

## 35 new lay magistrates pumped into justice system

The Observer



Errol Miller, who graduated from the course and is now a lay magistrate, collects his certificate from Chief Justice Zaila McCalla.

**The justice system has been strengthened with the addition of 35 new lay magistrates who graduated**

**from a 30-hour training course last Wednesday.**

The new magistrates are Justices of the Peace who were chosen by their respective parish custodes for the course run by the Justice Training Institute.

They now have the authority to adjudicate over matters in the Petty Sessions Court.

Chief Justice Zaila McCalla told the group that the position of lay magistrate is one of “great honour” and commended them, saying that their “voluntary service is of great importance to the justice system”.

She used her address to highlight several issues affecting the judicial system and made mention of reforms that are currently being formulated, as well as current initiatives that have reaped rewards. One such initiative was the Justice Undertakings for Social Transformation Programme,

which is designed to make the justice system more available, accessible, accountable, flexible, fair and affordable in a timely, courteous, respectful and competent manner for all citizens.

McCalla reminded the graduates and their guests that they should all be “stakeholders in building a better justice system and a better Jamaica”.

The ceremony, held at Knutsford Court Hotel in Kingston, was also addressed by Karen Campbell-Bascoe, director of the Justice Training Institute, who lauded the graduates for completing the course.

She encouraged them to “aim to attain a decorum of the highest standard”, before reminding them that they should refrain from publicly criticising their colleagues.

Carol Palmer, permanent secretary in the Ministry of Justice, encouraged the graduates to continue the advancement of what she described as “one of the last bastions of voluntary service one can offer to their fellowmen and country”.

She reminded them to give “sound and astute judgement” on the matters brought before them and reiterated that the position of Justice of the Peace is one of “great honour which should not be abused, but rather used as a springboard of service to the country”.

Errol Miller, a graduate and salutatorian of the programme, elicited laughter when he said that he did not know the meaning of the word “salutatorian”, therefore, “like every brilliant modern-day student would do, I Googled it”.

He was also full of praise for the other members of the graduating class, and said that after interacting with them over several sessions, they “can easily have good careers in law”.

— Marc Ridsen

# JA Gets New Criminal Database

The Gleaner

Gary Spaulding

Jamaica's outdated paper-based criminal records system is now a thing of the past. Yesterday's launch of the Computerised Criminal Records System has been praised by crime-fighters and legal luminaries, including Chief Justice Zaila McCalla and Director of Public Prosecutions Paula Llewellyn.

In a message delivered by Deputy Commissioner of Police Novelette Grant, Dr Carl Williams, the police commissioner, embraced the initiative that was financed by the United Kingdom.

"As an extension of this project, I am pleased to announce that further funding has been approved by the United Kingdom government to develop and interface between the new database and the fingerprint system already in place in Jamaica," said Williams.

He said that the next phase of the project would help to streamline the process for the sharing of biometric data such as DNA and fingerprint information.

Williams described the initiative as a revolution in law enforcement. "Jamaica embracing this move speaks to the country's effort in reforming the criminal justice system."

He said that well-managed record keeping was critical to good governance.

"While it may not take immediate prominence among the public's requirements of its elected public officials, it is essential to the development goals of the country," he asserted.

## **HONOURING THE RULE OF LAW**

Williams added: "Placed within the context of Jamaica's crime challenge, which is a blight on the international stage, a well-managed criminal records (system) is vital in honouring the rule of law in the country."

State Minister in the Ministry of National Security Parnell Charles Jr, speaking on behalf of Cabinet Minister Robert Montague, said that the system was about the enhancement of public safety and national security.

"We now have a shared database with the United Kingdom that will provide real-time information in our respective jurisdictions," he said.

Charles said that there has already been dynamic interface between the two countries in the use of this software.

[gary.spaulding@gleanerjm.com](mailto:gary.spaulding@gleanerjm.com)

# **Holness Gets Court Injunction Barring Rebroadcast Of 18 Degrees North**

The Gleaner

Lawyers for Prime Minister Andrew Holness have obtained an injunction barring Television Jamaica (TVJ) from rebroadcasting the programme 18 Degrees North that made certain allegations about his house and tax payments.

The injunction was granted by Justice Chester Stamp in the Supreme Court Friday morning.

18 Degerees North was aired on TVJ on Monday and was scheduled to be carried again on Sunday, Holness indicated in court papers obtained by The Gleaner.

In the court documents, Holness' attorneys argued that rebroadcasting the "offending programme" would cause him more harm than it would cause TVJ if it were to be postponed.

"The proposed rebroadcast would further harm the claimant reputationally, which harm could not be compensated by any award as to damage for libel," read a section of the documents.

## **Portia, Former Ministers For Court Tomorrow In Ongoing Trafigura Corruption Case**

The Gleaner

Opposition Leader Portia Simpson Miller and three of her former ministers are to appear in court tomorrow in relation to the ongoing corruption case against Dutch oil firm, Trafigura Beheer.

Simpson Miller, along with former cabinet ministers Phillip Paulwell, Robert Pickersgill, and Colin Campbell, as well as PNP member and businessman, Norton Hinds were subpoenaed by high court judge Lennox Campbell last week to answer questions in the matter.

However, the case is to be stayed when they appear tomorrow pending the hearing of the appeal filed by lawyers representing Simpson Miller and the other members of the PNP.

On Friday, the Appeal Court had dismissed an application by the Office of the Director of Public Prosecutions to strike out the appeal filed by lawyers for the PNP members. President of the Appeal Court, Justice Dennis Morrison, who delivered the decision, had also ordered that all proceedings in the Trafigura case be stayed until the appeal is heard.

PNP lawyers say their clients had given verbal notice in 2014 that they planned to appeal a court ruling that upheld a decision by Justice Lennox Campbell for the Trafigura case to be heard in open court.

Morrison says the court registrar has been directed to fix a date, in consultation with all parties, for the hearing of the appeal.

Dutch authorities want to question officials of the PNP about a J\$31 million donation by Dutch company Trafigura Beheer to the party in 2006.

It is illegal for Dutch companies to donate to political parties.

At the time of the donation, Trafigura had an oil-lifting contract with a Jamaican state agency under the then PNP administration.

The Office of the Director of Public Prosecutions, which is the designated central authority under Jamaica's mutual legal assistance treaty with The Netherlands, wants to pose the questions to the PNP officials on behalf of the Dutch authorities.

## **The Netherlands May Have Already Drawn Conclusions In Trafigura Case - DPP**

The Gleaner

Director of Public Prosecutions Paula Llewellyn said her office will now write to Dutch authorities outlining the decision of the Appeal Court and await their instructions.

Director of Public Prosecutions (DPP) Paula Llewellyn says authorities in The Netherlands have made their observations about the Trafigura case and may have already drawn their own conclusions.

Llewellyn was speaking in an interview with The Gleaner/Power 106 News Centre following a decision by the Court of Appeal yesterday to dismiss an application she filed to strike out an appeal by lawyers for People's National Party (PNP) President Portia Simpson Miller and other PNP functionaries.

The rejection of the appeal means a further delay in the Trafigura hearing to question Simpson Miller and others about a \$31 million donation to the PNP by Dutch firm Trafigura Beheer.

The case has been adjourned since November 2011 when the PNP lawyers obtained a court order that placed the proceedings on hold until the hearing of an appeal as to whether the matter should happen in open court.

Llewellyn said her office will now write to Dutch authorities outlining the decision of the Appeal Court and await their instructions.

The DPP is the designated Central Authority under the Mutual Assistance Treaty that is acting on behalf of Dutch authorities.

Dutch authorities want to question Simpson Miller, PNP chairman Robert Pickersgill, the Party's Region Three chairman Phillip Paulwell, former PNP general secretary Colin Campbell and businessman Norton Hinds under oath about the \$31 million donation while Trafigura Beheer had a contract with the government.

Meanwhile, attorney-at-law Patrick Atkinson, who is part of the legal team for the five PNP functionaries, is curious about what he describes as the sudden push to have the case restarted.

Atkinson says he was not surprised by yesterday's decision of the Appeal Court.

According to the former Attorney General, the ruling by the Appeal Court reflects the actual state of affairs in the case.

The PNP is appealing a ruling by Justice Lennox Campbell that the case be heard in open court.

However, Atkinson says to date the attorneys for the five PNP functionaries have not received the Judge's reasons in writing.

## **Portia, Former Ministers For Court Today**

The Gleaner

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Simpson Miller, along with former Cabinet ministers Phillip Paulwell, Robert Pickersgill, and Colin Campbell, as well as People's National Party (PNP) member and businessman, Norton Hinds, was subpoenaed by High Court judge Lennox Campbell last week to answer questions in the matter.

However, the case is to be stayed when they appear tomorrow pending the hearing of the appeal filed by lawyers representing Simpson Miller and the other members of the PNP.

Last Friday, the appeal court had dismissed an application by the Office of the Director of Public Prosecutions to strike out the appeal filed by lawyers for the PNP members. President of the Appeal Court, Justice Dennis Morrison, who delivered the decision, had also ordered that all proceedings in the Trafigura case be stayed until the appeal is heard.

PNP lawyers say their clients had given verbal notice in 2014 that they planned to appeal a court ruling that upheld a decision by Justice Lennox Campbell for the Trafigura case to be heard in open court.



Morrison says the court registrar has been directed to fix a date, in consultation with all parties, for the hearing of the appeal.

Dutch authorities want to question officials of the PNP about a €466,000 donation by Trafigura Beheer to the party in 2006.

It is illegal for Dutch companies to donate to political parties.

At the time of the donation, Trafigura had an oil-lifting contract with a Jamaican state agency under the then PNP administration.

## **Court Rejects Application To Strike Out Appeal In Trafigura Matter**

The Gleaner

The Appeal Court has dismissed an application by the Office of the Director of Public Prosecutions (ODPP) to strike out an appeal filed by lawyers for People's National Party (PNP) President Portia Simpson Miller and other party functionaries that has stalled the Trafigura case.

President of the Appeal Court, Justice Dennis Morrison, who delivered the decision yesterday, also ordered that all proceedings in the Trafigura case be stayed until the appeal is heard.

Attorneys for Simpson Miller, PNP Chairman Robert Pickersgill, PNP Region Three Chairman Phillip Paulwell, former PNP General Secretary Colin Campbell and businessman Norton Hinds had given verbal notice in 2014 that they planned to appeal a court ruling that upheld a decision by Justice Lennox Campbell for the Trafigura case to be heard in open court.

## **FIXED DATE**

Morrison said the court registrar would be directed to fix a date, in consultation with all parties, for the hearing of the appeal.

On Wednesday, the ODPP asked the Appeal Court to strike out the appeal and argued in court yesterday that since then, the attorneys had done nothing to advance the case.

Dutch officials, acting through the ODPP under the Mutual Legal Assistance Treaty, want information regarding a \$31 million donation to the PNP by oil trading firm Trafigura Beheer. The donation was made while the PNP was in government and had an oil lifting contract with the Dutch firm.

# **Judge Gives All Clear For Inspection Of St Mary SE Election Documents**

The Gleaner

Livern Barrett

Lawyers for the two candidates who contested the St Mary South East constituency in the February 25 general election are to return to the Electoral Office of Jamaica (EOJ) today to resume inspection of all relevant documents related to the poll.

High Court judge Justice Andrew Rattray yesterday morning cleared the way for the resumption when he issued a consent order in the election petition filed by Jamaica Labour Party candidate Dr Norman Dunn.

Dunn is seeking to overturn the decision of a parish judge to declare People's National Party (PNP) candidate Dr Winston Green the winner of the parliamentary election.

## **COURT ORDER**

Earlier this year, Dunn obtained a court order that allowed his legal team to inspect all relevant electoral documents for the constituency, including poll books as well as ballots that were spoiled or rejected. However, attorney-at-law Anthony Williams, who is part of the legal team representing Green, said confusion arose when both sides began inspecting the documents at the EOJ.

According to Williams, the issues highlighted ambiguity in the court order and raised questions about what documents could be inspected.

He said the consent order issued yesterday morning would provide both sides with access to all relevant documents related to the election and sets out how they can be photocopied.

Williams said the inspection of documents was set to be completed by the end of next month and the trial is scheduled to start in September.

[livern.barrett@gleanerjm.com](mailto:livern.barrett@gleanerjm.com)

## **Laws Of Eve | Costly Mistakes Made In Court**

The Gleaner

Consider the following facts:

- The parties to a claim are now in their mid-70s. They separated in 1982, but did not complete divorce proceedings until 1992.
- A property division claim was filed in the Supreme Court in September 2010, and judgement entered in May 2012.

- An appeal that was filed on May 29, 2012, was heard in October 2015, and the Court of Appeal delivered its ruling on May 13, 2016.

- Based on that ruling, the parties must proceed to a pre trial review and a fresh trial in the Supreme Court on a date to be fixed by the Registrar of the Supreme Court. (That trial date could easily be in 2018.)

These time lines are relevant to the case of DeMercado v DeMercado[2016] JMCA Civ 27; and despite the strength of either party's case, the appetite to have a court hearing must have waned some time ago. In fact, the state of at least one party's health prevented full participation in the trial in the first round, so one wonders how that party will fare this time around.

The following legal issues, errors and omissions, resulted in the order for retrial of the matter:

- Information elicited from both parties through informal questioning by a judge, is not evidence and cannot, therefore, be a basis on which any court determines the outcome of a case.

- Witnesses were not cross examined in this case. For as many times as it has been said, it appears that it must continue to be repeated that cross examination must be strongly encouraged in cases in which there are disputed facts in affidavits. Otherwise, the court will be unable to decide critical issues or test the credibility of the witnesses.

- The failure on the part of the appellant to reply to many of the specific contentions by the respondent, was viewed by the court as being 'unfortunate'. Fortunately, such a failure did not automatically mean that the contentions were admitted by the appellant.

- An assertion by a party that constitutes an allegation of fraud must be supported by particulars and evidence. It is not enough to make a bold assertion. In this case, the appellant stated that the respondent obtained a mortgage over jointly owned property although the application was never brought to her attention. No details were provided in support of the allegation.

- If one co-owner is to obtain an order that he has ousted the title of another by adverse possession, there must be evidence to prove that he was in physical custody of the property and intended to exercise control for his own benefit. the evidence was lacking in this case.

I have two main concerns:

(1) Was adequate and proper use made of mediation in this case? A successful mediation would have save both parties time, stress and legal expense.

(2) Has it become easier for one co-owner of property to become the sole owner? When one co-owner tries to avoid conflict and strife after separation by staying away from jointly owned property, he is likely to be penalised in matrimonial property cases.

Two pearls of wisdom:

(1) Attempt mediation in good faith

(2) If you are an absentee co-owner of a property, pay some attention to that property by at least paying the property taxes, contributing to the mortgage payments or major repairs. What might seem onerous and unpalatable today, could avoid years of litigation in the future.

- Sherry Ann McGregor is a partner and mediator in the firm of Nunes Scholefield DeLeon & Co. Please send questions and comments to [lawsofeve@gmail.com](mailto:lawsofeve@gmail.com) or [lifestyle@gleanerjm.com](mailto:lifestyle@gleanerjm.com).

# Alleged British Cocaine Smuggler For Court This Friday

The Gleaner



[File](#)

One of two British nationals arrested at the Sangster airport in Montego Bay on Friday, allegedly trying to smuggle cocaine, is to appear in the St James Parish Court on June 10.

The police say about 6:35 p.m., 48-year-old Leroy Smith of London, England was preparing to board a flight when he was searched and a rectangular package with cocaine weighing 11.5 pounds was found in his carry-on luggage.

Smith was charged with possession of cocaine, dealing in cocaine and taking steps to export cocaine.

Earlier, a British woman who was also preparing to board a flight to London was arrested after five liquor bottles with an oily liquid, believed to be cocaine, were found in her luggage.

The police have not released her identity.

However, they say she remains in custody as detectives continue investigations.

# **Suspects In Policewoman's Killing To Appear In Court**

The Gleaner

Twenty-seven-year-old Constable Gladstone Williams and 26-year-old Jessie Anderson of Seaview Gardens in St Andrew are to appear in court this week to answer charges in relation to the murder of Corporal Judith Williams.

The policeman and the civilian were charged on Thursday with murder, conspiracy to commit murder and illegal possession of firearm. Williams was charged after he was pointed out in an identification parade.

Corporal Williams was shot several times by armed men about 6:30 a.m. on April 28 at a bus stop on Brae Street in Dunkirk, east Kingston as she made her way to work.

She died from her injuries in hospital a day later.

# **Martin Henry | Can Environment And Business Do The Tango?**

The Gleaner

On this World Environment Day, what's the state of play in that matter between the fish company, Algix, and the rum company, Appleton, out on the Black River, the Black River being part of our environmental commons whose water they both share?

We're also five days into the 2016 hurricane season, with a Met promise of an "active season". Jamaica has not had a major hurricane since 2012, with Sandy. But even before the hurricane

season started, the forecasted flood rains have already begun in the east of the island, causing at least one death in St Thomas. The predictions are for 10-16 named storms, four to eight hurricanes, and four intense hurricanes between now and November 30 when the hurricane season officially ends.

You will recall that an injunction was granted in January to Algix by the Supreme Court barring the J. Wray & Nephew-operated Appleton Estate from discharging into the Black River effluent that exceeds regulation limits, a practice Algix claims was contaminating its downstream fish ponds using water from the river and adversely affecting its fish production.

The court ordered Appleton's immediate compliance with the environmental regulatory agency, NEPA's, effluent-discharge regulations without regard for the transition-to-compliance plan which had been agreed by NEPA and Appleton. Algix said it has lost large quantities of fish as a result of the dumping of the industrial waste and is claiming US\$49.5 million in damages.

J. Wray & Nephew filed an appeal against the injunction with the Court of Appeal, which upheld the ruling by the Supreme Court. The case is set for trial, starting September 26.

While the court ruling was not to stop Appleton from operating but only to bring its effluent discharge in line with NEPA regulations, the immediate fallout was the inability of the company to operate its factory to process the 2016 sugar crop. This has kept hundreds of people out of work and has affected the entire economy of the area. There have been roadblock protests.

But the fish producers, claiming to be the largest in the English-speaking Caribbean, are employers, too, with big plans for expansion and for exports.

It was pretty obvious that the prime minister had forgotten the environment portfolio when organising his Cabinet. Under protest from environmentalists, in a hasty wheel-and-come-again move, the portfolio landed in the super-Office of the Prime Minister in the super-Ministry of Economic Growth and Job Creation. Locating environment in ministry mixes of portfolios is never an easy and smooth task. Environment easily clashes with all the production things and



doesn't sit well with many of the service things.

The man assigned to environment, Minister without Portfolio Daryl Vaz, says the Government is committed to the country's development, while protecting the environment and mitigating the impacts of climate change. He was speaking at a National Adaptation Plan forum soon after he was handed the portfolio in March.

### **MORE INTENSE**

It is climate change that is bringing us the severe weather events like more active hurricane seasons with bigger and badder storms. "In coming years," the minister said, "as climate change is predicted to make extreme weather events more frequent and more intense, we need to streamline our adaptation plans to prepare the key sectors of our economies for these threats."

The Government, with the help of international partners, would be taking "a sector-by-sector approach" in relation to climate-change adaptation, through the provision of sector strategies and action plans, the minister announced. The problem is that Jamaica, a tiny player on the global stage, can do very little to reduce climate change, whatever its cause, but will have to struggle with big impacts of climate change as a small island developing state.

How the Government will juggle and balance environment and 'development' by economic growth will be an unfolding drama. The Algix-Appleton impasse is an interesting scene in the drama. And whatever has become of the Goat Islands economic development projects of the last administration and their clashes with environmental concerns? Vaz, by heart and hand an economics and growth businessman, will have his hands full with environmental issues and growth and job creation grating against each other.

While over in Westmoreland, residents in Llandilo have been protesting an LPG plant planted on their doorsteps, over in St Thomas, crabs have been swarming the seashore at the eastern end of the parish.

The Llandilo people have been hit with the NIMBY syndrome - not in my backyard. NEPA, often accused of being weak-kneed in environmental enforcement (after all, the agency gave J. Wray & Nephew leeway to meet effluent discharge standards at Appleton gradually, an agreement that the courts declined to uphold), said it did due diligence, including consulting with residents, before granting permission for the gas plant. The property owners are disputing the consultation, pointing fingers at the informal occupants, aka squatters, as the yes people.

But if community agreement is going to be a hard requirement for NEPA approval, NIMBY projects are going to have a hard time getting off the ground.

The Westmoreland Parish Council says it has played by the rules that allow commercial development in the area. But what kind of commerce?

Some opposing residents are charging that the development was approved because a family member of the developer was once a senior employee of the parish council. A former mayor of the neighbouring Hanover Parish Council is now in trouble with the law for favouring family with state resources.

## **ECOLOGICAL HERITAGE**

The gas plant developer is holding out the carrot of jobs, jobs, and says the people want him in.

These clashes are going to multiply, especially as citizens become more environmentally aware and activist. The constitutional Charter of Fundamental Rights and Freedoms guarantees them "the right to enjoy a healthy and productive environment free from the threat of injury or damage from environmental abuse and degradation of the ecological heritage".

The built environment is a crucial part of this right. Ask the people of Rema who have been suffering from back flow of sewage into their homes for more than 20 years, and have been without running water for the last seven. Uncollected garbage piles up in their community, and drains are breeding sites for mosquitoes, with ZIKV cases multiplying across the country.

The media have been providing a lot more environmental coverage, which is now mainstreamed and not an add-on. There are even environmental-beat specialists in some outfits. Good.

NEPA has just completed a commissioned survey of the knowledge, attitudes, practices and behaviours of the population in relation to the environment in Jamaica. The findings of the survey should become public knowledge.

And those crabs in St Thomas. Swarming is not all that unusual. We're used to rainflies and cicadas coming out in their numbers in their seasons. And last year, we had a spectacular swarming of new mosquitoes. Locust swarms have historically triggered famines and still occur fairly regularly in modern times.

The St Thomas Environmental Protection Association (STEPA) is attributing the crab swarm to the destruction of mangroves, loss of coral, and the effects of overfishing on coral loss. Everything thrown in. But marine biologist Dr Karl Aiken countered that the crabs flooded the beach to shed fertilised eggs.

While World Environment Day this year is focusing on the fight against the illegal trade in wildlife around the world, with Angola as the host country, let us, led by Vaz and NEPA, focus at home on preserving the Jamaican environment in the best possible condition, honouring the charter provision, while pursuing economic growth and job creation.

- Martin Henry is a university administrator.

Email feedback to [columns@gleanerjm.com](mailto:columns@gleanerjm.com) and [medhen@gmail.com](mailto:medhen@gmail.com).

The Observer

## Onyka Barrett - The activist

ALL WOMAN Monday, June 06, 2016 , By KIMBERLEY HIBBERT



SHE is peaceful, passionate, happy, and always trying to change something or herself.

Born in Guyana and raised there for a short period before moving to Trinidad and then Jamaica, Onyka Barrett, an activist, volunteer and change agent, told All Woman that she witnessed her grandmother care for everyone around her.

“In the house I had my great-grandma who was bedridden, my grandmother’s two daughters, and their children. She [my grandmother] took care of everything. She was the centre of it all. My memory of her is someone who was always doing something for someone or the family, so subconsciously I was looking and noticing but never realised the impact it had on me,” she said.

Subsequently, like many children, Barrett dreamed of becoming a doctor, lawyer or pilot. But when her family relocated to Trinidad and she met Barbara Jenkins — her environmental studies teacher in secondary school — her career focus changed forever.

“She organised a field trip to Greenpeace, The Rainbow Warrior II that was visiting Trinidad at the time, and when I went to that ship that’s when everything about me changed. I never wanted to be a doctor or a lawyer anymore. I was interested in being an activist and trying to save the earth.

“They took us on a little boat out to the ship and they took us down in the hull and straight around the perimeter. They had pictures of different campaigns they had been fighting for, different issues they were trying to deal with. One man in particular was telling us the stories behind the campaigns and I became conscious of a lot of things outside of my narrow scope. He showed me directly things happening in other parts of the world that never connected to me before,” she said.

And so, with this newfound interest, Barrett, at the age of 14, became involved in volunteerism and joined her school’s Duke of Edinburgh programme, which required voluntary work in order to matriculate to higher levels.

After leaving secondary school, Barrett worked in the corporate world for approximately 12 years, but did voluntary work on the side on human rights issues and the rights of the child through non-governmental organisations and government agencies such as Is There Not A Cause? and the Ministry of Social Development, Trinidad, as well as CUSO International, through the Ministry of Justice, Jamaica.

“I’ve always been volunteering and I’ve done it at different levels. I’ve done the Hands and Feet from working in Haiti, I’ve done it at the national level, there was CUSO International where regionally we looked at how to ensure that volunteerism lived and people were still interested in it and felt it was still a good thing to do. Getting involved helps me actualise the dreams I have to drive it across the Caribbean.”

Barrett, who holds a bachelor’s degree in human resource management from Anglia Ruskin University, UK, and an international diploma in humanitarian assistance from Fordham

University, USA, has also volunteered in Kenya and Ghana, which she says gave her a greater appreciation for the field of volunteerism.

Given the name Furaha, which is Swahili for joy and happiness, while in Kenya, Barrett is currently the partnerships and development manager at Jamaica National Foundation, where she is charged with connecting with the right people at the right time to create change, which she says coincides with her own values.

Also a self-proclaimed globetrotter, Barrett said her interest in travelling comes from the need to understand people in order to build her own empathy and be part of their change process.

“If I’m going out into the field to help, I have to appreciate that this person is coming with their own ideas. From a young age I had desired travelling, and every time a plane passed my home I would run to the window to see the plane, but I never imagined being on that plane. My first trip was coming to Jamaica through the Duke of Edinburgh to hike the Blue Mountains. My dad made a sacrifice and sent me and I thank him each day, as it made a huge difference in how I understood myself. I wanted to go places, see people, understand people, and not just live it through a book,” she said.

## **Mom wants brother to file for her son**

ALL WOMAN Monday, June 06, 2016

Margarette MACAULAY

My brother is a resident of the USA and I am living in Jamaica. I would like my brother to file for my son who is nine years old, but I was told that the only way that can happen is if he’s appointed as his legal guardian. How do I go about appointing him as legal guardian?

I have noted the fact that you have made no mention of the father of your son. You have only stated that you would like your brother to file for him. You have also not said anything about the reasons for your decision or about your brother's situation, or yours. I have no idea whether he has agreed with your wish, whether he is married, and if so, what his wife's opinion is about your wish and plan.

I mention these things because your brother would have to be a party to the application, which must be made to the Supreme Court, because applications for custody, care and control would have to be added to the application that he be appointed as your child's guardian. He, your brother, would have to, in an affidavit, clearly state his agreement to be so appointed and give details of his home environment and facilities and the arrangements for your son's enrolment and attendance at school, the full description of his home environment and proof of it, the arrangement for your son's religious education, and details of the arrangements of his after-school and general care, and who would provide this, how, and where.

You would have to satisfy the court that this would be in the best interests of your son and would be best for his general welfare. If your brother is married, his wife must also by affidavit evidence demonstrate and satisfy the court that she is in full agreement with the application and would assist your brother with the care of your son.

In addition, your son's father must be informed of your plans, and if he consents, he must also file an affidavit to this effect. If you do not do this, then the court would order you to serve him with the application and affidavits in support, so that he can be fully informed and have an opportunity to object, if he so wishes.

You and your brother, and indeed, your son's father, would have to attend court for the hearing of the application. In fact, the judge may require you to bring your son as well, so that he or she can be satisfied, by speaking directly with your son, that he understands what the application means and that he agrees with it and is comfortable with the idea of going to live with his uncle in America, and that his uncle would take the role of his parent there.

You see, the court must be satisfied that what you plan would indeed be the best thing for your son. No court would take the decision of granting your wish lightly, but would require sufficient evidence from you and all the relevant parties that it is indeed the best thing for your child for your brother to be appointed guardian.

You see, if the appointment and orders are made, your brother, instead of you or your son's father, will have full parental responsibility for the care of your child and for his welfare by providing him with adequate shelter, food, clothes, medical care, educational and religious upbringing and ensure his emotional development and stability.

It is the duty of the court to regard the welfare of the child as its first and paramount consideration when deciding such applications. You must therefore consider this matter deeply, fully and responsibly. If you still wish to go ahead, you have to ensure that all the parties I have referred to and you yourself submit detailed affidavits in support of the application so as to satisfy the court that the appointment of your brother as his guardian and orders sought to enable him to give and live with the uncle in America, are indeed best for the welfare of your son.

Good luck.

Margaret May Macaulay is an attorney-at-law, Supreme Court mediator, notary public and women's and children's rights advocate. Send questions via e-mail to [allwoman@jamaicaobserver.com](mailto:allwoman@jamaicaobserver.com); or write to All Woman, 40-42 1/2 Beechwood Avenue, Kingston 5. All responses are published. Mrs Macaulay cannot provide personal responses.

**DISCLAIMER:**

The contents of this article are for informational purposes only and must not be relied upon as an alternative to legal advice from your own attorney.



# Man offers 12- year-old girl \$1,000 for sex

Covering the courts

with Tanesha Mundle

The Observer



A brief look at Jamaica's political history provides an interesting background to the concept and creation of the 1962 Constitution and the format of the Senate.

**A 21-year-old man who offered a 12-year-old schoolgirl money for sex was reprimanded by Parish Judge Maxine Ellis for assaulting the girl**

**after she refused his sexual advances.**

“She is 12, what kind of advances you making? She is a baby,” Judge Ellis said while scolding Oshane Williams, after he pleaded guilty to assault occasioning bodily harm.

The court heard on Friday that Williams squeezed the minor’s throat and slapped her on the neck after she spurned his advances.

The prosecutor told the court that Williams got physical after he told the minor: “I have a \$1,000. follow me round deh suh,” and she refused to comply.

According to the prosecutor, this incident was not the first time that Williams was making advances at the complainant, as she had reported him to her mother before. Williams, however, denied assaulting the minor as alleged by the police.

“A two finger me use and hit her on her mouth,” he said. But in addition to the assault claim, Williams is also accused of pulling a ratchet knife at the complainant and threatening “to run it through her”.

Williams, however, denied those allegations and pleaded not guilty to assault at common law. The complainant's mother, who was present in court with her daughter, told Ellis that Williams has been troubling the girl and she had to be taking the child to and from school because of her fear of Williams.

"Clearly you don't get it," Ellis then told Williams. "But me no deh home a day time," he answered while noting that he was away at work.

But the mother told the court that Williams was unemployed and that her child had to pass his yard to get to school.

Ellis, however, insisted that he was employed and that the minor did not have to pass his home, as she lived on a separate lane from where he was living.

The judge, however, decided that she was going to revoke his bail until the police conduct further investigations into the matter. In the meantime, the judge requested a social enquiry report and scheduled a date for Williams' sentencing.

## **Fruit vendor to be tried for allegedly stealing water from police station**



Covering the courts  
with Tanesha Mundle  
The Observer

**A Kingston fruit vendor, who reportedly assaulted a police officer after he was caught catching five gallons of water at a police station, is to go on trial on July 19.**

Troy Erving pleaded not guilty to simple larceny, resisting arrest, assaulting the police, disorderly conduct and using indecent language when he appeared in court on Friday.

The court heard that on May 14, about 7:30 am, police saw Erving collecting a bucket of water on the station compound and confronted him.

The court heard that when the police spoke to Erving and told him to leave he responded by saying: “You caa stop me, nobody caa stop me.”

Ervin reportedly took up the bucket of water and threw it on the officer while behaving boisterously and using expletives.

But when the matter was mentioned, he told the court that the superintendent of police had given him permission to collect the water.

“What is the name of the supt who gave you the permission?” Judge Ellis asked. “I can’t remember,” Erwin answered.

The magistrate, however, warned him that he would have to remember the name of the superintendent who had given him permission if he was going to be relying on the officer to help his case. The matter was subsequently set for trial and his bail was extended.

## Ex-lovers fight over mattress



Covering the courts  
with Tanesha Mundle  
The Observer

**Two ex-lovers were placed before the Kingston and St Andrew Parish Court last week for fighting over a**

**mattress.**

According to the woman, she had left the mattress at her ex-lover's home after their relationship ended, but he refused to give it to her when she asked for it.

The two — McPherson and Julianne Morgan — then found themselves on the wrong side of the law after Morgan went to her ex-man's home in Kingston and used a knife to cut up the mattress. This resulted in her being physically assaulted by McPherson.

She subsequently reported the matter and Morgan was charged with malicious destruction of property while McPherson was charged with assault occasioning bodily harm.

On Friday when they appeared in court, they both pleaded guilty.

But Morgan, in her defence, told Parish Judge Maxine Ellis that she was the rightful owner of the mattress and had left it at McPherson's house.

"It's my mattress, I want it back and him don't want give it back to mi," she said while pointing out that she had only given the mattress "one stab".

McPherson, for his part, told the court that he did not really assault Morgan.

"She just appear a mi house and start cut up mi mattress and mi just hold her a little firm," he said.

"Where is the mattress now?" Judge Ellis asked.

"At home," McPherson added.

"Even after she mash it up and stab it up, you still a keep it? It is sad," the judge told McPherson. Further to that, she told him that it was very hard for her to give him a conviction in light of how stupid he had acted and given the fact that he will have to wait five years to clear his record.

"It is so weird," Ellis said.

She then told Morgan that she would be charged \$5,000 for damaging the mattress while McPherson would be charged \$5,000 for handling her too firm.  
If the fines are not paid, they will spend 10 days in jail.

**The End**