

IN THE HIGH COURT OF BELIZE, A.D. 2023

Claim No. 453 of 2022

BETWEEN

ALICIA TRAPP

CLAIMANT/RESPONDENT

AND

**COMMISSIONER OF POLICE
ATTORNEY GENERAL OF BELIZE
BELIZE POLICE DEPARTMENT**

**1st DEFENDANT/APPLICANT
2nd DEFENDANT/APPLICANT
3rd DEFENDANT/APPLICANT**

Before the Honourable Madam Justice Geneviève Chabot

Date of Hearing: December 13th, 2022

Appearances:

Orson J. Elrington, for the Claimant/Respondent

E. Andrew Marshalleck, S.C., for the Defendants/Applicants

RULING ON APPLICATION TO STRIKE OUT

Introduction

1. Alicia Trapp (the “Respondent” in this Application) filed a Fixed Date Claim Form for constitutional relief against the Commissioner of Police, the Attorney General of Belize, and the Belize Police Department (the “Applicants” in this Application). The Applicants filed an Application to Strike Out the Claim on the basis that it is an abuse of process or is likely to obstruct the just disposal of the proceedings, and that the Claim raises no reasonable grounds for bringing the Claim.
2. The Application is granted in part. The declarations sought by the Respondent in relation to an alleged breach of her freedom of association and of her right to be free from discrimination are struck out. The Respondent is granted leave to amend her Amended

Fixed Date Claim Form to substantiate the grounds on which she seeks a declaration that her right to freedom of expression and of political opinions has been breached. No further amendments are permitted.

Background

3. The Respondent filed a Fixed Date Claim Form on July 29th, 2022. The Fixed Date Claim Form was amended on December 2nd, 2022. The Fixed Date Claim Form is accompanied by the Affidavit of Alicia Trapp dated July 29th, 2022.
4. The Respondent is a Police Constable with the Belize Police Department. She alleges that on June 5th, 2022, she was at the Teakettle Village Council elections where she was verbally and physically assaulted by a Government minister, the Hon. Julius Espat, because she was wearing a red shirt in support of the United Democratic Party. She then proceeded to the Roaring Creek Police Station to file a report.
5. According to the Respondent, on June 6th, 2022, the First Applicant, the Commissioner of Police, offered the following comments about the incident on Channel 7 News Belize:

[...] even if we were to disregard the confrontation with Hon. Julius Espat [...] everybody knows the Honourable Espat to be a political - if you want to call it a “political animal”, not in a bad way. And so, if it is that you put yourself in the political arena, you must take what comes to you. You can’t get into a pig pen and not get muddy – don’t expect to get muddy. It’s simply that.
6. On June 13th, 2022, the Respondent received a Notice of Complaint from the Belize Police Department stating that she had breached the Department’s Social Media Policy. On June 15th, 2022, she received another letter in which the Commissioner of Police stated that the Respondent had expressed her political opinion in a public place, in breach of the laws governing discipline within the Belize Police Department.
7. On June 24th, 2022, the Respondent was transferred from Belmopan Relief to the Belmopan Community Policing Unit.
8. On June 29th, 2022, the Respondent received a Notice of Disciplinary Proceedings for “Act to the Prejudice of Good Order and Discipline”. The Notice states that the Respondent breached the Belize Police Department’s Social Media Policy because a video had been circulating on Facebook showing the Respondent talking about the Hon. Julius Espat.
9. The Respondent was charged on July 4th, 2022 at the Disciplinary Tribunal (the “Tribunal”) with a single charge of Act to the Prejudice of Good Order and Discipline.

10. The Respondent alleges that her transfer and the Tribunal proceedings were initiated because of her political opinions. The Respondent seeks the following relief in the Claim:
- a) A Declaration that the decision of the Belize Police Department unfairly restricts the Claimant from freedom of expression and freedom of political opinion, is inconsistent with the Claimant's fundamental rights to freedom of expression freedom of political opinion, and non-discrimination as guaranteed under sections 3, 12, and 16 of the Belize Constitution.
 - b) A Declaration that the disciplinary proceedings instituted against the Claimant are unlawful, null and void on the basis that they contravene sections 3, 12, and 16 of the Belize Constitution and are an abuse of process.
 - c) An order staying the disciplinary proceedings against the Claimant.
 - d) A Declaration that the Police Act is unconstitutional insofar that it prohibits such association or support simpliciter, is unconstitutional as being an unreasonable and a disproportionate derogation from the rights of citizens to freedom of association.
 - e) A Declaration that the Police Act, insofar as it enables such political discrimination, is unconstitutional, null and void.
 - f) Costs.
 - g) Any further relief or other relief deemed just.

The Application

11. On October 7th, 2022, the Applicants filed a Notice of Application to Strike Out the Claim on the basis that the Claim is an abuse of process or is likely to obstruct the just disposal of the proceeding, and that the Claimant raises no reasonable grounds for bringing the Claim.

Parties' Submissions

The Applicants' Submissions

12. The Applicants contend that section 12(1) of the *Constitution of Belize* allows for persons to be limited in their freedom of expression by consent. As a Police Officer, the Respondent made a number of attestations in writing under section 6 of the *Police Act*,¹ including that she understood that she was prohibited from publishing anything through the medium of the press, and that she would serve under the conditions stated in the *Police Act* and regulations made thereunder. The Respondent therefore agreed to subject herself to the policies of the

¹ Cap. 138, Rev. Ed. 2020.

Belize Police Department, and to the disciplinary action and procedures provided for in the *Police Act*.

13. The Belize Police Department Policies and Procedures Manual published under section 7 of the *Police Act* contains a Social Media Policy regulating the use of social media by police officers. Under the *Police Act*, a breach of the Social Media Policy may be either a major or a minor offence, depending on the gravity of the infraction.
14. The matter at issue in the Claim was investigated by Inspector Luis Rodriguez of the Professional Standards Branch. Insp. Rodriguez issued a charge against the Respondent. The Respondent was served with a copy of the disciplinary charge sheet and she requested that a Defence Advocate be appointed. Assistant Superintendent of Police Franco was appointed to act as Disciplinary Tribunal Adjudicator to hear and determine the charge against the Claimant. The proceedings were ongoing at the time the Application was filed.
15. The Applicants note that the Defendant was charged with a minor offence and is liable on conviction to a caution, a reprimand, a fine not exceeding \$150.00, or an extra period of duties not exceeding ten days. The possible outcome if the Respondent is found liable does not justify the bringing of a constitutional claim to declare the proceedings null and void, or to attack provisions of the *Police Act* and its regulations. In addition, no decision has come from the disciplinary proceedings as of yet. Therefore, the allegations of bias are without merit.
16. In response to the Respondent's Reply to the Application, the Applicants note that the Respondent essentially concedes that her Claim as filed is deficient and that she now seeks leave to amend the Claim to bring new grounds. The Applicants submit that the new relief and grounds that the Respondent is seeking constitute a new claim and not an amendment of the current Claim. In addition, these new relief and grounds are not connected to the facts as alleged in the Respondent's affidavit, and therefore no evidence supports them.
17. In addition, the Applicants contend that the Respondent has not shown that the regulations, policy, and the *Police Act* are not justified limits on her fundamental rights. She has not shown that there is no rational legislative objective, nor has she shown that the regulations are excessive to achieve the objective. No amendment to the Claim can cure any of the defects that exist.

The Respondent's Submissions

18. The Respondent admits that she made a number of attestations, including to serve under the conditions stated in the *Police Act* and any regulations made thereunder, but only insofar as they are in compliance with her constitutional rights and proportional for the performance

of her duties as a Police Officer. She denies that she made any attestation or understood that she would be prohibited from publishing anything at all through the medium of the press.

19. The Respondent argues that if the *Police Act* purports to impose a blanket prohibition that prevents the Respondent from publishing anything at all via the media, the *Police Act* is unconstitutional as being unreasonable, unfair, and a disproportionate derogation to the right to freedom of expression. The Respondent seeks leave of the Court to amend her Fixed Date Claim Form to allege unconstitutionality and voidness of the offending provisions of the *Police Act*.
20. The Respondent further argues in her Reply that while the Belize Police Department is within its rights to investigate and decide whether to bring charges against a Police Officer for offences against discipline, alleged association with, or support for, a political party cannot without more constitute an offence against discipline. The Respondent seeks leave of the Court to amend her claim to allege that the *Police Act* is unconstitutional as an unreasonable and a disproportionate derogation from the rights of citizens to freedom of association.
21. With respect to the disciplinary proceedings, the Respondent accepts that upon joining the Belize Police Department, she agreed to subject herself to the disciplinary action and procedures provided for in the *Police Act*. However, in this case the Respondent alleges that the Commissioner of Police made public pronouncements that the Respondent had violated the *Police Act*. This violated the Respondent's constitutional right to equal protection of the law because the Commissioner of Police hears appeals from decisions of the Tribunal. His comments tainted the disciplinary proceedings with bias. She also seeks leave to amend her Claim to allege that the *Police Act*, insofar as it provides for circumstances in which the Commissioner of Police can be ultimately judge in his own cause, is unconstitutional as it violates section 6 of the *Constitution of Belize*.
22. In response to the Applicants' submissions that she faces only minor consequences in the disciplinary proceedings, and that no decision has been rendered yet, the Respondent argues that she has already been disciplined as she was transferred and given other duties. Although she faces minor punishment, any breach of the *Constitution of Belize* is a major issue. In addition, a finding of guilt may result in her dismissal from the Belize Police Department if she continues to exercise her rights.
23. Finally, the Respondent in her Reply raises that the Commissioner of Police did not initiate disciplinary proceedings against Police Officers that at the same time as the Respondent, showed their support for the ruling People's United Party. The Respondent seeks leave of the Court to amend her claim to allege that the *Police Act* infringes on her constitutional right to protection from discrimination under sections 3, 12, and 16 of the *Belize Constitution*.

Analysis

24. Rule 26.3 of the *Supreme Court (Civil Procedure) Rules, 2005* empowers this Court to strike out a claim in any of the following circumstances:

26.3 (1) In addition to any other powers under these Rules, the court may strike out a statement of case or part of a statement of case if it appears to the court -

(a) that there has been a failure to comply with a Rule or practice direction or with an order or direction given by the court in the proceedings;

(b) that the statement of case or the part to be struck out is an abuse of the process of the court or is likely to obstruct the just disposal of the proceedings;

(c) that the statement of case or the part to be struck out discloses no reasonable grounds for bringing or defending a claim; or

(d) that the statement of case or the part to be struck out is prolix or does not comply with the requirements of Parts 8 or 10.

25. I agree with the Respondent's submissions that the Court should exercise its power to strike out a claim sparingly and only in the clearest of circumstances. The authorities are clear and abundant on this point. As noted by James J. in *Michael Bogaert v The Commissioner of Lands & Surveys et al.*,² striking out a claim "is considered a nuclear option and the rule ought not to be used except in the clearest of cases where a claim is obviously unsustainable, cannot succeed or in some other way is an abuse of the process of the court". The Applicants must satisfy the Court that no further investigation will assist it in its task of arriving at the correct outcome.³
26. The Respondent seeks leave from this Court to make extensive amendments to her Fixed Date Claim Form. As noted by Lord Woolf in *McPhilemy v Times Newspapers Ltd & Ors*, even when accompanied by witness statements, pleadings should be sufficient to delineate the parameters of a case:

The need for extensive pleadings including particulars should be reduced by the requirement that witness statements are now exchanged. In the majority of proceedings identification of the documents upon which a party relies, together with copies of that party's witness statements, will make the detail of the nature of

² Claim No. 317 of 2019 at para. 4, citing *Brian Ali v The Attorney General of Trinidad and Tobago*, CV 2014 02843 at para. 13 and *Baldwin Spencer v The Attorney General of Antigua and Barbuda et al*, Civil Appeal No. 20A of 1997.

³ *Ian Cunha v The Belize Defence Force and anor*, Claim No. 175 of 2020 at para. 15.

the case the other side has to meet obvious. This reduces the need for particulars in order to avoid being taken by surprise. This does not mean that pleadings are now superfluous. Pleadings are still required to mark out the parameters of the case that is being advanced by each party. In particular they are still critical to identify the issues and the extent of the dispute between the parties. What is important is that the pleadings should make clear the general nature of the case of the pleader.⁴

27. Given the draconian nature of the strike out, courts must consider whether pleadings can be amended, “provided that there is reason to believe that [the claimant] will be in a position to put the defect right”.⁵ If no amendment can cure the defect in a party’s statement of case, the amendment must be denied. Even if the court is prepared to entertain an amendment to a claim, “the affidavit in support must rise to the occasion”.⁶ The affidavit in support of a Fixed Date Claim Form must be capable of providing the necessary evidence to support the amendment.
28. With those principles in mind, I now turn to each of the reliefs sought by the Respondent in the Claim to determine whether any amendment can cure the defects identified by the Applicants.

Relief “A”

29. Relief “A” is struck out in part. The relief sought in relation to an alleged violation of the Respondent’s freedom from discrimination under section 16 of the *Constitution of Belize* is struck out. Leave is granted to the Respondent to amend the Amended Fixed Date Claim Form to clarify and substantiate the grounds in relation to an alleged violation of the Respondent’s freedom of expression and freedom of political opinions under sections 3 and 12 of the *Constitution of Belize*.
30. Under relief “A”, the Respondent seeks a declaration that the “decision” of the Belize Police Department restricts her freedom of expression and freedom of political opinions, and is inconsistent with her fundamental rights to freedom of expression, freedom of political opinions, and non-discrimination as guaranteed under sections 3, 12, and 16 of the *Constitution of Belize*.
31. The Applicants query what “decision” is referred to in relief “A”. If the “decision” is the decision to “punish” the Respondent, then the Applicants say she has not been “punished”.

⁴ *McPhilemy v Times Newspapers Ltd & Ors*, [1999] EWCA Civ 1464.

⁵ *Kim v Park & Ors* [2011] EWHC 1781 at para. 40. See also *Outlook v Capstone*, BVIHCMAP2018/0016 at para. 56.

⁶ *Antigua Flight Training Centre Inc. v Eastern Caribbean Civil Aviation Authority*, ANUHCv 2018/0280 at para. 50.

The disciplinary proceedings have been initiated, but are not completed yet. The Respondent has an opportunity to exculpate herself. In addition, she only faces minor consequences if she is found guilty of the disciplinary offence she faces.

32. I find that the pleadings and the Affidavit are sufficient to delineate the parameters of the Respondent's case with respect to the allegations of an alleged violation of her right to freedom of expression and of political opinions. At paragraph 15 of her Affidavit, the Respondent states that "it is clear that my transfer and the tribunal proceedings were merely because of my political opinion". The transfer and the initiation of the Tribunal proceedings are the "decisions" challenged by the Respondent. I disagree with the Applicants' position that the Respondent's transfer to another position and the initiation of the Tribunal proceedings do not constitute a "punishment". There is no requirement that a person be "punished" in order to be able to assert their constitutional rights. While the full extent of the consequences faced by the Respondent as a result of the Tribunal proceedings will not be known until the conclusion of those proceedings, the transfer is in itself sufficient to support the Respondent's position that she suffered adverse consequences as a result of the alleged violation of her fundamental rights.
33. The Respondent's position is that she was transferred, and the Tribunal proceedings were initiated, in violation of her freedom of expression and her freedom of political opinions. The facts in the Respondent's Affidavit sufficiently support her position. In particular, in his June 15th, 2022 letter to Counsel for the Respondent titled "Constitutional Rights of Alicia Trapp",⁷ the Commissioner of Police states that on the day in question, the Respondent "was in the midst of it expressing her political opinion by wearing a red shirt showing support for the United Democratic Party". The Commissioner goes on to note that the comments expressed by the Respondent on Facebook were "tantamount to expressing her political opinion in a public place and is a clear breach of the laws governing discipline within the Police Department". The Commissioner also raises the Respondent's alleged breach of the Belize Police Department's Social Media Policy. There is support for the contention that the Respondent's political opinions factored in the decisions made by the Commissioner of Police in respect of the Respondent.
34. In her Amended Fixed Date Claim Form, the Respondent alleges that the "*Police Act* contravenes the Belize Constitution because the provisions cannot be shown to be 'demonstrably justified in a free and democratic society'". In her Reply to the Application, the Respondent clarifies that she seeks to challenge the *Police Act* insofar as it imposes a blanket prohibition preventing the Respondent from "publishing anything at all via the media". The Respondent argues that the *Police Act* is unconstitutional as being an unreasonable, unfair, and disproportionate derogation to her freedom of expression.

⁷ Affidavit of Alicia Trapp dated July 29th, 2022, Exhibit AT-4.

35. As noted by the Applicants, the Respondent's case faces a significant hurdle. Section 12 of the *Constitution of Belize* provides that the fundamental right to freedom of expression can be limited by consent:

12.-(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.

36. The Respondent admits that she made a number of attestations when joining the Belize Police Department, including that she would serve under the conditions stated in the *Police Act* and any regulations made under the *Police Act*. Whether a person's consent to a limitation of their freedom of expression can be challenged on the basis that the limitation imposed is unreasonable, unfair, or disproportionate is a novel question of law. The novelty of the question does not mean that the Claim should be struck out. In *Operation Dismantle v The Queen*, a constitutional claim, the Supreme Court of Canada held that:

It would seem then that as a general principle the Courts will be hesitant to strike a statement of claim as disclosing no reasonable cause of action. The fact that reaching a conclusion on this preliminary issue requires lengthy argument will not be determinative of the matter nor will the novelty of the cause of action militate against the plaintiffs [emphasis added].⁸

37. In light of the authorities urging courts to exercise restraint in striking out statements of case, the allegations of a violation of the Respondent's freedom of expression and of political opinions under sections 3 and 12 of the *Constitution of Belize* will not be struck out.
38. However, the allegation of a violation of the Respondent's freedom from discrimination under section 16 of the *Constitution of Belize* is struck out. The law in relation to discrimination was recently restated by James J. as follows:

17. The case law provides that in order to sustain a claim for discrimination there must be different and less favourable treatment based on an identifiable characteristic, that is capable of amounting to discrimination. Moreover, in order for it to be discriminatory under the Constitution there must be a difference in the treatment of persons in analogous, or relevantly similar, situations. Further, such a difference in treatment is discriminatory if it has no objective and reasonable

⁸ *Operation Dismantle v The Queen*, [1985] 1 SCR 441 at para. 77.

justification; that means, if it does not pursue a legitimate aim, there is not a reasonable rational connection between the means employed and the aim sought or the means employed is not proportional or is the least restrictive means to achieve the aim.⁹

39. In her Amended Fixed Date Claim Form, the Respondent pleads that “the Commissioner of Police and the Belize Police Department did not bring similar charges against police officers who visibly exhibited their support for the ruling People’s United Party by wearing PUP paraphernalia and waving their flags”. The Respondent’s Affidavit in support of the Amended Fixed Date Claim Form does not “rise to the occasion”. The Affidavit contains no facts at all in relation to the alleged differential treatment offered to these other police officers, which is necessary to support an allegation of discrimination. No further amendment to the Amended Fixed Date Claim Form can remedy this defect.
40. Relief “A” is therefore struck out in part. The declaration sought in relation to an alleged violation of the Respondent’s freedom from discrimination under section 16 of the *Constitution of Belize* is struck out. The Amended Fixed Date Claim Form stands to be further amended to clarify and substantiate the grounds supporting the allegations of a violation of the Respondent’s freedom of expression and of political opinions. In particular, the Respondent must clarify what sections of the *Police Act* are challenged. The Respondent is granted leave to do so.

Reliefs “B” and “C”

41. Reliefs “B” and “C” will not be struck out, as they flow from a granting of the declaration sought by the Respondent under relief “A”. The Court will however not grant the Respondent leave to amend reliefs “B” and “C”.
42. The Respondent seeks leave to amend her Claim “to allege that the *Police Act*, insofar as it provides for circumstances in which the Commissioner can be ultimate judge in his own cause, is unconstitutional and in violation of the section 6 right to equal protection of the law”. As currently phrased, reliefs “B” and “C” are connected to relief “A” in that they seek a declaration that the disciplinary proceedings instituted against the Respondent violate her right to freedom of expression and political opinions. Reliefs “B” and “C” are about the substance, not the process. The Respondent now seeks to amend her Fixed Date Claim Form to challenge the constitutionality of the process itself. This is an entirely new cause of action.

⁹ *Ian Cunha v The Belize Defence Force and anor*, Claim No. 175 of 2020 at para. 17.

43. The facts in the Claim do not provide the necessary support to allow such an amendment. In *George Allert et al v Joshua Matheson et al.*,¹⁰ Blenman J.A. (now the Chief Justice of Belize), citing *P & O Nedlloyd BV v Arab Metals Co and others*,¹¹ held that “in deciding whether the new cause of action arises out of substantially the same facts as those originally pleaded it was necessary to identify ‘the bare minimum of essential facts abstracted from the original pleading’ and to compare that ‘with the minimum as it would be constituted under the amended pleading’”.¹²
44. Except for raising comments made by the Commissioner of Police in respect of her situation, the Respondent alleges none of the essential facts needed to support her position that the disciplinary process violates her right to equal protection of the law. As explained by the Caribbean Court of Justice in *The Maya Leaders Alliance v The Attorney General of Belize*,¹³ the constitutional principle of equal protection of the law is grounded in notions of justice and the rule of law:

[47] [...] The right to protection of the law is a multi-dimensional, broad and pervasive constitutional precept grounded in fundamental notions of justice and the rule of law. The right to protection of the law prohibits acts by the Government which arbitrarily or unfairly deprive individuals of their basic constitutional rights to life, liberty or property. It encompasses the right of every citizen of access to the courts and other judicial bodies established by law to prosecute and demand effective relief to remedy any breaches of their constitutional rights. However the concept goes beyond such questions of access and includes the right of the citizen to be afforded, “adequate safeguards against irrationality, unreasonableness, fundamental unfairness or arbitrary exercise of power.” The right to protection of the law may, in appropriate cases, require the relevant organs of the State to take positive action in order to secure and ensure the enjoyment of basic constitutional rights. In appropriate cases, the action or failure of the State may result in a breach of the right to protection of the law. Where the citizen has been denied rights of access and the procedural fairness demanded by natural justice, or where the citizen’s rights have otherwise been frustrated because of government action or omission, there may be ample grounds for finding a breach of the protection of the law for which damages may be an appropriate remedy.

45. The Respondent’s position is that the comments made by the Commissioner of Police suggest that he may be biased, and that she will be deprived of a meaningful right of appeal

¹⁰ GDAHCVAP2014/0007 (“*Matheson*”).

¹¹ [2007] 1 WLR 2483 at para. 14.

¹² *Matheson*, *supra* at para. 58.

¹³ [2015] CCJ 15 (*Maya Leaders*).

under the discipline process. In addition to being premature, as no decision has been rendered by the Tribunal yet, this argument ignores the fact that the Respondent is not without recourse; under section 25 of the *Police Act*, the Respondent is entitled to appeal a sentence of dismissal or reduction in rank or grade given under section 24 of the *Police Act* to the Belize Advisory Council. As an administrative body, any other decision of the Tribunal can be judicially reviewed by this Court once any alternative remedy available is exhausted. Any concerns in relation to the Commissioner's alleged bias can be addressed in one of those fora, thus ensuring the Respondent's protection of the law.

46. The Respondent has not provided the "bare minimum of essential facts" to support a new cause of action grounded in an alleged violation of her right to equal protection of the law. Leave to amend reliefs "B" and "C" is denied.

Relief "D"

47. Relief "D" seeks to challenge the *Police Act* on the basis that it violates freedom of association. This relief was added to the original Fixed Date Claim Form after this Application was filed. While the Application did not address this relief, Counsel for the Applicants made oral and written submissions addressing this new relief.
48. Relief "D" will be struck out, as it constitutes a new cause of action for which the "bare minimum of essential facts" has not been provided.
49. Sections 3(b) and 13 of the *Constitution of Belize* protects the fundamental right of association. The Respondent has not pleaded, nor has she provided any evidence to support a violation of this right. She has not pleaded any provision of the *Police Act* which removes or limits her right to be a member of, or support a political party. Under section 24A of the *Police Act*, "no officer shall in any public place or in any document or via any social networking website or other medium or means of communication, whether or not within Belize, publish any information or express any opinion on matters of national security interest or with national or international political implications [emphasis added]". The prohibition against publishing information and expressing an opinion in public on matters of national political implications is not tantamount to a prohibition against support and membership in a political party.
50. The Respondent's case is not that she is prevented from being a member of, or supporting a political party; her case is that she is prevented from expressing her support for a political party through wearing a red shirt and making posts on social media. Her allegations are captured under relief "A" and do not support a new cause of action grounded in a violation of the freedom of association. Relief "D" is struck out.

Relief “E”

51. Relief “E” was also added to the Fixed Date Claim Form after the filing of this Application. Relief “E” will also be struck out, as the “bare minimum of essential facts” has not been provided in support of this relief. As noted in the section addressing relief “A”, the Respondent’s Affidavit does not contain any facts that would support an allegation of discrimination under section 16 of the *Constitution of Belize*.

Conclusion

52. The allegation of discrimination under section 16 of the *Constitution of Belize* in relief “A” is struck out. Reliefs “D” and “E” are struck out. The Respondent is allowed to further amend her Amended Fixed Date Claim Form to particularize the grounds in support of Relief “A” only. No further amendments are permitted.

53. Since both parties were partially successful on this Application, each will bear their own costs.

IT IS HEREBY ORDERED THAT

(1) The Application is granted in part.

(2) Relief “A” is amended as follows:

a) *A Declaration that the decision of the Belize Police Department unfairly restricts the Claimant from freedom of expression and freedom of political opinion, is inconsistent with the Claimant’s fundamental rights to freedom of expression freedom of political opinion, ~~and non-discrimination~~ as guaranteed under sections 3, 12, ~~and 16~~ of the Belize Constitution.*

(3) The following reliefs are struck out from the Amended Fixed Date Claim Form:

d) *A Declaration that the Police Act is unconstitutional insofar that it prohibits such association or support simpliciter, is unconstitutional as being an unreasonable and a disproportionate derogation from the rights of citizens to freedom of association.*

e) *A Declaration that the Police Act, insofar as it enables such political discrimination, is unconstitutional, null and void.*

- (4) The Respondent is granted leave to amend the Amended Fixed Date Claim Form within 14 days of this Ruling to substantiate and particularize the grounds in support of relief “A”.
- (5) No further amendments are permitted.
- (6) The Applicants are granted leave to file a further Affidavit in response to the amended Amended Fixed Date Claim Form within 14 days of its filing.
- (7) Each party shall bear their own costs.

Dated March 14th, 2023

Geneviève Chabot
Justice of the High Court