

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Criminal Division

No. 233/10/2017

IN THE MATTER OF Article 20(1), 20(2) (c) and 28 of the
Constitution of the Commonwealth of The Bahamas (hereinafter
"the Constitution")

BETWEEN

THE QUEEN

AND

DAVID SHANE GIBSON

Applicant/Defendant

AFFIDAVIT OF RYSZARD HUMES VOLUME 1

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AFFIDAVIT

I, RYSZARD HUMES of the Western District of the Island of New Providence, one of the Islands of the Commonwealth of The Bahamas, Attorney-at- Law, make oath and say as follows:

1. That I am an associate attorney employed in the law firm of Munroe & Associates. Mr. Wayne Munroe QC of our firm is engaged as co-counsel together with Mr. Anthony McKinney QC of Messrs., McKinney, Turner & Co., for the Applicant.
2. That this Affidavit is made in support of the application by the Applicant for certain constitutional reliefs specified in the Originating Notice of Motion filed herein on 24th July, AD 2018 on the Applicant's behalf and to quash the Voluntary Bill of Indictment issued in these proceedings against the Applicant. I am enabled to make this Affidavit from the facts within my personal knowledge and from information derived by me from a perusal and examination of the litigation file, documents and papers of the Applicant.

3. The Applicant is David Shane Gibson who has been charged and is presently before the Courts on the following outstanding charges:

- (1) 2 Counts of Conspiracy to commit Bribery contrary to Section 89(1) of the Penal Code, Cap. 84 and Sections 4(2)(b) and 10(a) of the Prevention of Bribery Act, Cap. 88; AND
- (2) 17 Counts of Bribery contrary to Section 89(1) of the Penal Code, Cap. 84 and Sections 4(2)(b) and 10(a) of the Prevention of Bribery Act, Cap. 88

4. That there is now produced and shown to me marked "RH" a paginated bundle of copies of documents to which I shall refer below.

BACKGROUND

5. That the newly elected FNM Government under the leadership of Dr. Hubert Minnis had as a major political thrust of their campaign that PLP members were guilty of substantial corruption and misfeasance in office and pledged to prosecute those PLP members upon the FNM's election to office. That such was the vigor of the campaign that Omar Archer (an FNM activist) and a segment of the FNM ran a "***De Goin to Jail***" campaign.

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6. That on May 10, 2017, general elections were held in The Bahamas and the FNM party was elected as the Government. The Applicant was a member of the former PLP Government and served as a Cabinet Minister with portfolio responsibility, inter alia, for Labour and National Insurance. The Applicant also spearheaded the Government's nationwide relief and cleanup efforts following the devastation of Hurricane Matthew in October, 2016 and he spearheaded the PLP's re-election campaign fundraising efforts.

¹ Omar Archer has been employed by BAIC a government corporation notwithstanding being a convict.

7. That in Parliament during the budget debate in June 2017 the Prime Minister of the Commonwealth of The Bahamas, The Rt. Hon. Hubert A. Minnis specifically referred to services provided to the Government by Mr. Johnathan Ash one of the principal witnesses in this prosecution.

8. That in late June 2017 Attorney General, Carl Bethel QC, commented on this matter and said *"his office has not received any files in relation to complaints of misconduct of former government officials. He said whatever information that is sent to the Office of the Attorney General in the future will be dealt with under due process". However, he added, "the many allegations against the former administration that have emerged from the House of Assembly warranting criminal prosecution have other avenues of redress"*. The article appearing in the Tribune Newspaper is at pages 1 to 2 of "RH".

9. That on 27th of June A.D., 2017 or shortly before, the Commissioner of Police (then Elliston Greenslade) confirmed, inter alia, to the press in an interview that a corruption unit within the Royal Bahamas Police Force termed the "anti-corruption branch" was then fully operational. Interestingly, Commissioner Greenslade also noted that the police were constrained from pursuing incidents of corruption in the absence of complainants. The article appearing in the Tribune Newspaper is at pages 3 to 5 of "RH".

10. That on 13th of July A.D., 2017, Kenred Dorsett a former Cabinet Minister in the PLP Government was arrested and charged before the Magistrate Court with 4 counts of extortion, 4 counts of bribery and 1 count of misconduct in public office. As a result of the charge of extortion, Dorsett was remanded to the Department of Correctional Services as the Director of Public Prosecutions was not prepared to make representations on a bail application before The Honourable Madam Justice Carolita Bethel. The very next day Mr. Garvin Gaskins (hereinafter called "the DPP"), instructed his office to appear at the bail hearing and not to object to bail. The extortion charges mirrored the bribery charges and

were therefore duplicative and unnecessary. These extortion charges were later withdrawn once James Guthrie QC became involved in reviewing this matter and the applicant's matter. The amended magistrate's court charge sheet indictment in relation to Dorsett is at pages 6 to 16 of "RH".

11. That on 13th July A.D., 2017, Minister Duane Sands (the Minister of Health) indicated publicly that there would be bombshell arrests forthcoming against members of the former Christie Administration. The statement made by the Minister of Health implied that he had inside information regarding pending police investigations and/or prosecutions. A copy of the article appearing in the Tribune Newspaper on 14th July A.D., 2017 is at pages 17 to 19 of "RH".

12. That the Applicant's name centered front and foremost as assertions were being raised during the political campaign and after the general elections that he was a principal target of the current FNM government.

13. That following public concerns being expressed in some quarters that the FNM Government was interfering in the drive to prosecute former officials of the PLP Government, Minister Mr. Marvin Dames (the Minister Responsible for National Security) made a public statement in or around 17th July A.D., 2017 denying that the FNM were directing the Anti-Corruption Unit of the Royal Bahamas Police Force to target former PLP Ministers of Government for investigation and prosecution. Minister Dames also pledged that there would be no political interference in such investigations by the FNM Government. The article appearing in the Tribune Newspaper is at pages 20 to 24 of "RH".

14. That Mr. Philip Davis QC, the Leader of Her Majesty's Loyal Opposition wrote a protest letter to the Prime Minister on 18th July A.D., 2017 decrying inter alia the public utterances by the political directorate with respect to future police prosecutions. He also protested the abhorrent manner in which Kenred Dorsett was treated during his arrest and

incarceration and his remand in the general population section of the Department of Correctional Services. This letter is at pages 25 to 28 of "RH".

15. That Frank Smith, former chairman of the Public Hospital Authority was requested to attend the Anti-Corruption Unit on the 20th July A.D., 2017. He attended the unit accompanied by his attorneys, was interviewed and later detained until the following day when he was arraigned before the Chief Magistrate on 13 counts of extortion, 1 count of attempted extortion and 1 count of bribery. I am advised and verily believe that Mr. Smith's attorneys were unaware that charges were being laid against him as they were awaiting an arranged confrontation between the principal witness, Ms. Barbara Hanna, and him. It was during this wait that Smith's attorneys were advised by the press through social media that they (the press) had been invited to attend the arraignment of Mr. Smith. This was the first notification to his attorneys that Mr. Smith was charged.

16. That Mr. Smith's trial has commenced and is continuing. Evidence led to date in these proceedings has revealed that the Minister of Health, Dr. Duane Sands, and the Minister of National Security, Mr. Marvin Dames, each initiated contact with the principal witness, Barbara Hanna, multiple times before she was interviewed by the police. This demonstrated a clear pattern of political interference. Evidence has also revealed that shortly before the commencement of the trial the principal witness, Ms. Barbara Hanna was awarded a contract by the Ministry of Health/Public Hospital Authority in the amount of approximately \$1.8 million. The Public Hospital Authority board did not approve the awarded contract.

ARREST

17. That on 1st August A.D., 2017, the Applicant was approached by D/ASP Thompson outside his residence who advised him that he was required to attend the Offices of the

Central Detective Unit of the Royal Bahamas Police Force at 9:30 am the following day. No other information was provided to the Applicant.

18. That the following day on 2nd August A.D., 2017, the Applicant attended the Central Detective Unit with his attorneys Anthony A. McKinney QC and Owen C.B. Wells whereupon he was immediately placed under arrest. The Applicant was thereafter questioned in relation to the suspicion of committing the offenses of extortion, bribery and misconduct in public office. Under caution, the Applicant, with his attorneys present, was interviewed by several officers led by D/ASP Thompson from 9:51 am until 1:30 pm. The Applicant although not being a flight risk or exhibiting any behavior that he was likely to abscond was detained overnight in police custody.

CHARGE

19. That in the early afternoon on the 3rd of August A.D. 2017 Anthony A. McKinney QC, Damien Gomez QC, and Wayne Munroe QC were waiting outside Central Detective Unit having been advised by the police that the files, the subject matter of this application were sent to the DPP for a decision to be made if charges were going to be laid against the Applicant. While waiting, The Nassau Guardian via radio reported that the Applicant would be arraigned at 1p.m. that very day. It should also be brought to the court's attention that the Magistrate Court complex on Nassau Street was operating on a half day basis due to the failure of the air conditioning system, it could fairly be surmised that the intent was:-

- (a) that the Magistrate's Court would be closed when the applicant was eventually brought to court on that date, and therefore he would have to spend an additional day in police custody, or
- (b) to rush the applicant before a Magistrate in the afternoon to ensure that he would not be able to apply for bail before the Supreme Court that day

and therefore be remanded to the Department of Correctional Services overnight.

20. That on the 3rd August A.D., 2017, the Applicant was formally charged in the Magistrate's Court with 21 counts of extortion, 17 counts of bribery and 1 count of misconduct in public office. Magistrate Swain remanded the Applicant to the Department of Correctional Services having no jurisdiction to consider bail. The prosecution indicated to the Magistrate that they would be proceeding by way of Voluntarily Bill of Indictment and the matter was adjourned to 3rd October, 2017. The charge sheets are at pages 29 to 45 of "RH".

21. That the conduct of the police whilst escorting the Applicant from the Nassau Street Police Station to Magistrate's Court #12 on the Floor of the Magistrate's Court Complex was cruel, inhumane and pandering to the political bloodlust of FNM's sympathizers. The police were well aware of the fact that the Applicant had sustained an injury which restricted his ability to walk without the benefit of crutches. Notwithstanding this, the police insisted on escorting the Applicant. Whilst in obvious pain without his crutches (which remained with the police) and upstairs to the Magistrate's Court while he was handcuffed. This was the first time he had been handcuffed, as he was being taken into the public domain, clearly to make him a public spectacle.

BAIL

22. That it was indicated initially that there was no availability of Counsel in the Office of the Attorney General (hereinafter called "the AG's Office") to attend a bail hearing. Given the experience of the DPP having not made an attorney available in the Kenred Dorsett matter resulting in an overnight remand in the Department of Correctional Services, a motion challenging the constitutionality of section 4 (3) of the Bail Act seeking immediate relief was drafted and filed on the Applicant's behalf. These documents are at

page 46 to 49 of the "RH". The duplicative charge of extortion prohibited the Magistrate from considering bail hence the decision was made by Counsel for the applicant to immediately seek bail before the Supreme Court. Therefore, the Summons and Affidavit relating thereto were immediately forwarded to the attention of Mr. Garvin Gaskins the Director of Public Prosecutions. The letter enclosing these documents is at page 49 of "RH".

23. That upon the AG's Office being duly informed that Counsel would be seeking immediate relief in relation to the constitutional motion the AG's Office had no objection to the Applicant being admitted to bail.

24. That the Applicant was admitted to bail following the hearing before Madam Justice Cheryl Grant-Thompson on 3rd August A.D., 2017. Bail was granted in the sum of \$40,000.00 dollars with two (2) sureties.

25. That on the 3rd October A.D., 2017 the Applicant attended before Magistrate Swain at which time prosecutor Terry Archer presented the Crown's voluntary bill of indictment (hereinafter called "VBI") which included a notice to provide an alibi within 21 days. Counsel for the Applicant informed the magistrate of their client's challenge to provide an alibi as the crown's allegations lacked particulars as the alleged acts occurred between a total of 118 days, which were not specific to a day or time. The VBI summons required the Applicant to appear at the Supreme Court on the 20th of October A.D., 2017, for formal arraignment. A request was also made for the manuscript statements of the witnesses as only the typewritten statements of the two witnesses namely Mr. Johnathan Ash and Ms. Deborah Bastian were provided. Further particulars of the charges were requested but Crown Counsel Terry Archer refused and indicated that the particulars as provided were sufficient.

VBI HEARING & APPLICATION FOR PROPER DISCLOSURE

26. That a VBI was preferred against the Applicant on 3rd October A.D., 2017 and the Applicant, in compliance with a Summons issued in relation thereto, attended before the Honourable Madam Justice Cheryl Grant-Thompson on 20th October A.D., 2017 pursuant to Section 258 (8) of the Criminal Procedure Code for arraignment before the Supreme Court.

27. That counsel for the Applicant requested full disclosure of all pertinent evidentiary and exculpatory materials, statements and documents in the possession of the Crown including but not limited to the original handwritten witness statements of Mr. Jonathan Ash and Ms. Deborah Bastian. Mr. Terry Archer, Counsel appearing for the Crown advised the court that no handwritten statements by the said Jonathan Ash and Ms. Deborah Bastian existed.

28. That further, at the arraignment, Counsel for the Applicant reiterated that in order to satisfy the Notice of Alibi requirements stipulated in the Criminal Produce Code, it was necessary for the Crown to provide greater specificity of the dates when the alleged offences occurred. The time to provide the said alibi was suspended by Order of the court to enable the crown to provide the further and better particulars required by the Applicant. Again, particulars were requested and Crown Counsel Terry Archer once again refused, and indicated that the particulars as provided were sufficient.

29. That due to the inadequacies of the disclosure provided by the Crown, Counsel for the Applicant on the 22nd January A.D, 2018 wrote to the DPP requesting full and adequate disclosure to allow the Applicant an opportunity to properly prepare his defence. The letter is at pages 50 to 53 of "RH".

30. That sometime after arraignment, Counsel for the Applicant were advised that a decision was made by the DPP to retain James Guthrie QC to lead the prosecution in this matter.

31. That on the 14th February A.D., 2018, the Applicant was required to appear before the Honourable Stephen Isaacs (then Acting Chief Justice) for a fixture where a trial date of the 11th June A.D., 2018 (this date was subsequently vacated), Case Management date of the 28th March A.D., 2018 and Pre-Trial review date of 5th June A.D., 2018 were fixed.

32. That at the Case Management hearing on the 28th March A.D., 2018 the Crown indicated their intention to amend the indictment and to provide the particulars requested by the Applicant.

33. That the disclosure provided by the Crown on 10th May A.D., 2018 in response to the letter written by Counsel for the Applicant on the 22nd January A.D., 2018 was incomplete insofar as they failed to provide the following requested documents which the Applicant considers to be vital to the preparation of his defence:

- (1) All handwritten Statements provided by Mr. Jonathan Ash.
- (2) Any video recording (DVD)(s) and or any other electronic recording of the taking of the Statements of Mr. Jonathan Ash
- (3) All bank records of Mr. Jonathan Ash and his affiliated companies for the period January, 2014 to July, 2017
- (4) All handwritten Statements provided by Ms. Deborah Bastian.
- (5) Any video recording (DVD)(s) and or any other electronic recording of the taking of the Statements of Ms. Deborah Bastian

- (6) Copies of any freezing order or injunction in relation to (i) Jonathan Ash and his family and his affiliated companies; and or (ii) Ms. Deborah Bastian and her family
- (7) Copies of all antecedents/convictions of Mr. Jonathan Ash and Ms. Deborah Bastian
- (8) Access to the cellular phones of Mr. Jonathan Ash and Ms. Deborah Bastian so as to undertake or secure independent expert analysis of its contents as pertinent to the matters in issue
- (9) Copies of electronic communications between Mr. Jonathan Ash and Ms. Deborah Bastian
- (10) Copies of any infractions committed by Mr. Jonathan Ash and his affiliated companies, including but not limited to the Bahamas Customs Department
- (11) Copies of any report(s) generated from any listening device or photographs or videotape(s) in relation to this matter
- (12) Confirmation of all dates and times when Mr. Jonathan Ash and Ms. Deborah Bastian met singularly or jointly with investigating officers
- (13) Phone records, billings and statements of Mr. Jonathan Ash, Ms. Deborah Bastian and Shane Gibson
- (14) Copies of all correspondence related to the work of the National Recovery and Construction Unit, in particular, copies of minutes kept by Jack Thompson
- (15) All deals, arrangements, benefits or promises of benefit, to procure cooperation or evidence for the Crown in connection with this case inclusive of any immunity agreements or promise of immunity offered to Mr. Jonathan Ash or Ms. Bastian.
- (16) The Police Case Diary in relation to the investigation of our client.

34. That on the 11th May A.D., 2018 James Guthrie QC, appeared with Mr. Terry Archer before Chief Justice the Honourable Stephan Issacs at which time the indictment was

amended by (i) abandoning the extortion charges and (ii) providing a range of dates for the bribery charges. I note that the revised dates provided in the amended indictment are not found in the statements of the principal witnesses (i.e. Ash and Bastian). Further, at this hearing Counsel for the Applicant reiterated their request for proper and full disclosure. The amended indictment can be found at pages 54 to 59 "RH".

35. That the Applicant and his legal team, being dissatisfied with the continuing insufficiency of the disclosure provided by the Crown, made a further request for full disclosure by letter dated 31st May A.D., 2018 for the outstanding evidentiary materials. This letter is at pages 60 to 66 of "RH".

36. That on 18th July A.D., 2018, the Crown served upon McKinney, Turner and Co., their response to the letter dated 31st May A.D., 2018 along with its enclosures. Incidentally the enclosures included four (4) additional Witness Statements of Ms. Deborah Bastian (dated 1st July 2017, 4th July 2017, 19th July 2017 and addendum statement of the 25th July 2017) and their corresponding handwritten manuscripts. This contradicts the earlier assertions when the Court had been assured that there were no further Statements or Handwritten manuscripts. Further, the handwritten statement of Ms. Deborah Bastian original Witness Statement dated 25th July A.D., 2017 has still not been provided. This letter is at pages 67 to 71 of "RH".

37. That on the 24th July A.D., 2018, Counsel for the Applicant, appearing before Isaacs CJ, again drew attention to the failure of the prosecution to provide full and frank disclosure as requested, in terms of the Crown's letter dated the 18th July A.D., 2018. As a result, the Court set a date for an application with regard to disclosure. Secondly, the application that impermissible witness training and coaching had taken place was foreshadowed and subsequently a notice of motion was filed later that day. As of the date of swearing this Affidavit the following items vital to the Applicant's preparation of his defence have not been provided: -

- a. All Handwritten Statements of Mr. Jonathan Ash;
- b. Affidavit from the Corruption Unit stating that a search has been made for all such statements and materials and they do not exist;
- c. DVD(s) of all interviews conducted with Ms. Deborah Bastian;
- d. DVD(s) of all interviews conducted with Mr. Johnathan Ash;
- e. The Police Case Diary;
- f. Copies of all Supreme Court Documents relating to any injunction or freezing Orders with respect to Mr. Johnathan Ash;
- g. Copies of all electronic communications between Mr. Johnathan Ash and Ms. Deborah Bastian including but not limited to Whatsapp messages, text messages, and emails;
- h. Copies of all infractions committed by Mr. Jonathan Ash and his various companies with any government agency including but not limited to the Customs Department;
- i. Confirmation of dates and times when Mr. Johnathan Ash and Ms. Deborah Bastian met with the investigating officers in this matter;
- j. All phone records, billing and statements of Mr. Johnathan Ash and Ms. Deborah Bastian
- k. Copies of correspondence related to the Work of the National Recovery and Reconstruction Unit (NRRU).

38. That it should be noted that Mr. Johnathan Ash's bank(s) accounts were frozen at the instance of the prosecution or police. The particulars of the freezing order have not been disclosed despite repeated requests from attorneys for the Applicant. These are definitely relevant and should be made available as Mr. Johnathan Ash has become the principal witness for the prosecution.

WITNESS TRAINING AND COACHING

39. That audio recordings of improper meetings of police investigators and key witnesses came into the possession of the Applicant's legal team. A full and true transcription of the audio recordings is at pages 72 to 150 of "RH".²

40. That the recordings clearly disclosed that the police organized sessions at the instance of the AG's Office in which the principal prosecution witnesses Ms. Deborah Bastian and Mr. Johnathan Ash were summoned into the presence of ASP Thompson and Sgt. 1877 Rolle (the two police officers in charge of the case) and the attorneys of these witnesses when they together discussed their evidence, exchanged their accounts and decided as to what they should say and what they should omit to say in their statements and evidence.

41. That these sessions resulted in the contamination of the evidence of both principal witnesses and such that it would not be possible for them to give independent evidence free of that contamination.

42. That during the course of the coaching sessions the police deliberately instructed Ms. Deborah Bastian to put a false date on her Statement and dated it as having been made on the 25th July A.D., 2017, rather than the 30th September A.D., 2017. This created the misleading impression that the statement had been made before the charge and arraignment of the Applicant on the 3rd August A.D., 2017.

43. That there has been massive and inexcusable non-disclosure and delayed disclosure of the contents of the earlier interviews of the witnesses and the earlier statements signed by them. It may even be that records of the earlier interviews and statements have been destroyed the consequence of which would prejudice the defence

² The Audio recording and original recording device is available and will be relied upon in Court.

as Counsel would be unable to put the contents of those interviews and statements to witnesses.

44. It is apparent from the aforementioned transcripts that other statements of Mr. Johnathan Ash must exist which the Crown to date have not disclosed and allege do not exist.

45. That it is also apparent from the audio recording/transcripts that the parties were prepared to edit and adjust the witnesses statements to ensure harmony of critical information tending to prejudice the Applicant's guarantee of a fair and impartial trial.

46. That it appears that the following persons were in attendance at the meetings:

- ASP Thompson (Police Investigator & Witness)
- Sgt. 1877 Rolle (Police Investigator)
- Jonathan Ash (Key Witness for Prosecution)
- Alecia Bowe (Attorney for Jonathan Ash)
- Deborah Bastian (Key Witness for Prosecution)
- Raymond Rolle (Attorney for Deborah Bastian)

47. That the purpose of the sessions and its intended results were encapsulated D/ASP Thompson saying:

ASP Thompson: "For the sake of everybody here, this is attorney Raymond Rolle, of course y'all know Ms. Deborah Bastian, attorney Alicia Bowe, Jonathan Ash and then Sergeant 1877 Rolle.

And the reason I invited y'all back here was to clear up some ambiguity in your statements in terms of y'all account of what occurred on the day of when y'all met with him; and as it relates

to how much money you gave Ms. Bastian because those accounts, it differs.

Alright, so who wants to start first? I know Mr. Ash, you could give an overview and summary of what you told us transpired and then if there's anything you don't agree with, with what he's saying Ms. Bastian, you let us know and then I want you to explain to him what you told us and if there's anything you don't agree with, you let us know so we could clear this up.

We need to iron this out because y'all are giving two different accounts as to what transpired leading up to the meeting, what happened on the day of the meeting, and then the payments; how much money was disbursed as it related to what you put in Deborah Bastian to give to Mr. Gibson.

I need to get that clear.

At pages 73 of "RH"

ASP Thompson: Alright, so those areas in the statements I just clear up and then I'll invite y'all back just to sign because I need y'all to be synchronized with that. . At page 106 of "RH".

ASP Thompson: Maybe later today or even tomorrow, early tomorrow, you can come by and sign off on it. I gone take some stuff out of it and then just clear up one or two points. . At page 106 of "RH".

ASP Thompson: Right. That's why I wanna clear that up now. I don't need that in this. And so I'll have it cleared up and um by... . At page 115 of "RH".

ASP Thompson: I gone leave that part in. It's just up to the part with the meeting now where I ga cut out a lot of stuff surrounding that.

At pages 117 of "RH".

ASP Thompson: I took all that out so the only coaching you gave him was as a relation to how many persons he had working, the personnel he had working, how many equipment he had there and the days he worked that justify the large figure at the dump site. "

At page 126 of "RH".

48. That D/ASP Thompson suggested that she was being directed by the DPP (Garvin Gaskin) when she said as follows:

ASP Thompson: Gaskin called me last night on this file so I have to drop this off to him today. He is expecting to see, especially her statement, he wants to see that.

Raymond Rolle: Uh huh

Deborah Bastian: Yeah, because... Ummm (pause) Y'all ain't treating me right.

ASP Thompson: What? Who is y'all?

Deborah Bastian: I still aint get my tingum (colloquialism) from Gaskins those yet

ASP Thompson: What's that?

Deborah Bastian: I still don't have the immunity.

ASP Thompson: I think that must be why he wanted to see the statement.

Deborah Bastian: Okay

ASP Thompson: Because he keeps saying that "It ain't enough" and "it ain't enough" and it ... That's what he said ...

Deborah Bastian: Yeah!

At page 127 to "RH".

49. That the Attorney for Mr. Jonathan Ash, Ms. Alecia Bowe, is heard giving input on what evidence should be left out of the witnesses statements:

Alicia Bowe: "Cuz what you don't want to do is get to the stand, and Mr. Rolle you know, and start getting into dark waters. Well, I'm sure you'll come back and say we had a relationship, me and Ash. You don't want...when I say that, friendship I could talk about or "I coached Ash and me and him talked about what we was going to say to Minister Gibson." I think the whole thing must start with the issue of him being owed this money and him expressing his concerns as to why he wasn't being paid and you rendering your assistance in trying to get him paid. And from there, you start with this meeting, kind of situation and you go there. I don't think it needs to be any, you don't need that background with how....

At page 108 of "RH".

Alicia Bowe:

Less is more. You're gonna find the defense, if you start going like that, they'll throw you right under and say you're not a credible witness simply because this woman had a they will misconstrue what you told us today to mean something very different.

At pages 110 of "RH".

Alicia Bowe:

Even if we start with, and ASP I don't wanna tell you how to do but, even if you start with "We met at." Just where you meet and cut out all them other little extras out. Who say what time the meeting happen, we met at. It was you Ms. Bastian who told him that you had to meet with the Minister right, and where the meeting was right?

At pages 116 of "RH".

Alicia Bowe:

Okay so Mrs. Bastian advised that we needed to meet with the Minister and we met and that's it. I wouldn't even go into who got there first...

At page 116 of "RH".

Alicia Bowe:

Agreed. I agree with you. But like I said, for the purposes of this matter, you don't need to get into – I don't know how you're gonna do it or how ASP, Prosecution is going to approach it. In my humble opinion, I think the matter needs to start with the issue of him complaining...

At pages 111 of "RH".

Alicia Bowe: Because I could that attorney on the defense going on, "Okay, well you got..." and trying to...They'll spend two days on that"

At page 117 of "RH".

50. That D/ASP Thompson suggested that a false date be put on the statement of Ms. Deborah Bastian can be seen as follows: -

ASP Thompson: Alright, let me just print this quick and then she can sign off on it.

ASP Thompson: I'll be right back.

Deborah Bastian: She don't have to change the date? Because she has the 25th of July. Remember the last day we did was the 3rd of August .

Raymond Rolle: She wanted that date. .

Deborah Bastian: Oh, she wanted that date. Okay. .

Raymond Rolle: The charge is officially when they go before the court

Deborah Bastian: Ohhh, it has to be before they charge him. .

Raymond Rolle: No , it don't have to be before. They can gather information after they charge him. .

Deborah Bastian: Okay.

Raymond Rolle: They can gather information after. I see she has the 25th

Deborah Bastian: No, she has the 25th of July not the 25th of September.

Raymond Rolle: Oh, I was thinking September (laughing) .

Deborah Bastian: No, uh uh.

Raymond Rolle: (inaudible)point that out to us. We were here on that day in July. We were here in July. .

Deborah Bastian: No we were here, remember? Oh, you know what happen? We were here on the 4th of August to sign but she said she needed it to be done before he got charged. The statement? Now, I remember. She said the statement needed to be reflected. .

Raymond Rolle: That's why she has the 27th on it.

Deborah Bastian: 25th of July .

Raymond Rolle: 25th

Deborah Bastian: Yeah. Yeah. “.

At page 128 to 129 of “RH”.

51. That the unprecedented levels of witness coaching and evidence alteration in this case was so egregious that the potential evidence of Mr. Johnathan Ash and Ms. Deborah Bastian and ASP/Thompson has been irremediably tainted. The evidence is incapable of being treated as impartial and independent of bias and influence. The level of interference by the police with the principal witnesses of the case has extended beyond permissible witness familiarization as the police and others have clearly engineered and rendered

assistance in influencing the evidence of those witnesses tending to fabrication of evidence.

52. That it is apparent from the recordings that the original witness statements generated from these meetings were backdated to hide their impermissible training/coaching sessions.

53. That as the complaint relating to witness coaching and training raise fundamental issues that go to the root of the rule of law and calls into question the integrity of the process, the Anti-Corruption and the Central Detective Unit of The Royal Bahamas Police Force. Senior foreign Counsel was engaged and has provided a preliminary opinion on the issues raised. The draft submissions are at page 151 to 157 of "RH".

54. That in the premises, the Applicant seeks an order that the VBI be quashed and or that all proceedings herein against the Applicant be dismissed or stayed on the grounds that:

54.1 The key witnesses have actively colluded to modify and harmonize their respective witness statements and their proposed evidence so as to strengthen the Crown's case against the Applicant;

54.2 In engineering the collusion of the witnesses as aforesaid, the participating officers of the Royal Bahamas Police Force and or the Crown have been guilty of or complicit in the fabrication of evidence against the Applicant; and such conduct constitutes a substantial perversion of the proper course of justice;

54.2 The Applicant has been prejudiced by the prospect of the Crown relying upon tainted or manufactured evidence so much so that there can be no

guarantee of a fair trial as required by Article 20(1), 20(2) (c) and 28 of the Constitution of The Bahamas;

54.3 The Crown's evidence against the Applicant has been reduced to dubious and unreliable probative value, so as to render it unsafe and a threat to the Applicant's constitutional rights to due process and to a fair trial; and

54.5 The massive and inexcusable nondisclosure and delayed disclosure of the earlier interviews and statements of witnesses (including potentially exculpatory materials³) are presumptively prejudicial to the Applicant and to his defence.

55. That the contents of this Affidavit are true and correct to the best of my information, knowledge and belief.

SWORN TO in the City of Nassau)

New Providence this 15th day of)

August 2018)

RAH

Before me:


NOTARY PUBLIC

³ The tenor of the audio recording and the conduct of ASP Thompson displayed therein is clearly indicative of the existence of potentially exculpatory versions of statements made by the key witnesses.

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Criminal Division

No. 233/10/2017

IN THE MATTER OF Article 20(1), 20(2) (c) and 28 of the
Constitution of the Commonwealth of The Bahamas (hereinafter
"the Constitution")

BETWEEN

THE QUEEN

AND

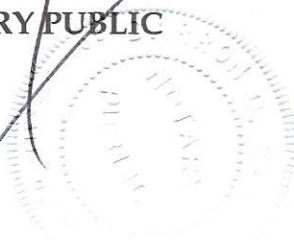
DAVID SHANE GIBSON

Applicant/Defendant

CERTIFICATE

THIS is the Exhibit marked "RH" referred to in the Affidavit of RYSZARD HUMES annexed
hereto and dated the 16th day of August, A.D., 2018.

NOTARY PUBLIC



Bethel: No files received on misconduct

Friday, June 23, 2017



Attorney General Carl Bethel.

ATTORNEY General Carl Bethel said his office has not received any files in relation to complaints of misconduct of former government officials.

He said whatever information that is sent to the Office of the Attorney General in the future will be dealt with under due process. However, he added, the many allegations against the former administration that have emerged from the House of Assembly warranting criminal prosecution have other avenues of redress.

His statement came days after Works Minister Desmond Bannister told Parliament that some members of the Christie administration are "guilty" of misfeasance, adding that Mr Bethel will have to determine if they should be held liable for the "millions" in taxpayer dollars that were awarded in questionable contracts.

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On Tuesday, Prime Minister Dr Hubert Minnis said in the House of Assembly that the attorney general and minister of state for legal affairs have both been asked to review the Christie administration's decision to drop its hurricane insurance policy with the Caribbean Catastrophe Risk Insurance Facility. Dr Minnis said this move meant the government missed out on a more than \$31m insurance payout.

"We've not received any documentation as yet on any of those particular concerns that may have been expressed in the House of Assembly," Mr Bethel told reporters yesterday.

"I'm not prepared to prejudge, I have no information apart from what I may have read in the newspapers and as I said, anything referred to the Attorney General's Office, whether by another minister or by the general public is referred to the appropriate officials for the appropriate treatment."

On whether recent allegations against the former government may be criminal, Mr Bethel said: "I'm not sure that the prime minister would have gone that far as to indicate possible prosecutions and I wouldn't either. I would say that the law is sufficiently mature, common law, that certain acts could either be dealt with civilly, in civil law, or in some other way.

"But I do not believe that anything that's been said by anyone in Parliament has gone to the extent of raising any criminal concerns."

Comments

Well_mudda_take_sic says...

As I've said time and time again, Minnis and his cabinet ministers have been giving us nothing but a whole helluva lot of lip service about holding senior officials in the last government accountable and

2



The Tribune

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11 Files Before Anti-Corruption Investigators



Police Commissioner Ellison Greenslade.

As of Tuesday, June 27, 2017

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By RICARDO WELLS

Tribune Staff Reporter

rwells@tribunemedia.net

THE Royal Bahamas Police Force's Anti-Corruption Unit is investigating 11 files from various government departments and public corporations, Police Commissioner Ellison Greenslade said yesterday.

The police chief also said he was "not surprised" over allegations of misconduct in the civil service, suggesting that accounts provided by "well-meaning citizens" gave cause for concern.

In an interview with the press on the sidelines of the launch of the RBPF's annual summer camp Monday at Calvary Bible Church, Commissioner Greenslade said police were now "on track" with its efforts to investigate and prosecute persons accused of corruption, theft and various forms of misappropriation throughout the public sector. His comments came while confirming the creation of an anti-corruption branch in the RBPF.

Earlier this month, the government announced plans to table legislation in the House of Assembly to set up an anti-corruption commission shortly after Parliament's summer recess.

When asked to clarify the status of the new unit, Commissioner Greenslade stated: "I've given (Assistant Commissioner of Police Paul Rolle) an attorney-at-law, a very trained veteran detective at the chief superintendent rank..... and several other officers, and they have marshaled their resources and looking now at 11 separate files originating from various departments, various public corporations and departments."

He later added: "We have any number of officers assigned led by an assistant commissioner, as I said to you before, I am not going to get into specifics and all the minutiae around it except to say that the mandate of the unit is clear.

"I indicated earlier that they have already 11 files in their possession that they are investigating. I receive reports on a daily basis, verbal and written and I am very satisfied that they are making good progress.

"We are anticipating that we will be able to come back to the public real soon and to say some things more decisively, in terms of what will happen with some of these investigations."

Commissioner Greenslade did not offer any specifics on any ongoing investigations or potential cases that could arise in the future.

He insisted that the creation of the new unit brings to an end the "difficult position" in which he has, in the past, been asked to exist.

According to Commissioner Greenslade, while claims of corruption or misconduct in the public sector are not new, there has often been very little to build a case around or investigate, a situation he described as being "off in the dark, searching around, trying to manufacture things."

He stated: "You must have complainants in these matters. Someone must be aggrieved in these matters, a formal complaint is made and once that is done, then the law takes its course. There is due process, there is natural justice and a commissioner follows the script of the law. So, I think we are on track now.

"We are doing some good things. We have done good things before. And we hope that, again, that we can come to you as a press and (bring) something at some future point."

With respect to the scope of charges that could be sought by the unit in the coming weeks, Commissioner Greenslade said officials are looking at a "wide range" of issues that could result in various charges.

He told reporters that to date, claims of stealing and misappropriation of funds are being investigated to bring about the relevant charges and appropriate resolutions.

"You have any number of issues when you start to look at a corruption investigation and when you look at corruption investigations you can't divorce from it issues like stealing, the misappropriation of funds; all of those things are a part and parcel to what we do in an investigation," he stated.

"But there is a lot of work to be done and I wish to tell you that this, in my mind, will move in to the private sector, not just public and government, but even in to the private sector."

In keeping with its campaign promise to wipe out malfeasance in government and increase transparency, the Free National Movement administration pledged last month in the Speech from the Throne to create and enforce anti-corruption legislation for parliamentarians and public officers.

In addition to legislation, Press Secretary Anthony Newbold has also announced the government's plans to have three persons travel to Singapore and the United Kingdom to "observe their anti-corruption commissions" to help determine how the Bahamas's unit will be set up.

More like this story

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- [BEC bribe probe out of Greenslade's hands](#)

Comments



sheeprunner12 1 year, 1 month ago

What is the COP going to do about all of the corrupt RBPF, RBDF, Customs, Immigration and Prison officers right under his nose?????? Joe Public has to tolerate this nonsense every day whiffers, dealers, toters and sexers

Pot is going to call kettle orange??????????

Upvote 0

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BahamaPundit 1 year, 1 month ago

The prosecution of these matters will determine whether black Bahamians can break free of the shackles of being natural slaves. Can they rule? Can they institute justice? Or are they just slaves dressed up in their white master's clothing pretending to rule a country.

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13-7-17

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COMPLAINANT	DEFENDANT	WITNESS	NATURE OF OFFENCE
COMMISSIONER OF POLICE	Kenned Dorsett Age: 46 years D.O.B 16/02/71 Add: #9 Winton Terrace Nat: Bahamian	Johnathan Ash Kazi Rahman Jack Thompson Mary Mitchell D/Sgt 2106 Rolle D/Insp A McCartney	Count # 4 Extortion: Contrary to Section 453(1) of the Penal Code, Chapter 84 Particulars are: That you between 1 st March, 2017 and 9 th May, 2017, at New Providence, in respect of your duties as a public officer, obtained \$50,000.00 from Johnathan Ash, knowing that you were not lawfully authorized to demand the same.
CASE # 1-17-054730			Count # 5 Bribery: Contrary to Section 3(2)(a) and punishable under section 10(a) of The Prevention of Bribery Act, Chapter 88. Particulars are: That you between 1 st March, 2017 and 9 th May, 2017, at the Sanitary Landfill, New Providence, in your capacity as a public servant, without lawful authority or reasonable excuse, solicited \$10,000 from Johnathan Ash on account of your abstaining from the performance or exercise of your asserted power as Minister of The Environment "to stop" Johnathan Ash from working at the said Sanitary Landfill.
Lump A. Williams (FOR) Commissioner of Police			

12

COMPLAINANT	DEFENDANT	WITNESS	NATURE OF OFFENCE
COMMISSIONER OF POLICE	Keured Dorsett Age: 46 years D.O.B 16/02/71 Add: # 9 Winton Terrace Nat: Bahamian	Johnathan Ash Kazi Rahman Jack Thompson Mary Mitchell D/Sgt 2106 Rolle D/Insp A McCartney	Count # 6 Bribery: Contrary to Section 3(2)(a) and punishable under section 10(a) of The Prevention of Bribery Act, Chapter 88.
1298-17			Particulars are: That you between 1 st March, 2017 and 9 th May, 2017, at the Sanitary Landfill, New Providence, in your capacity as a public servant, without lawful authority or reasonable excuse, solicited \$50,000 from Johnathan Ash on account of your abstaining from the performance or exercise of your asserted power as Minister of The Environment "to stop" Johnathan Ash from working at the said Sanitary Landfill.
CASE # 1-17-054730			Count # 7 Bribery: Contrary to Section 3(2)(a) and punishable under section 10(a) of The Prevention of Bribery Act, Chapter 88.
			Particulars are: That you between 1 st March, 2017 and 9 th May, 2017, at the Sanitary Landfill, New Providence, in Your capacity as a public servant, without lawful authority or reasonable excuse, accepted \$10,000 from Johnathan Ash on account of your abstaining from the performance or exercise of your asserted power as Minister of the Environment "to stop" Johnathan Ash from working at the said Sanitary Landfill.
<i>David A. McPherson</i> (FOR) Commissioner of Police			

13

COMPLAINANT	DEFENDANT	WITNESS	NATURE OF OFFENCE
COMMISSIONER OF POLICE	Kemred Dorsett Age: 46 years D.O.B 16/02/71 Add: #9 Winton Terrace Nat: Bahamian	Johnathan Ash Kazi Rahman Jack Thompson Mary Mitchell D/Sett 2106 Rolle D/Usp A McCartney	Count #8 Bribery; Contrary to Section 3(2)(a) and punishable under section 10(a) of The Prevention of Bribery Act, Chapter 88.
CASE # 1-17-054730			Particulars are: That you between 1 st March, 2017 and 9 th May, 2017, at the Sanitary Landfill, New Providence, in Your capacity as a public servant, without lawful authority or reasonable excuse, accepted \$50,000 from Johnathan Ash on account of your abstaining from the performance or exercise of your asserted power as minister of the environment "to stop" Johnathan Ash from working at the said Sanitary Landfill.
			Count 9 Misconduct in Public Office; Contrary to the Common Law. Particulars are: That you between 1 st March, 2017 and 9 th May, 2017 at New Providence whilst acting as a public officer, willfully misconducted yourself, as to amount to an abuse of the public's trust, without reasonable excuse or justification.
Sup. O'Boyle (FOR) Commissioner of Police			

In The Supreme Court
Criminal Division

The Queen versus

KENRED DORSETT

To Wit:

KENRED DORSETT, is charged with the following offence:(s)

First Count
Statement of Offence

BRIBERY, contrary to section 3(2) (a) and punishable under section 10(a) of the Prevention of Bribery Act, Chapter 88.

Particulars of Offence

That you, **KENRED DORSETT**, between Wednesday, 1st March, 2017 and Tuesday, 9th May, 2017, at the City Dump site, located off Tonique William-Darling Highway, New Providence, in your capacity as a public servant, without lawful authority or reasonable excuse, solicited \$10,000.00 from Johnathan Ash on account of you abstaining from the performance or exercise of your asserted power as minister of the environment to stop Johnathan Ash from working at the said Dump site located off Tonique Williams Darling Highway.

Second Count
Statement of Offence

BRIBERY, contrary to section 3(2) (a) and punishable under section 10(a) of the Prevention of Bribery Act, Chapter 88.

Particulars of Offence

That you, **KENRED DORSETT**, between Wednesday, 1st March, 2017 and Tuesday, 9th May, 2017, at New Providence, in your capacity as a public servant, without lawful authority or reasonable excuse, accepted \$10,000.00 from Johnathan Ash on account of you abstaining from the performance or exercise of your asserted power as minister of the environment to stop Johnathan Ash from working at the said Dump site located off Tonique Williams Darling Highway.