

**REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

Claim No. C.V. 2008-00415

BETWEEN

**DARON JOSEPH**

**Claimant**

AND

**THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO**

**Defendant**

**Before The Honourable Mr. Justice des Vignes**

**Appearances:**

Mr. Gerald Ramdeen for the Claimant

Ms. M. Smith  
Instructed by Ms. R. Hosein and Mr. V. Maharaj  
for the Defendant

**R E A S O N S**

1. By Notice of application filed on the 8<sup>th</sup> December 2009, the Defendant applied for an extension of time for the filing and service of further witness Statements and for an Order that the Defendant be relieved from any sanction and for costs to be costs in the cause.

2. The grounds of the application were as follows:
  - (a) The identity of person capable of giving instructions in this matter only became known subsequent to the last date of hearing;
  - (b) The trial dates set by the Court will not be prejudiced by any extension of time for the filing of the further witness statements.
3. The application was supported by the affidavit of Vinda Maharaj, Attorney-at-Law, also filed on the 8<sup>th</sup> December 2009.
4. In the heading of the application, the Defendant referred to this matter as well as CV2007-02000, Fabian La Roche, Roger Green and Anthony Andrews v. The Attorney General of Trinidad and Tobago although, as far as I can tell from the flysheet of the file, there has not been any order made for the consolidation of these matters. However, it was communicated to me by the parties that, since in both matters the grounds of the application and the affidavit in support were in identical terms, the outcome of the application in one matter would affect both matters.
5. On that basis, I proceeded to hear the application in **La Roche, Green and Andrews v. AG**, and dismissed same with costs to be paid to the Claimant, fit for Counsel and ordered that the assessment of the costs of the application be deferred to the trial.

### **History of proceedings**

6. Since there are some differences between the history of this matter and the history of the La Roche matter, I set out hereunder for the record a brief summary of those differences:
  - (a) This matter was commenced on the 8<sup>th</sup> February 2008 by the filing of a Claim Form and Statement of Case and on the 10<sup>th</sup> April 2008, the Defendant served a Defence. This claim arose out of the same incident at the Golden Grove Prison on the 11<sup>th</sup> November 2006 in which the Claimant alleged that he was unlawfully attacked,

assaulted and battered by prison officers and members of the Police service and the Regiment.

- (b) On the 26<sup>th</sup> January 2009, the Claimant filed two witness statements in the names of the Claimant and Chris Joseph.
- (c) On the 20<sup>th</sup> February 2009, the Claimants applied for an Order that granting permission to the Claimant to issue witness summonses to Mr. Reyaz Khan and Mr. Ronnie Bholra to attend the trial on the 6<sup>th</sup> March 2009 and produce documents relating to prosthesis of the Claimant's left eye. This application was supported by an affidavit in the name of the Claimant's Attorney-at-Law, Gerald Ramdeen, also filed on the 20<sup>th</sup> February 2009. On the 26<sup>th</sup> February 2009, Justice Best granted this application without a hearing.
- (d) On the 27<sup>th</sup> February 2009 the Claimant's Attorneys filed an Agreed Bundle of Documents as well as witness summonses for Dr. Reyaz Khan and Dr. Ronnie Bholra to attend the trial on the 6<sup>th</sup> March 2009.
- (e) On the 2<sup>nd</sup> March 2009, the Claimant applied for permission to amend the Claim Form and Statement of Case in relation to the expenses incurred by the Claimant after the first case management conference in seeking medical attention for the replacement of his right eye with a prosthesis.
- (f) On the 6<sup>th</sup> March 2009, the matter was called for trial before Justice Best who adjourned the matter for a case management conference on the 9<sup>th</sup> April 2009 and vacated the trial date of 9<sup>th</sup> March 2009. Justice Best also ordered that the two specialists can put their view in writing so that there will be no need for them to give evidence in Court. It does not appear that Justice Best dealt with the Claimant's application to amend the Claim Form and Statement of Case.

7. In all other respects, the history of this matter was identical to the history recorded in my Reasons in the La Roche matter.

8. Accordingly, for the same reasons given in the La Roche matter, I also dismissed the application herein for the extension of time and relief from sanctions with costs to be paid to the Claimant, fit for Counsel and also ordered that the assessment of the costs of the application be deferred to the trial.

Dated this 15<sup>th</sup> day of January 2010.

**André des Vignes**  
**Judge**