what appeared to be blood. Everyone agrees that the Claimant told the Police that he did not want Ms. Edwards in his house and that he (the Claimant) wanted to be taken to the hospital. Everyone agrees that the police left with the Claimant in their custody.

[24] The parties disagree on the circumstances that led to the police leaving with the Claimant in their custody. The Claimant and Ms. Edwards say that the Claimant was not aggressive with the Police when he awoke and saw them in the house. According to the Claimant he was wearing boxers alone

when the police handcuffed him and told him to put on clothes as he was under arrest. Both the Claimant and the Police accept that the Claimant initially refused to put on some clothes. The Claimant said that he was not angry or irrational or threatening the Police or attempting to assault the police when he awoke and saw them in his house that night.

[25] Both the Claimant and Ms. Edwards said that the female officer (WPC Best told the Claimant that she (Best) wasn't like Edwards and would 'done you in an instant'. According to both Edwards and the Claimant the police handcuffed him and escorted the Claimant out of the vehicle and into the home. Both Edwards and the Claimant said that the Claimant refused to get into the police vehicle and protested that the handcuffs were too tight and that that police refused to adjust the handcuffs and roughly put the Claimant into the police vehicle.

[26] The Police say that once the Claimant had been awakened he began to be abusive and angry towards the Police in general and towards PC Ollivierre in particular. It appeared that there had been some previous incident with the Claimant and PC Ollivierre, PC Ambris and WPC Best (she denied this) and that the Claimant had made a complaint against them. The issue of the complaint, when it was made, what it entailed and any related matters was not explored by counsel for the Claimant whether as part of a request for specific disclosure or in cross-examination at trial.

[27] At paragraph 7 of his witness statement, PC Ollivierre said that the Claimant said "Now a catch me self ah remember fucking you. You have a problem with me. You met me in town a couple years ago by the bank smoking a joint. You searched me and tek way me weed". According to PC Ollivierre it was at this point that the Claimant began moving aggressively towards him and swinging his hands.

[28] PC Ollivierre did not dispute the circumstances raised in paragraph 7 of his witness statement. Critically, PC Ollivierre said that the Claimant said that you (Ollivierre) have a problem with me (the Claimant) not the other way around. If the Claimant had an issue with PC Ollivierre then the words ascribed to him would read the other way around.

[29] In other words, Ollivierre's own retelling of the Claimant's words supports the Claimant's case that it was the Police who had a problem with him (the Claimant) not the other way around. If the Police had a problem with him, what is the likelihood of the injured Claimant (bump and blood on head) going on the offensive towards PC Ollivierre? The issue of whether the officers were armed (Rohoman said he was armed) when they responded to the report from Ms. Edwards was not explored in evidence but the likelihood of an injured man trying to attack one of three police officers, at least one of whom was armed, is inherently implausible.

[30] The Claimant rejected Mr. Forde's suggestion that he had been under the influence of alcohol or narcotics either before or during the domestic dispute. If the Claimant's inhibitions had not been shed by alcohol or narcotics then what plausible basis was there for him to go on the offensive towards

three police officers in his home? To my mind, it was more probable than not that the Police were the ones who were aggressive to the Claimant.

[31] I accept that the Claimant refused to get dressed and said *"A fucking domestic dispute ayo come for. Do me way ayo war do me. Fucking lock me up. Take me just so"*. This is consistent with Ms. Edward's evidence and more plausible that the Claimant would surrender to the Police since he was outnumbered. The case for the Defendants that the Claimant was aggressively swinging his hands and trying to attack PC Ollivierre and then immediately told the police that they should arrest him is farcical.

[32] If the officers were actively aggressively then it is more likely than not that they handcuffed the Claimant and roughly placed him in the police vehicle. At paragraph 7 of her witness statement WPC Best says that the Claimant's behaviour towards PC Ollivierre was out of control and that PC Rohoman went to the Police vehicle to retrieve handcuffs. To my mind, it is inconceivable that neither the vehicle nor the officers had any handcuffs. They were responding to what everyone agrees was a domestic incident. They could not know what situation they would meet. Handcuffs would be essential and I do not believe their evidence that they did not have handcuffs.

[33] Crucially, none of the officers said in their witness statements or in their oral evidence that they went to the Gingerland Police Station to secure handcuffs. According to them they went there to obtain a police medical form which they needed to present to the Hospital. If the officers all knew that the Claimant was acting boisterously in the house, how do they explain the fact that they did not give any evidence of their attempts to secure handcuffs for him before they left for the Hospital? One possible inference is that they did not mention a search for handcuffs because they had already handcuffed the Claimant at the house. More importantly, there is no dispute that handcuffs were taken off the Claimant at the Alexandra Hospital. Where did these handcuffs come from? Who put them on? When? To my mind it is more likely than not that these handcuffs had been originally applied to the Claimant at his house.

[34] Additionally, no attempt was made to produce the knife (only PC Ollivierre mentions a knife at paragraph 6 of his witness statement) that the police say Ms. Edwards showed them that the Claimant had at the home that night. The Defendant did not seek to tender in evidence any medical report from Ms. Edwards indicating the extent of her injuries or cross examine her as to the nature of her injuries. These matters remained unexplored but were all relevant to the Defendant's case that the Claimant was a violent and erratic man prone to fighting with the police, even when he was outnumbered. I therefore accept the Claimant's version of events in the house.

#### Gingerland Police Station – Part 1

[35] Everyone accepts that instead of proceeding from Maynard's Ground to the Alexandra Hospital the Police took the Claimant to the Gingerland Police Station. According to the Police they detoured to

the Police Station because they needed to collect a police medical form which they would have needed to submit to the Hospital. According to them, the medical form was consistent with standard police procedure.

[36] According to WPC Best it was because the Claimant was behaving aggressively that he was taken inside the Police Station but that he was not placed in a cell when he was at the Police Station. The Police (WPC Best) said that at the Police Station the Claimant said 'I going the length with you, I must get some money from the government'.

[37] According to the Claimant, he was kept at the Police Station for close to an hour in a cell. The Claimant said that he kept begging and pleading for the police to take him to the Hospital but they refused to do so. Even if it was necessary to detour to the Police Station to obtain a police medical form the suggestion that the boisterous and aggressive Claimant (per the Defendant's case) was not handcuffed and not placed in a cell is dubious.

[38] The Police custody record (tendered as an agreed document) confirmed that the Claimant arrived at the Police Station at 934 pm and that the police left at 948 pm to go to the Hospital with the accused in G-810. The Police custody record ( a digital system) contained the following times and information:

925 pm - WPC Best reported arrest of Claimant for battery, threat to kill  
and indecent language

934 pm - Arrival at Police Station

940 pm - PC Ambris reported that the Claimant had a gold chain in his possession which he refused to sign as property retained by the police.

948 pm - PC Ambris reported that the Claimant left the police station bound for the Hospital with Rohoman, Ollivierre and WPC Best.

[39] The Police custody record confirms that the Claimant's estimate of the length of his detention at the Police Station was erroneous. The custody record shows that 23 minutes elapsed between arrest and transport departure for the hospital. On the other hand it is curious that the arrival time appears to be at 934 which is 11 minutes after WPC Best reported the Claimant's arrest since there is no suggestion that she made that report from anywhere other than the Police Station. Mr. Nisbett did not make an issue of this discrepancy but it is strange that the arrival time is after the arrest time but perhaps there is an innocent explanation for this discrepancy.

#### The Alexandra Hospital

[40] The Claimant and Defendant also disagree on what transpired at the Hospital. According to the Claimant they were not removed while he was being treated by the doctor and/or nurses. The

Claimant said that while he was at the Hospital PC Ollivierre told him that 'it was a long time that he wanted to put his boot on him' and said that WPC Best choked him in the presence of a nurse who then called out for the doctor to assist.

[41]WPC Best said that while they were at the Hospital the Claimant was still acting in a disorderly manner and that the Police took off the handcuffs on the Claimant. According to WPC Best, the Claimant then approached PC Ollivierre and choked him and that she (WPC Best) intervened by choking the Claimant to stop him from choking PC Ollivierre.

[42]WPC Best recalled a nurse saying that the police should leave the young man (the Claimant) alone and denied that she and PC Ollivierre were acting aggressively to the Claimant.

[43]The Claimant's evidence on the events at the Alexandra Hospital is credible for the following reasons. Firstly, WPC Best accepts that both Ollivierre and Rohoman were armed that night at the Hospital. The suggestion that an unarmed man, in need of medical attention attacked and choked an armed police officer is an inherently implausible.

[44]Secondly, the suggestion that the Claimant remained without handcuffs even after (according to the Police) acting in a disorderly and aggressive fashion is incredible. Why would the police search for handcuffs when the Claimant was acting aggressively in his house but remove the handcuffs when the Claimant was now at the Hospital? Handcuffs are for restraint. If the Police are speaking the truth the circumstances at the Hospital would have warranted the Claimant's immediate restraint. The suggestion that the handcuffs were removed to allow the doctors to provide medical attention to the Claimant is nonsensical because the handcuffs were removed when the Claimant was acting in a disorderly fashion. Simply put, this does not make sense. The Police could not know whether the Claimant would assault the doctor(s) or nurse(s) and it is extremely unlikely that medical professionals would treat a person behaving as aggressively as the Claimant was said to be behaving without some restraint.

[45]Thirdly, WPC Best confirmed in cross examination that she heard a nurse say to leave the young man alone. This was exactly what the Claimant said a nurse had said and suggests that something was happening which prompted the nurse to admonish the officers for. It was more likely than not that the officers did assault the Claimant at the Hospital.

[46]Fourthly, the police case on events at the hospital was that it was necessary to use force to restrain the Claimant's aggressive and disorderly behaviour. Both WPC Best and Rohoman choked the Claimant this suffices to establish an assault by the Police on the Claimant at the Hospital. The suggestion that the Claimant launched himself at the officers at the Hospital, without more is frankly disturbing. There was no suggestion that the Claimant was not the master of his mind or affected by other substances. If the Claimant was receiving the medical attention that everyone agreed he had

sought from the outset, why would he go on the offensive? What is the likelihood of the Claimant attempting to choke armed police officers when he himself was unarmed and sporting a bump on his own head.

[47] It is important to note that no summons was issued to compel the attendance of any of the medical staff at the hospital on the night of the incident. Even without this material I am satisfied that it is more likely than not that the Claimant was assaulted by the Police at the Hospital.

#### Gingerland Police Station – Part II

[48] Everyone accepts that the Claimant was brought back to the Gingerland Police Station by the Police. The custody record indicates that the Claimant returned to the Police Station at 11 pm on the night in question in the company of PC Ollivierre and PC Rohoman. At 1124 pm the Claimant was given a phone call and roughly one hour later the Claimant left the Gingerland Police Station in an ambulance, bound for the Hospital.

[49] The Claimant says that at the Gingerland Police, upon his return from the Hospital a number of things happened to him.

- He says that while there he asked the officers for their names as he intended to make a complaint and that was when WPC Best spat in his face.
- He says that WPC Best returned with a gun and placed it in his mouth and said she would kill him
- He says that WPC Best grabbed him by his locks and completely tore one of his locks out of his head
- He says that all three officers beat and kicked and stamped him
- He says that the officer of Indian descent told him that he would send him back to Guyana in a body bag
- He says that the police poured a bottle of water on his face
- That he was handcuffed while all of this was happening to him
- That he lost consciousness and that when he came to his senses there were paramedics around

[50] The Police officers denied perpetrating any of these wrongs on the Claimant. According to them, the only officer that was with the Claimant at the Police Station was PC Ambris as they (WPC Best, PC Ollivierre and PC Rohoman) were en route to take Ms. Edwards to the Hospital when they received a call from PC Ambris that the Claimant was unresponsive in his cell.

[51] No photographs of the house or its condition or of the Defendant on the night of the incident were tendered in evidence. Ms. Edwards said she started recording events in the house and was told to stop but kept the recording in her possession. No attempt was made to secure or produce that recording at trial by the Claimant's lawyers.

[52] The burden lay on the Claimant to prove that it was more likely than not that he had been assaulted by the Police as outlined above. It was not for the Police to prove a negative, that is to say that they had not assaulted the Claimant but was for the Claimant to prove that he had been assaulted.

[53] The Claimant called no medical evidence in support of his case for assault. No medical report, photographs or other material was tendered as part of the Claimant's case. The Claimant says that he was kept in the hospital from November 20<sup>th</sup>, to November 22<sup>nd</sup>, for a period of 42 hours but no medical evidence detailing the nature, extent or severity of his alleged injuries were tendered in evidence.

[54] Firstly, as a matter of law, if a serious allegation is made more cogent evidence may be required to overcome the unlikelihood of what is alleged. See the learned authors of Phipson on Evidence 16<sup>th</sup> edition at paragraph 6-54 to this effect. Authority for this proposition is derived from the reasoning of Lord Nicholls in Re H (minors) [1996] A.C. 563 in the following terms:

"The balance of probability standard means that a court is satisfied an event occurred if the court considers that, on the evidence, the occurrence of the event was more likely than not. When assessing the probabilities the court will have in mind the factor, to whatever extent is appropriate in the particular case, that the more serious the allegation the less likely it is that the event occurred and hence the stronger should be the evidence before the court concludes that the allegation is established on a balance of probability. Fraud is usually less likely than negligence. Deliberate physical injury is usually less likely than accidental physical injury.....Built into the preponderance of probability standard is a generous degree of flexibility in respect of the seriousness of the allegation. Although the result is much the same, this does not mean that where a serious allegation is in issue the standard of proof is higher. It means only that the inherent probability or improbability of an event is itself a matter to be taken into account when weighing the probabilities and deciding whether, on balance the event occurred. The more improbable the event, the stronger must be the evidence that it did occur before, on the balance of probability, its occurrence will be established. Ungood-Thomas J expressed this neatly in Re Dellow's Will Trusts, Lloyds Bank Ltd v Institute of Cancer Research [1964] 1 All ER 771 at 773, [1964] 1 WLR 451 at 455: 'The more serious the allegation, the more cogent is the evidence required to overcome the unlikelihood of what is alleged and thus to prove it.' This substantially accords with the approach adopted in authorities such as the well-known judgment of Morris LJ

in Hornal v Neuberger Products Ltd [1956] 3 All ER 970 at 978, [1957] 1 QB 247 at 266. This approach also provides a means by which the balance of probability standard can accommodate one's instinctive feeling that even in civil proceedings a court should be more sure before finding serious allegations proved than when deciding less serious or trivial matters."

[55] Is it more likely, than not likely, that the matters described by the Claimant did occur?

[56] On the one hand there was no bar to a summons being issued for PC Ambris to attend since the Claimant's lawyer would have seen that no witness statement was filed by him. The Defendant could have filed a witness statement from Ambris since on their case he was the only person with the Claimant when he collapsed but there was no legal obligation on the Defendant to do so. They were entitled to sit back and see what course the Claimant would take since the burden lay on the Claimant to prove his case.

[57] An allegation that several police officers gratuitously applied violence to an unarmed and handcuffed person in custody that posed no threat to them is an extremely serious allegation. In this Court's view, if such an allegation were proved disciplinary and/or criminal proceedings would be warranted irrespective of the nature of the harm caused. In those circumstances, the absence of any supporting medical or other evidence, particularly when everyone agrees that the Claimant received treatment at the Hospital is startling.

[58] On the other hand, there is no dispute that the Claimant received medical attention at the Hospital before being returned to the Gingerland Police Station. There was no evidence that the care provided to the Claimant on his first visit to the Hospital was inadequate or deficient. The bump on his head was bandaged and he was treated.

[59] If the Defendant was minded to argue that the Defendant collapsed in their care as a result of the sequelae of the original blow with the pot then it fell to them to marshal their medical evidence on this issue. Otherwise, they would have to grapple with the fact of the Claimant's allegations of assault and his collapse in their custody necessitating the ambulance. Had the Claimant collapsed when he was in transit from the house to the Police Station or even on his initial attendance at the Hospital then there was a powerful case for finding that the reason for his collapse was the blow with the pot.

[60] If however, he collapsed several hours after that initial blow and averred that he had been assaulted by 3 police officers and the fact of his collapse in police custody was proven then it was not improbable that his collapse was due to the latter and not the former event. A court would be speculating if it were to attach the Claimant's collapse to the blow with the pot as opposed to any alleged assault by the Police.

[61] If the Claimant was speaking the truth about what had happened on his return to the Police Station, then it was not improbable that he had been assaulted by the Police. The Claimant was a credible witness. His emotional outbursts did not mean that he was more credible but he appeared to still be affected by the incident. The Police officers did not appear credible. WPC Best appeared to have distanced herself from whatever was happening at the Police Station upon their return. Additionally, both Rohoman and Ollivierre appeared defensive and their evidence did not appear to have a ring of truth.

[62] In this regard, the custody record is telling. If they arrived from the Hospital at 11 pm and the ambulance did not leave until 1223 the following morning then there was at least 1 hour and 20 minutes that have not been explained by the Defendants. What was happening with the Claimant in the hour between receiving his phone call at 1123 and his collapse one hour later? Is it improbable that he collapsed as he alleged? I am satisfied that the Claimant's evidence is not improbable and thus credible.

[63] In this regard, I find that the evidence of the Police that the Claimant would have the presence of mind to say that 'I going the length with you. I must get some money from the government' to also be implausible. Taking this statement to its logical conclusion would mean that the Claimant knew that the police had perpetrated a wrong on him and that he would hire a lawyer and successfully sue the government. The suggestion that shortly after his arrest in his home he was threatening to successfully sue the government for money arising from his arrest was to credit the Claimant with a knowledge of law and legal systems that I find incredible. According to the Police, nothing had happened whether at the home or at the police station to suggest any wrongdoing on their part.

[64] If their case was to be believed the Claimant was making up all of these matters, on the spot, as part of a Machiavellian plot to falsely sue the state for imaginary wrongs. This did not appear plausible.

[65] The Claimant did not strike me as a man given to sophisticated thoughts and schemes. He seemed a plain speaking and forthright man who was unlikely to have deviously hatched a plot (on the spot not in consultation with a lawyer) to falsely extort money from the government. This was frankly implausible. It was more likely than not that the Police had in fact unlawfully assaulted the Claimant and had committed a Freudian slip<sup>1</sup> in which they had betrayed their own culpability for the wrongs they had visited on the Claimant.

[66] Why was it necessary to arrest and detain the Claimant at all? The Claimant had sustained an injury and needed medical attention. There was no rational basis for his arrest and detention or for Mr. Jones being removed from the police vehicle at the Gingerland Police Station while they were in transit to the Hospital. No satisfactory explanation was offered for why it was necessary to collect a

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<sup>1</sup> An unintentional error in speech, memory, or action that is believed to reveal a hidden thought, feeling, or desire

form or why their detour [on their own documents] appears to have required as much as 20 minutes. The Police could not know the severity of the Claimant's head injury. On their own evidence it appeared to be bleeding and thus required some urgent attention.

**[67]** Why was it necessary to take the Claimant back into their custody after he had received medical attention? Why take him into the cells at the Police Station after he had received medical attention? No justification or basis for Mr. Jones's continued arrest and detention was proffered. Even if Mr. Jones had used indecent language or been aggressive with the Police none of those matters would justify his detention particularly since he had just received medical attention at the Hospital.

**[68]** I am satisfied the Claimant was assaulted by the Police and that his subsequent detention after his return from the Hospital was unjustifiable. There was no evidence that the Claimant posed a threat to Ms. Edwards or that the Police had addressed their mind to the need to detain him for his or her protection. Once they had all returned from the Hospital after the first visit, there should have been an assessment as to whether the Claimant could remain at home with Ms. Edwards or whether alternative arrangements could be made by him. Those arrangements were not explored and the State simply presumed that it was entitled to arrest and detain an injured man without more.

**[69]** I am satisfied that the Claimant was assaulted by the Police at the Gingerland Police Station after his return from the Hospital. I am not satisfied that the events that the Claimant spoke of, on his return to the Gingerland Police Station were all figments of his imagination. I accept that there is a paucity of medical evidence to support the nature of the assault but the lack of medical evidence of injuries does not mean that the assault did not occur.

**[70]** The Claimant's allegation of a gun being placed in his mouth was particularly troubling. The Defendant tendered the weapons register or log for Gingerland Police Station in support of their arguments on the issue of the gun. On their case, no guns were signed out and therefore, according to them the Claimant had to be lying on this issue.

**[71]** In answer to my questions on this, WPC Best confirmed that if she asked the firearms custody officer for a firearm then that officer would give it to her and then sign it out. WPC Best confirmed that she could have gotten a weapon if she needed one and confirmed that she had heard of officers getting weapons without it being recorded.

**[72]** Mr. Forded persuaded me that I should allow him to ask WPC Best further questions arising from my questions. WPC Best confirmed that the normal course is to make a record if a weapon is withdrawn and that sometimes if there is a rush the guard will simply note it in the Station Diary. In her experience it is not usual for a gun to be removed without a record and she testified that she did not know if any situation where this had happened.

[73] I have not found this question easy to resolve but lean in favour of the Claimant's case for the following reasons. Firstly, I have to assess the likelihood of the Claimant telling a lie on this issue. I have no reason to believe that he would make up this aspect since the fact of the gun in the hands of WPC Best is purely gratuitous. It does not add anything to his claim of an assault and is an oddly specific detail to fabricate.

[74] Secondly, it is unlikely but not implausible that a weapon can be signed out without a record. Especially if that signing out is in the context of an alleged assault on a person in custody. Only 4 police officers were in the Police Station (Rohoman, Best, Ollivierre and Ambris). None of them had an incentive to essentially record an act of gross misconduct in the Station Diary. If the firearm were obtained purely to threaten the Claimant it would be the heights of madness to religiously note that a firearm had in fact been withdrawn.

[75] Thirdly, I was not impressed with WPC Best's answers when she was cross examined by Mr. Nisbett on this issue. WPC Best's evidence of events when the Claimant returned to the Gingerland Police Station was that she went to her room at the Gingerland Police Station. To my mind, this evidence amounted to a deliberate attempt to downplay her role in the events that unfolded after the Claimant returned to the Gingerland Police Station. The only rational basis for this attempt to downplay her role is to diminish the events that she either heard and/or participated in upon the Claimant's return to the Gingerland Police Station.

[76] I do not accept her 'see no evil, hear no evil' stance. Critically, her evidence was that she did not get involved when the emergency medical personnel came. According to her she was at the door and never moved and simply watched events. I accept this aspect of her evidence because it makes sense. There was no utility in being around when the emergency medical personnel were treating with the Claimant. Police officers are or ought to be trained to provide aid or at the very least to be concerned in the welfare of persons in their care and custody. The suggestion that she was a silent observer is implausible and that implausibility is resolved in favour of the Claimant's case.

[77] It was late in the day when the Defendant called Rohoman. I suggested to counsel for the Defendant that PC Rohoman and PC Ollivierre could be called simultaneously ("hot tubbed"). The practice of hot tubbing is usually used in the case of expert witnesses but there is no reason why it cannot reasonably be adapted to save time, if necessary. More to the point, Section 28 of the Evidence Act provides that evidence can be given in any other manner as the court thinks fit. There was no objection from counsel and their evidence was simultaneously received with counsel being able to put questions to each witness as they thought fit.

[78] Therefore, I was able to simultaneously observe how Rohoman and Ollivierre gave their answers and their simultaneous presence in the witness box meant that the risk of collusion or modifying their answers was negligible.

[79] They did not impress me as witnesses of truth. For example PC Rohoman sought to downplay his role and testified that he was the driver simply following instructions and that after he went back outside of the house to look for handcuffs he did not go back inside. The tenor of Rohoman's evidence that that he was not aware of what happened while he was outside the house. In my view, this is telling since Rohoman, like WPC Best sought to draw himself away from events whether at the house or hospital or Gingerland Police Station.

[80] Ollivierre testified that himself and WPC Best were the ones that choked the Claimant at the triage area of the hospital. This was a damning bit of evidence. Why would it be necessary to choke an unarmed man who you had decided not to handcuff?

[81] Critically, no statement was taken from PC Ambris nor was he called as a witness for either side. If everyone accepts that he was the 4<sup>th</sup> officer on duty and thus at the Gingerland Police Station for the entire time then why was neither side interested in anything that he had to say?

[82] Finally, I asked the witnesses whether there was any internal police investigation into the Claimant's collapse at the Gingerland Police Station and whether there should have been such an investigation into the Claimant's collapse.

[83] Mr. Forde for the Defendant objected strenuously to the question and argued that I was now entering the arena and seeking to put my thumb on the scale in favour of the Claimant.

[84] I did not and do not agree. My question arose as a matter of logic. If the Police had done nothing wrong to the Claimant then it behooved them to investigate and determine how and why the Claimant collapsed at the Gingerland Police Station. I did not make an inferences from the fact that no investigation was conducted or that the officers felt that no investigation was warranted (they could not initiate an investigation into themselves, only their superiors) but it seemed to me to be an eminently fair and reasonable question to ask.

[85] If there had been an investigation, any findings would have been useful on the matters raised at trial. My question was thus directed at understanding what if anything had happened as a result of what the Defendant says was an unexplained collapse by a person in custody at their Police Station.

[86] I am therefore satisfied that the Claimant's case for damages for his unlawful arrest and detention and assault by the Police succeeds. I accept the Claimant's evidence and reject the evidence called by the Defendant. The Claimant was unarmed and any threat that the Police may have felt that he posed to them (whether at hospital, police station or house) has to be balanced against that fact. The use of force by the Police against civilians has to be justified.

[87] Moreover, the case of Afriyie v Commissioner of the City of London Police [2024] EWCA Civ 1269 confirmed that

“that the requirement that the defendant had to prove that the force used was reasonable in all the circumstances involved an assessment of proportionality; that the issue was not whether the use of the force was reasonable in the circumstances as the defendant believed them to be, but rather the question was whether the degree and nature of the force used was reasonable, and an assessment of the force used had to involve a consideration of how proportionate that response was to the overall circumstances facing the defendant.”

[88] If the Defendant accepted that his servants or agents used force (they accept choking the Claimant) then it was for them to demonstrate that the force used was reasonable and proportionate to the circumstances they faced. They singularly failed to do so. The officer were at all times armed. The Claimant was not. Their decision to not handcuff the Claimant then choke him when he was acting boisterously (according to them) is a non sequitur and undermines any argument they may have on proportionality or reasonableness.

[89] The Claimant is thus entitled to damages for the Claimant’s detention at the Gingerland Police Station from 11:30 pm on 20 November 2021 to his release from the Hospital on 22 November 2021. The Claimant is also entitled to damages for assault and personal injury and exemplary damages in keeping with the learning in *Rookes v Barnard*.

[90] I accept that counsel for the Claimant and Defendant filed submissions on the likely quantum of damages. I am of the view that there should be an assessment of damages hearing before the Master in this matter.

[91] If I were still the judge in Nevis then I would have been well placed to assess the appropriate measure of damages in this matter. It would no longer be reasonable for conduct any assessment exercise in view of my transfer to St Kitts and subsequent transfer to Montserrat. Moreover, it would not be fair to the Claimant for me to simply pluck a figure from the air on damages. The Claimant should have an opportunity to prove his damages and that Defendant should have a reasonable opportunity to make any and all such arguments on the quantum of damages as they think fit. The lack of contemporaneous medical evidence from the Claimant is a matter which the Defendant is at liberty to explore at the assessment hearing and the Master is well placed to resolve what is reasonable in all the circumstances.

[92] I accept that this means that this would create a further delay in resolution of this matter but think that the interests of justice are best served by such an order.

**[93]**The Claimant is of course entitled to his prescribed costs in this matter.

**[94]**As a postscript, I am of the view that this decision should be delivered to the Commissioner of Police for him to take any such action as he thinks fit, as arises from this decision. I apologize for the delay in the delivery of this judgment. I do my best to comply with the 6 month timeline in the Judicial Code of Conduct and finalized the draft version of this judgment on April 11, 2026. For reasons that are not entirely clear the final version never made its way to the Assistant Registrar. I am at fault for assuming that the April 2026 version had been dispatched and for that additional delay I unreservedly apologize to the parties.

**Patrick Thompson Jr**  
**Resident High Court Judge**

**BY THE COURT**

**REGISTRAR**