

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN COMMON LAW

SUIT NO. C.L. E-055/1987

BETWEEN FREDERICK EDWARDS PLAINTIFF

A N D THE ATTORNEY GENERAL FOR JAMAICA DEFENDANT

SUIT NO. C.L. F-155/1987

BETWEEN SHERMAN FRANCIS PLAINTIFF

A N D THE ATTORNEY GENERAL FOR JAMAICA DEFENDANT

SUIT NO. C.L. H-181/1987

BETWEEN NEALROY HARRIS PLAINTIFF

(An Infant by his mother Yvonne Smith)

A N D THE ATTORNEY GENERAL FOR JAMAICA DEFENDANT

Mr. Dennis Daley Q.C. for the Plaintiffs.

Mr. Burchenson for the Defendant.

HEARD: 29, 30, 31 JULY, 1991 30TH MARCH, 1992 AND 28TH OCTOBER, 1992

SMITH J.

These actions were consolidated pursuant to an order made by the Master on the hearing of the Summonses for Directions.

Common to all three are claims for assault and false imprisonment. In addition Francis claims in detainee and conversion.

These torts are alleged to have taken place in Gregory Park, at the Caymanas Park Police Station and at the lock-up at the Spanish Town Police Station between the 2nd of May and the 23rd May, 1987. The defendant is sued under and by virtue of the Crown Proceedings Act.

On the Plaintiffs' Case

The three plaintiffs are related. Sherman Francis and Frederick Edwards are brothers. The latter is the uncle of Nealroy Harris.

In May of 1987 Edwards and Harris were living at 166 Hatfield Road, Gregory Park and Francis on Jones Avenue, Spanish Town.

On the 2nd May, 1987 about 9:00 p.m. Edwards and Francis were at the gate of 166 Hatfield Road drinking beer and stout respectively. A police car with three policemen drove up. They were in plain clothes. The police men shouted to Edwards

"Dont move you are a dangerous man." Edwards and Harris were ordered to raise their arms and were searched. Edwards said he was asked "where is the gun? - you are a dangerous gunman who don't leave the gun an inch." He denied having a gun or knowing anything about any gun. He was boxed and hit. They were ordered into the car and driven to one Percival Downer's house on Dover Road. Downer, a friend of Edwards, was called out of his house and ordered into the car. All three were taken to Caymanas Police Station.

Edwards and Francis testified that at this station they were interrogated and in turn taken to a room and beaten on the soles of their feet.

On the 4th May, 1987 Nealroy Harris was taken by the police from his house at 166 Hatfield Road to Caymanas Police Station. He was questioned about stolen goods and arson. Said he was boxed, thumped and hit with baton during interrogation. Afterwards he was placed in a cell with Edwards, Francis and Downer.

On the 5th May, 1987 all four prisoners were taken to the Spanish Town Police Station. There Harris was put in a cell where other prisoners were, and Edwards, Francis and Downer in another cell. Two attempts were made to hold an identification parade but these attempts failed.

On the 23rd May, 1987, identification parades were held in respect of the three (3) plaintiffs. They were not identified and were accordingly released on the same day. All three went to and were examined by Dr. Dutris Bourne on the day they were released. I should have mentioned that Francis also testified that at the station his watch and wallet were taken from him and were not returned.

The Defence

During the priod of February to May, 1987 the police at the Caymanas Police Station received many reports of violent crimes - including burglaries, armed robberies and shooting with intent - committed in the Gregory Park and Waterford areas of St. Catherine.

Acting on information received the police on the 2nd May, 1987 went to 166 Hatfield Road where they arrested Edwards, Francis and Percival Downer. Edwards was questioned about firearm and told he would be taken to the station in connection with the crimes of robbery, shooting and burglary. The men were taken to the Caymanas Police Station where they were interrogated. They were told about reports

of crimes committed in the area. They were told they would be detained in connection with these crimes and that they would be placed on identification parades. The police were informed that attorney-at-law Mr. Wentworth Charles would represent the prisoners. Arrangements were made with the prisoners' attorney for him to attend the identification parade. He failed to turn up on three occasions. Witnesses were warned to attend the parades on the 11th May and on the 20th May, 1987 but none appeared. On 23rd May, 1987 the officer in charge of the parade asked the father of one of the prisoners to represent them. They were placed on parades; five witnesses were called. The witnesses failed to identify any of them. They were released the same day.

I will now consider the claims of each plaintiff:

Nealroy Harris - Variation between Statement of Claim and Evidence

In paragraph 3 and 4 of the Statement of Claim the plaintiff avers that it was a member of the security forces "named Oneil" who falsely imprisoned and assaulted him. However the evidence of the plaintiff is that he was taken into custody by Detective Melford. Paragraph 3 of the defence states that it was Constable G. Melford who took the plaintiff into custody.

Mr. Burchenson for the Defendant submitted that when the Attorney General is sued the government department and the officer who is alleged to have committed the tort must be named specifically. He referred to section 3 (1) (a) of the Crown Proceedings Act which reads:

"3 - (1) Subject to the provisions of this Act the Crown shall be subject to all those liabilities in tort to which if it were a private person of full age and capacity it would be subject -

- (a) in respect of torts committed by its servants or agents;
- (b)
- (c)

Provided that no proceedings shall lie against the Crown by virtue of paragraph (a) in respect of any act or omission of a servant or agent of the Crown unless the act or omission would apart from the provisions of this Act, have given rise to a cause of action in tort against that servant or agent or his estate."

Mr. Burchenson also referred to the 1985 White Book Vol. 1 Order 77 rule 3(1) which states that:

"In the case of a writ which begins civil proceedings against the crown the indorsement of claim required by Order 6 rule 2 shall include a statement of the circumstances in which the Crown's liability is alleged to have arisen and as to the government department and officers of the crown concerned."

In the light of these passages he urged that the plaintiff cannot succeed in his claim since there is no evidence that the tort was committed by Oniel or that Oniel was involved at any time with the plaintiff as is averred in the Statement of Claim.

Such an averment cannot be varied or modified, he submitted. For this he relied on Waghorn v. George Wimpy and Company Ltd. (1970) 1 All E.R. 474.

In response Mr. Daley for the plaintiff submitted that difficulties in serving policemen have led to the practice of suing the Attorney General alone. He referred to S. 11A of the Civil Procedure Code and contended that a plaintiff does not always have to supply the name of the policemen.

As I understand the issue, the question is - if the statement of claim had correctly alleged that the tort was committed by Constable Melford instead of Constable Oniel, would the defendant's conduct of the preparation of the case and of the trial have been any different? Another way of looking at this would be to ask the question - could an amendment be made at this stage without causing an injustice to the other side? In my view the answer is 'no' to the first question and 'yes' to the second. The plaintiff's evidence in chief is that Constable Melford was one of the party of policemen who came to his home on the 4th May, 1987. Indeed in the Defence it is stated that Constable Melford took the plaintiff into custody. The plaintiff was cross-examined and it was suggested to him that Constable Melford did not box or thump or clap or in anyway assault him.

The nature of the claim against the defendant was absolutely clear. The defendant did not call Constable Melford as a witness because he was off the island and not then available. The defendant did not seek an adjournment with a view to contacting Constable Melford.

I am firmly of the view that the variation between the pleadings (Statement of Claim) and the evidence of the plaintiff has not affected the conduct of the preparation of the defence and the trial. I hold that there has not been

so radical a departure from the case as pleaded as to disentitle the plaintiff to succeed as was in the case of Waghorn v. George Wimpy and Company Ltd. (Supra).

Assault (Nealroy Harris)

In paragraph 4 of the Statement of Claim the plaintiff avers that a member of the security force punched him in the face, chest and stomach and hit him with a baton several times on the thigh and feet and once on the left forearm. His evidence in court supports this averment.

A medical report which by consent was received in evidence apart from repeating the allegations refers only to "tenderness located in the epigastrium consistent with gastritis secondary to irregular meals in addition to anxiety."

The plaintiff was seen by the doctor on the 23rd May, 1987 the very day he was released. On the plaintiff's evidence the assault took place on the 4th of May. In the circumstances it is perhaps not surprising that the medical evidence does not indicate any finding supportive of the plaintiff's allegations of being boxed, punched and beaten with baton.

The only evidence led by the defendant to refute these allegations came from Inspector Bryant. The Inspector testified that he was not at the station when Harris was brought there. The only evidence of the Inspector relevant to this issue is his statements that when Harris was taken from the cell on the 5th May, 1987 he (the Inspector) did not "notice any injury on him" and that "if anything was done to Harris he would inform me - the Sub. Officer of the station." This attempt to refute the plaintiff's claim that he was assaulted, in my view, lacks cogency.

I must consider the plaintiff's virtually unchallenged evidence and decide whether or not the plaintiff has on a balance of probabilities established his case.

I am impressed by the demeanour of young Nealroy Harris. He gave a credible narrative of his arrest, interrogation and detention. I was particularly impressed with his evidence as he described very graphically what took place in the jeep, the guardroom and a room next to the guardroom. It will suffice, if I quoted his description of what transpired in the jeep. ".....on the way him ask me if me not telling him what happen to the thieving things, I tell him I don't know anything about thieving things. He said if I don't tell him when him get down to the station him going to let the baton whistle behind me ears." Was the metaphor

of a "whistling baton" a concoction? I hardly think so. I am satisfied that on a balance of probabilities this plaintiff has established his claim and I find that the police acted without reasonable cause.

False Imprisonment (Nealroy Harris)

Was the plaintiff told the true ground of his arrest? The plaintiff's evidence is that when the police came to his home they asked for the "one hand boy." He knew one of the police officers - Detective Melford.

He testified that the detective told one of his colleagues (a policeman) to hold him. Detective Melford he said, then moved off saying he was going inside the house to search for the stolen things. The plaintiff said he denied having any stolen goods inside his house. He went on to say that his house was searched but no such goods were found therein. Nonetheless the police, he said, persisted in asking him where the stolen goods were.

At the station Detective Melford boxed him and asked him if he was not telling him where the men put the stove. He said he was "draped up," slapped with a baton and questioned about "fridge, T.V. and stove." At one stage he said he was boxed and accused of burning down a house.

Mr. Burchenson submitted that the plaintiff must have known that he was being held in custody on the suspicion of stealing and burning down a house. Mr. Daley on the other hand submitted that there is no evidence to contradict plaintiff's evidence that he was not given any reason for his arrest. He submitted that it is not enough for the police to say "I want you for the crime of robbery etc." He relied on R. v. Telfer (1976) C.L.R. 562. In that case Telfer was sought for interview in connection with a burglary at named premises. A police officer saw Telfer at the scene of a fire. He remembered merely that Telfer was wanted for burglary. He could have obtained such details within 15 minutes, but he did not. Instead he proceeded to invite Telfer to go with him to the station saying: "You're wanted for burglary, will you come with me to the Central Police Station so someone can interview you? Telfer refused. The police then said: "I am arresting you on suspicion of burglary." In the course of being arrested Telfer assaulted the police officer. It was held that the arrest was unlawful. That a person being arrested had to be given, in the circumstances sufficient details to enable him

to understand what was the burglary for which he was suspected.

In the Telfer case the court was of the view that in the circumstances of that case the police did not act reasonably in making the arrest.

In the instant case the plaintiff's evidence as to the circumstances of his arrest remains unchallenged. There is nothing in the surrounding circumstances to identify any particular act of larceny or arson on any particular occasion.

I am of the view that the plaintiff has shown by his evidence that the police acted without reasonable or probable cause in arresting him. Such arrest was therefore unlawful. It follows that his imprisonment was contrary to law.

Unreasonable Delay

Mr. Daley argued that the detention of the plaintiff in custody for weeks without taking him before the court was "totally unreasonable." This submission was made in respect of all three plaintiffs and the circumstances are the same. It will be convenient to deal with them together, at a later stage.

Frederick Edwards - Assault

This plaintiff's evidence is that on the 2nd May, 1987 whilst at his gate Detective Oniel boxed him and that another police stuck him in the side with a gun. At the station he said the police took him into a room questioned him about a gun and beat him on the soles of his feet with a baton. He received four blows on each sole. The beating lasted for fifteen minutes and cramped his feet. His soles were swollen and painful. He was visited by members of his family on several occasions. When he was released on the 23rd May he went straight to the doctor.

Detective Oniel gave evidence and denied that he boxed or beat the plaintiff. He swore that the plaintiff was not beaten on his soles or at all.

During cross-examination a "Charge and Prisoners' Property Book" was produced and shown to the plaintiff. He identified his signature at entry No. 28 for 2nd May, 1987 captioned "physical condition of prisoner brought into custody." He agrees that his signature appears under the statement "accused made no complaint of being assaulted by police."

His evidence as I understand it, is that at the time when he signed this entry he was not yet beaten with the baton. This would therefore only affect his evidence that he was assaulted whilst at his gate.

As to the beating at the police station the plaintiff under cross-examination said that at the time he went to the doctor his feet were still swollen and that he complained of pain in the soles of his feet to the doctor. The medical certificate which was received in evidence by consent, does not disclose any finding consistent with this complaint. Indeed the finding of the doctor were:

"On examination on May 23rd, 1987 the relevant findings were;

Mentation - very anxious and worried looking man

Eyes - Hyperaemic Injected Conjunction

Skin - fungal rash involving back of neck and shoulders and extending to the back just above the Scapulae.

Abdomen - very tender and tense in Epigastrium

The finding are consistent with diagnoses of Gastritis Conjunctivitis, Fungal Skinrash, Tension, headache and anxiety.

He was treated with Anatacids, Analgesis, Antibiotic eye drops, and Anti-fungal ointment."

A retired Inspector of Police Mr. Louis Joseph Bryant who was at the time the second in charge at Caymanas Police Station, also gave evidence. He was at the station when the plaintiff along with others were taken there. He was present when they were interrogated. He testified that he did not see this plaintiff Edwards or Mr. Sherman Francis another plaintiff being beaten. Each was not he said taken to a separate room for interrogation. He denied that Edwards or Francis was limping.

Having examined all the evidence carefully I cannot say that I am satisfied that on the balance of probabilities this plaintiff Edwards has established his claim that he was assaulted by the police.

False Imprisonment - Was Edwards told the true ground of his arrest?

The plaintiff said that when the police accosted him at his gate they said to him "don't move, you are a dangerous gunman." He was searched and asked where the gun was. One of the policemen said "you don't leave it (gun) an inch." The plaintiff said he denied knowing "anything about a gun." He was subsequently placed in the police vehicle and ultimately taken to the Caymanas Police Station. At the station the police continued questioning him about the gun.

Det. Oneil who gave evidence for the defendant stated that in 1987 he was in charge of the C.I.D. at Caymanas Police Station.

On 28th May, 1987 one Mr. Renford Brown of 141 Hatfield Road reported that whilst at home gunmen held him up robbed him and fired shots at him. Mr. Brown, he said, gave him descriptions of the men.

On the 15th April, 1987 he received another report from one Mr. Goulbourne who told him that men armed with guns forced open his windows and came in on him. He chopped one of them and they ran firing several shots at him. He also gave descriptions of the men.

Detective Oneil testified that on the 2nd May, 1987 he received information that men answering the descriptions of these gunmen were at 166 Hatfield Road. He got the name of one of the gunmen, he knew the name. A party of policemen including Oneil went to 166 Hatfield Road. There Oneil saw Frederick Edwards whom he knew before with two other men. The police accosted those men. They were asked to put their hands in the air and were searched. Edwards was asked "what has happened to the gun you had?" He denied having a gun. Detective Oneil said he told them he was taking them to the station. Edwards asked why and they were told to be questioned in respect of "robbery, shooting and burglary."

All three men were taken to Caymanas Police Station. They were placed in the guardroom where they were interrogated. Detective Oneil said he told them of the reports he had received and questioned them about the reports and firearms.

The men he said fit the description given him and were therefore told that they were being detained for robbery, burglary and shooting with intent and that they would be placed on identification parades.

The plaintiff agreed that he was interrogated at the station. I accept Detective Oneil's evidence that the plaintiff was asked questions about the specific robberies, shooting and burglaries. I also accept his evidence that the men were told they were being detained in respect of these crimes and that they would be placed on identification parades. I would therefore hold that Frederick Edwards was sufficiently informed of the reason for his arrest.

It was Detective Oneil's evidence that an informant told him that Edwards was seen going towards a train line with a T.V. on his head and a big gun in his hand. I also hold that this plaintiff has not shown that Cons. Oneil had no reasonable or probable cause to suspect that he had committed the aforementioned offences.

Delay

The plaintiff was arrested on the 2nd May, 1987 and released on the 23rd May, 1987. He was in custody for 21 days. I will return to this.

Sherman Francis - False Imprisonment - The Arrest

This plaintiff testified that when the police ordered him into the police car he told them he was coming from work but they would not listen to him. At the police station he was taken into a room, ordered to take off his shoes and beaten on bottom of feet with baton. Said he was not told the reason for his arrest. Cons. Oneil told the court that he also questioned Francis about robberies and burglaries committed at 141 Hatfield Avenue and 108 Second Avenue. He said he had got information that the men involved in these crimes were seen at 161 Hatfield Avenue. Here too as in the case of Edwards, I am of the view that the police acted without malice and with reasonable and probable cause in arresting the plaintiff and that the plaintiff was sufficiently informed of the reason for his detention.

Assault

The plaintiff Sherman Francis testified that at the Caymanas Police Station he was taken into a room, ordered to take off his shoes and beaten with baton by the police on the soles of his feet. The beating lasted for about 8-10 minutes and he received 6-7 "hard blows." He could not walk thereafter and had to hop back to the cell block. He does not know any of the police who beat him. He went to the doctor the same day he was released.

Detective Oneil swore that he did not beat Francis. He did not see anyone beat him. Inspector Bryant who was in charge of the Caymanas Police Station said that none of the men including Francis complained to him of being beaten. The Inspector did not notice any injury to any of them. He was there when Francis was brought there and interrogated. A medical report was received in evidence as Exhibit 3 which reads:

"This is to certify that Sherman Francis reported to me that on Saturday May 2nd, 1987, he was detained by policemen and taken to Gregory Park Police Station, where he was allegedly beaten on the sole of his feet with a baton by the policemen. He also reported that he was detained from May 2nd - May 23rd and while in jail a fracas occurred between the prisoners and he was

hit in the chest with the back of a knife by a prisoner. The area became very swollen but swelling has since being reduced but area is still tender. He also complains of backache secondary to sleeping on concrete flooring and headache with eye pain.

On examination on May 23rd 1987 the relevant findings were,

Mentation - Very anxious man

Chest - tenderness over medial aspect of anterior Right First Rib

The findings are consistent with trauma, tension headache and anxiety

He was treated with analgesics. The chest injury is not serious."

This medical evidence does not support his evidence that he was beaten on the soles, this as I have said before is perhaps explicable. It might be useful to note that Francis testified that he was hit in the chest by an inmate. The medical evidence supports this.

Having considered all the evidence and the submissions of both counsel I cannot conclude that the plaintiff has on a balance of probabilities made out his claim as contained in his statement of claim.

Detinue/Conversion

This plaintiff also claims that his watch and wallet were taken from him at Spanish Town Police Station and have not been returned despite his request in that regard. However under cross-examination the plaintiff admitted that he signed an entry dated 2nd May, 1987 in the Charge and Prisoners' Property Book which reads "Property taken from person Nil - elsewhere Nil." Without more I cannot in this regard make a finding favourable to the plaintiff.

Twenty-one Days in Custody Pending Identification Parade

As I have said before the facts and the law on this issue are common to all the plaintiffs and so the claim of each can be conveniently dealt with together.

The undisputed fact is that Edwards and Francis were taken into custody by the police on the 2nd May, 1987 and Harris on the 4th May, 1987. They were all released on the 23rd May, 1987 after the holding of identification parades on which none of them was identified.

Edwards said that after one week in custody he was told by Detective Oneil

that an identification parade would be held. The parade was not held on the date it was first scheduled for. He said he was not given any reason for the putting off of the parade.

Francis also denied that he was told on arrest that he would be placed on an identification parade. He too said he was in custody for about one week before he heard of identification parade. He testified that two days before the first parade should have been held Detective Oneil told him about same. The parade was not held and he was not told why. He swore that it was his father who told him that the parade was put off to the 20th May. No parade was held that day. It was his father, he said, who again told him that the parade was put off this time for the 23rd May. On the 23rd two witnesses failed to identify him and he was released.

Harris testified that the first he heard anything about identification parade was from his sister. He could not remember the date but the parade was not held then. About five days after, he said his mother told him that the parade would be held on the 20th May. The police did not tell him why it was put off. On the 23rd May, 1987 the police, he said, came and told him "to get some men out of the prison to go to the parade," he did. The parade was held. Two witnesses were called. Both failed to identify him and he was released.

I have already found that the plaintiffs Edwards and Francis have not established that the police acted maliciously or without reasonable and probable cause in arresting them but that Harris whose evidence was not refuted has so established.

It is still the law, as I understand it, that even where the initial detention was justifiable if the period of detention is found to be unreasonable an action for false imprisonment will succeed.

Mr. Daley submitted that there was no reasonable and probable cause for detaining the plaintiffs for twenty one days and thus the plaintiffs must succeed in the claim for false imprisonment. He submitted that three weeks must be "totally unreasonable." There is a duty on the police officer to take the person arrested before the court without delay i.e. within a reasonable time, see Section 15(3) (D) of the Constitution. The question is what period of detention would constitute

action "without delay?" The Court of Appeal in Peter Flemming v. Det. Cpl. Myers and the Attorney General SCCA No.63/85 delivered on the 13th December, 1989 was asked to indicate what was or was not a reasonable time but declined so to do. Carey, P. (Ag.) said "No hard and fast rule of inflexible application can be laid down: the matter can only be resolved on a consideration of all the facts of the case." Forte, J.A. put it this way, "All the circumstances of the particular case should be examined in order to determine whether the person arrested was brought before the Court within a reasonable time" Morgan J.A. was of the same view: "In my view what is reasonable is a question of fact and must be determined on the circumstances of each case.....it is for the trial judge on an examination of all the circumstances as elicited from the police to determine reasonableness."

What is the evidence of the police explaining the delay?

Inspector L.J. Bryant testified that during the night of the 2nd of May, 1987 Detective Oneil in the hearing of the plaintiffs asked him to hold identification parades "as early as possible" in respect of the plaintiffs who were being held on suspicion of offences including armed robberies, burglaries, shooting with intent and cattle stealing. A few days later, he said Detective Oneil gave him files with statements "pertaining to the suspects." Other police officers also gave him similar files. He went in search of the persons who gave the statements and some were warned to attend a parade.

On 8th May, 1987 he went to the Spanish Town lock-ups, where the plaintiffs were detained, and informed them that an identification parade would be held on the 11th May, 1987. The suspects, he said, told him that they would like their Attorney-at-law, Mr. Wentworth Charles to represent them on the parade. When informed of the parade Mr. Charles promised to be there.

On the day set for the parade neither the witnesses warned nor Mr. Charles turned up. The parade was put off for Wednesday the 20th May, Mr. Charles as well as the plaintiffs was informed of the new date, and the witnesses warned.

Again on the date set, neither Mr. Charles nor the witnesses were present. Inspector Bryant said he told the plaintiffs that the parade would be postponed to the 23rd May, 1987 and that that would be the last attempt. He again informed Mr. Charles and warned the witnesses. On the 23rd May, 1987 Mr. Charles was absent; five out of twelve witnesses were present. A relative of one of the plaintiffs

represented them. None of the suspects was identified by any of the witnesses. The suspects were accordingly released.

Under cross-examination the Inspector said he made several trips to the addresses given by the witnesses. Some were at work when he visited the addresses.

The evidence adduced tells the story of one man - Inspector Bryant going out in search of all the witnesses. Those who were contacted were warned to be at the police station for the purposes of the identification parade. Was this enough? I think not.

It seems to me that in our society where public transportation is difficult to access, the police is obliged to do more than merely to warn witnesses to be present at the parade where suspects are being held in custody. It is not unreasonable to expect that the police should make some effort to provide transportation for the witnesses. Even if this was not done on the first occasion, certainly on the second attempt to hold the identification parade the police would be expected to make every reasonable effort to secure the attendance of the witnesses. There is no evidence before me any such effort was made.

It is true that quite often the police themselves have transportation problem, but there is no evidence to suggest that this was the situation in the instant case. I am also very much of the fact that the police often have to carry out their duties under great difficulties which are both logistic and legal. However in my view, it cannot reasonably be said that in all the circumstances the delay was unavoidable. Finally it cannot be gainsaid that the holding of identification parades is an "important adjunct to the administration of justice" but this fact must be balanced with the vital consideration that no man is to be deprived of his liberty save in accordance with the law.

In the end I am of the view that the plaintiffs must succeed in their claim for false imprisonment.

Frederick Edwards

False Imprisonment - General Damages

He was in custody for 21 days. He was in a small cell about 12' x 8'. Fifteen inmates were in this cell. Only two concrete bunks were in the cell. He had to sleep sitting or standing. The floor was "messy" and wet. It was not well lit and

was infested with rats and roaches.

The medical evidence indicates that he suffered from gastritis, fungal skin rash and anxiety.

In determining what sum would reasonably compensate the plaintiff for the period during which he was unlawfully detained, consideration must be given to the fact that in any event it would take some time for the police to make proper arrangements for the holding of the identification parade. In the circumstances of this case a period of up to seven (7) days would not, in my view, be unreasonable. I am of the view that a sum of \$60,000 would constitute an appropriate award.

Special Damages

Doctor's fees	\$80.00
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Medication as per claim	5.00
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Transportation as per claim	3.20
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Loss of earnings. The evidence is that the plaintiff is a self employed electrician and was earning about \$400 per week at the time of his arrest. I think this claim is reasonable. I will allow it 1,200.00

Total amount allowed special damages	<u>\$1,288.00</u>
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Sherman Francis

False Imprisonment - General Damages

He was in the same cell as Edwards and for the same period of time. There is no reason why I should depart from the course followed in Edwards' case.

I will award the sum of	\$60,000.00
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Special Damages

Doctor's fees	\$80.00
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Transportation to Doctor	3.20
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Medication	15.00
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Loss of earnings - The claim is for 12 weeks at \$430.00 per fortnight. He said that he lost the job he had at the time of arrest. It took him 4½ months to get another job. He is now employed as a security guard and was employed as such at the time of detention. I am inclined to think that without any evidence as to efforts made to secure another job the period claimed should be discounted. I think it

would be reasonable to allow 3 weeks in addition to the time spent in custody -
that is a total of 6 weeks at \$430 per fortnight \$1,290.00
Total amount allowed for special damages \$1,388.20

Nealroy Harris

General Damages

1. Assault - The plaintiff said he was boxed, punched and beaten with a baton. He suffered pain in the stomach as a result of the punch. Having considered the submissions of both counsel I am of the view that an award of \$13,000.00 would be adequate to compensate him.
2. False Imprisonment - Harris was in custody for 19 days. The cell was small, cold and wet, he said. Sixteen prisoners shared the cell with him. He slept on concrete floor. The doctor diagnosed gastritis secondary to irregular meals and anxiety. I am of the view that in these circumstances an award of \$54,000.00 would be reasonable.

Special Damages

Under this head \$80.00 is claimed for doctor's fees; \$15.00 for medication and \$3.00 for travelling to the doctor. The claim is supported by evidence. The sum of \$88.00 is awarded.

Conclusion

Suit No. C.L. E-055 of 1987

Judgment for the plaintiff Edwards in respect of his claim for false imprisonment. General damages assessed at \$60,000.00 with interest at 4% from 5th August, 1987 to the date of judgment.

Special damages - \$1,288.20 with interest at 4% from the 2nd May, 1987 to the date of judgment.

Costs to the plaintiff to be taxed if not agreed.

Suit No. C.L. F-155 of 1987

Judgment for the plaintiff Francis in respect of his claim for false imprisonment.

General damages assessed at \$60,000.00 with interest at 4% from the 5th August, 1987 to the date of judgment.

Special damages - \$1,388.20 with interest at 4% from 2nd May, 1987 to date of judgment.

Costs to the plaintiff to be taxed if not agreed.

Suit No. C.L. H-181 of 1987

Judgment for the plaintiff Harris in respect of his claims for assault and false imprisonment. Damages assessed as follows:

General Damages - \$67,000.00 with interest at 4% from 5th August, 1987 to the date of judgment.

Special damages - \$88 with interest at 4% from the 4th May, 1987 to date of judgment.

Costs to the plaintiff to be taxed if not agreed.