

## ‘My Dream is to Fulfill Your Dream’ — Prime Minister Andrew Holness

JIS



Photo: Dave Reid

Prime Minister, the Most Hon. Andrew Holness, is presented with the instrument of conferral of the Order of the Nation (ON) by Chief Justice and Chancellor of the ON, Hon. Zaila McCalla, during Thursday’s (March 3) swearing in ceremony at King’s House.

Declaring that “My dream is to fulfill your dream”, newly sworn-in Prime Minister Andrew Michael Holness shared his vision for a Jamaica founded on partnership, hope and opportunity, optimism, accountability, safety and security, volunteerism, ease of doing business and economic stability.

Mr. Holness made the declaration while delivering his inaugural address at his Swearing-in Ceremony at King’s House on March 3. “We cannot be satisfied with things as they are. We must create a Jamaica where there is hope and opportunity; where we can encourage our children to dream big, and to be optimistic about their life chances. We must create a Jamaica where our young people can find meaningful work. A Jamaica where you can feel safe to live, work and raise your children. A Jamaica that is booming, and investors and entrepreneurs can have a confident outlook on the economy. A place where we can retire and truly enjoy as paradise,” Mr. Holness outlined.

The youngest Prime Minister to serve Jamaica, Mr. Holness added that, “We must teach our children that there is no wealth without work, and no success without sacrifice. We must remove the belief from the psyche of our children that the only way they can step up in life is not by how hard they work, but by who they know.”

Vowing to do what is right for the Jamaican people, the Prime Minister struck a conciliatory tone as he extended a hand to the Opposition as part of his Partnership for Prosperity mandate.

“The people of Jamaica did not vote in vain. They expect a Government that works for them and by the same expectation, an Opposition that is constructive. This historic election delivered the smallest of majority but also the clearest mandate. Fix the government. With this mandate there is no majority for arrogance. There is no space for selfishness. There is no place for pettiness. There is no room for complacency and there is no margin for error,” Mr. Holness emphasised.

Prime Minister Holness further asserted that with good governance and a prospective outlook, Jamaica could emerge as a booming economy and a prosperous society, within a decade or less.

“My vision is to turn Jamaica into the centre of the Caribbean. A centre of finance, trade and commerce, technology and innovation, and the centre of arts, culture and lifestyle regionally. This is all possible within our lifetime. Despite any negatives, Jamaica still has a powerful and alluring brand amplifying our voice and influence in the world,” Mr. Holness said.

Mr. Holness was sworn in by Governor-General His Excellency the Most Hon. Patrick Allen at King’s House on March 3, 2016.

# 68 participate in regional media law workshop



The Observer

BRIDGETOWN, Barbados — A cohort of 68 media practitioners, media and law students from 13 Caribbean Community member states participated in a Regional Media Law Seminar held over February 23-24 at the Radisson

Aquatica Hotel in Barbados.

The main focus of the two-day seminar was to educate journalists on their rights and the legal parameters within which they are expected to work.

Ten media and law practitioners from some of the region's most prestigious institutions made presentations on a range of topics, including Educating the Public about Their Rights; The Rights of Journalists; Confidentiality of Sources; Defamation in the Context of Media Law; The Media and Intellectual Property; Broadcast Journalism and Responsible Communication on Matters of Public Interest; Parliamentary and Government Reporting; Reporting on Family Matters and Gender Issues; An NGO Perspective; Online Reporting; and The Impact of the Media on E-Commerce.

The Regional Media Law Seminar was funded by the Canadian Government under the Improved Access to Justice in the Caribbean Project (IMPACT Justice) as part of the Public Legal Education Component.

Since 1980, the Canadian Government has been supporting justice reform in the Caribbean. Through continuous commitment, the Government of Canada has provided over \$BD62 million to fund two projects, that were presented to them by the Caribbean Court of Justice and the University of the West Indies.

“Stakeholder consultations over the last year informed the IMPACT Justice team of the need to address the role of the media in informing the public about their rights and also address the media’s own need for information about their rights and responsibilities in a changing world,” Dr Margaret Gail Miller, senior director to the Caribbean Regional Programme and director for Canada to the Caribbean Development Bank, said during her opening remarks on the behalf of the Canadian Government.

She added that, with the upsurge of citizen journalism, it is crucial for traditional media houses and practioners to raise the bar and practice ethical, accurate and fair journalism.

“Long gone are the days when the print media and other traditional news providers were the predominant source of information to the public. With the growth of social media, and at a time when any member of the public armed with a smartphone can become the lead reporter of their own ‘newscast’, it is even more critical for journalists and broadcasters to set the example of ethical, accurate and fair journalism,” Miller said.

— Racquel Porter

## **Appeal Court Overturns Ruling That Favoured Former Customs Official In Car Seizure Case**

The Gleaner

Barbara Gayle

The Court of Appeal has overturned a Supreme Court ruling that favoured a former director of customs in the contraband enforcement department, Omar Guyah, who has been fighting the seizure by customs officials of a 2007 Suzuki motor car.

The upper court held that the vehicle was "uncustomed goods".

Although the Supreme Court had ruled otherwise in Guyah's favour, the former customs director still appealed in a challenge of the judge's refusal to also declare that the seizure of the motor car was unreasonable and an abuse of Customs' authority.

He also complained that since the judge ruled in his favour in declaring that the seizure was wrong in law, the judge was wrong to deny him recovery of costs from the commissioner of Customs and the attorney general, both of whom were respondents in the case.

The respondents filed a counter-notice of appeal, asking the court to overturn the Supreme Court ruling.

Two weeks ago, the court dismissed Guyah's appeal, allowed the respondents' counter-notice of appeal, and set aside the orders made in the Supreme Court.

The appeal court then declared that the motor car constituted uncustomed goods at February 12, 2012, and was subject to seizure by customs officials.

Guyah was ordered to pay two-thirds of the legal costs of the commissioner of Customs and the attorney general on the appeal, and two-thirds of the costs on the counter-notice of appeal as the respondents were not successful on one of the grounds filed. No order for costs was made for the proceedings in the Supreme Court.

### **FINALLY DISMISSED**

Guyah's civil suit stemmed from the seizure of the motor car and his arrest by officers from the Revenue Protection Division in March 2012 on a number of charges, including corruption and breaches of the Customs Act.

He was charged in connection with the Suzuki motor car and 13 other vehicles, which Guyah and other customs officials seized in 2010. The Court of Appeal pointed out in its written judgment that the prosecution of Guyah languished in the Corporate Area Resident Magistrate's Court until the case against him was finally dismissed in February 2015.

In November 2009, the Suzuki motor car was unloaded from a ship and placed in a customs-bonded facility operated by wharfingers at Kingston Logistics Centre. The importer took no steps to clear it.

In 2010, customs officials seized 14 motor vehicles, including the Suzuki motor car, and placed them in the facility operated by Kingston Logistics.

The Customs commissioner issued forfeiture orders for the motor vehicles, but no attempt was made by the importers to set aside the orders or clear the motor vehicles, which continued to accrue charges.

Kingston Logistics sent a letter to the commissioner in January 2011, asking that the motor vehicles be treated as abandoned. The commissioner responded in March 2011 and gave directions as to the process to be used for clearing them.

The Suzuki motor car was appraised by Customs at a value of US\$6,800, and duties and taxes were assessed at J\$560,036.39. Guyah paid the duties and taxes in April 2011, and the vehicle was released by Customs to Kingston Logistics.

"The release was on the basis that the customs department had sold it to Kingston Logistics by way of auction, although that did not in fact occur," the Court of Appeal said.

On April 27, 2011, Kingston Logistics issued a letter certifying that it had sold the vehicle to one Audrey Carter, and in June 2011, Carter had the motor vehicle licensed and registered in her name.

On February 15, 2012, the contraband enforcement team seized the motor vehicle from Guyah's sister, Kerri-Ann Guyah. She was an employee of the Customs Department at the time of the seizure and she gave a written statement that she had borrowed the motor car from Carter from about July or August 2011.

Carter gave a written statement on February 29, 2012, to officers of the Revenue Protection Division (RPD) that she had purchased the motor vehicle from Kingston Logistics but said that Guyah had carried out the transaction for her. She said that he advanced the purchase money but she had repaid him.

She also said that she had purchased other motor vehicles from Kingston Logistics.

The court said it could be gleaned from Carter's statement that "Mr Guyah was involved, in a similar way, in at least one of those transactions".

Carter admitted lending the motor vehicle to Miss Guyah.

However, Carter was questioned in April 2012 at the offices of the RPD, and the court said that in one of the answers, she said that, "the Suzuki Swift was never hers and that it belonged to Mr Guyah."

### **UNLAWFULLY SEIZED**

Guyah had also named Carter as a respondent in the suit, but she was not served with the claim form and did not take part in the litigation. He sought a number of remedies, including declarations that the motor vehicle was not uncustomed goods, was not liable to seizure under section 210 of the Customs Act, and that it had been unlawfully seized by officers of the customs department. The appellate court said that it appeared that the motor vehicle was returned to Carter, and Guyah's criminal case was dismissed for want of prosecution sometime before the Supreme Court judgment.

The court agreed with attorney Althea Jarrett, who represented the respondents, that Guyah had no legal standing to bring the claim that the motor vehicle was unlawfully seized or that its seizure was an abuse of authority as he was not shown to be the owner of the vehicle.

The court disagreed with Jarrett's submission that the notice of detention issued to Miss Guyah was not a document used for customs purposes.

Guyah had complained about comments made about him by the judge, one of which was: "I will merely say that although Mr Guyah is a very important Crown servant, this court is of the view that he did not act in the best traditions of the civil service."

Attorneys Paul Beswick and Georgia Buckley, who represented Guyah, had argued that the comments made by the judge should be set aside. The Court of Appeal said that it was within the its authority to make observations concerning comments made by judges in the course of proceedings or in its judgments, but it was not clear that the court might make orders in respect of those comments.

The court said that Justice Leighton Pusey made the statements after he found that the Suzuki motor car did not constitute uncustomed goods. The court found that there was no merit in the complaint.

The appeals panel, comprising Justice Patrick Brooks, Justice Almarie Sinclair-Haynes, and acting Justice Paulette Williams, further ruled that the judge was stating his view of Guyah's conduct.

"It is not difficult to ascertain the reason behind his view. No doubt the 'tangled web' concerning the ownership of the Suzuki, and the fact that Miss Carter's responses to the officials to the effect that Mr Guyah was involved with her in transactions involving five vehicles, which were, apparently, bought in the same manner as the Suzuki, had a significant influence on the judge's view," the court held.

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# Diplomat wants open mind on CCJ education campaign

The Gleaner



The Caribbean Court of Justice in Port of Spain, Trinidad & Tobago

ST JOHN'S, Antigua (CMC) — The head of the National Co-ordinating Committee on the Caribbean Court of Justice (CCJ) public education campaign, Ambassador Dr Clarence Henry, has urged citizens to give the campaign a chance and open their minds “to receive information that is key to understanding the CCJ and the London-based Privy Council”.

Antigua and Barbuda will officially launch the public education campaign on March 10, ahead of a planned referendum that will allow nationals to decide whether or not to retain the Privy Council as the island's highest court or replace it with the Trinidad based CCJ.

Henry said that the campaign will be a humongous journey never before undertaken in the Antigua and Barbuda lexicon.

“While some observers suggest that they neither envy the task, nor want to be a part of or to be associated with it, others rightly fear potential political ramifications of a failed vote. But we do not fear or run from a challenge, because failure is not an option.

“We boldly undertake this journey because we are instilled with a pioneering spirit. We are inspired by those who preceded us; driving us to excel and surmount all challenges, climb mountains as high as Mount Everest, and defeat our ‘Philistines’. We embark on this journey mindful of the struggle and conquest of past heroes that championed the case of independence over colonialism.”

He said that while some people here “rightly embrace and are looking forward to actively participating in this demonstration of democracy, there are others who are victims of an enslavement mindset nurtured over decades of the plantation economy, and therefore have an adversity to trusting their own institutions. “I urge you to give this campaign a chance. Open your minds to receive information that is key to understanding the CCJ and the Privy Council,” he said, adding that attempts at regional integration have failed to effectively modernise the Caribbean civilisation, thereby banishing the dependency syndrome which has no place in today’s Antigua and Barbuda or Caribbean reality.

“Through education and sensitisation on critical issues the mass will be empowered. This is the process that brings enhanced opportunities and allows the less fortunate to shine.”

Henry, who is also Antigua and Barbuda’s ambassador to the 15-member Caribbean Community (Caricom), said that the exercise reminds him of a similar exercise that took place in 1989 in Grenada when regional leaders gathered at Grand Anse “for a historic meeting ...which established the early blue print for the CSME (Caricom Single Market and Economy) and set in motion the process that has led to the current process of regionalism.

“Could it be that our exercise will mushroom as others boldly embrace this exercise of dialogue, engagement and democracy, which the people have long called for.

“Could it be that we are the spear tip that will penetrate through the mist of doubt and lack of faith to a brand new day; a fresh new start for the Caribbean as a civilisation with its own norms and values that are celebrated from Kingston to Parimaribo; from St Anne’s to Point and Villa,” Henry said.

The diplomat said he is convinced as a result of the experiences gained so far from the preparation for the public education campaign, “that there is need for a region- wide aggressive public education programme that places people and their challenges at the centre of the Caricom agenda.

“People must be encouraged to openly discuss their thinking on integration; what Caricom has done or is doing for them; how to strengthen the various Organs or institutions of Caricom. This is critical since regional integration, like free movement, must be genuinely felt by the people of the community.

“This is a defining moment for our region. People are watching what is happening here in Antigua and Barbuda at this set time surrounding the CCJ. It is a time of change, a time when a fresh move, a fresh wind of opportunity or greater recognition of ourselves and our institutions are given pride of place in this historic campaign.”

The CCJ, which was established in 2001 to replace the Privy Council, also operates as an international tribunal interpreting the Revised Treaty of Chaguaramas that governs the regional integration movement.

While most of the Caribbean countries are signatories to the CCJ’s original jurisdiction, only Barbados, Guyana and Belize have signed on to its appellate jurisdiction.

## **Dispelling The Myths, Lies And Half-Truths - Magisterial Recounts And Election Petitions**

The Gleaner

Shena Stubbs-Gibson

We have just experienced another general election, and in spite of the relatively low voter turnout, one can still say, with a great degree of confidence, that the democratic process is alive and well in Jamaica. Quite apart from the low voter turnout, another striking feature of this election was the close margin of victory.

Hopefully, the best team has won and the economy will tell the story in the next three to five years.

On election night 33 seats were declared for the Jamaica Labour Party (JLP) and 30 for the People's National Party (PNP). By the time of writing, the PNP's candidate in South East St Mary, Dr Winston Green, had reclaimed his seat from the JLP's Dr Lloyd Dunn, after the official counting of the ballots.

There appears to be some confusion about what an official count means. I heard many persons proclaiming that it was the PNP that had requested the recount of the South East St Mary seat and others.

However, Section 45 of the Representation of the People Act makes it mandatory for the returning officer for each constituency to carry out the final counting of the ballots in the presence of the candidates or their appointed observers.

If at the time of the final count none of the candidates or their representatives are present, then the returning officer shall secure the presence of at least two electors and they shall remain present until the counting is complete.

At the completion of the final count, the returning officer shall declare the candidate with the majority the winner and shall immediately notify him or his representative in writing, and if they are absent, immediately send the notice by registered post.

Interestingly, Section 45 also makes provisions for what should happen in the event each candidate records the same number of votes. In such a case, the returning officer shall have the casting vote.

#### **SECTION 47 OF THE ACT**

Under Section 47 of the act, if within four days after the day on which the returning officer has declared a candidate elected, it is made to appear, on the affidavit of a credible witness, to a resident magistrate, that a returning officer in counting the votes has:

a) Improperly counted or

b) Improperly rejected any ballot papers or

c) Has made an incorrect addition of the number of ballots cast for any candidate.

If the applicant deposits within the four-day period the sum of \$40 as security for the costs of the candidate declared elected, the resident magistrate shall appoint a time within four days after the receipt of the affidavit to recount the said votes.

Now it appears that the resident magistrate must stop all he is doing and commence the recount, and he should not stop until it is complete.

Section 48 (1) of the act says, "The resident magistrate shall proceed to make such recount by recounting all the votes or ballot papers returned by the returning officer, and shall open the sealed envelopes containing the used and counted, the unused, the rejected, and the spoilt ballot papers."

It goes on to say at Subsection (4), "The resident magistrate shall, as far as practicable, proceed continuously, except on Sunday, with the recount, allowing only necessary adjournments for rest and refreshment, and excluding the hours between six o'clock in the afternoon and nine in the succeeding forenoon."

It follows, therefore, that where necessary, counting must continue on Saturdays until complete.

### **MAGISTERIAL RECOUNT**

If after the magisterial recount there is again a tie, the returning officer shall again have the casting vote. Section 48 (8) says: "In case of an equality of votes the returning officer, notwithstanding that he may have already voted pursuant to subsection (8) of Section 45, shall have and cast another or deciding vote."

If there is still dissatisfaction at the end of the magisterial recount, the Electoral Petition Act allows for the filing of a petition in the Supreme Court.

Section 3 allows for a petition to be presented by the clerk of the House of Parliament, the attorney general, or any other person. The petition shall be presented to the Registrar of the Supreme Court within 21 days of the date of the candidate being returned.

The trial of the petition shall be done in open court and must be presided over by the chief justice or a puisne judge nominated by the chief justice after consultation with the other judges.

The trial of the petition shall commence within 90 days after the filing of the petition and shall continue on every lawful day therefrom until it is completed.

Under Section 22 (1) of the Election Petitions Act, an appeal shall lie from the determination by a judge of the Supreme Court on a petition under Section 20 to the Court of Appeal, whose decision shall be final and conclusive to all intents and purposes.

**- Shena Stubbs is an attorney-at-law and legal commentator. Send feedback to [shena.stubbs@gleanerjm.com](mailto:shena.stubbs@gleanerjm.com), Twitter: @shenastubbs**

## **Political Commentator Calls For Change To Magisterial Recount Process**

The Gleaner

Political commentator Dr Paul Ashley says it is a waste of the court's time and resources to have Resident Magistrates sit through magisterial recounts which have been known to last months.

Political commentator Dr Paul Ashley is calling for a change in the way magisterial recounts are conducted.

According to him, it is a waste of the court's time and resources to have Resident Magistrates sit through magisterial recounts which have been known to last months.

Ashley says powers should be given to the retired judge who sits on the Electoral Commission of Jamaica to carry out the recounts.

He was speaking at a Gleaner Editors' Forum Thursday.

A magisterial recount for the South Eastern St Mary constituency is currently underway at the Civil Division of the Corporate Area Resident Magistrate's Court in downtown Kingston.

The recount started on Wednesday and is expected to be completed by tomorrow.

However, attorneys for both candidates have complained about the slow pace of counting.

However, with the recount now taking place, several cases which were before the court have had to be postponed.

Political Commentator Dr Paul Ashley , Vice-president of the University of Technology, Professor Rosalee Hamilton says she understands the reasoning behind Ashley's call and would not object to the change.

However, she says if the recounts remain in the court system, residents should not be inconvenienced because of the process.

For his part, attorney-at-law Bert Samuels says he does not think the backlog of cases should be used as a justification for a move away from magisterial recounts.

However, he says perhaps more Resident Magistrates need to be appointed to make the process more seamless.

# Dot Accepted As Valid Vote In St Mary South Eastern Magisterial Recount

The Gleaner

Barbara Gayle, Justice Coordinator

The Sutton Street Corporate Area Resident Magistrate's court in Kingston where the magisterial recount of ballots cast in the St Mary South Eastern constituency, in the February 25 general election, is now underway.

There was reportedly intense debate during the magisterial recount for the St Mary South Eastern constituency over the acceptance of a dot placed beside the symbol of the bell as a valid vote.

The bell is the symbol used by the Jamaica Labour Party.

The acceptance of that ballot means that the JLP's Dr Norman Dunn has narrowed the margin of victory for the People's National Party's Dr Winston Green to eight votes.

The Gleaner/Power 106 News Centre has been told that lawyers for the PNP argued that a dot cannot be counted as a vote.

However, the magistrate decided to accept the dot as a valid mark in favour of the JLP.

Yesterday, JLP attorney Frank Phipps said one of the major issues being faced by officials was whether to accept symbols other than the stipulated X that is usually required to vote for a candidate.

The recount is to continue this morning at the Sutton Street Corporate Area Resident Magistrate's court in Kingston.

Phipps has said it should be finished by Saturday.

The St Mary South Eastern seat was won by Dunn in last Thursday's election, but the result was reversed in the final count with Green winning by nine votes.

## **Appleton Injunction Hearing Adjourned Until Wednesday**

The Gleaner

The hearing of an injunction obtained against Appleton Estates in St. Elizabeth has been adjourned to next Wednesday afternoon in the Court of Appeal.

Algix has filed a lawsuit against J. Wray and Nephew Limited accusing the company of causing a fish kill in the Black River that affected its business.

J. Wray and Nephew Limited is seeking to get the Appeal Court to overturn the injunction obtained in the Supreme Court by Algix in January.

Attorney-at-law Paul Beswick today argued that there is clear and undisputed evidence that activities at the Appleton Estates in St. Elizabeth contaminated the Black River and caused a fish kill.

Beswick, who is representing fish producer, Algix Jamaica Limited, is opposing an application by Appleton's owners, J Wray and Nephew Limited, which is seeking the overturning of an injunction placed on the factory.

The attorney submitted that the results of tests show that the extent of the contamination was over seven times the legal standard.

He argued that J. Wray and Nephew intends to continue activities at the factory despite failing to upgrade its plant.

According to Beswick, environment regulator, the National Environment and Planning Agency (NEPA), has not mandated the appellant to upgrade its plant and machinery before the start of the 2016 sugar crop season.

Beswick told the court that NEPA representatives have admitted that J. Wray and Nephew is not in compliance with Waste Water Regulations and that it has allowed it to continue to operate.

The attorney argued that there was no indication from NEPA of the provision of the Regulations which enables it to sanction the appellant's non-compliance with the law.

## **Battle Not Yet 'Dunn'! - JLP Candidate Could File Election Petition After Losing By Five Votes**

Ryon Jones

The Gleaner

The Jamaica Labour Party's (JLP) Dr Norman Dunn could be headed to the Supreme Court as he continues his battle to wrest St Mary South East from the People's National Party's (PNP) Dr Winston Green.

The PNP's standard-bearer crossed another hurdle yesterday in his quest to retain the seat, after he was declared the winner by five votes following a magisterial recount at the Sutton Street Resident Magistrate's Court.

But despite the RM's ruling, it appears that Dunn will not go quietly and Green might not have seen the last of him.

"We have some concerns that we are going to look into. Just to say that I don't think it is finished yet," said Dunn minutes after the announcement was made yesterday.

"We will see the next step, because I believe there is another step and at that time we will speak again," added Dunn.

But while he was guarded, one of the lawyers representing the JLP, Alexander Williams, was more forthcoming with the issues they found with the recounting and why the matter might be the subject of an election petition.

"There are three ballots that have not been accounted for in this process. The magistrate, having gone through the recount, has been unable to locate three of the ballots," said Williams.

"Now the margin of victory is five and three ballots have not been accounted for after checking through all the books and counting and recounting. In addition to that there are some ballots which the magistrate rejected, which we feel that she improperly rejected, in our respectful submission, which would have gone in favour of Mr Dunn.

"So we are going to be reviewing everything and advise ourselves as to whether or not we take the next step, which would be an election petition," added Williams.

K.D. Knight, who was one of the lawyers representing the PNP, said he, too, had issues with some of the magistrate's decisions, but believes an election petition will only work in Green's favour.

"I didn't agree with some of her (magistrate) ruling that went in favour of the Jamaica Labour Party and against us, but on balance I don't think the rulings, taken accumulatively, that we disagreed with would have affected the result," Knight told The Sunday Gleaner.

"My opinion is that on an election petition the likelihood is that Dr Green's margin would increase."

Green said he is "prepared" for any challenge that might come, but in the meantime is delighted for the victory.

The governing JLP would have been hoping for a victory in this seat, which would have given it a little more breathing space in the Lower House, but will have to make do with a 32 majority to the PNP's 31.

## **Mother And Daughters Charged With Murder Granted Bail**

The Gleaner

Barbara Gayle, Justice Coordinator

Fifty-year-old Donna Davis and her two daughters, who are charged with the murder of 48-year-old Cassandra Burke, have each been granted bail in the sum of \$300,000 with sureties.

Davis and her daughters 21-year-old Peach Jolly and 18-year-old Kibibi Jolly have been ordered to return to the Corporate Area Resident Magistrate's Court on April 28.

Senior Resident Magistrate Judith Pusey granted them bail this week following a bail application made by attorney-at-law Oswest Senior Smith, who is representing them.

Senior Smith submitted that the deceased was the aggressor and Davis was injured and had to get medical attention.

The allegations are that on February 18 the deceased and the three accused lived in a tenement yard on East Street, Kingston.

Davis and the deceased were involved in a fight and her children joined in the fight.

During the altercation, a sharp instrument was used to stab the deceased in the neck.

She was taken to hospital where she was pronounced dead.

## **Guilty On All Counts - Woman To Be Sentenced For Forcing 12-Year-Old Into Prostitution**

The Gleaner

Barbara Gayle

With eight human-trafficking cases on the list of matters outstanding to be tried, Director of Public Prosecutions (DPP) Paula Llewellyn has welcomed the completion of the trial into one such matter.

In the completed case, a woman who forced a 12-year-old girl into a life of prostitution has been convicted by a Home Circuit Court jury and is to be sentenced on April 8.

Nadine Pitt, 32, shopkeeper of Lawrence Tavern, St Andrew, was convicted last week of two counts of trafficking in persons, two counts of cruelty to a child, and two counts of living off the earnings of prostitution.

Pitt was charged in 2009 but the case dragged on in the court for various reasons. She was on bail pending her trial but has been remanded for sentencing.

She was charged under the Child Care and Protection Act in relation to human trafficking, which carries a maximum sentence of 10 years. The maximum sentence for cruelty to a child is five years while two years is the maximum sentence for the other offences.

### **COMPLAINANT'S TESTIMONY**

The complainant, who is now 22 years old and the mother of three children, testified before Justice Lorna Shelly-Williams and the seven-member jury that she left her home in the hills of St Andrew in 2005 when she was 12 years old to live with Pitt.

She described to the court how Pitt dressed her in mini skirts and took her to clubs, bars and parties. She said Pitt gave her alcohol to drink and marijuana to smoke.

When they left those night spots, she said Pitt would collect \$500 each from men as a deposit for her (the complainant) to have sexual intercourse with them. She said after her ordeals, the men paid her and Pitt would collect half of what she earned.

According to the complainant, she was engaged in sexual acts at different places and sometimes at Pitt's house.

In 2007, when the complainant was pregnant, she went to the police to report a dispute between her and her boyfriend, who she said had met through the accused.

The police realised she was a child and when questioned she told them that it was when she was living with Pitt she met him. She disclosed to the police that Pitt had forced her into a life of prostitution.

The cops conducted investigations into the report and discovered that Pitt had the complainant in her care and custody and sexually exploited her. Pitt was arrested and charged.

Pitt, who is being represented by attorney at law Carol DaCosta, gave an unsworn statement from the dock and denied the allegations.

According to Pitt, the complainant's father was very strict and she wanted to be free so she came to live with her. She said all the activities that the complainant was engaged in, she did them it on her own.

The jury found Pitt guilty of all the charges. The complainant is now living with her father.

Following the end of the trial last week, Llewellyn told The Sunday Gleaner that human trafficking is a very serious offence and could be termed modern-day slavery.

### **SENSITIVE CASES**

According to Llewellyn, given the sensitivity of these cases which are victim-centred, special training has been given to her staff to assist them to prosecute them.

Llewellyn extended commendations to Assistant Director of Public Prosecutions Sahai Whittingham for the successful prosecution of the case, and argued that human trafficking cases were not easy to prosecute.

The DPP told The Sunday Gleaner that there are about eight other human-trafficking cases on the court list but it is challenging in getting court spaces to try them.

She said the challenge stems from the 500 cases on the Home Circuit Court list and the fact that there are only four criminal courts.

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# PNP's Bunting, Golding rejoin Proven Investments

The Observer



Mark Golding (left) and Peter Bunting (File photo)

KINGSTON, Jamaica – Former senator and minister of justice Mark Golding and former minister of national security Peter Bunting have been reappointed to the Investment Management

Committee of Proven, after the People’s National Party failed in its bid to be returned as government.

Proven Investments Limited is a Caribbean investment company that built on the reputation of providing investors with safe and consistent returns on their investments.

According to the investment company’s website, its main objective is to provide shareholders with consistent returns, through a diversified portfolio of regional and international investments. Proven, in an advertisement in today’s Jamaica Observer, said that both Bunting and Golding were returning to the company from their leave of absence while serving the Government of Jamaica.

“Ok... Peter and Mark... We know that you are upset that your party lost the General Elections. But look on the bright side: We want you back,” Proven said in the advertisement.

The company went on to congratulate Bunting and Golding for their “selfless service to Jamaica” over the past four plus years.

# Crafting a different kind of Cabinet

Andrew King

The Observer



GOLDING...I dream of a Jamaica...where everyone might not be rich, but no one has to be poor

The Jamaica Labour Party Government led by Andrew Holness now faces immense tests. It will challenge his statesmanship and his

ability to live up to the statement: “The sum total of our potential exceeds our problems; our collective capabilities are greater than our challenges. But it is only through partnership that these capabilities and this potential can be seized, harnessed and realised for the good of Jamaica.”

Prime Minister Andrew Holness’s arrival to Jamaica House saw no air-punching triumph. A friend described his one-seat majority as more like a marathon runner collapsing over the finishing line. But he has reached his goal; he is *primus inter pares*, first among equals, chairman of the Cabinet, with a young family and a bicycling habit, a directness of speech and a careful distancing of his style from the pre-Independence generation. His first real test will be appointing a small balanced but highly efficient and effective Cabinet. Holness faces the toughest hand of cards ever dealt a new prime minister.

Nowadays balance isn’t exclusively, or even primarily, measured through the prism of socialist versus capitalist, or working class. It is a question of identity — gender, age and experience being important in ways unimaginable a few years ago, along with attitudes to Caricom and the Caribbean Court of Justice.

In Westminster parliamentary democracies, the prime minister appoints members of his Cabinet from among the elected MPs, usually from his or her own party, and sometimes from the unelected Upper House.

If I had the privilege of advising the Prime Minister on crafting a Cabinet the following would be my recommendation:

\* The Office of the Prime Minister (OPM) should retain responsibility for defence and information. It is recommended that a press secretary in the prime minister's office chair post-Cabinet press briefings and the prime minister appoints a Cabinet minister(s) as spokesperson(s) on behalf of the Government.

It is also recommended that the prime minister appoints a state minister in the OPM with responsibility for intergovernmental affairs and administrative reform. Their primary roles are strategic policy, communication, coordinating the inter-ministerial activities, day-to-day liaison with departments and agencies, and lead the reforms necessary for economic growth.

This level of coordination will serve a number of purposes. It will provide forums for the exchange of information, bargaining, negotiation, and consensus building that is needed to eliminate government bureaucracy. Daryl Vaz is known as an exceptionally hard worker and should be assigned minister.

\* Kamina Johnson Smith has gracefully shadowed the education and youth portfolio and is a pleasant reminder of what young Jamaicans like about politics, She is bright and well respected for being an excellent communicator in how she navigated her responsibility in the shadow Cabinet. Mrs Johnson Smith should be appointed chief government spokesperson and minister with responsibility for education and youth.

\* Ministry of Finance and the Public Service: Former Finance Minister Audley Shaw should assume responsibility for the ministry and Fayval Williams as his junior. Jamaica Customs should be jointly managed by the ministries of finance (for revenue protection) and national security (for border protection).

\* Prime Minister Holness should prevail upon the former Prime Minister Bruce Golding, who has much to offer his country, and given the crossroads we find ourselves and the magnitude of crime and violence on the society to pause his retirement to serve as minister with responsibility for national security.

\* The new prime minister indicated his intention to create a new Ministry of Economic Growth and Job Creation to rapidly facilitate investment and avoid government obstacles. A new Ministry of Research, Economic Growth and Job Creation is desirable. This new ministry will have responsibility for improving the conditions for growth. It will conduct thorough economic analyses and suggest policy initiatives in areas imperative to economic growth. This ministry will spearhead policy areas which are important for the general business environment, including the ease of doing business, business regulation, eliminating red tape, and fast-tracking approvals from local authorities, agencies, and departments. A special unit within this ministry will focus on a strategic policy for the decriminalisation and regulation of marijuana and the structuring of an industry by attracting investors to develop a medicinal and pharmaceutical-industry driven by research and innovation. It would also focus on indigenous Jamaican herbs and plants and attracting investors in a strategic way for the creation of sustainable industries. This new ministry will assume responsibility for industry and commerce. Aubyn Hill should be appointed to the Senate and minister in this ministry.

\* Ministry of Housing; Rural, Urban, and Sustainable Development: This super ministry will assume responsibilities for the local government, community development, water, land, and planning portfolios. It will guide land-use planning, urban and rural redevelopment, enact building codes to deliver affordable and quality public housing and a sustainable built environment. The aim must be to achieve world-class infrastructure, creating a vibrant and sustainable living environment and cohesive communities that can be accessed by agents of the State (police, social workers, fire service, et al). Assignments:

Housing Rural, Urban and Sustainable Development — Karl Samuda

Local Government Community Development — Desmond McKenzie

Water, Land and Planning — Horace Chang

\* In addition to carrying out its traditional responsibilities under the health portfolio, the Ministry of Health and Environment will have particular responsibility for coordinating the environmental policy objectives of the Government and ensure follow-ups and monitoring results. Professor Denise Eldemire-Shearer through the Senate should be appointed to head this ministry.

\* Ministry of Transport and Logistics: Though the jury is still out on Jamaica's pending global logistics hub, this super ministry will assume responsibility for spearheading the development of Jamaica as a global centre for aviation, shipping, and logistics. The multimodal visionary Mike Henry should be reassigned to this ministry.

\* The PM should add innovation to the Ministry of Science, Technology, Energy, Mining and ICT. The innovation portfolio, coupled with the ministries of education and business, research, and growth will partner with universities, entrepreneurs and business leaders to foster scientific discovery and commercialisation of new technologies and products that can be marketed to the world. Dr Andrew Wheatley should be minister, with Floyd Green as his junior.

\* The existing Ministry of Labour and Social Services will assume responsibility for social, gender and family affairs, as well as deal with all matters that affect the challenged and senior citizens. This ministry must establish and strengthen the institutional framework for the integration of people with disabilities in communities and the workplace, protection of the rights of older people, develop and promote social and family values, which include the principles of respect, tolerance and productivity. Ed Bartlett ought to assume responsibility for this ministry.

\* In the new Ministry of Agriculture, Climate, Fisheries and Food Security, special focus will be placed on the promotion and facilitation of agricultural productivity to ensure food security, increased income, creation of employment opportunities through the sustainable management, utilisation of natural resources and the promotion and exportation of value-added and agribusiness. Dr Christopher Tufton, with his experience and expertise, should be assigned to this ministry.

\* Ministry of Arts, Youth, Sports, Culture and Creative Industries will envision a balanced and harmonious society through preservation and promotion of creativity and all strands that make up “out of many one people”. This ministry, through its agencies and departments, must spearhead the coordination of individual and group creativity, skills, and talents to create wealth and jobs through the generation and use of intellectual property. In the same way we can taste all strands of “out of many one people” through our cuisine, we must develop cultural products through a Cultural Council with broad-based representation from entertainment, performing arts, visual arts, design, publishing, interactive content, including Rastafarians, Maroons, Indians, et al. Former Culture Minister Olivia Grange should be assigned to this ministry.

\* Marlene Malahoo Forte should be assigned to the Ministry of Foreign Affairs and Foreign Trade; attorney-at-law Alando Terrelonge, who is bilingual and has a master’s in international relations, can act as her junior minister.

\* Shahine Robinson should assume responsibility for the Ministry of Tourism and Entertainment.

\* Delroy Chuck should assume responsibility for the Ministry of Justice and Human Rights and the Attorney General’s Chambers.

Of note, Senate president ought to be Tom Tavares-Finson, and speaker of the House should be Marisa Dalrymple-Philibert.

**Andrew King is a public affairs commentator with an interest in national security, governance and development policies. Send comments to the Observer or [abking020@gmail.com](mailto:abking020@gmail.com).**

# Woman indicted for posing as FBI agent in Jamaican lottery scheme

The Observer



WASHINGTON (CMC) – The United States Department of Justice (DOJ) says a US federal grand jury in the Southern District of Georgia has indicted a woman for impersonating a Federal Bureau of Investigations (FBI) special agent in connection with an international lottery fraud scheme based in Jamaica.

The DOJ said that VaniaLee Allen, 30, was charged with one count of conspiracy to commit wire fraud and falsely impersonating an employee of the United States.

According to the indictment, Allen and an unidentified co-conspirator in Jamaica, sought to unlawfully enrich themselves through a fraudulent lottery scheme targeting an elderly resident of Evans, Georgia.

The DOJ said Allen's co-conspirator falsely informed the victim by phone that the victim had won money in a lottery and instructed the victim to make payments to various people in order to collect the purported lottery winnings.

As alleged in the indictment, in order to gain the trust of the victim and induce him to continue to make payments, Allen travelled from Jamaica to the United States and falsely portrayed herself to the victim as an FBI agent.

“Fraud schemes operating from other countries and targeting Americans often cannot fully succeed without assistance from a co-conspirator in the United States,” said Principal Deputy Assistant Attorney General Benjamin C. Mizer, head of the Justice Department’s Civil Division. “Scammers use many different tactics in an effort to gain the trust of their victims. The Justice Department will actively pursue and charge those who participate in such criminal activity.” US Attorney Edward J Tarver of the Southern District of Georgia said his office is “committed to vigorously prosecuting fraud schemes of all kinds.

“Those who perpetrate scams upon the vulnerable should know that federal law enforcement will work tirelessly to shut down fraud schemes and prosecute those responsible,” he added. According to the indictment, Allen travelled from Jamaica to the United States in early May 2015 and had sent a number of text messages to her co-conspirator in Jamaica discussing the plan to impersonate an FBI agent.

The text message attached an image of a law enforcement style badge with an ‘FBI’ logo and the words ‘Federal Bureau of Investigation’ on the face of the badge, according to the indictment. The indictment further alleges that on May 7, 2015, Allen travelled to the victim’s home in Evans, Georgia, falsely portrayed herself to the victim as an FBI special agent, provided the victim with a cellphone and directed him to speak with the person on the line, who was her co-conspirator in Jamaica.

“These lottery scammers prey on elderly Americans, and convince them to send significant amounts of money based on false promises,” said US Postal Inspector in Charge David W Bosch of the Philadelphia Division. “The Postal Inspection Service is committed to investigating and combating these international lottery schemes.”

The DOJ said this prosecution is part of its effort to work with US federal and local law enforcement to combat fraudulent lottery schemes in Jamaica that prey on American citizens. According to the US Postal Inspection Service, Americans have lost tens of millions of dollars to fraudulent foreign lotteries.

If convicted, the DOJ said Allen faces a statutory maximum sentence of up to 20 years in prison for the wire fraud count, as well as up to five years for the conspiracy count and up to three years for the false impersonation count.

## Canadian arrested in 52-pound hash oil seizure gets 6 months

The Observer



ST JAMES, Jamaica — Allister Chase, a Canadian citizen of Westgate Hills, Montego Bay, St James, was on Thursday sentenced to six months at hard labour when he appeared in the Montego Bay Resident Magistrate's Court.

He was also fined \$83,200 or 30 days in prison for dealing in hash oil and fined \$416,000 or 30 days in prison for taking steps to export hash oil.

In May 2013, during a Major Organised Crime and Anti-Corruption Agency-led operation, assisted by members of the Area One OST, the military and the Financial Investigation Division, premises occupied by Chase was searched and harsh oil weighing 52 pounds was found. He was subsequently arrested and charged for possession of, dealing in and taking steps to export hash oil.

# Man tells court he was forced to take part in shoe robbery

Covering the courts with Tanesha Mundle

The Observer



A young man who was implicated in the robbery of 11 pairs of shoes was given a chance when he appeared in court after he received a 12-month probation sentence.

Lafayette Morris, 18, of Stony Hill, St Andrew, was taken into custody and charged with

storeroom breaking and larceny in the aftermath of the theft of the shoes, valued at \$37,500.

The court heard that on December 26 last year the complainant, who is a vendor, locked his shoes in a storeroom in Stony Hill and left.

He returned two days later to the storeroom and found that 11 pairs of shoes had been stolen.

The matter was reported to the police and investigations led to Morris. During a search of his house, 10 pairs of the shoes were found.

However, Morris told the court on Wednesday that he was forced to get involved in the robbery by a man who he said has since fled the community.

Morris said he was at home when the man visited him and told him about the plan and asked for his participation, but he declined.

“I told him no, cause mi still a go school and my mother don’t want me in any bad company,” he said.

“The man come back with a gun and say if anything happen him a go come back come kill mi,” Morris explained further.

“Who is this man?” RM Pusey asked.

“I don’t know him, but people in the community tell mi seh him run away,” Morris replied.

The young man, whose charge was reduced to receiving stolen goods, was then sentenced to undergo 12 months probation.

“You be careful. I have put back your life in your hands. If you want to drop it, it’s up to you,” the magistrate told Morris.

“Whether you are lying to me or not I will find out, so keep yourself out of trouble,” she added before Morris left the courtroom.

## Court hears... DAD BLINDED FOR SENDING CHILD TO USA

The Star Online

Shanice Watson



A woman accused of blinding her babyfather in one eye was granted bail at \$100,000 when she appeared in the Corporate Area Resident Magistrate's Court yesterday.

The accused, Zodia Campbell, is charged with wounding with intent. She did not enter a plea.

The court heard that on February 24, about 4 p.m. Campbell visited her babyfather at his home, where an argument developed between the two about their child. Campbell allegedly pushed her babyfather, then hit him in the left eye, which started bleeding shortly after.

The complainant, who was still wearing a bandage, told the court he could not see from the eye. The accused informed the court that the argument started because her babyfather took their child from her and sent him overseas in 2013, and she has not seen or heard from her child since.

"He took away my child and I don't know what happened to him. I don't know if he killed him or what," she said.

The court also heard that the babyfather is to be charged, but there was no file before the court for that matter.

Based on additional information from the investigating officer in charge of the case, Senior Resident Magistrate Judith Pusey indicated that Campbell might be able to raise self-defence in the trial.

The matter is to be mentioned again on May 11.

## Teacher charged with fraud

The Observer



KINGSTON, Jamaica — Detectives assigned to the Fraud Squad yesterday arrested and charged a teacher for a breach of the Consumer Protection Act.

Reports are that sometime in 2015 a client gave the accused teacher J\$1.5 million to

import a motor car on his behalf.

The teacher imported a motor vehicle which did not meet the requested standards. As a result, the client returned the motor vehicle with the agreement that the vehicle be sold and he, the client be refunded. It was subsequently revealed that the accused sold the motor vehicle but failed to refund the client who made several attempts to recover his money without success.

A report was then made to the Fraud Squad in March 2016.

## **Pistorius faces return to jail after appeal bid fails**

The Observer



Oscar Pistorius

JOHANNESBURG, South Africa (AFP) — Oscar Pistorius was yesterday preparing to return to jail for 15 years after South Africa’s Constitutional Court rejected his last-ditch attempt to appeal his murder conviction for shooting his girlfriend.

Pistorius’ lawyers had applied for leave to appeal to the Constitutional Court, the highest court in South Africa, arguing that the Supreme Court of Appeal (SCA) had wrongly upgraded his conviction to murder.

But the National Prosecuting Authority (NPA), which opposed the application, said the appeal bid had failed.

“The court dismissed the application for leave to appeal because there are no prospects of success,” NPA spokesman Luvuyo Mfaku told AFP.

Mfaku said the court's decision had been made on Wednesday.

The former Paralympic champion, 29, will attend a sentencing hearing in Pretoria on April 18. The minimum 15-year jail term for murder may be reduced due to time he has already spent in prison.

The double-amputee killed Reeva Steenkamp, a model and law graduate, on Valentine's Day three years ago, saying he mistook her for an intruder when he shot four times through the door of his bedroom toilet.

He was released from jail in October to live under house arrest at his uncle's property in Pretoria after serving one year of his five-year prison sentence for culpable homicide – the equivalent of manslaughter.

The SCA judges in December described his testimony at his trial in 2014 as “untruthful” and delivered a damning indictment of the original verdict.

They found him guilty of murder, overruling the culpable homicide conviction.

Legal papers filed at the Constitutional Court by Pistorius's lawyers contended that the SCA had “acted unlawfully and unconstitutionally”.

They also accused the SCA of making “errors of law” over the principle of “dolus eventualis” – awareness of the likely outcome of an action – which has been at the crux of the long-running case.

But most experts had dismissed his chances of success in the Constitutional Court.

“The court has exercised its power not hear this matter – that means that they considered it to have no merit,” Stephen Tuson, criminal and constitutional professor at Wits University in Johannesburg, told AFP.

“The trial court now will take into account his personal circumstances and decide on a suitable sentence.”

Pistorius was last seen in public at a bail hearing in December, after which he was fitted with an electronic monitoring tag.

**The End**