

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE FULL COURT

SUIT No. 1987/M10

COR: The Hon. Mr. Justice Patterson J.
" " " " Walker J.
" " " " Panton J.

REGINA V. The Director of Public Prosecutions
and The Commissioner of Correctional Services ex-parte Donald
Anthony Bevin Thompson.

Howard Hamilton Q.C. & Earl Witter, instructed by Carlton
Williams for the applicant.

Glen Andrade Q.C., Deputy Director of Public Prosecutions
and Garth McBean for the Director of Public Prosecutions.

Patrick Robinson, Jeff Madden & Judith Brown for the
Commissioner of Correctional Services.

June 10, 11, 12, 15, 16, 17, 18, 1987

Patterson, J.

The applicant moved the Court firstly, for the
issuance of a writ of habeas corpus ad subjiciendum and,
alternatively, for his discharge from custody by virtue of
the provisions of Section 10 of the Fugitive Offenders Act,
1881.

The Court, having heard the submissions of counsel
for the applicant and counsel for the respondents, dismissed
the motion and promised to put its reasons in writing at a
later date. In fulfilment of that promise, Walker J. has
written the leading reasons for judgment which I have had
the privilege of reading, and I express my agreement with it.

However, there is just one point that I shall deal
with. Mr. Andrade in his submissions to the Court, expressed
his disapproval of the procedure adopted by the applicant
in applying for the writ of habeas corpus ad subjiciendum.
As it transpired, the applicant filed an ex-parte summons,

the relevant part of which reads as follows:-

"LET ALL PARTIES CONCERNED attend a Judge in Chambers at the Supreme Court, King Street, Kingston on the 6th day of February, 1987 at 10:00 o'clock in the forenoon or as soon thereafter as Counsel may be heard to show cause why a writ of Habeas Corpus should not issue directed to the Commissioner of Corrections to have the body of the said Donald Anthony Bevin Thompson before a Judge in Chambers at

Dated 5th day of February, 1987."

The ex-parte summons was heard by a Judge in Chambers on the 6th February, 1987 and the form of order filed reads in part:-

- "1. Leave granted to apply to the Full Court for a Writ of Habeas Corpus ad Subjiciendum to issue directed to the Commissioner of Correctional Services to have the body of DONALD ANTHONY BEVIN THOMPSON brought before the said Court.
2. Such application to be made by Notice of Motion.
3. A copy of this Order and a copy of the aforesaid Notice of Motion together with copies of all affidavits, whether sworn to by the applicant or others and other documents if any which is proposed to be used at the hearing of the application shall be served on the learned Director of Public Prosecutions and the learned Attorney General representing the Commissioner of Correctional Services and the Commissioner of Police.
4.
5.
6."

