[2026] JMSC Civ 47

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

CIVIL DIVISION

CLAIM NO. SU2025CV04314

IN THE MATTER of The Integrity Commission Act, 201 7

AND

IN THE MATTER of an application by Zavia Mayne for Administrative Orders

BETWEEN	**ZAVIA MAYNE**	**APPLICANT**
AND	**CRAIG BERESFORD**	**FIRST RESPONDENT**
AND	**KEVON STEPHENSON**	**SECOND RESPONDENT**
AND	**RONEIPH LAWRENCE**	**THIRD RESPONDENT**
AND	**INTEGRITY COMMISSION**	**FOURTH RESPONDENT**

IN CHAMBERS

Mr Nigel Jones and Ms Kashina Moore instructed by Nigel Jones & Company for the Applicant

Mr Kevin Powell KC, Mr Sundiata Gibbs and Ms Annay Wheatle instructed by Hylton Powell for the Respondents

Heard: **April 13 & 28, 2026**

JUDICIAL REVIEW − APPLICATION FOR LEAVE FOR JUDICIAL REVIEW OF PROSECUTORIAL DECISION UNDER THE INTEGRITY COMMISSION ACT

WINT-BLAIR J

Introduction

[1] This is an application for leave to apply for judicial review of the decision to prosecute the applicant. The applicant seeks leave to challenge that decision before the criminal proceedings against him are determined. The application, therefore, asks this court to intervene in a matter in which a charge has been laid, and the applicant is already before the criminal court.

[2] The concern of this court is not whether the applicant is guilty, nor is it whether the prosecution will ultimately succeed. Those are matters for the trial court. The issue is whether the applicant has shown an arguable ground, with a realistic prospect of success, sufficient to justify judicial review of the decision to prosecute. The applicant must also show that the claim is not defeated by the availability of any adequate alternate remedy, and whether there is an adequate alternate remedy within the criminal process itself. For the reasons which follow, I am not satisfied that leave should be granted.

The rule of law

[3] The rule of law requires that, subject only to any immunity or exemption provided by law, the criminal law applies equally to all persons. It is to be applied without fear or favour.

[4] Where the person charged holds high public office, the rule of law does not discriminate. Public office must neither make a person a target of the criminal law nor must it make that person immune from it. The criminal law is not concerned with status or rank. The question for the Court is whether the applicant has shown,

as a matter of law, that this Court should intervene in the decision to prosecute him.

The threshold for leave

[5] Leave is a threshold requirement. It is intended to prevent claims without sufficient legal foundation from proceeding, while preserving the Court's supervisory jurisdiction. The law is too well known to be restated here in full. The applicant must show an arguable ground for judicial review with a realistic prospect of success. The threshold of arguability is a low one.

[6] The test is flexible in its application. The court considers the nature and gravity of the issues raised. A serious allegation must be carefully considered, but seriousness alone does not relieve the applicant of the obligation to show an arguable basis for judicial review.

[7] Allegations concerning the misuse of prosecutorial power are serious. But the seriousness of the allegation is not proof of it. Nor do allegations convert a complaint about the strength, relevance or sustainability of the prosecution's case into arguable grounds for judicial review.

[8] The court does not grant leave merely because a case may become arguable later. Potential arguability is not enough. Nor is speculation. Nor is it sufficient to hope that the full hearing of the judicial review claim may strengthen the application.

Judicial review of prosecutorial decisions

[9] A decision to prosecute is not immune from judicial review. The Privy Council has made that clear in **Sharma v Brown-Antoine**[1] and again in later cases. The

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[1] [2007] 1 WLR 780

surrender of independent prosecutorial discretion to political influence, pressure, bad faith, or an improper purpose may justify the intervention of the Court.

[10] If there were material showing that the prosecutor acted under political direction, surrendered his independent judgment, acted dishonestly, or proceeded for an improper purpose, the Court would have to consider whether the case was exceptional enough for the grant of leave.

[11] The fact that a prosecutorial decision is reviewable in principle does not mean that it is readily reviewable in law. Judicial review of a prosecutorial decision is a highly exceptional remedy. The Privy Council in **Director of Public Prosecutions v Chris Durham and Ors**[2] emphasised that the court must ask whether the complaints can be adequately resolved within the criminal process itself, and that judicial review is generally a remedy of last resort.

[12] The discretion to prosecute is wide. It involves a judgment about the evidence, the public interest, the proper charge, the prospects of proof, and the overall administration of criminal justice. Those matters belong primarily to the prosecutor and, where the prosecution is ongoing, to the criminal trial court**.**

[13] The decision to prosecute is also multifaceted. It may rest on matters of law and prosecutorial judgment. This court is not properly placed to assess those matters as if it were the prosecutor or the trial judge.

[14] There is also a constitutional boundary because it is the prosecutor who decides whether to bring the charge. The criminal court decides whether the charge is proved. Judicial review should not be used to shift the trial court's function to the civil court before the trial has occurred, as this undermines the fairness of the trial. The point is not that the prosecutor is above review. The point is that the applicant

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[2] [2024] UKPC 21

must show, by evidence, that his complaint in this application cannot be adequately addressed in the criminal trial process, thereby making this Court's intervention necessary.

The applicant's complaints

[15] The applicant's complaints concern the relevance, reasonableness and sustainability of the prosecution. Those complaints do not, without more, disclose an exceptional public law ground. They go to the merits of the criminal case. They raise questions about whether the evidence is admissible, sufficient, and viable, and whether the prosecution can prove its case. Those are matters for the trial judge.

[16] The applicant has not shown that the decision to prosecute was made dishonestly. He has shown no evidence of mala fides, political interference or political pressure. He has not shown that the prosecutor surrendered independent judgment. He has not shown that the prosecution was brought for a collateral purpose.

[17] The absence of this evidence means that the Court is not dealing with an arguable case concerning the exercise of prosecutorial power. The court is being asked to assess the strength of the prosecution during the criminal proceedings. That is not the function of the Court in exercising its supervisory power in judicial review.

[18] A charge may be lawfully laid even though the prosecution must still prove it. The laying of a charge is not a judicial finding that the charge is proved. It is the commencement of a process in which the prosecution must establish guilt to the criminal standard of proof.

[19] It follows that the applicant cannot succeed merely by saying that the charge may fail. If the charge fails, it will fail in the criminal court. If there is no case to answer, that submission is to be made to the trial judge. Judicial review is not the forum for addressing those complaints.

The criminal court is the proper forum

[20] The criminal court is not powerless to deal with the matters raised by the applicant. If the evidence is irrelevant or inadmissible, the trial judge may exclude it. If the prosecution fails to establish a case to answer, the trial judge may so rule. If the proceedings are unfair or amount to an abuse of process, the trial judge may stay them.

[21] The applicant says, in substance, in this application, that the prosecution should not have been brought or should not be permitted to continue. However, the criminal court has the jurisdiction to address that contention and any issues raised about the fairness of the trial. This is not a lesser position; it is the appropriate position as the power to address the applicant's complaints is being exercised by the court that has control of the criminal proceedings, the evidence, the admissibility issues, and the fairness of the trial.

[22] The applicant will also have the protection of the criminal standard of proof. The prosecution must prove its case beyond a reasonable doubt. That is the law. It is not displaced by the applicant's preference for mounting a challenge to the prosecution in judicial review proceedings. The applicant has failed to show that the criminal court cannot adequately protect him and, therefore, that the court provides a suitable alternate remedy.

The requirement of a hearing

[23] The applicant also submits that the prosecutorial discretion could not properly be exercised without an in-person hearing before a charge was laid. The argument is that the correspondence which flowed between the parties was insufficient.

[24] That submission is not supported by authority or by the Integrity Commission Act before the Court. If Parliament had intended to make an in-person hearing a condition precedent to the laying of a charge, under that statute, one would expect clear language to that effect. No such language appears in the Integrity

Commission Act concerning the section under which the applicant has been charged. The Court is not prepared to read such a condition into the section as a condition of prosecutorial power, where the statute has not imposed it in this case.

[25] The argument also conflicts with the nature and scope of prosecutorial discretion. A prosecutor is expected to act independently, lawfully, and fairly. In terms of the statute, it should be noted that the power to prosecute is granted to the Director of Corruption Prosecution and is only subordinate to the power of the Director of Public Prosecutions when exercised under the provisions of the Integrity Commission Act.

Adequate alternative remedy

[26] The availability of the criminal process is therefore dispositive of this application. In the context of prosecutorial decisions, that principle has particular force because the criminal process contains its own protections and remedies for persons charged, such as a challenge to the admissibility and relevance of the evidence. A submission that there is no case to answer. The applicant may also apply for a stay if the proceedings are an abuse of process. If convicted, he may pursue his right to appeal.

[27] It follows that the applicant has not shown why judicial review is the appropriate remedy. The criminal process provides an adequate alternate remedy and that is a discretionary bar to the grant of leave and, in this case, it is a complete answer to the application.

Disposition

[28] The applicant has not made out the ground of an arguable ground for judicial review with a realistic prospect of success. He has not shown that the respondents conduct involves dishonesty, mala fides, political interference, political pressure, surrender of independent prosecutorial discretion, or any comparable abuse of prosecutorial power.

[29] His complaints concern matters which the criminal court is equipped and entitled to determine. That court is the proper forum to decide questions of admissibility, sufficiency, sustainability of the charge, and abuse of process. The application is also defeated by the availability of an adequate alternative remedy in the criminal proceedings. For these reasons, leave to apply for judicial review is refused.

[30] Orders

1. Leave is granted for an order of certiorari quashing the Investigation Report dated July 14, 2025.

2. Leave is refused for an order of certiorari quashing the ruling of the Director of Corruptions Prosecution that the Applicant be charged for breaching section 43(1)(b) of the Integrity Commission Act.

3. No order as to costs.

4. This order is to be served forthwith on the Clerk of Court, for the Corporate Area Criminal Court.

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Wint-Blair J