**REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

**Claim No. CV2016-00521**

**BETWEEN**

**MICHAEL MURRELL**

**Claimant**

**AND**

**HER WORSHIP GAYLE GONZALES, MAGISTRATE**

**Defendant**

**Before the Honourable Mr. Justice Robin N. Mohammed**

**Appearances:**

Mr Keith Scotland and Ms Sheriza N. Khan instructed by Ms. Reza H. Ramjohn for the Claimant

Mr Gilbert Peterson S.C. and Ms. Rachel Thurab instructed by Ms. Kadine Matthew for the Defendant

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**Judgment on Claimant's Application for Judicial Review**

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## I. Background

[1] On the 15th August, 2011, one Brian Caesar and the Claimant herein were jointly charged with the offence of possession of marijuana for the purpose of trafficking. The Claimant appeared before the Defendant at the Port of Spain Magistrates' Court on several occasions where the matter was proceeding by way of summary trial yet the matter remained part-heard. Sometime in August or September, 2015, the Claimant

applied to the Defendant for a Goodyear hearing which, if granted, would allow the Defendant to give an indication of the maximum sentence that the Claimant would receive if he were to plead guilty. The application was scheduled to be heard on the 28th October, 2015. The Defendant, upon considering the Claimant's written and oral submissions, eventually decided that she did not believe that she possessed the jurisdiction to entertain such an application. This decision was given either on the 29th December, 2015 (as the Claimant averred) or on the 3rd December, 2015 (as the Defendant contended).

[2] The Claimant, in response, sought leave to apply for Judicial Review of the Defendant's decision and this Court granted leave by Order dated the 27th April, 2016. The Court also granted as an interim relief a stay of all proceedings before the Magistrates' Court touching upon the instant application pending the outcome of the application for judicial review. The Court further ordered that leave was granted conditional upon the Claimant making a claim for judicial review with 14 days from the date of the said order pursuant to CPR 1998 Part 56.4(11).

[3] Accordingly, on the 11th May, 2016, the Claimant filed his application for Judicial Review seeking the following reliefs:

***a. An order of certiorari to bring up into this Honourable Court and quash the ruling of the Defendant made on the 29th December, 2015, that the Court did not have the jurisdiction to give an indication of sentence under Goodyear and/or the jurisdiction to entertain an application under Goodyear with respect to PC13843 Broomes v Michael Murrell and another (hereinafter referred to as "the said case");***

***b. An order prohibiting the Defendant from proceeding further with the said case pending the determination of this matter;***

***c. A declaration that the Defendant commence a Goodyear hearing and/or give an indication of sentence in accordance with Goodyear principles;***

***d. A declaration that the decision is unlawful, illegal, irrational and/or unreasonable, disproportionate, and/or is or amounts to an unreasonable,***

***irregular, or improper exercise of a discretion, is invalid, null, void, and of no effect;***

***e. A declaration that in light of the practice direction on sentence indication issued on 25th August, 2015 and gazette (sic) on even date and the case of R v Goodyear (2005) 3 All ER 117 that the Defendant did have the jurisdiction to entertain Goodyear hearing;***

***f. A declaration that the action of the Defendant in not commencing and/or giving an indication of sentence under Goodyear was illegal and/or irrational and the Defendant had the jurisdiction so to do having considered the Gazette and the case;***

***g. An order staying any further proceedings in the said case;***

***h. Such other orders, directions or writs as is (sic) just in the circumstances;***

***i. Costs; and***

***j. Pursuant to section 8 of the Judicial Review Act, 2000 such further orders, directions or writs as the Court considers just and as the circumstances warrant.***

[4] The Defendant filed and served an affidavit in response to the Claimant's Judicial Review Application on the 8th July, 2016.

[5] On the 12th September, 2016, both parties filed their submissions in accordance with the directions of the Court. The Claimant then filed its submissions in reply on the 22nd September, 2016. At a hearing on the 4th October, 2016 the Court gave further directions for the filing of submissions by both parties restricted to the question of the legal status of the Practice Direction in question and its applicability to the Magistrates' Court jurisdiction relative to the Goodyear case.

[6] Accordingly, the parties filed further submissions on the 7th November, 2016. Oral submissions of both parties were heard before this Court on the 25th January, 2017. The Court must now give its decision with respect to the Judicial Review Application.

## II. Law & Analysis:

[7] It will be useful to begin by distinguishing the Court's decision making process when ruling on a judicial review application as opposed to an appeal, and in that context, outline what judicial review constitutes:

> *"Judicial review is concerned, not with the decision, but with the decision making process…Judicial review, as the words imply, is not an appeal from a decision, but a review of the manner in which the decision was made[1]."*

[8] Morris P elucidated on the distinguishing feature of judicial review:

> *"The function of the High Court in an application for judicial review is limited to* ***determining whether or not the impugned decision was legal****,* ***not whether it was correct****. The freedom to exercise discretion necessarily entails the freedom to get it wrong, this does not make the decision unlawful[2]."* (Emphasis mine)

[9] The Court's jurisdiction in this matter, therefore, does not involve a determination on the correctness of the Defendant's decision; rather, it is confined to a review of her process to determine whether the means by which she arrived at her decision is beyond question[3]. Under this lens, the Court is reminded of the guidance given by our Court of Appeal in **Chandresh Sharma Civ. App. No 115 of 2003:**

> *"It is trite law that judicial review is a discretionary jurisdiction. Indeed a court may, in its discretion refuse to grant a remedy, even if the Applicant can prove unlawful administration.* ***An appeal against the exercise of a discretion will only be granted if it can be shown that the judge exercised his discretion under a mistake of law or otherwise misapprehended the facts****. An appellate court must defer to the Judge's exercise of his or her discretion and must not interfere with it merely upon*

[1] Per Lord Brightman in **Chief Constable of The North Wales Police v Evans [1982] 3 All ER 141 at 154**.
[2] Per Morris P in **Bailey v Flood Tribunal 2000** unreported.
[3] Judicial Review in the Commonwealth Caribbean at page 1.

*the ground that the appellate court would have exercised the discretion differently…**it is only when the decision is plainly wrong that an appellate court should interfere**[4]."*

[10] Sharma JA expounded on the circumstances in which the Court of Appeal would interfere with the judge's discretion:

*"At one time it was said that it would interfere only if he had gone wrong in principle, but since Evans v Bartlam, the idea has been exploded. The true proposition was stated by Lord Wright in Charles Osenton & Co v Johnston. This Court can and will interfere if it is satisfied that the judge was wrong. **Thus it will interfere if it can see that the judge has given no weight (or no sufficient weight) to those considerations which ought to have weighed with him…conversely it will interfere if it can see that he has been influenced by considerations which ought not to have been weighed with him, or not weighed so much with him**…it sometimes happened that the judge has given reasons which enable this Court to know the considerations which have weighed with him; but even if he has given no reasons, the Court may infer from the way he has decided, that the judge must have gone wrong in one respect or the other and will thereupon reverse his decision."*

[11] It must therefore be determined whether there is evidence to show that the Defendant, when giving her decision, misapprehended the facts and/or law, or that she gave no weight to material considerations and/or was influenced by matters that should not have been considered.

[12] Submissions of Counsel for the Claimant seemed to focus largely on persuading this Court that the Defendant's decision was unreasonable and/or improper because she failed to take into consideration certain relevant factors, as follows:

(i) That the Defendant failed to consider the statistics that show that the burden of matters in which Goodyear hearings are applicable are held in the Magistrates'

[4] Per Nelson JA

Court, which would support a conclusion that, in the interests of expediency and the proper administration of justice, Goodyear hearings should be entertained there;

(ii) That the Defendant failed to consider that the Claimant's matter before her is of some vintage and not a serious matter, and that she, the Defendant, had the requisite experience, being a senior magistrate, to conduct a Goodyear hearing;

(iii) That the Defendant failed to consider that the application of Goodyear hearings to the Magistrates' Court was not permanently refused by the case of **R v Goodyear (2005) EWCA Crim 888** (the ***"Goodyear case"***) and that enough time had elapsed since that decision for the law to evolve and extend the jurisdiction to the Magistrates' Court;

(iv) That the Defendant failed to consider that Magistrates in this jurisdiction are all qualified lawyers, unlike in the UK where there are mainly lay-Magistrates. Therefore, Magistrates in this jurisdiction are better equipped to conduct Goodyear hearings;

(v) That the Defendant failed to adopt a more purposive interpretation of the **Practice Direction on Sentence Indication** issued on the 25th August, 2015 (the "Practice Direction") or the Goodyear case, which limited Goodyear hearings to the High Court;

(vi) That the Defendant failed to consider that several other jurisdictions have applied Goodyear hearings to their Magistrates' Courts which have benefitted proceedings and the system as a whole.

[13] To successfully submit that the Defendant exercised her discretion unreasonably and/or improperly, the Claimant must first establish that the Defendant was required to take into account these factors and her failure to do so impugns her decision.

[14] Alternatively, it is the Defendant's case that, there is no statutory provision governing the application of Goodyear hearings in this jurisdiction[5]. Accordingly, the only relevant

[5] Para 18 of the Defendant's submissions.

considerations to be taken into account were: (i) **the Practice Direction** and; (ii) the ***Goodyear case*** itself.

**Whether the Defendant failed to take into account other material considerations**

[15] Relevant considerations are provisions to which the legislation expressly or implicitly requires the Magistrate to have regard[6]. Lord Greene stated as such in **Associated Provincial Picture Houses Ltd v Wednesbury Corporation**[7]:

> *"If, in the statute conferring the discretion, there is to be found expressly or by implication matters which the authority exercising the discretion ought to have regard to, then in exercising the discretion, it must have regard to those matters."*

[16] Whether something is a relevant consideration is a matter for this Court to decide. As stated by Lord Keith in the House of Lords case of **Tesco Stores Ltd v Secretary of State for the Environment (1995) 1 WLR 759, HL**:[8]

> *"…it is for the courts, if the matter is brought before them, to decide what a relevant consideration is. If the decision maker wrongly takes the view that some consideration is not relevant and therefore has no regard for it, his decision cannot stand and he must be required to think again.* ***But it is entirely for the decision maker to attribute to the relevant considerations such weight as he thinks fit, and the courts will not interfere unless he has acted unreasonably in the Wednesbury sense."*** [Emphasis mine]

[17] The Defendant was correct in her assessment that there is no statute governing Goodyear hearings in this jurisdiction. Indeed, the Claimant was unable to refer to any statute in support of his submissions. In the absence of such guidance, Magistrates must confine

[6] Jonathan Auburn et al. Oxford University Press (2013). Judicial Review Principles and Procedure. Para. 14.10
[7] [1947] 2 All ER 680
[8] [1995] 1 WLR 759, at page 764

their jurisdiction to their governing legislation, which, in our jurisdiction, is the **Summary Courts Act, Chap 4:20. Section 6(1)** states:

> **"(1). Every Magistrate and Justice shall have and exercise all such powers, privileges, rights, and jurisdiction as are conferred upon each of them respectively under this Act or of any other written law, and also, subject to this Act and any other written law, all such powers, privileges, rights, and jurisdiction as are conferred on Justices of the Peace by Common Law."**

[18] The statute therefore requires Magistrates to exercise their powers in accordance with the **Summary Courts Act**, **other Acts of Parliament and/or the common law**, **subject to any Act of Parliament**.

[19] Common law guidance on advance sentence indications was given in 2005 by the U.K Court of Appeal in the ***Goodyear case***[9]. Paragraph 78 of the judgment referred specifically and unambiguously to its application in the Magistrates' Court:

> ***"In our judgment it would be impracticable for these new arrangements to be extended to proceedings in the magistrates' court. We are not at present satisfied that an advance sentence indication can readily be applied to and processed there. We believe that it would be better for the new arrangements in the Crown Court to settle in for some time before considering whether and, if so how, similar arrangements can be made in the context of summary trials. Accordingly, for the time being, the magistrates should confine themselves to the statutory arrangements in Sch 3 to the Criminal Justice Act 2003."***

I am of the considered view that on any interpretation of this passage, the reader must conclude that, as the law currently stands, Goodyear hearings are not to be applied at the Magistrates' Court level until further decision has been made, presumably at the

[9] [2005] EWCA Crim 888; [2005] 3 All ER 117

higher court level. Neither the Defendant, when she gave her decision in 2015, nor this Court, in its current deliberations, has been made aware of any such further decision.

[20] In compliance with the learning in the Goodyear case, the Practice Direction was issued by the Chief Justice as guidance for our High Courts in the criminal arena when dealing with advance sentencing indications. This Practice Direction stated as its purpose, ***"to establish the procedure, following the principles in R v Goodyear [2005] EWCA Crim 888, for an indication by a judge, prior to the commencement of a trial or hearing in criminal proceedings, of a likely sentence an accused might receive if he or she pleads guilty at that point in time"***. It defined **"*judge*"** as a **judge of the High Court** and **"*court*"**, as the **High Court** of Trinidad and Tobago.

[21] The Practice Direction, however, is not an Act of Parliament. Nevertheless, in our jurisdiction, because practice directions are made pursuant to Rules of Court which, in turn, derive their powers from statute[10], compliance is therefore obligatory. By analogy, Part 4.5 of the Civil Proceedings Rules 1998 (the "Rules"), states that practice directions must be complied with unless there are good reasons for not doing so and that failure to comply with a practice direction may result in the Court making an order against the defaulting party, which is likely to include some sort of sanction.

[22] In the criminal arena, however, there are not yet any Rules of Procedure in force[11]. Accordingly, counsel for the Claimant submitted that there was no authority pursuant to which the Practice Direction was issued and therefore, the Defendant was not entitled to consider it. Counsel for the Defendant conceded in his oral submissions that the Practice Direction does not state that it was issued pursuant to any Rule of Procedure or any specified provision for that matter. This notwithstanding, the Court is not swayed by the Claimant's submission on this point. For the Defendant's decision to be unlawful, it would have to be shown that the Practice Direction was an "irrelevant consideration" or one that statute expressly prohibited her from considering. Therefore, whether or not

[10] **Section 77 of the Supreme Court of Judicature Act, Chap 4:01**

[11] **Part 20.1 of the Criminal Procedure Rules 2016** (not yet in force) states that the Chief Justice "may issue practice directions and practice guides in furtherance of the relevant legislation and these Rules." Part 20.4 states that if a party fails to comply with a practice direction, "the court may impose such sanction or make such order, as may be appropriate against him in accordance with rule 10.3"

the Practice Direction was made pursuant to any Rule of Procedure in force is irrelevant. In the circumstances, as explained below, the Practice Direction would be considered a "permissible consideration", or one to which the Defendant was entitled to have regard, if she so chose. It is this Court's view that the Practice Direction in question is valid until and unless revoked or set aside. Any challenge to its validity is misplaced in these proceedings for it is no part of the Claimant's pleaded and established case that the said Practice Direction was wrongly or improperly issued.

[23] Further, the validity of the Practice Direction is not a live issue to be considered in this matter. The fact remains that at the time of giving her decision, the Defendant had before her a Practice Direction issued by the Chief Justice that did not make provision for Magistrates to conduct Goodyear hearings. It is this Court's opinion that as a Magistrate, the Defendant did not possess the jurisdiction, nor was she required to question its validity when coming to her decision. I therefore find no fault in the Defendant's consideration of the Goodyear case and the Practice Direction in coming to her decision. As she rightly concluded, neither of these afforded her the power and/or discretion to conduct a Goodyear hearing.

[24] Counsel for the Claimant asked that this Court take a purposive approach *"which seeks to identify and give effect to the purpose of the Goodyear application"*. It is, however, unclear whether the Claimant is asking this Court is to apply the purposive approach to the Practice Direction or to the dicta in the Goodyear case. In either case I find no legal basis in that submission.

[25] As stated in the Claimant's own cited case of **R (Quintaville) v Secretary of State for Health**[12], statutory interpretation (as the name suggests) relates to the interpretation of the intention of Parliament contained in its enactments. Neither the Goodyear case nor the Practice Direction is an enactment of Parliament. **Halsbury's Laws of England** describes the basic rule of statutory interpretation and refers specifically to its use in discerning the legislator's intention:

[12] [2003] 2 WLR 692

> *"The basic rule of statutory interpretation has two branches. It is taken to be the legislator's intention: (1) that the enactment is to be construed in accordance with the interpretative criteria,* ***which are the general guides to legislative intention*** *laid down by law; and (2) that, where these conflict, the problem is to be resolved by weighing and balancing the factors concerned*[13]*."* (Emphasis mine)

The term "enactment" is defined at para 609 ibid as follows*:*

> *"... the whole or any part of an Act or an instrument of subordinate legislation. The term is also used to include the whole or any part of a Church of England Measure. A comparable term is 'statutory provision'. The term 'enactment', to put it another way, often denotes a single statutory proposition, whether embodied in one sentence or a group of sentences (perhaps variously derived from different Acts or other instruments)."*

The meaning of the word "Act" is described at para 607 ibid:

> *"...expressed to include a local and personal or private Act. It is also stated that 'Act' means 'Act of Parliament."*

There is therefore no legal basis for this Court to apply the rules of statutory interpretation to either the Goodyear case or the Practice Direction.

[26] The remaining submissions put forward by the Claimant can, at best, be considered ***"permissible considerations***" or considerations that the Magistrate may, but not must, take into account.

[27] "Permissible considerations" are considerations that fall in between relevant and irrelevant considerations. They are defined in **Judicial Review Principles and Procedures**[14] as those that may be taken into account when giving a decision but almost invariably are not unlawful if disregarded. Magistrates are entitled to have regard to all

[13] Halsbury's 2012 Vol. 96 Para. 1085
[14] Jonathan Auburn et al. Oxford University Press (2013)

permissible considerations regardless of whether they are implicitly or expressly identified by the relevant legislation[15]. In this context, a consideration will be a permissible consideration unless it is a relevant or irrelevant consideration. Often, such considerations are those which the Magistrate would not be expected to know or discover for himself/herself unless the subject of a decision draws them to his/her attention.

[28] In this light, the Claimant's references to (i) the practice of conducting Goodyear hearings at the Magistrate level in other jurisdictions; (ii) the statistical data which identifies the significant backlog of cases in the Magistrate's Court; or (iii) the fact that in the U.K, lay-magistrates preside as opposed to qualified lawyers locally, all fit squarely into the definition of being permissible considerations as there is no statute requiring the Magistrate to consider these factors nor is she expressly required not to take them into account. Being a permissible consideration, the Claimant cannot successfully submit that the Defendant's failure to consider these factors renders her decision unlawful.

[29] In **Re Findlay (1985) 1 AC 318**, the House of Lords approved the following statement from Cooke J in **CREEDNZ Inc v Governor-General**[16]:

> *"it is only when the statute expressly or impliedly identifies considerations required to be taken into account by the authority as a matter of legal obligation that the court holds a decision invalid on the ground now invoked.* ***It is not enough that a consideration is one that may properly be taken into account, nor even that it is one which many people, including the court itself, would have taken into account if they had to make the decision****."* (Emphasis mine)

[30] Further, in the instant circumstance where there is no statute that identifies the considerations that must be taken into account by Magistrates in relation to Goodyear hearings, learning suggests that only if the Magistrate *"failed to take into account a*

[15] Para 14.30 Judicial Review Principles and Procedure ibid
[16] [1981] NZLR 172

*factor that no reasonable [Magistrate] would fail to take into account…*[17]*"*, would there be a case that the Defendant's decision not to conduct a Goodyear hearing is unlawful.

[31] Considering the foregoing, the Court is not convinced that this threshold is met.

[32] Accordingly, the application for Judicial Review of the Defendant's decision must fail. Nevertheless, given the novelty and importance of this decision for future proceedings in the criminal courts, it would be remiss of me if I did not comment on some of the more persuasive arguments made in support of applying Goodyear hearings to the Magistrates' Court. Therefore, although beyond the Court's jurisdiction in this matter, by way of obiter dicta, my findings are as follows:

**The practicability of conducting Goodyear hearings at the Magistrates' Court**

[33] Counsel for the Claimant suggested that Goodyear hearings should be applied to our Magistrates' Courts because: (i) statistical data shows a backlog of cases at the magistrate level and allowing magistrates to conduct Goodyear hearings would alleviate the case load as there would be an increased number of guilty pleas and a reduction in the amount of trials; and (ii) our magistrates, unlike those in the U.K., are qualified lawyers and are therefore better equipped to conduct Goodyear hearings.

[34] With respect to (ii) I am of the view that any perceived shortcomings attributable to lay-magistrates in the U.K. are counterbalanced by the fact that such magistrates are advised by and sit with legally qualified law clerks.

Further, it is this Court's view that the "impracticability" mentioned in the Goodyear case[18] stems from the differences in procedure between the High Court and the Magistrates' Court. As counsel for the Defendant submitted, to conduct a Goodyear hearing High Court Judges on the Criminal bench are provided with depositions that contain the prosecution's evidence along with any confessions and/or admissions and even relevant previous convictions. The trial Judge is therefore furnished with sufficient

[17] Judicial Review Principles and Procedure at para 14.34 ibid
[18] At para 78 supra

evidence, which gives a clear idea of the gravamen of the offence and thus better enables him to give an advance sentence indication. The Magistrate in a summary trial, however, is not privy to such information. It is only when the defendant is summoned to give live evidence at the initial hearing that the Magistrate first becomes aware of any facts and/or evidence.

It must be remembered that one of the premier disadvantages of a Goodyear hearing, even at the High Court level, is the fact that the Judge would not be sufficiently informed of the likely impact of the trial on him in the sentencing context. There is therefore some risk in binding himself to any indication of sentence that was made in advance of a trial[19]. This problem is amplified in the Magistrates' Court where the Magistrate must give an indication based on even less information than a Judge.

Therefore, given the current procedure for summary trials within this jurisdiction, the Magistrate, to my mind, is ill-equipped to conduct a Goodyear hearing at the pre-trial stage. A fair comparison therefore, cannot be made to other jurisdictions such as Australia where Goodyear hearings are conducted at the Magistrate level. These jurisdictions have different procedures whereby Magistrates are given an agreed summary of facts before a trial commences.

[35] With respect to (i), I have two comments: firstly, in Australia, a jurisdiction referred to by the Claimant in his submissions, research has suggested that the introduction of advance sentencing indication schemes did not achieve the intended results:

In 1992, the New South Wales Parliament passed legislation allowing the Chief Judge of the District Court to introduce a 'Sentence Indication' scheme. Under the scheme, defendants committed for trial could elect to receive a pre-trial indication of the sentence if they entered a guilty plea.

The scheme was expected to produce earlier and more guilty pleas thereby reducing the amount of trial court time wasted when a guilty plea is entered on the day a trial is due to commence. It was hypothesized that an increase in the percentage of defendants

[19] Para 54 of the Goodyear case.

pleading guilty, if accompanied by a reduction in the demand for trial court time, would lead to a reduction in trial court delay[20].

However, the findings from the **Sentence Indication Scheme Evaluation (1995)** (the "Report") did not support this hypothesis. Rather, it was concluded that-

> *"Insofar as the aim of the sentence indication scheme was to produce earlier and more frequent pleas of guilty, the scheme must be judged, on the available statistical evidence, to have failed.* ***The present report confirms … that the scheme has had no effect on the proportion of defendants proceeding to trial … It also provides evidence suggesting (a) that the reduction in delay between committal and case finalisation for cases where the accused person changes his or her plea to guilty had begun before the introduction of the sentence indication scheme and (b) that it did not accelerate after the introduction of the sentence indication scheme.[21]"*** (Emphasis mine)

[36] Secondly, although not considered in the Goodyear case or the Report, it is my opinion that whatever is achieved by way of expediency and efficiency must be counterbalanced with the principles of fairness and the avoidance of bias in proceedings.

As stated above, Goodyear hearings require that the Judge be given all the prosecution's evidence against the defendant before the trial, which often includes confessions and/or admissions, any personal impact statement from the victim of the crime, and may even include previous convictions[22]. There is a significant possibility that such a procedure would result in bias as the Judge may form a premature impression of the defendant without having the benefit of live evidence or an assessment of the witness's demeanour. However, in the criminal High Courts of our jurisdiction, much like in the U.K., it is the jury and not the Judge who delivers the verdict. Therefore, any bias the trial Judge may harbour from the pre-trial evidence will not have a direct effect on the defendant's fate in the proceedings should the accused not accept the sentence indicated by the Judge. The Magistrate, however, as the arbiter of both fact and law, decides the defendant's

[20] Sentence Indication Scheme Evaluation (1995). Preface.
[21] Sentence Indication Scheme Evaluation (1995). Summary and Discussion at page 29.
[22] Para 4 of the Goodyear case.

fate. Having already reviewed the prejudicial evidence against the defendant, it will likely be the case that the Magistrate would be asked to recuse himself after conducting a Goodyear hearing in circumstances where the defendant refuses to enter a plea and proceeds to trial. The consequence of having to constantly replace a magistrate will no doubt neutralize the advantages gained from a Goodyear hearing and may even lead to some measure of Court-shopping.

[37] These hurdles suggest that the implementation of Goodyear hearings at the Magistrate level is not a simple cut and paste procedure as the Claimant suggests. They require much deliberation and possibly some alterations to the legislation and procedure at the Magistrates' Court level. Therefore, while an attractive proposition, I find that the circumstances are not yet ripe for the full-scale application of pre-trial advanced sentence indications to the Magistrates' Court in this jurisdiction. The current system that allows Magistrates to give advanced sentence indication to the extent of whether or not there will be a custodial sentence, is sufficient for the time being. From all standpoints, and from considering the purpose, context and procedure set out in the Practice Direction in question, it appears that that is the thinking of the Chief Justice at this point in time in any event.

## III. Disposition:

**[38] In light of the above analyses and findings the Claimant's claim for judicial review must fail with the attendant order for costs. Accordingly, the order of the Court is as follows:**

**ORDER:**

**I. The interim relief granted on the 27th April, 2016 staying all proceedings at the Magistrates' Court before the Defendant touching upon the proceedings at bar be and is hereby discharged.**

**II. The Claimant's application for judicial review by way of Fixed Date Claim filed on 11th May, 2016 be and is hereby dismissed.**

**III. The Claimant shall pay to the Defendant costs of the Claim to be assessed in accordance with CPR 1998 Part 56.14(5), in default of agreement.**

**Dated this 15th day of February, 2017**

**_____**
**Robin N. Mohammed**
**Judge**