

TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

H.C.A No. 1717/01

BETWEEN

JENNELYN GUERRA

Applicant

AND

**THE ATTORNEY GENERAL OF
TRINIDAD AND TOBAGO**

Respondent

Before the Honourable Justice M. Dean-Armorer

Appearances:

Mr. F. Durity for Applicant

Mr. Neil Byam for the Respondent

JUDGMENT

Introduction

1. This is a Constitutional Motion, which was filed on the 25th June, 2001.
2. The Applicant has sought the following reliefs:
 - (a) A Declaration that the arrest and/or detention of the Applicant at 2.30 a.m. on the 14th day of October, 1999 was unconstitutional and illegal.

- (b) A Declaration that the detention and/or imprisonment of the Applicant from the 14th of October, 1999 of the 22nd day of May, 2000 was unconstitutional and illegal.
 - (c) A Declaration that the handcuffing of the Applicant was unconstitutional and illegal.
 - (d) A Declaration that upon arrest and/or detention the failure and/or refusal by the police officers to inform the Applicant with sufficient particularity of the reason for her arrest and/or detention was unconstitutional and illegal.
 - (e) A Declaration that the failure and/or refusal and/or omission to allow the Applicant the right to retain and instruct without delay a legal advisor of her own choice and to hold communication with him was unconstitutional and illegal.
 - (f) A Declaration that the failure to bring the Applicant promptly before an appropriate judicial authority was unconstitutional and illegal.
 - (g) An Order that monetary compensation including aggravated and/or exemplary or punitive damages be assessed on behalf of the Applicant
 - (h) Interest under the Supreme Court of Judicature Act. Ch. 4:01 as Amended.
 - (i) Costs.
 - (j) Such further and/or other relief as the nature of the case may require.
- (3) In her grounds, which have been set out in the Notice of Motion, the Applicant has alleged that her fundamental rights as enshrined at Sections 4(a), (b), 5(2)(a) and 5(2)(c)

of the Constitution were infringed by the following alleged acts or omissions of her arresting officers:

- The Applicant's arrest on the 14th October, 1999.
 - The alleged failure of the police to inform her of her right to instruct and retain without delay a legal advisor of her choice
 - The handcuffing of the Applicant.
 - The failure and/or refusal to inform the Applicant of the reason for her arrest.
 - The failure and/or refusal to bring the Applicant promptly before an appropriate judicial authority.
 - The detention of the Applicant between 14th October, 1999 and 22nd May, 2000.
4. The Constitutional Motion was supported by an affidavit which was sworn by the Applicant on 25th June, 2001. When the hearing of the matter began on the 2nd May, 2002, there were no affidavits before the Court on behalf of the Respondent.

On the first day of the hearing of this matter, learned Counsel for the Respondent argued *in limine* that the Constitutional Motion should be dismissed because it was an abuse of the Court's process. The argument of the Respondent was based on the decision and pronouncements of the Judicial Committee of the Privy Council in *Thakur Persad Jaroo v. The Attorney General of Trinidad and Tobago (Jaroo) P.C. 54/2000*.

5. Learned Counsel for the Applicant, Mr. Durity, sought to distinguish the instant Application from *Jaroo*.
6. On the 10th May, 2002, the Court delivered an oral ruling , the full text of which is now set out.

Reasons for dismissing the Point *in limine*:

1. The Court has heard a point *in limine* seeking the dismissal of a Constitutional Motion, where the rights which are alleged to have been contravened are the right to liberty; the right to be informed of the Applicant's right to Counsel; the right of the Applicant to be brought promptly before a judicial authority and the right of the Applicant to be informed of the reason for the her arrest.
2. The Respondent has filed no affidavits and the evidence before the Court is the evidence of the Applicant by way of an affidavit filed on the 25th June, 2001.
3. The *ratio decidendi* in *Jaroo* was founded in the first place on the existence of a parallel remedy. At paragraph 32 of the Advance copy of the Judgment of the Privy Council, Lord Hope of Craighead said:

“There is no doubt however that a parallel remedy was available to the Applicant”

4. It is clear from a reading of the Judgment of the learned Law Lord that the existence of a parallel remedy of itself did not render the proceedings an abuse of process. At paragraph 31 of the Judgment, the learned Law Lord said:

“For the reasons which their Lordships have just indicated, the applicant may have had sound reasons at the outset for thinking that his constitutional rights were being infringed by the police. This is because they

were continuing to detain the vehicle which he had handed over to them voluntarily without giving any reasons for doing so, and because they had declined to answer his requests for it to be returned to him. All the signs were that they were abusing their common law powers in a manner which was no longer lawful and which could properly be described as arbitrary. Section 14(1) of the Constitution declares that, without prejudice to any other action with respect to the same matter which is lawfully available, a person may apply to the High Court for redress by originating motion in such circumstances. This procedure enables the person who seeks a quick judicial remedy to avoid the delay and expense which a trial of the case by means of an ordinary civil action will involve. As the appellant had received no reply to his solicitor's letter of 22 April 1988, their Lordships are disposed to think that he could not reasonably have been criticised at the outset for regarding the constitutional route as the best way to make rapid progress in his efforts to obtain the return of the motor car."

5. My respectful interpretation of this passage is that it is permissible for the Applicant to commence proceedings under s.14 of the Constitution, notwithstanding the existence of a parallel remedy, as long as there is no dispute as to the facts of the case. When the facts become disputed, the continued use of the Originating Motion procedure becomes an abuse of process.
6. In the instant case there was no parallel remedy which would encompass all the reliefs sought in this matter, since the reliefs included not only a claim of an arrest without due process, but an allegation that there had been a failure to inform the Applicant of her right to Counsel. Since the Court leans against duplicity of proceedings, it would be inappropriate for the Applicant to discontinue a part of her application and to commence proceedings for false imprisonment by way of a Writ and to persist with the Constitutional Motion in respect of her right to be instructed and retain a legal advisor of her choice.

7. Moreover, to date there has been no indication that the facts of this case will be disputed. The Constitutional Motion was filed on the 25th June, 2001. In *Jaroo*, it became clear that there were facts in dispute when the Respondent filed an affidavit which was sworn by Sergeant Flemming. In this matter, the Court's record reflects that on the 24th July, 2001 the Respondent had no instructions. On 15th January, 2002 the normal directions for the filing of affidavits were given. On the 8th March, 2002 the matter was fixed for trial and the Respondent sought an adjournment on the ground that the State had just found its witness. There was no indication as to what their case would be. On the 2nd May, 2002, the State still had filed no affidavits and had given no indication that the Applicant's position would be contested. Therefore, when the point *in limine* was taken, the instant matter was clearly distinguishable from *Jaroo* in that there were no issues of fact.
8. Prior to the ruling in *Jaroo*, the Applicant for Constitutional relief was bound by the learning in *Mayor Aldermen of San Fernando v. Ramlogan C.A.No. 54 of 1985*. In that case, the Court of Appeal rejected the argument that a Constitutional Motion was an abuse of process if there was an alternative remedy available to the Applicant. In so doing, the Court of Appeal reversed a trend which had held sway for nearly one decade and held that an Applicant may properly invoke s.14 of the Constitution as long as a prima facie breach of a Constitutional right was disclosed.
9. The Court finds that the instant case is distinguishable from *Jaroo*, in that there was no remedy which was parallel to that sought herein and in that in the instant case there is no dispute as to facts. Accordingly the point *in limine* was dismissed and the Court ordered that the matter be heard as filed.

Undisputed Facts :

The facts in this case are to be gleaned from the affidavit which was filed by the Applicant in support of the Constitutional Motion.

Directions for filing of affidavits in response were given to the Respondent on the 15th January, 2002. By the 8th March, 2002, when the matter was listed before the Third Civil Court, Port of Spain, the Respondent had failed to comply with earlier directions.

On this occasion, the Court adjourned the matter to the 1st May, 2002 and gave fresh direction to the Respondent for the filing of affidavits in response to the affidavit of the Applicant.

By the 1st May, 2002, when hearing of the matter began, the Respondent had still failed to file affidavits in response.

Accordingly, the affidavit of the applicant must stand as being uncontradicted and the undisputed facts which are to be gleaned from the affidavit which was sworn by the Applicant on the 25th June, 2001 and set out hereunder:

1. On Wednesday 13th October, 1999, the Applicant accompanied an acquaintance of hers to the home of another. At 2:30 a.m. on Thursday 14th October the Applicant was arrested by two police officers without a warrant.
2. The Applicant was taken by the police officers to her home to leave her nephew, who had accompanied her to the home of her friend. She was then taken to the Arima Police Station, where she was searched and placed in a cell. She was left in the cell for three (3) days.

3. Upon her arrest, the Applicant was not informed that she was being arrested or the reason for her arrest and detention. The Applicant was not informed of her right to consult an attorney-at-law and was not allowed an opportunity to contact one.
4. On the night of the 16th October, 1999 the Applicant was moved from the Arima Police Station to the La Horquetta Police Station. She was questioned by police officers and searched.
5. On the 17th October, 1999, the Applicant was charged for possession of firearms and ammunitions. She was also charged with robbery with aggravation.
6. After being charged the Applicant was taken to the Barataria Police station where she was interrogated by approximately six (6) or seven (7) police officers, one of whom attempted to have her sign “a piece of paper”.
7. Later on the 18th October, the Applicant was taken to the Santa Rosa Police Post where she was again interrogated and threatened. She was handcuffed in a storeroom containing chemicals and made to sleep in an air-conditioned room, while handcuffed to a chair.
8. The Applicant suffered with bronchitis and this condition was aggravated by her having to sleep in an air-conditioned room.
9. On the 19th October, the Applicant was taken to the Morvant Police Station where she was placed in a cell. The floor of the cell was wet with urine. There were cockroaches and stale food on the floor.

10. On the 20th October, 1999, the Applicant was taken to the Barataria Police Station and then returned to the Arima Police station in the company of other prisoners.
11. On the 21st October, 1999, the Applicant was taken before a Justice of the Peace at the Arima Magistrate's Court. She was granted bail with a surety in the sum of sixty thousand dollars (\$60,000.00).
12. The Applicant has not stated why she did not avail herself of the bail which had been granted. In her affidavit, she deposed that she remained in custody until the 22nd May, 2000, when the charges of robbery with aggravation which had been laid against her were dismissed and the Applicant was placed on a bond in her mother's custody.
13. In her affidavit the Applicant has also deposed that she practices the beauty culture trade and earns approximately two hundred and fifty dollars (\$250.00) per day.

Law:

The principles of law which govern the instant case are well established in our jurisprudence and are therefore briefly set out hereunder:

1. Section 4(a) of the Constitution guarantees to the individual the right to liberty and the right not to be deprived thereof except by due process of law. See *s. 4(a) of the Constitution*.
2. The "due process" clause at s. 4(a) and right to the protection of the law at s. 4(b) of the Constitution are further particularised (though not exhaustively) at s. 5(2) of the Constitution. See *Thorhill v. The Attorney General (1976) 31 W.I.R. 498*.

3. Sections 5 (2)(a) of the Constitution protects the individual from “*arbitrary detention or imprisonment...*”
4. Section 5 (2) (c)(ii) protects the right of the arrested or detained person “*.....to retain and instruct without delay a legal advisor of his own choice and to hold communication with him.....*”
5. The arrested or detained person enjoys not only the right to retain and instruct an attorney, but to be informed by the police of his or her right. See *Attorney General v. Whiteman [1991] 2 A.C. 240*.
6. Section 5 (2) (c)(iii) protects the right of the arrested or detained person “*to be brought promptly before an appropriate judicial authority*”
7. In the case of *Ulric Bobb v. The Attorney General H.C.A No. 967/78* the learned Justice Blackman considered the meaning of “promptly” in the context of s. 5(2) (c) (iii) and rejected the idea that “promptly” connoted any particular lapse of time. At p. 16 of his judgment, the learned Justice Blackman held that “promptly” “*.....signifies a period which is not longer than the circumstances of the particular case require.....*”
8. A person who is arrested or detained is entitled to be informed upon arrest that he is being arrested and to be informed of the reason for his arrest. See s. 5 (2) (c)(i) which protects:

“.....the right to be informed promptly and with sufficient particularity of the reason for his arrest or detention.....”
9. The circumstances in which a person can lawfully be deprived of his liberty are:

- Where he is arrested pursuant to a warrant. No action lies against an officer who effects an arrest pursuant to a warrant. See *Police Service Act Ch. 15:01 at ss. 36(3) and 42*.
- Where he is arrested pursuant to reasonable suspicion, as prescribed by s. 4 of the *Criminal Law Act. Ch. 10:04*.
- Where he is serving a custodial sentence imposed by a court.
- Other situations (which are irrelevant to this case) include the detention of persons of unsound mind; arrests under the *Emergency Provisions at s.11* of the *Constitution* and detention of failure to observe obligations imposed by law, such as failure to pay maintenance imposed by the Court,

In compiling this list, this Court relied on learning in *De Merieux, Fundamental Rights in Commonwealth Caribbean Constitutions (1992 ed) p. 145*.

10. Section 109 of the *Summary Courts Act* prohibits the handcuffing of an arrested person:

“.....except in case of necessity, or of reasonable apprehension of violence or of attempt to escape or by order of the Court or of a Magistrate or Justice.”

11. In addition to the rights referred to above s. 5 (2)(f) (iii) protects the right of the person, who is charged with a criminal offence:

“.....to reasonable bail without just cause.....”

This confers a right to be released from custody pending trial and entitles the person who is charged to a conditional restoration to his liberty.

12. There exists, in respect of the acts of public officials, a rebuttable presumption that official acts have been executed honestly and regularly unless the contrary is shown. See *The Attorney General v. K. C. Confectionery (1985) 34 W.I.R. 387*.

Application of Law to Facts:

1. The Applicant in this case was not arrested pursuant to a warrant. In order to justify the initial arrest, it was incumbent on the arresting officer to have satisfied this Court that he entertained a reasonable suspicion that the Applicant either committed or was about to commit an arrestable offence. No evidence was offered on behalf of the arresting officer in this matter and it is trite law that it is the arresting officer bears the evidential burden of justifying the arrest. The Court accordingly holds that the initial arrest was unlawful and contravened the Applicant's right not to be deprived of her liberty except by due process of law.
2. The issue with which the Court must grapple is whether the Applicant's detention was regularised by the grant of bail or whether the unlawful detention continued until the 22nd May, 2000, where the charges of robbery with aggravation were dismissed against the Applicant and she was placed on a bond.
3. Mr. Byam for the Respondent/Attorney General has correctly emphasised that the Applicant omitted to allege that the grant of bail was unreasonable, that the laying of the charge was illegal or that the presiding Magistrate had failed to inform her of her right to apply to a Judge in Chambers for the variation of bail.

4. Mr. Byam has argued further that the detention of the Applicant was justified by the judicial order, that is to say, the grant of bail by the Justice of the Peace on the 21st October, 1999.
5. The Applicant, according to her own evidence was granted bail on the 21st October, 1999 by a Justice of the Peace. It is clear from her evidence that she chose, for whatever reason, neither to avail herself of the opportunity to secure her conditional release through bail nor to the variation of the bail that was set. In the absence of evidence to the contrary, the Court must be guided by the presumption of regularity that governs the acts public officials. Unless the contrary is alleged and proved, the Court must presume that the grant of bail was regular and that the Applicant chose, for reasons unknown to the Court, to remain in custody until the 22nd May, 2000.
6. The Court is therefore of the view that the unjustified detention of the Applicant came to an end on the 21st October, 1999 when she was granted bail. Thereafter her detention was with due process in that she had been properly charged and had been granted bail but had failed to fulfill the condition which would procure her release.
7. The Applicant has sought declarations as to the illegality of her handcuffing and of the failure of the police to inform her of her right to counsel.
8. In the absence of evidence from the State, the simple facts of this case are that the Applicant was not informed, as she was entitled to have been, of her right to counsel.
9. Similarly, there is no evidence from the State that there was any reasonable apprehension of violence or any attempt to escape or any other circumstance which rendered handcuffing necessary.

10. The Applicant was arrested in the early hours of the 14th October, 1999 and was not taken before an appropriate judicial officer until the 21st October, 1999. This lapse of time could not possibly be described as “promptly”. No reason has been advanced to explain why the Applicant could not have been taken before an appropriate judicial officer on the day of her arrest. The Court is accordingly of the view that the Applicant has suffered a breach of her right as an arrested person to have been brought promptly before a judicial authority.

Findings and Conclusion:

The Court accordingly holds as follows:

1. The arrest of the Applicant on 14th October, 1999 was illegal and unconstitutional.
2. The detention of the Applicant from her arrest to the 21st October, 1999 when she was granted bail was illegal and unconstitutional.
3. The failure of the police to inform the Applicant of her right to Counsel is illegal and unconstitutional.
4. The police failed to take the Applicant before an appropriate judicial authority “promptly” as required by s. 5 (c)(iii).

Quantum

Principles on which Compensation is awarded in Constitutional Motions

1. Compensation for a breach of a Constitutional right is not at large and is restricted to the breach of the right alone. See *Maharaj v. The Attorney General [1978] 30 WIR 310 at 321 (j)*, per Lord Diplock:

“The claim is not a claim in private law for damages for the tort of false imprisonment it is a claim in public law for the deprivation of liberty alone.”

2. The award of monetary compensation in Constitutional Motions is discretionary. This Court wishes respectfully to refer to the judgment of the learned Justice of Appeal Nelson in the case of ***David Lakhan v. The Attorney General C.A. No. 154A of 1997:***

*“In my judgment there is precedent for saying that in the area of public law where a breach of constitutional rights is proved, the Court in its discretion may make an award of monetary compensation for the infringement of the constitutional right **per se** without proof of consequential damage.....”* See p. 13 of the unreported judgment.

3. The successful applicant may also be compensated for consequential damage of distress, inconvenience and loss of earnings. See ***Maharaj v. The Attorney General (Supra)*** and ***David Lakhan v. The Attorney General (supra)*** at p. 13.
4. The categories of distress, inconvenience and loss of earnings as formulated by Lord Diplock in ***Maharaj v. The Attorney General*** have pervaded our jurisprudence in the area of awards in Constitutional matters up to the present time.
5. At present, exemplary damages are not recoverable as part of an award of damages for breach of a Constitutional right. See ***Jorsingh v. The Attorney General (1997) 52 W.I.R 501 at 505 a.***
6. In making an award, the Court is required to be mindful of awards in other areas. Reference is respectfully made to the judgment of the learned Chief Justice in ***Jorsingh v. The Attorney General*** requiring “some proportion” with the levels of

damages that have been awarded for wrongful deprivation of liberty or at common law for personal injuries caused by negligence or defamation.....”

7. The award which is made as compensation should include general and aggravated damages and there ought not to be two separate awards. Reference is respectfully made to the judgment of the learned de la Bastide, Chief Justice in *C.A. No. 159 of 1992 Thaddeus Bernard, ;Airport Authority of Trinidad and Tobago v. Nixie Quashie at p. 5 of 11:*

“.....the only criticism that might be made is that [the trial Judge] made separate awards under the respective heads of general damages and aggravated damages. The normal practice is that one figure is awarded general damages. These damages are intended to be compensatory and include what is referred to as general damages”

8. The Court, in assessing compensation in Constitutional matters, ought not to adopt a mathematical approach by computing the hours and days which the Applicant had spent in unlawful detention. In the Appeal *CA No. 14 of 2000 Josephine Millette v. Sherman Mc Nicholls* the learned Chief Justice expressly frowned on this practice at p. 5 of 8 of his Judgment by describing the mathematical approach as one which:

“.....this court will not adopt or approve.....”

9. The length of the unlawful imprisonment is nonetheless a very important and possibly the most important factor in assessing damages for wrongful imprisonment. Reference is respectfully made to the judgment of the learned Chief Justice de la Bastide, in *Josephine Millette (Supra) at p. 5 of 8* where the learned Chief Justice said:

“On the other hand, it is obvious that one of the factors – and a very important one – to be considered in assessing damages for wrongful imprisonment is the length of the imprisonment. That is probably the most important factor, but there are others.....”.

10. The Court ought to have regard to the plight and circumstances of the individual applicant in making an award. In the case of ***Crane v. The Attorney General and Ors. CA No. 181/97***, the learned Justice of Appeal Hamel-Smith referred to:

“The extent of the victim’s suffering and distress.....” recognizing that they
“.....naturally differ from case to case...”

The learned Justice of Appeal then formulated the principle by which the Court should be guided:

“Accordingly, the Court must, while maintaining a measure of consistency in its awards, determine the grief and agony of the particular victim (the appellant), his suffering and humiliation endured over a prolonged period, suffering and distress that he says continues to this day, and translate that into dollars and cents.....”

11. In their submissions, learned Counsel for both sides sought to assist the Court by reference to earlier awards in Constitutional Motions. Learned Counsel for the Applicant referred to the case of ***Carlton Morgan v. The Attorney General H.C.A. No.1040/97*** where the Applicant had been detained for three and a half hours and received compensation of four thousand dollars (\$4,000.00) plus three thousand dollars (\$3,000.00) for the period during which he was on bail. Learned Counsel also referred to the case of ***Shah Mohammed v. The Attorney General*** in which the Applicant was detained for five (5) days and was awarded ninety thousand dollars (\$90,000.00). Reference was made to ***H.C.A. No. 658/98 Ramish Maharaj v. The Attorney General*** where fifty thousand dollars

(\$50,000.00) was held to be just compensation for two (2) days of unlawful detention.

12. Counsel also referred to *H.C.A No. 5263/96 Dale Maharaj v. The Attorney General* where the Applicant had been severely brutalised. In that case, the learned Justice Gobin (as she then was) awarded twenty thousand dollars (\$20,000.00) to the Applicant.
13. Learned Counsel for the State referred to *H.C.A No. 801 of 1997* between *Ronnie Abraham v. The Attorney General*. In that case, the Applicant had been arrested because the police officers mistook him for someone else. *Ronnie Abraham* spent seventy (70) days in jail and received one hundred and twenty five thousand dollars (\$125,000.00), as general damages.
14. The Court had recourse to the decision of the learned Chief Justice in *Josephine Millette v. Sherman Mc Nicholls (Supra)* where an elderly woman was wrongly incarcerated for one hundred and thirty two (132) days owing to an incorrect magisterial order. The Court of Appeal refused to disturb the award of one hundred and forty thousand dollars (\$140,000.00) although the Court of Appeal expressed the view that the award was “*on the low side*”.

Application:

1. The Applicant has suffered the infringement of her right to liberty from 2:30 a.m. on the 14th October, 1999 to 21st October, 1999 which is approximately seven (7) days.
2. Under the head of Loss of Earnings the Applicant is entitled to seven times her daily income, that is to say one thousand seven hundred and fifty dollars (1,750.00).

3. In respect of the unconstitutional deprivation of her liberty, the Court is required, in making an award of monetary compensation, to be mindful of the distress and inconvenience suffered by the Applicant.

4. The Court is of the view that the distress and inconvenience of the Applicant would have been aggravated by the early hour of her arrest. Her distress and inconvenience would have been further aggravated by being shuffled from one police station to another by the police; by her interrogation by police officers on the 16th October, 1999, when she was questioned by a police officer and on the 17th October, 1999, when she was interrogated by six (6) to seven (7) police officers and requested “*to sign a paper...*”; by threats which were made to her that to have her “*face put on all the newspapers.....*” and “*to dirty her name.....*”; by her incarceration in an air-conditioned storeroom; by her having been handcuffed to a chair during the night-time, which made it necessary for her to have slept on the chair; and by the unsanitary, unpleasant conditions at the Morvant Police Station where the applicant was incarcerated on the 19th October, 1999; by the refusal of the police to let her know why she was being arrested. The Applicant was not informed of her right to consult an attorney-at-law and was not allowed an opportunity to contact one.

5. Counsel for the Applicant has suggested that the sum of one hundred and forty thousand dollars (\$140,000.00) is an appropriate award. However, the Court is mindful that the Court of Appeal declined to disturb an award of one hundred and forty thousand dollars (\$140,000.00) in the case of *Josephine Millette v. Sherman Mc Nicholls (Supra)*, which involved the unlawful imprisonment of that Applicant for one hundred and thirty two (132) days. There is no doubt that the Applicant in this case endured trauma, and suffering. The Court must however, maintain a sense proportion with previous awards and in all the circumstances finds that the sum of one hundred and ten thousand dollars (\$110,000.00) is appropriate. This sum represents compensation for the unlawful

deprivation of the Applicant's liberty from the 14th October, 1999 to the 21st October, 1999 and includes that period during which the Applicant would have had to await compliance with administrative procedures by her surety had she chosen to avail herself of the grant of bail. The award also includes compensation for the aggravating circumstances

Orders:

Having regard to the foregoing and in the exercise of the discretion conferred by s. 14 (2) of the *Constitution*, the Court grants to the Applicant the following reliefs:

1. A declaration that the arrest of the Applicant at 2:30 a.m. on the 14th October, 1999 was unconstitutional and illegal.
2. A declaration that the detention of the Applicant from the 14th October, 1999 to the 21st October, 1999 was unconstitutional and illegal.
3. A Declaration that the handcuffing of the Applicant was unconstitutional and illegal.
4. A Declaration that upon arrest and/or detention the failure and/or refusal by the police officers to inform the Applicant with sufficient particularity of the reason for her arrest and/or detention was unconstitutional and illegal.
5. A Declaration that the failure and/or refusal and/or omission to allow the Applicant the right to retain and instruct without delay a legal advisor of her own choice and to hold communication with him was unconstitutional and illegal.

6. A Declaration that the failure to bring the Applicant promptly before an appropriate judicial authority was unconstitutional and illegal.

It is further ordered that the Respondent pay to the Applicant one thousand seven hundred and fifty dollars (\$1,750.00) for loss of earnings and one hundred and ten thousand dollars (\$110,000.00) as compensation for the infringement of her right to liberty, with interest thereon at the rate of twelve percent (12%) from the date of the Originating Motion. The Respondent is also ordered to pay to the Applicant her costs certified fit for advocate attorney.

Dated this 1st day of July 2002

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MIRA DEAN-ARMORER
JUDGE