

Human Traffickers to be Tried by Judge Alone

[Shelly-Ann Irving](#)

JIS



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Photo: Rudranath Frazer
Minister of Justice, Hon. Delroy Chuck, speaking at the launch of 'Operation Uplift' at the Police Officers' Club on May 6.

Persons charged with human trafficking in Jamaica will soon be tried without a jury.

This was stated by Minister of Justice, Hon. Delroy Chuck, at the launch of 'Operation Uplift', a new strategy to fight human trafficking in Jamaica, at the Police Officers' Club on May 6.

Mr. Chuck pointed out that the recommendation for trial by judge only was made by the Director of Public Prosecutions (DPP), following a recent case in which someone tried to interfere with the jury.

"The Ministry has accepted that recommendation and it will be presented to Cabinet. I have no doubt the recommendation will be accepted and the amendment to the legislation will be in Parliament within a matter of weeks. We are working very hard to develop this piece of legislation," he said, adding that work is underway to develop a comprehensive national policy. The Trafficking in Persons, Prevention, Suppression and Punishment Act was passed into law in 2007, with critical amendments in 2013, to provide stiffer penalties for traffickers and for

restitution orders to be made by the Judiciary in the welfare of the victims in the same proceeding.

“The Government of Jamaica stands with the international community to stamp out human trafficking and is fully committed to bring this crime under control and we will be relentless in our efforts to ensure that Jamaica is no longer a transit point,” Mr. Chuck said.

Prosecutor Urges Court To Begin Human Trafficking Trial Despite Attorney Worries For Accused



The Gleaner

Livern Barrett, Senior Gleaner Writer

A prosecutor today asked a High Court judge to go ahead with the trial of two persons charged with human trafficking even after defence attorneys signalled that they were contemplating pulling out of the case.

The unusual request by Senior Deputy Director of Public Prosecutions Lisa Palmer-Hamilton was made in the Home Circuit Court after attorneys for Rohan Ebanks and Voneisha Greeves sought to have the trial postponed a sixth time.

The two attorneys complained in court that they were not prepared to start the trial because they have not received "proper instructions" from their clients.

Ebanks and Greeves are alleged to have enslaved a teenage girl they brought to Jamaica from Haiti with the promise of a better life.

Palmer-Hamilton, in opposing the request, noted that this was the sixth trial date since the case was first placed on the court list in June 2013.

She revealed that the state has incurred "quite a bit of expense" related to witnesses in the case and was critical of the defendants' delay in meeting their obligations to their attorneys.

"We can only come to one conclusion that the accused are taking advantage of the situation and seeking to abuse the process of the court," Palmer-Hamilton charged.

She also cited examples where cases have gone to trial without accused persons securing legal representation. "Though it is a constitutional right, it is not an absolute right," the prosecutor argued.

After hearing from both sides, Justice Courtney Daye adjourned the case until Wednesday, saying he wanted to give Ebanks and Greeves one more chance to meet with their attorneys.

Accused cop killer granted bail

The Observer



A licensed firearm holder, charged with murder in the death of Police Constable Shane Francis in St Ann last month, was offered \$500,000 bail when he appeared in the St Ann Parish Court yesterday.

Forty-year-old Kevin Harris was granted bail by Parish Judge Vaughn Facey following a successful application by Queen's Counsel Tom Tavares-Finson and Oswest Senior-Smith. The bail was granted with one or two sureties and on the basis that Harris does not pose a flight risk.

Harris, who was first arrested on April 17, 2016 after he surrendered to the police, was held in custody for two days prior to being released.

Following an autopsy report on April 27 that raised concerns about the shooting, Harris was rearrested on April 28, questioned and placed in an identification parade.

The Major Investigation Division of the Jamaica Constabulary Force subsequently charged him with murder, following an investigation.

According to the autopsy report, the cop — a detective — was shot three times in the back. Allegations are that Francis and Harris had an altercation at a dance in White River, Ocho Rios, on the night of April 17, during which weapons were drawn. Explosions were heard a few minutes later.

Francis was later seen suffering from gunshot wounds and was rushed to the St Ann's Bay Hospital, where he later succumbed to his injuries.

Harris is to reappear in court on September 6.

— Racquel Porter

Take it to the CCJ!

Hylton suggests taking complaints against T&T to regional court

BY ALPHEA SAUNDERS Senior staff reporter saundersa@jamaicaobserver.com



Caribbean Court of Justice (CCJ) as our final appellate court, instead of continuing relationship with the Judicial Committee of the Privy OPPOSITION spokesman on industry and commerce, Anthony Hylton, says Jamaica should take its ongoing right of entry dispute with

Trinidad to the Caribbean Court of Justice (CCJ).

He said that some three years after the Shanique Myrie ruling in the case against Barbados over how she was treated by immigration officials, Jamaica and other Caribbean Community (Caricom) states should not still be at loggerheads about rights of entry matters.

“We are still using the megaphone to shout to each other across the Caribbean,” he remarked in a keynote address at a Rotary Club of St Andrew meeting at Hotel Four Seasons yesterday.

Some 50 Jamaicans have been turned back by Trinidadian immigration over the past several months, with the various groups complaining of being ill-treated by immigration workers and being forced to endure inhumane conditions in airports as they wait to be returned to Jamaica.

The latest wave of complaints have incensed many in the general population and led segments of the private sector to call for a boycott of Trinidadian goods on local supermarket shelves. Hylton disagreed with what he said would be a “knee-jerk” reaction.

“I believe that that matter should appropriately be brought before the CCJ at an appropriate time,” he stated, pointing out that the Myrie case was the perfect example of how the Treaty of

Chaguaramas can be used to settle the current dispute between Jamaica and Trinidad over the reported mistreatment and rejection of Jamaican nationals by Trinidadian immigration.

Under increasing pressure from the Jamaican Government, Trinidad last week said it would implement customer service training at Piarco airport next month, specifically targeting officers who interact with passengers who are denied entry; and retro-fit a dedicated facility for those who are denied entry.

The Jamaican Government had asked for concrete solutions with specific timelines for addressing the issues which continue to encumber relations between the two nations.

Hylton, a former foreign affairs minister, noted that the significant number of Jamaicans turned back from the two-island country in recent times and who complained of being treated poorly “does suggest that something extraordinary is happening [and] invites us to inquire about exactly what is happening”.

Hylton argued that, instead of just complaining, Jamaica needs to look to the Myrie case and take advantage of the legal framework provided by the CCJ to test or challenge its complaints.

He stressed that it was not enough nor productive to retaliate, and that the Government and other stakeholders should, therefore, collaborate to bring cases before the CCJ. “If you assume that the evidence exists, why are we unwilling to bring these to the CCJ?” he asked.

He suggested that although cost is an issue for some individuals, even more influential and financially stable individuals who felt they were harassed and mistreated by Trinidadian officials had stayed quiet, possibly out of embarrassment.

He said, too, that the Government could look into providing poorer potential claimants with legal assistance to take individual cases to the CCJ.

Enact amendments to legislation addressing violence against children, Opposition urges

The Observer



Lisa Hanna (File photo)

KINGSTON, Jamaica – Opposition spokesperson on youth, Lisa Hanna, is calling on the Government to urgently enact the recommendations to amend the Child Care and Protection Act and the Criminal Justice (Administration) Act.

She said in a news release Tuesday that the recommendations were intended to impose stiffer penalties for people who murder, rape or commit other serious violent offences against children, and to take the necessary administrative steps to ensure that those cases be afforded priority scheduling and disposal in the courts.

Her call comes in the wake of yet another rape and the dastardly abuse of the little girls in Portland and St Mary recently.

Hanna added that her administration took very seriously the number of children that were being murdered and abused, and the circumstances in which they were killed, and took measures to amend the existing legislation to impose harsher penalties to persons who committed crimes against the nation's children.

The Opposition spokesperson on youth said that the concern extended to the instances of parental neglect reported by the Child Development Agency, the Office of the Children's Registry and

Jamaica Constabulary Force's Centre for Investigation of Sexual Offences and Child Abuse (CISOCA), which exposed many of these children to violence and sexual abuse.

She said it was within this context that the then Prime Minister Portia Simpson Miller instructed the Ministry of Justice, through Cabinet in April of last year, to frame proposals for the legislative amendments.

The recommendations suggested:

1. Stiffer penalties for people who murder, rape or commit other serious violent offences against children, treating the victim's status as a child as an aggravating feature resulting in a substantial uplift in the sentence on conviction;
2. A requirement that those cases be afforded priority in the trial list, with respect to scheduling and disposal in the courts;
3. The creation of a new offence of parental neglect, whereby a parent whose child is found in circumstances consistent with inadequate parental care and attention (eg children found unsupervised on the street or other public places late at night, or, in the case of a girl child, found living with a male adult in circumstances where the arrangement exposes the child to risk of sexual or other abuse) can be charged and tried for parental neglect, and convicted if the court is not satisfied that there was a reasonable cause justifying the parent's conduct in the circumstances. On conviction, the parent may be ordered by the court to undertake and complete a course in responsible parenting offered by the National Parenting Support Commission or other entity accredited by the relevant Minister for this purpose. On a second or subsequent offence, conviction should result in an order of community service or other appropriate order under the Criminal Justice (Reform) Act;
4. A new offence under the Child Care and Protection Act where an adult (not being a "prescribed person" under section 6) is aware of, but fails to report to the JCF, the OCR, the CDA or the OCA, a situation in which a child is manifestly suffering from a lack of parental care and attention which is exposing the child to an abnormal risk of sexual or other abuse. Conviction should result in an order of community service or other appropriate order under the Criminal Justice (Reform) Act.

Hanna stated that the Trafficking in Persons (Prevention, Suppression and Punishment) Act, the Criminal Justice Administration Act and Child Care and Protection Act were all amended to facilitate the new recommendations and introduced in the House in January earlier this year by Simpson Miller.

However, the Parliament was dissolved before they could have been enacted.

Hanna pointed out her grave concern and regret that the current Administration has not seen it fit to list these Bills as a priority for the Parliamentary year, and therefore, said that one is left only to assume that they are not serious about tackling the perpetrators who commit crimes against the nation's children.

“The Opposition views incidents of crime against our children as the most egregious of all crimes, and is therefore urging the Government to be swift and urgent in sending a clear and unequivocal signal to the perpetrators and those negligent in the care and protection of our children, that the full force of the law will be brought against them,” the release said.

Justice Ministry to Complete Relocation by End of July

By [Shelly-Ann Irving](#)

JIS



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Photo: Rudranath Fraser
Permanent Secretary in the Ministry of Justice, Carol Palmer.

The relocation of the Ministry of Justice to premises at 61 Constant Spring Road should be completed by the end of July.

All the units and divisions of the Ministry will be accommodated at the new property, including those located downtown Kingston.

Permanent Secretary in the Ministry of Justice, Carol Palmer, told JIS News that most of the offices have already moved, while refurbishing work continues to accommodate the others.

She informed that the public service division, which provides legal aid, is still housed at 72 Harbour Street, downtown Kingston, and will probably be the last office to relocate.

Mrs. Palmer outlined that the work remaining includes the retrofitting of the main building, while the southern block, which will accommodate the Office of the Parliamentary Counsel, is far advanced.

Space is being prepared for staff services including a canteen, a day care facility for children, and a wellness centre.

“Chronic disease is a problem in Jamaica, so we are going to be on our way to making a meaningful contribution in our own welfare,” Mrs. Palmer said.

The Permanent Secretary assured that the quality of the services provided by the Ministry will not be compromised due to the relocation process underway.

“We cannot compromise the justice services. Regardless of how inconvenient the arrangements are for us, we have to treat the public properly,” she said.

She told JIS News that the staff has been very cooperative throughout the process.

The Oxford Road offices of the Ministry were ordered closed earlier this year due to air quality issues and the effect on the health of the staff.

A sum of \$100 million was approved by Cabinet for the relocation.

Wrongfully Detained? Woman Claims She Was Illegally Locked Up On Trumped Up Charges

The Gleaner

[Barbara Gayle](#)



[Rudolph Brown](#)

Miguel Lorne

A Jamaican woman who spent three weeks in custody before she was taken before the court on a charge of possession of three ounces of ganja, is complaining that her detention was unfair.

Donnasha Dobson, a 27-year-old bartender told The Gleaner that on in January 7 she went to a bar at the back of the Linstead police station, St Catherine to ask about a bartending job when a policeman accused her of trying to smuggle items to a prisoner in the cell.

She said she was frightened by the policeman's accusation and claimed that he "draped me up". When she was taken before the court on January 27, she was told she was charged with possession of three ounces of ganja.

Attorney-at-law Ian Davis who was retained to represent her only a few days before her first court appearance said the delay in bringing her before the court was a breach of her constitutional rights and an infringement of her liberty. He said she should have been granted station bail for such a minor offence. He said the police failed to abide by the guidelines laid

down by the government last year in the Mario Deane case, that states that persons arrested for small quantities of ganja must not be put in jail.

The Mario Deane case came to public attention in August 2014. The 31-year-old construction worker was locked up by the police for a ganja spliff. He died as a result of a brutal beating while in custody. Deane's death forced the government to amend the Dangerous Drugs Act and issue new guidelines to prevent persons held with small quantities of ganja from being detained in lockups.

Attorney-at-law Michael Lorne who is handling the Mario Deane estate, said Dobson should have been granted station bail or even granted bail in her own surety, in accordance with the guidelines.

"Many policemen are not fully aware of what the guidelines mean and steps should be taken to spell out in simple language what the amendment means and how you treat citizens for small amounts of ganja," Lorne said. He called for the guidelines to be posted prominently at every police station.

Lorne said conditions of lockups are horrible and disclosed that he had recently written to the government calling for improvement in the lockups, especially the one at the Central Village police station in St Catherine where women are detained. He said he had received numerous complaints from women prisoners about the conditions at that particular lockup.

Dobson said she was scared while at the Central Village police station lockup and wondered if she would survive. She said she had to sleep on the "bare concrete" as instructions were given not to put clothes on the concrete bunk. The conditions in the cell "were very bad" and at times we were spoken to as if we were dogs," she disclosed.

She also claims that the police were forcing her to admit to owning contraband that did not belong to her.

She said she believes the police deliberately refused to grant her bail just to punish her. She was granted bail in the sum of \$6,000 with a surety when she first appeared in court on January 27. Dobson pleaded guilty to possession of three ounces of ganja on her next court appearance and Resident Magistrate (RM) Jacqueline Wilcott fined her \$300 or ten days' imprisonment. "I was wrongfully charged, wrongfully punished and I pleaded guilty in an effort to end the nightmare and the stress of coming to court," she said.

But Dobson's court attendance is not over as she is now seeking to recover a Samsung Galaxy cellphone, \$1,050 and a navel ring which she said were taken from her when she was arrested and placed in custody.

When her lawyer applied to the court for the return of the items, the police said that the items were not located. The resident magistrate told Dobson to return to court on May 9 for the police to give an update on the items.

Ex Prisoner Fighting To Survive

The Gleaner



[Barbara Gayle](#)

A judge's error during summation to a jury has resulted in freedom for 35-year-old electrician Tino Jackson, who is now trying to put his life back together after spending four years in prison.

Although Jackson is happy to be a free man, he says there are people in his community who shun him and look down on him because he was a prisoner.

While this father of four was delighted last week to see his children and meet his four-year-old daughter for the first time, one of his concerns is to get a job as quickly as possible so he can take care of them.

He feels the rape case against him would not have gone to trial if the police had adhered to his request to take samples from him for DNA testing.

"It is just a kind of slack justice system in Jamaica," he said as he referred to the investigation in his case as being very poor.

"The police ignored me when I told them I was innocent and I was willing to do a DNA test because I did not molest the child," he said last week. Now Jackson wants to know who is going to compensate him for the time he spent in prison which he described as "an evil place". He said he still wondered how he, as a hard-working and peaceful man, could have been robbed of four years of his life. At the time, of his arrest, he said he was doing contract work with the Jamaica Public Service.

Jackson has expressed gratitude to attorney-at-law Oswest Senior-Smith for taking an interest in his case and representing him for free. He said he was praising God daily for his freedom because he could have been killed or injured in prison. He described some of the prisoners as very aggressive, and said to avoid confrontations and problems, he had to shower himself with work in the barber shop. Jackson is calling for better facilities in the prison.

Senior-Smith told The Gleaner that the Registrar of the Court of Appeal sent Jackson's case file to him, and on perusing the notes of evidence and the summation, he found "that although the judge had given the jury an impeccable set of direction, there appeared to have been an oversight as regard the issue of good character".

The court found the merit in the sole ground of appeal and quashed the conviction because the nature of the evidence suggested that a conviction was not inevitable if the judge had given good-character direction.

Jackson was convicted on December 20, 2011 for raping an 11-year-old girl in May 2010 and was sentenced to 12 years' imprisonment. He filed an appeal contending that his trial was unfair and the lawyer who represented him at his trial had failed to interview witnesses to support his alibi that he was not in the parish of St Ann at the time of the offence. He said in his defence that the allegations were a deliberate fabrication engineered against him by the child's mother with whom he had a disagreement.

During the hearing of his appeal, Senior-Smith applied to argue one ground of appeal namely "the applicant lost the protection of the law when the jury received no good-character directions from the learnt trial judge".

Senior-Smith argued that one of the witnesses for the prosecution had said she viewed Jackson as a good person when they met, and Jackson's defence on oath entitled the judge to give a good-character direction to the jury.

The Court of Appeal in agreeing with Senior-Smith said the fact that the witness testified that she thought Jackson was a good person when they just met and Jackson's statements concerning his status as a father and his testimony that he would not interfere with little children, were sufficient to create an entitlement to a good-character direction to the jury.

However, the court held that the failure to give the good-character direction, when it was required, does not automatically amount to a miscarriage of justice. The court pointed out that the many instances of discrepancies and inconsistencies in the prosecution's case were such that credibility was a major issue.

The court held said that although the judge did place all the major discrepancies before the jury for its consideration, the failure to give a good-character direction should be held to be fatal to the conviction.

In the interest of justice, a new trial was not ordered because the court said it was almost six years since the incident, and that was especially important in the context of the age of the virtual

complainant. The second factor, the court said, was the number of discrepancies in the trial which stemmed from what the child and her mother had said in police statements, and depositions and what was said at the trial.

"With the passage of further time, bearing in mind the age of the child, there are likely to be even further difficulties of that nature in the prosecution's case," Justice Patrick Brooks, Justice Almarie Sinclair-Haynes and Justice Paulette Williams held. The third factor taken into account was that Jackson had served four years' imprisonment since his conviction.

Jackson's conviction was quashed, the sentence set aside and a verdict of acquittal entered.

Gov't To Build 300 Cells At Tamarind Farm Prison To House Low Risk Inmates

The Gleaner



In this 2014 file photo Superintendent Rudolf Edwards (right) of the Tamarind Farm Adult Correctional Centre joins Gillette Ramsay (left), a volunteer with Food for the Poor Jamaica, in sharing the good news with one of the three inmates released from the institution.

The Government is to build an additional 300 cells at the Tamarind Farm Adult Correctional Centre in St Catherine to house low risk inmates now being held in maximum security prisons. According to Senator Pearnel Charles Jr, the state minister for national security, the initiative is part of a drive to restructure correctional institutions and rationalise the inmate population. "I am aware of the myriad issues affecting the institutions, especially as they relate to overcrowding, the need for adequate rehabilitation programmes and the overall treatment and care of inmates; particularly those who are mentally ill," Charles said.

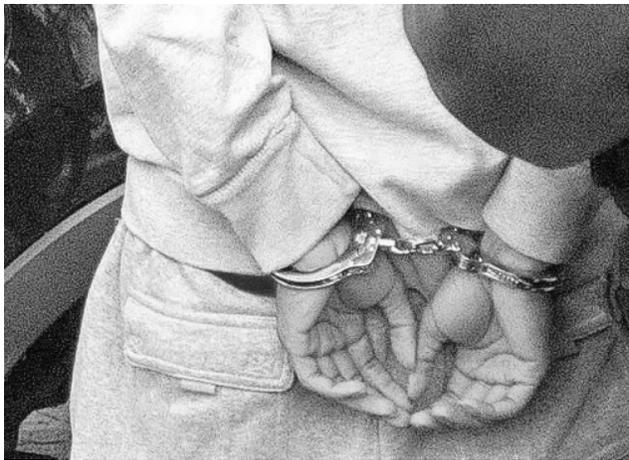
Last week, Charles met with staff of the Department of Correctional Centre from Region One (St. Mary, St. Thomas, Portland and Kingston and St. Andrew) about the impending changes.

The state minister says he will continue to establish public/private partnership arrangements that will include the provision of additional resources to boost rehabilitation programmes.

In the meantime, correctional officers have suggested that there also needs to be the digitisation of record keeping and collaboration with key ministries such as education and health.

62-y-o man gets 10 years for murder

The Observer



A 62-year-old 'bus washer', who stabbed and killed a colleague during a fuss over the washing of a bus two years ago, is to spend the next 10 years in prison.

Allan Andrade, a resident of Hagley Park Road in St Andrew, was sentenced by Justice Lloyd Hibbert last Friday when he appeared

in the Supreme Court for sentencing on a charge of manslaughter.

The father of two young children was taken into custody in 2014 and charged following the stabbing death of 37-year-old Peter Chin in Three Miles.

The court heard evidence that, on the day of the incident, both men had an argument over who was to wash a particular bus.

Following the argument, Andrade flung a stone at Chin, which missed. But Chin retaliated by throwing a bottle at Andrade.

Andrade, the court heard, then rushed towards Chin and used a knife , which he had wrapped in a piece of cloth, to stab Chin resulting in his death.

On Friday before Andrade was sentenced, his attorney Tamiko Smith asked the judge to be lenient.

She also asked him to consider that her client has a six-year-old and three-year-old child to parent and that he had already served two years in custody.

Harris also begged Justice Hibbert to disregard Smith's three previous convictions, which include simple larceny and assault occasioning bodily harm, as he had been on the good side of the law for 19 years up to the time of the fatal incident.

Justice Hibbert, in handing down the sentence , said he would consider all those factors, but could not forget the circumstances under which the incident unfolded.

“There is a problem in Jamaica. The slightest incident people pull out knife,” Hibbert remarked. “This is a disagreement that easily could have been reconciled.”

The judge then told Andrade that he was very fortunate that the jury had found him guilty of manslaughter and not murder.

— Tanesha Mundle

The End