COMMONWEALTH OF THE BAHAMAS
IN THE COURT OF APPEAL
SCCrApp. No. 80 of 2021

B E T W E E N

SEAN BRUEY aka SHAWN SAUNDERS
Appellant

AND

THE ATTORNEY GENERAL
First Respondent

AND

JUSTICE GREGORY HILTON
Second Respondent

BEFORE: **The Honourable Sir Michael Barnett, P**
The Honourable Mr. Justice Isaacs, JA
The Honourable Madam Justice Crane-Scott, JA

APPEARANCES: **Mr. Osman Johnson, Counsel for the Appellant**

Ms. Stephanie Pintard, Counsel for the Respondents

DATES: **17 June 2021; 1 July 2021; 18 August 2021**

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Criminal Appeal – Extradition – Bail - Bail pending special leave to appeal to the Privy Council - Jurisdiction of the Court of Appeal to grant bail in extradition cases - Abuse of the process of the court – Breach of constitutional rights - Prison conditions – Article 17 of the Constitution - Section 4(2) Bail Act

The appellant appealed the decision of Forbes, J. (Actg.) to dismiss his constitutional application to this Court. The appellant then applied to this Court to admit him to bail pending the determination of his appeal. His application for bail was refused in November 2019.

On 29 June 2020 the appellant's appeal against the decision of Forbes J. (Actg.) was dismissed. The appellant sought leave to appeal to the Privy Council. That application was refused on 28 September 2020. However, the Court, granted a conservatory order for fourteen days to allow the appellant an opportunity to seek special leave.

On 4 March 2021 the appellant made an application for bail in the Supreme Court before Hilton, J. pending his appeal to the Privy Council. That application was refused on 10 June 2021 and the appellant appeals that refusal to this Court.

Held: appeal dismissed.

Hilton, J. was bound by the November 2019 decision of this Court which denied bail to the appellant. Had bail been granted in the face of this Court's refusal it would have had the effect of bringing the system of justice into disrepute.

The appellant's complaint about the prison conditions were traversed by this Court in its refusal of conditional leave to appeal. Having regard to the principle of stare decisis, it would have been improper for Hilton, J. to come to any other conclusion on the issue.

There is no evidence before the Court that the appellant has launched an application for special leave before the Privy Council.

The appellant's application for bail is an abuse of the process of the court.

Austin Knowles and Others v Superintendent Culmer (Superintendent of H.M. Prison Fox Hill) and Others [2005] UKPC 17 applied
R v Phillis [1922] 1 All ER 275 considered
R v Spilsbury [1898] 2 QB 615 considered
Terry Delancey v The Attorney General SCCivApp. No. 43 of 2006 applied

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J U D G M E N T

Judgment delivered by the Honourable Mr. Justice Isaacs, JA:

1. The appellant seeks bail pending the hearing of his application for special leave to appeal to the Judicial Committee of the Privy Council being heard by that body. We are called upon once again to consider whether or not the appellant ought to be admitted to bail while he awaits the outcome of his various legal challenges to his extradition to the United States of America.

2. I say "once again" but in truth, on the last occasion that he sought his release on bail, it was for bail pending his appeal from the decision of Forbes, J (A'g.). On 19 November 2019, the Court declined to grant bail to the applicant; and on 29 June 2020, determined the appellant's appeal

on the constitutional motion he had brought before Forbes, J (A'g.); and which had been refused. The Court dismissed the appellant's appeal.

3. The present appeal stems from the decision of Hilton, J ("the Judge") dated 10 June 2021, to deny the appellant's application for bail. In his ruling the Judge said, inter alia:

> **"26. While, the Privy Council in Austin Knowles and others vs. Superintendent Culmer (Superintendent of H.M. Prison Fox Hill)and others P.C. Appeal No. 45 of 2004 at paras: 22 and 27 has affirmed that the Supreme Court has jurisdiction to consider whether or not to grant bail in an extradition matter. It specifically indicates that bail should only be considered in exceptional cases with extreme care and caution.**
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> **27. In the ordinary criminal case no matter how serious the charge, the court has a discretion as to whether to grant bail or not to an applicant. There is no doubt about that. However, extradition cases, in my view, are in a special category and I am of the view that after a refusal of a Writ of Habeas Corpus by a judge of the Supreme Court and particularly after a Court of Appeal ruling affirms the decision of the judge, the Applicant should be remanded in custody to await surrender notwithstanding that he has sought special leave to appeal to the Privy Council.**
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> **28. I am also of the view that as the Court of Appeal has specifically ruled that the Applicant should be denied bail in the circumstances or at the stage the Applicant's case is at, then I am bound from reconsidering the application afresh.**
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> **29. Should the Applicant wish he should apply again to the Court of Appeal, if he can perhaps show a change of circumstances or he can appeal the Court of Appeal's refusal of bail directly to the Privy Council."**

4. I pause to make mention here that on 4 December 2019, the appellant went before Mr. Justice Keith Thompson on habeas corpus and constitutional applications challenging his extradition in what appears to be a calculated collateral attack on the extradition proceedings as the basis for the applications are virtually identical to those raised before the Judge. Thompson, J. refused

the applications. The appellant appealed against the refusal of Thompson, J. On 8 July 2020 the applicant and the respondent appeared before the Deputy Registrar in order to settle the record for the appeal in No. 202 of 2019. That appeal was dismissed on 6 October 2020 pursuant to rule 14(1) of the Court of Appeal Rules.

5. Following his failure to have the decision of the Judge overturned by this Court, the appellant sought leave of the Court to appeal to the Privy Council. On 28 September 2020, we refused such leave; but granted a conservatory order for fourteen days to allow the appellant the opportunity to seek special leave from the Privy Council.

6. I have perused the appellant's affidavits filed on 21 April 2021 in support of his application for bail filed on 4 March 2021; and I have read his affidavit filed on 14 June 2021, in support of his appeal against the decision of Mr. Justice Gregory Hilton's refusal of bail dated 10 June 2021. It appears that many of the averments contained in both of his affidavits are a re-hash of affidavits he has sworn to in the past as they relate to the conditions under which he is detained at The Bahamas Department of Correctional and Rehabilitative Services ("the Prison"); and to the circumstances of the efforts to surrender him when he claims it was no longer open to the authorities to do so. I do not see any mention of a proposed appeal to the Privy Council in either document.

7. Furthermore, on 23 June 2021, the appellant filed another affidavit in support of his application to be admitted to bail. Again, there is nothing in this affidavit to evidence that the appellant has applied to the Privy Council for special leave. We are advised, however, in Counsel, Mr. Johnson's submissions, that the appellant is awaiting a decision on an application for special leave to appeal to the Privy Council. Submissions do not constitute evidence or statements of facts. Thus, there is no evidence before us that the appellant has indeed launched an application for special leave in the Privy Council. That observation aside we address the appellant's contention that the Court has the discretion to grant bail pursuant to the provisions of the Bail Act.

8. On 11 June 2021, the appellant filed a Notice of Appeal Motion which requested the following relief:

> **"1. The learned Justice's Decision dated the 10th day of June, A.D. 2021, be set aside wholly or in such part as to the Honorable Court of Appeal deems just;**
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> **2. An Order quashing the said Ruling and Order of the learned Justice dated the 10th day of June, A.D. 2021;**

3. An Order granting Bail to the Appellant;

4. ALTERNATIVELY, such relief as the Honorable Court of Appeal deems just pursuant to Article 28 of the Constitution of The Bahamas, 1973."

9. The grounds of the appeal are stated to be as follows:

"1. The learned judge erred in law and in practice by failing to consider properly or at all and/or in failing to apply the provisions of the Bail Act, Chapter 103, including those provisions found in Section 4 (2), Part A of the First Schedule and/or subsection 2B, in its adjudication of the application for bail and when it knew or ought to have known that it was statutorily bound by the said Act to consider and/or apply the aforementioned statutory provisions to any adjudication on bail in this jurisdiction.

2. The learned judge erred in law and in practice by failing to consider properly or at all the Appellant's arguments with respect to the provisions of Section 4 (2), Part A of the First Schedule and/or subsection 2B the Bail Act, Chapter 103 in its adjudication of the application for bail.

3. The learned judge erred in law and in practice by failing to consider properly or at all the character and/or antecedents of the Appellant as a factor for consideration and/or a factor in support of the grant of bail to the Appellant and despite the fact that the learned judge knew or ought to have known that he was statutorily bound by the provisions of the Bail Act, Chapter 103 to take these factors into consideration.

4. The learned judge erred in law and in practice by rendering a judicial ruling in what is a statutory application for Bail, without reference to a single provision from the said bail Act which granted him the authority and/or upon which he relied, to disregard the provisions of Section 4 (2), Part A of the First Schedule and/or subsection 2B of the said Bail Act Chapter 103, and refuse the Appellant's application for bail in the absence of any statutory ground in support of this decision.

5. The learned judge erred in law and in practice by failing to consider properly or at all the Appellant's arguments as it concerns the invalidity of the Crown's purported Affidavit in response filed herein on April 26th 2021 and the fact (sic) the said Affidavit was not sealed by a Notary Public and was therefore not valid for the purposes of the law. The learned judge ought to have held that the said Affidavit was not sealed by a Notary Public, was not therefore valid for the purposes of the law and could not be referred to and/or relied upon by the Crown to oppose the Appellant's application for bail.

6. The learned judge erred in law and in practice by failing to consider properly or at all the Appellant's arguments that the content of the Crown's purported Affidavit in response did not disclose any identifiable grounds to oppose the application and could not be considered as an Affidavit in response in consequence thereof. The learned judge ought to have held that the content of the said Affidavit in response did not raise any grounds to oppose the Appellant's application for bail and ought to have ordered the Appellant's release on bail.

7. The learned judge erred in law and in practice by failing to consider properly or at all the Appellant's reference to the conditions prevalent at the Bahamas Department of Corrections and his citation of the Bahamas Human Rights Report 2019 and 2020 and the Counter Narcotics Strategy Report 2020, in his adjudication of the Appellant's application for bail. The learned judge ought to have held that the Appellant had provided ample evidence of the atrocious conditions prevalent at the Bahamas Department of Corrections and ought to have held that the Appellant's tenure on remand in such conditions could not lawfully continue with regard to his Article 17 constitutional rights.

8. The learned judge erred in law and in practice by failing to consider properly or at all the Appellant's arguments as it concerns the invalidity of the Warrant of Committal and the fact that it has been nullified by way of the Minister of Foreign Affairs' execution of the Warrant of Surrender on March 5th 2019. The learned judge ought to have held that the Warrant of Committal was no longer valid and as such there was no existing legal

instrument under which the Appellant's tenure on remand could lawfully continue.

9. The learned judge erred in law and in practice by failing to consider properly or at all the numerous Common law precedents submitted on behalf of the Appellant, the ratios of which all support the grant of bail in the present instance.

10. The learned judge erred in law and in practice by failing to consider properly or at all the ratio in the matter of Duran Neilly vs Attorney General and the dictum of Mr. Justice Evans at paragraph 22 of his Ruling, which established that the purpose of the detention of an accused is to ensure his attendance at trial.

11. The learned judge erred in law and in practice by failing to apply the ratio from Duran Neilly v Attorney General to the present matter and by failing to consider properly or at all the relevant factors in the present bail application which involve a period of detention well in excess of three (3) years and charges in the Neilly matter involving offences of a higher category and for which the question of public safety and the potential risk to witnesses and/or the investigation of the matter was a genuine concern.

12. The learned judge erred in law and in practice by failing to consider properly or at all the case of Knowles & Ors v. Superintendent of HM Prison Fox Hill & Ors (Bahamas) [2005] UKPC 17 and the ratio provided therein, which clearly supports the grant of bail to the Appellant in the present matter.

13. The learned judge furthermore erred in law and in practice by failing to consider properly or at all the fact that the Privy Council had already granted bail to the Appellant previously
and the Appellant had been on bail for a period of nearly twelve (12) years prior to October 23 2017, without a breach of the conditions of bail and/or any instance in which he absconded and/or otherwise did not comply with the said bail conditions. The learned judge ought to have held that this was a factor in favor of granting bail

to the Appellant and ought to have ordered his release on bail.

14. The learned judge erred in law and in practice by failing to consider properly or at all the decision in Jonathan Armbrister vs A.G. SCCr. App. No. 145 of 2011 and the dictum of John JA at paragraphs 11, 12, 17 and 18, which established the proper test of whether bail should be granted or refused and the fact that bail was not to be withheld merely as punishment. The learned judge ought to have applied the ratio in the Armbrister case and ordered the Appellant's release on bail accordingly.

15. The learned judge erred in law and in practice by failing to consider properly or at all the decision in Gibson v. United States of America (The Bahamas) [2007] UKPC 52 and in failing to apply the ratio provided for in paragraphs 3 and 10, 26, 27 and 28 of the Ruling to the present matter. The learned judge ought to have applied the ratio, and ought to have ruled that the Appellant should not be held in indefinite custody and furthermore that he is entitled to bail pending the outcome of his Appellate process in the same manner as Gibson and others were granted bail by the Courts in this jurisdiction.

16. The learned judge erred in law and in practice by failing to consider properly or at all the decisions in Stephon Davis and Director of Public Prosecutions SCCrApp. No. 108 of 2020 and Jevon Seymour and Director of Public Prosecutions SCCrApp. No. 115 of 2019 and the dictum of the Honorable Justice Isaacs JA at paragraphs 15 and 18. The learned judge ought to have considered and applied the ratios from the above-cited precedents and ought to have ordered the release of the Appellant on bail.

17. The learned judge erred in law and in practice by failing to consider properly or at all the decisions in Dennis Mather and Director of Public Prosecutions SCCrApp. No. 96 of 2020 and Bradley Ferguson et al and The Attorney General SCCrApp. No. 57 of 2008 in his adjudication of the Appellant's bail application. The learned judge ought to have applied the above-cited ratios and held that substantial grounds must be shown

to the Court to prove that an Applicant will not appear at trial, in order for the same to form a valid basis for the objection to and/or refusal of bail. The learned judge ought to have held further that the Crown had not provided evidence that the Appellant would not appear at trial and/or would abscond and therefore ought to have ordered the Appellant's release on bail.

18. The learned judge erred in law and in practice by erroneously stating at paragraph 14 of his ruling that the Appellant filed an appeal of then Justice Forbes refusal of bail on September 24th 2019 and when the record reflects that the Appellant did not appeal then Justice Forbes's decision but instead filed an independent application for bail to the Court of Appeal, seeking bail pending his then extant appeal. The Appellant's application for bail pending his then extant appeal was not an appeal to the decision of then Justice Forbes and the learned judge erred in law and in practice by relying upon this as a factor in his refusal of the Appellant's present application for bail.

19. The learned judge erred in law and in practice by failing to consider properly or at all the Appellant's arguments that he has been severely prejudiced by a loss of his liberty since his re-arrest on October 23rd 2017, that his Article 17 Constitutional right against inhumane and/or degrading treatment and punishment has been infringed and continues to be infringed by his indefinite tenure in custody and that he satisfies all of the Statutory and common law criterion for the grant of bail and there is no evidence that he will either commit further offences, interfere with witnesses or the investigation of the matter or fail to appear at his trial if released on bail. The learned judge ought to have held that the Appellant is entitled to bail under all the aforementioned circumstances.

20. The learned judge erred in law and in practice by failing to consider properly or at all the content of the Appellant's Affidavit in support, and the cogent evidence of inhumane, and/or degrading treatment and punishment being suffered by the Appellant whilst in the Respondents' custody, contrary to Article 17 of the Bahamas Constitution, in addition to the fact that this evidence is not refuted properly by the Respondents.

21. The learned judge erred in law and in practice by failing to consider properly or at all the Appellant's numerous arguments alleging cruel, inhumane and/or degrading treatment and punishment in breach of his Article 17 Constitutional Rights.

22. The learned judge erred in law and in fact in rejecting the application of the Appellant for Bail and despite the statutory and common law grounds clearly in support of the grant of bail in the present instance."

10. Counsel for the appellant, Mr. Johnson, referred to section 4(2) of the Bail Act to demonstrate that the Judge had the power to grant bail to the appellant. Section 4(2) states:

> **"4. (2) Notwithstanding any other provision of this Act or any other law, any person charged with an offence mentioned in Part C of the First Schedule, shall not be granted bail unless the Supreme Court or the Court of Appeal is satisfied that the person charged—**
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> > **(a) has not been tried within a reasonable time;**
> >
> > **(b) is unlikely to be tried within a reasonable time; or**
> >
> > **(c) should be granted bail having regard to all the relevant factors including those specified in Part A of the First Schedule and subsection (2B),**
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> **…**
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> **(2B) For the purpose of subsection (2)(c), in deciding whether or not to grant bail to a person charged with an offence mentioned in Part C of the First Schedule, the character or antecedents of the person charged, the need to protect the safety of the public or public order and, where appropriate, the need to protect the safety of the victim or victims of the alleged offence, are to be primary considerations."**

11. I take note of the dicta of their Lordships of the Judicial Committee of Her Majesty's Privy Council in **Austin Knowles and Others v Superintendent Culmer (Superintendent of H.M. Prison Fox Hill) and Others** [2005] UKPC 17 and accept that a Justice of the Supreme Court has an inherent jurisdiction to grant bail to a person detained. Their Lordships cautioned, however, that in extradition cases involving allegations of drug trafficking, **"it should only be in exceptional cases that bail as a matter of discretion is granted.".**

12. Mr. Johnson's multifarious attacks on the Judge's decision do not condescend to address the Judge's reason for the denial of bail, to wit:

> **"28. I am also of the view that as the Court of Appeal has specifically ruled that the Applicant should be denied bail in the circumstances or at the stage the Applicant's case is at, then I am bound from reconsidering the application afresh."**

13. In the case of **Terry Delancey v The Attorney General** SCCivApp. No. 43 of 2006 Delancey brought a constitutional motion in the Supreme Court seeking to have the Court of Appeal's dismissal of his appeal declared unfair. He alleged that he had not received a fair hearing before the Court of Appeal and that the President was biased towards him. I dismissed that application and Mr. Delancey appealed to this Court. On that appeal Sawyer, P said:

> **"82. In the present appeal, the learned judge in the Supreme Court was asked to rule that a constitutionally higher court had breached the fundamental rule of fairness of hearing both sides to a case by not waiting until the transcript of the trial of the appellant in the magisterial court could be prepared again and sent to this court.**
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> **83. Assuming, but not deciding, that such a decision is possible in the Supreme Court since it is that Court which is given original jurisdiction to hear and determine complaints about breaches of persons' fundamental rights, it is not quite clear how that Court is to go about making such a decision without having even a judgment of this or any other higher court or any record of the hearing in this court to consider.**
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> **84. In my judgment, to do what counsel for the appellant sought to do in the application before Isaacs J, could only be for the purpose of undermining the rule of law and would almost certainly lead to an erosion of respect for the Judiciary as a whole. And, as was said by more learned and eloquent jurists than I, the respect of right thinking persons in a civilized society for a Judiciary whose independence and impartiality is accepted by such right-thinking persons, is what underpins the independence of the Judiciary of that society and upholds the rule of law."**

14. Despite the plethora of grounds articulated in the Notice of Appeal Motion in the present case, I am satisfied that the Judge did not err when he found himself to be bound by the decision of this Court which denied bail to the appellant pending his application for special leave to the

Privy Council. If the Judge was to grant bail to the appellant in the face of this Court's refusal to grant him bail, this would have the effect of bringing the system of justice into disrepute.

15. The practice of an applicant for bail applying for bail to the court from which the appeal arises or to the court where the appeal is to be heard, is applicable in the instant appeal. As the Judge noted at paragraph 29 of his ruling, if the appellant is dissatisfied with the decision of the Court to deny him bail, he ought to take his appeal of that decision to the Privy Council.

16. Indeed, this observation by the Judge accords with the view of Sawyer, P in **Delancey**. At paragraph 85 of Sawyer, P stated:

> **"85. Under the Constitution of The Bahamas, the court system is an hierarchical one with the Privy Council at the apex, this court next, the Supreme (High) Court next, magisterial courts and other tribunals next, and so on. Decisions of higher courts are normally binding on all lower courts. It therefore follows that a decision of a lower court, while it will be accorded every respect by a higher court if it is not overruled, cannot bind a higher court or even a judicial officer of the same rank. To apply to the Supreme Court for redress against this court's decision, therefore, was seeking to bind this court by a lower court's judgment or to indirectly appeal to a lower court from this court's decision. It certainly amounts to an abuse of the process of the court."**

Grounds 7, 19, 20 and 21

17. Although I have found that the Judge correctly determined that he was bound by the decision of this Court which denied bail to the appellant pending his application for special leave to the Privy Council and that he could not grant the appellant bail in those circumstances, I move on to consider those grounds posited by the appellant which speak to the conditions at the Prison under which he is detained and which constitute a breach of his Article 17 Constitutional rights.

18. In **Austin Knowles** Lord Slynn of Hadley said:

> **"26. Affidavits were filed on behalf of the appellants alleging inhuman and degrading treatment in prison and setting out personal details relating to the individuals as to why they should be released on bail. The judge found, after a personal visit to the prison where the appellants were detained, that the conditions constituted inhumane and cruel treatment. She criticised the affidavit of the Superintendent of Prisons which dealt with this matter on the basis that the affidavit could not have been made from**

> **his personal knowledge and he did not give information concerning the source or sources of his knowledge. The respondents contend that the judge should have given more consideration to the Superintendent's evidence rather than relying entirely on her short visit to the cells. They also say that the connections relied on by the appellants are those which are normally relied on in extradition cases without there being any special reason to grant bail. Mere residence and having a family in the country do not necessarily lead to the conclusion that there will be no attempt to flee the jurisdiction, particularly in a case where it is possible that substantial sums of money may be available from drug smuggling. Moreover it is not accepted that the only way out of The Bahamas would be to the United States to which the appellants could not safely go without risk of being arrested there.**
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> **27. The Board considers that there is much force in these criticisms and the learned judge did not appear to give sufficient weight either to the nature of the crimes alleged or to the risk of, and the advantage of, their fleeing. It is important that in this particular type of case these considerations should be taken fully into account and it should only be in exceptional cases that bail as a matter of discretion is granted…"**

19. I mentioned earlier (paras. 6 and 7 herein) the three affidavits produced by the appellant in which he had set out the reasons he should be admitted to bail: 21 April 2021, 14 June 2021 and 23 June 2021; and I described their contents as a "re-hash". The appellant's recourse to the Constitution appears to be an attempt to raise the appellant's application for bail to that "exceptional case" mentioned by Lord Slynn in **Austin Knowles** to override the "care and caution" a court should exercise when considering bail in a rendition case: **R v Spilsbury** [1898] 2 QB 615, at p. 622, per Lord Russell of Killowen; and **R v Phillis** [1922] 1 All ER 275, per Lord Hewart CJ (both cases mentioned in **Austin Knowles**) .

20. In **Spilsbury**, the court was considering a bail application in a case under the Fugitive Offenders Act 1881. While dismissing the application, Lord Russell made the following observation at page 623:

> "…**Looking to all the circumstances, and bearing in mind that it rests largely with the defendant himself how long he is detained before he is sent abroad, and that, when he is sent abroad, he can apply there to be admitted to**

> **bail, for the reasons already given we think that we ought not to exercise in the present case the jurisdiction to admit the defendant to bail, which we hold that we possess…"**

21. In the Court's decision handed down on 28 September 2020 by which the Court did not grant the appellant leave to appeal to the Privy Council, I said at paragraphs 17-18:

> **"17. We readily accept that the Judge did not advert his attention to the provisions of the CSA [Correctional Services Act] or the Inmates Rules, but the proviso to Article 28(2) states that once the court "is satisfied that adequate means of redress are or have been available to the person concerned under any other law" it is only in exceptional circumstances that a court would allow a person to have recourse to the Constitution for relief for a breach of his fundamental rights.**
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> **18. Nowhere in his affidavit filed on 16 July 2020, does the applicant indicate that he made any complaint to the Review Board or to the Commissioner of The Bahamas Department of Correctional Services ("the BDCS") or his subordinates about his living conditions in the BDCS. It is apparent, therefore, that he has not resorted to the procedure set out in the Inmates Rules for redress of his grievance and it may be said that he has failed to exhaust a reasonable and adequate means of redress before applying for constitutional relief. We pay regard to his invocation of the Articles of the Constitution in those circumstances; and we bear in mind the exhortation of Lord Hope of Craighead in Thakur Persad Jaroo v Attorney General [2002] 5 LRC 258."**

22. I continued at paragraph 23:

> **"23. It must be remembered that we dismissed the applicant's appeal on the constitutional aspect of his case because we shared the Judge's view that the applicant's applications amounted to an abuse of the processes of the court. The jurisprudence relating to this area of the law has been traversed so many times before that it may well be regarded as settled."**

23. In light of the Court's determination at paragraph 23, it would have been improper for the Judge to have come to any other conclusion on the issue himself bearing in mind the principle of stare decisis and the decision in **Terry Delancey**.

Conclusion

24. In all of the circumstances, the appellant's approach before the Judge for bail, pending what may well be an illusory application for special leave to appeal to the Privy Council, constitutes an abuse of the process of the court.

25. The appeal against the decision of the Judge denying the appellant bail is dismissed.

The Honourable Mr. Justice Isaacs, JA

26. I agree.

The Honourable Sir Michael Barnett, P

27. I also agree.

The Honourable Madam Justice Crane-Scott, JA