

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No. **CV 2017-04156**

BETWEEN

**MICHAEL BRIDGELAL**

Claimant

AND

**THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO**

Defendant

**Before the Hon. Madam Justice C. Gobin**

Date of Delivery: 21 July 2020

**Appearances:**

Mr. Alvin Pariagsingh instructed by Mr. Robert Abdool Mitchell for the Claimant

Ms. Niquelle Nelson-Granville, Mr. Andre Cole and Mr. Sanjiv Sookoo instructed by Ms. Laura Persad and Ms. Adana Hosang for the Defendant

**JUDGMENT**

1. Prisons are inherently dangerous places of work. In recent times they have become more so. Overcrowding, poor conditions, gang infiltration and culture within the prisons has generally increased volatility and dangers faced by officers. Danger follows prison officers even after they sign off duty. In the past decade there has been a disturbing trend of hits called from behind prison walls on prison officers. Shortly before 18/11/2013 according to one of the officers who gave evidence for the State, there had been one such killing. Tensions were high at the Maximum Security Prison (MSP).

2. The Claimant Michael Bridgelal is a Prison Officer I who was stationed at the MSP on 18/11/2013 when at about 10.30 am the incident alarm sounded from several divisions. Riots had erupted throughout the MSP. The supervisor dispatched the Claimant along with three other Prisons Officers 1, namely Ramparas, Alexander, and George, to Division M. They were all armed with nothing but their regulation issued 24 inch batons. No information was given at that time as to the extent of the disturbance, none could have been relayed because the officer who should have been in the division and who should in the ordinary case of things have communicated what was happening, was not at his post.
3. The four officers arrived at Division M to find the kiosk locked and abandoned. The cells were smoke filled and there was fire. The riot gate was locked but the prisoners had all managed to unlock their individual cells. They were roaming about, extremely hostile and aggressive making threats, cursing and it would turn out, some were armed with improvised weapons.
4. The officers opened the riot gate and attempted to take control of the situation while trying to defend themselves as they came under attack as they entered. They shouted to the prisoners, commanding them to return to their cells, but to no avail. At some point officer Alexander was about managing to get a prisoner Anthony Sankar into his cell. The Claimant tried to render assistance, and while doing so was struck a blow to his head. Blood began to gush from the injury.
5. The Claimant sought medical treatment for a laceration to his head which required stitches and for injuries to the right side of his face, right hand and arm. He was subsequently placed on injury leave for a total of 146 days. This suggests to me that the injury was serious enough.
6. The circumstances of how officer Bridgelal came to sustain the injury are not in dispute, neither are the injuries. They were admitted in the defence.

7. Essentially I had to determine whether there was a breach of duty of care owed to the Claimant by the Defendant and if so whether the officer, by his actions or non-actions caused or contributed to the injury sustained. These are issues of fact. Having heard the evidence I find for the Claimant and reject the Defendant's claim of contributory negligence.

**Failure to provide a safe system of work**

8. The Defendant owed a duty of care to provide a safe system of work both at Common law and under S6 of OSHA Chp. 88:08. The evidence of Acting PO II Wendell Moore was considered to be truthful and provided much assistance to the Court. The officer was clear that what happened on that day, ought not to have happened. Four officers armed only with their regulation staffs only should not have been sent into the Division in the circumstances of what was taking place. He confirmed that the officers were duty bound to follow the instructions of the Supervisor, Mr. Badal.

9. Mr. Moore himself was on his way to a division, but he had with him twenty to twenty five officers, far more than the four in the Claimant's party. Mr. Moore assessed the situation, took control of the officers in his party instructing them to stay in large groups to secure the prisoners back in their cells. It was after action this that he saw the ERU officers coming out and putting on their riot gear. He was then able to tell his group to stand their ground so that the ERU officers could go ahead of them. That was what it took to get the situation under control, about 25 officers, some with standard issued batons and riot staves, shielded by ERU officers in riot gear. This was what was a more appropriate response in the light of the gravity of the threat that officers were facing.

10. Officer Moore was candid in his evidence that the officers in the Claimant's group would have been under-equipped and that there was insufficient man power to deal with the situation they would have encountered. He confirmed that the Claimant and his batch would have been under a duty to follow instructions to respond. There would have had to be a judgment call as to whether to enter the gate or not, but whereas in his group, he was able to take control

because of his position as Acting PO II, in the case of the responders to section M including the Claimant, there is no evidence that there was a system of assigning any particular officer to make that call. I find that the officers including the Claimant all decided that their duty to protect life, and property and to restore order outweighed any concerns for personal safety and their decision to enter the riot gate in the emergency cannot be criticized. I do not believe that they would have seen the improvised weapons until they went in.

11. Whatever training the officers might have received prior to certification as prison officers could not have prepared Mr. Bridgelal to deal with the peculiar circumstance of trying among a party of four officers to deal with the prisoners with poor visibility with a fire in the area and improvised weapons. The first responders were not instructed to await the arrival of the ERU Officers and given how widespread the disturbances were, and the fact that all officers including desk officers were called to respond, I reject the evidence that suggests that the Claimant and his batch went beyond what was expected of them.
12. I find that the Claimant was not properly equipped or trained to deal with the danger posed by the rioting prisoners, yet he was called upon to respond to the emergency with an inadequate number of his colleagues.
13. The Division was rendered less than safe because the prisoners had been able to leave their cells. This points to a failure to provide a safe place /system of work. How the prisoners came to be outside of their cells was explained in Mr. Clarkes report -

*“Officers who responded reported that inmates had excited their cells and were in the corridor of division ‘M’. This situation arose because inmates were housed in cells that were not functional from the Graphic Panel at the kiosk. This cells had to be opened using the manual override, this allowed inmates to fashion improvised tools to access the locking mechanisms, which resulted in their ability to come out of their cells”.*

*And Mr. Edgehill said –*

*“It was reported by officers who responded that inmates had exited their cell and was in the corridor of division ‘M’. The inmates were subsequently moved from division M to Division N and an inspection of division M revealed that the ports for the manual release for the cells in that division was left open by officers for ease of access when the gates of the cells malfunctioned. It appeared that the inmates used improvised items to access the manual release and opened the gates to their cells”.*

14. These statements establish not only that the cells were not secure, but that this malfunction in the locking system was known to the Defendant and that officers were expected to work with it. Further it established that prisoners had undetected improvised weapons which allowed them to open their cells. Other than the statement from Senior Superintendent Alexis, that officers receive training in how to conduct searches of persons and cells, there is no explanation as to how prisoners came to have improvised weapons and how same went undetected. How were they able to start fires. A prisoner came to have in his possession something which one officer described as the leg of a dining room table. The fact that he did, along with the other events established very serious lapses on the part of the Defendant and these have not been adequately explained.

15. I find that the Defendant failed to provide a safe system of work.

### **Contributory Negligence**

16. The Claimant might arguably have avoided exposing himself to injury had he not entered to the riot gate, but on the evidence I find that he had no choice in the matter. He along with other officers were ordered to deal with a situation even as it must have been clear that something unusual was taking place at the prison.

17. So widespread was the unrest that Mr. Badal the Prison Supervisor had dispatched officers not just from the Emergency Response but from “Accounts, Main Shift and other sections”. (witness statement of Everest Edgehill paragraph 3). This was an emergency situation which caused the supervisor to summon all officers to respond. One can infer from the extent of the disturbance that all were required to answer the call. The Claimant was doing what he was duty bound to do in the circumstances. His duty and that of his colleagues was to take control, to protect the lives of the prisoners and property.

18. I have considered that none of contemporaneous reports emanating from the Defendant suggested that the Claimant by his own actions exposed himself to injury. The entry in the incidence occurrence book of the 18/11/2013 under Mr. Edgehill’s hand records that “officers from ERU, Accounts, Main Shift and other sections responded. PO I Bridgelal also received a buss-head and was taken to ACDP. I informed Mr. C. Duke, D. Clarke, E. Edgehill and D. Millette and they also responded”.

19. In a letter dated 15/03/2014 (MB2) on the attack on the Claimant by the prisoner who was named as A. T. Harrison, Superintendent Mr. Edgehill wrote –

*“Statements submitted by Officer Bridgelal, PO I Shawn George, Shaka Alexander, Ramparas and Kevin Brathwaite indicates they responded to the disturbance at Division ‘M’ at approximately 11:20am. On their arrival at the Division they observed that the kiosk was locked and abandoned; the inmates had managed to manually unlock their cells, armed themselves with improvised weapons and had set fire to unidentified material in the corridor which was by then filled with smoke”.*

20. The letter goes on to indicate what the officers did in their attempts to get the prisoners to return to their cells. There was no suggestion that the Claimant or any officers were reckless or negligent in entering the riot gate.

21. In an extract of the preliminary report dated 27/06/2018, Mr. Edgehill states –

*“Although the inmates were exiting their cells, they were unable to come out of the division since the riot gate was functional and there was no risk to any officers”.*

If Mr. Edgehill meant to say that the officers should not have entered the riot gate, he did not say so. They were sent to respond to a disturbance.

22. An extract of a report prepared by Mr. D. Clarke, Senior Superintendent of Prisons ‘As Operations’ MSP on the incident and the Claimants’ injury MB (3). The report describes what was taking place on the day. By the time Mr. Clarke arrived some divisions seemed to be under control. However, fires and smoke could still be seen in division B and J. the officer indicates-

*“On arrival at Division B, there was a large group of officers in the lobby area. I gave instructions that they were all to exit the building. I was informed that there were also officers at Divisions M and U. I gave instructions that they too exit the building leaving a small group of officers from the ERU. It must be noted that these areas were smoke filled making visibility very limited as well as passage ways were filled with water thus making the area very treacherous to traverse”.*

*“It must be noted that in responding to this situation, Prison Officer Michael Bridgelal was injured during the disturbance. It is unclear to me about the circumstances. A picture of the injury seems to suggest that they are serious and the officer is presently on sick leave”.*

23. Again, nothing in the report suggests that PO Bridgelal acting in a way to cause or contribute to his injury. What is clear is that Mr. Clarke thought it best to remove the other officers and to leave the ERU officers behind. This was after the Claimant and his group had been sent to respond and well before ERU were on the scene. Mr. Clarke, the Senior Superintendent did not say that even these officers should not have gone in.

24. The only officer of the group who was dispatched to division M with the Claimant, who signed a witness statement for the Defendant, was Mr. Shaka Alexander. The State did not produce him at the trial so his evidence was not allowed. But I did note and I think I am entitled to, that Mr. Alexander did not criticise the decision to enter the riot gate to attempt to quell the disturbance. On Mr. Alexander's absence generally I have drawn adverse inferences from his failure to attend. He was one of the responding officers. It was while he was attempting to get a prisoner into the cell with the Claimant's help that the Claimant received the blow. But I noted that Mr. Alexander had responded to the emergency in the same way that the Claimant had. He must have accepted it was his duty to go in and to attempt to restore order as did the claimant.

### **Damages**

25. The Claimant suffered a laceration and alleges he suffers from post-traumatic stress disorder. He suffers persistent headaches and even after he returned to work is uneasy and apprehensive that he may be attacked. The medical certificates which mention headaches and PTSD are dated no later than April 2014, after which time the officer was certified fit for work. I do not accept the Claimant's evidence of physical disability or loss of amenities. He had a substantial period away from work and was declared fit to return. Although the injury appeared to be serious enough there was no fracture of the skull, but it has left him with a scars.

26. I find no basis for an award of exemplary or aggravated damages. In the statement of case the basis of the claim was indicated in these terms:

### **PARTICULARS/GROUNDS FOR AGGRAVATED AND/OR EXEMPLARY DAMAGES:**

- (i) The Claimant has suffered humiliation, embarrassment and distress due to this incident as he is often ridiculed and mocked by prisoners on the Cell Blocks when on patrols.



(ii) The Claimant upon resuming duty felt shunned and avoided by his colleagues and he has suffered irreparable damage to his reputation as a competent officer in their eyes.

The Claimant's evidence on this aspect of the claim was not supported by Mr. Ramparas the officer who gave evidence on his behalf and who would have been in a position to do so..., nor was it put to any officers under cross examination that as a result of the incident Claimant had been shunned or humiliated or that there had been any tarnishing of his reputation in the service. I did not accept the evidence of the Claimant in this regard.

27. On the quantum of damages, I have considered the authorities and find that an award of TT\$65,000.00 is sufficient to compensate the Claimant with interest at the rate of 2.5% per annum from 18/11/2013 to 21/07/2020. The Defendant is ordered to pay the Claimant's costs of the action on the prescribed scale.

**Carol Gobin**  
**Judge**