

COMMONWEALTH OF THE BAHAMAS

2010

IN THE SUPREME COURT

PUB/jrv/

Public Law Division

**IN THE MATTER** of Order 53, Rule 3 of the Rules of The Supreme Court 1978

**IN THE MATTER** of the Articles 28 and 117 and other provisions of Chapter VIII of the Constitution of The Commonwealth of The Bahamas

**IN THE MATTER** of an Application for leave to Apply for Judicial Review by Cheryl Grant- Bethell

**B E T W E E N**

**CHERYL GRANT-BETHELL**

Applicant

**AND**

**SIR MICHAEL BARNETT (CHAIRMAN)**

**SENIOR JUSTICE ANITA ALLEN**

**TERRY GAPE**

**MICHAEL DEAN**

**HUGH SANDS**

**(SUED IN THEIR CAPACITY AS MEMBERS OF THE JUDICIAL AND LEGAL SERVICES COMMISSION)**

First Respondent

**AND**

**THE ATTORNEY- GENERAL OF THE COMMONWEALTH OF THE BAHAMAS (in a representative capacity)**

Second Respondent

**AND**

**JOHN F. K. DELANEY, Q.C.  
(in his personal capacity)**

Third Respondent

## **A F F I D A V I T**

**I, CHERYL GRANT-BETHELL**, Counsel and Attorney, of the Western District of the Island of New Providence, one of the Islands of the said Commonwealth of The Bahamas, make oath and say as follows:-

1. That I am Deputy Director of Public Prosecutions in the Office of the Attorney General and Ministry of Legal Affairs and have held this post since the 1<sup>st</sup> January 2001. I was called to Bar of England & Wales in May 1988 and called to The Bahamas Bar in September 1988.
2. I obtained a Masters Degree in Law from King's College, University of London in April of 1990. During this time I prosecuted at the Crown Prosecution Service in London.
3. I commenced working with the Office of The Attorney-General in May 1990 as Assistant Counsel and held the positions of Counsel, Senior Counsel and Chief Counsel. During my tenure within the chambers I on numerous occasions acted as Director of Public Prosecutions when the substantive office holder was on leave, vacation or outside of the jurisdiction and also acted as Director of The Financial Intelligence Unit on similar occasions.
4. I am the Applicant herein and I swear this Affidavit in support of my application for leave to apply for Judicial Review filed herewith.
5. That insofar as the facts and matters to which I herein depose are within my knowledge they are true and insofar as they are derived from statements I have heard or documents I have read, they are true to the best of my knowledge, information and belief.
6. By letter dated the 21<sup>st</sup> October, 2009 the former Director of Public Prosecutions, Mr. Bernard S. A. Turner advised the Honourable Mr. Brent Symonette, the then Attorney-General, that he would be demitting his post on the 30<sup>th</sup> October 2009 and he recommended that I succeed him. Mr. Turner was my immediate supervisor at the time immediately prior to his resigning the post of Director of

Public Prosecutions. Exhibited hereto and marked “**CB.1**” is a copy of the said letter.

7. That by letter dated the 29<sup>th</sup> October, 2009 I wrote to the then Attorney-General, the Honourable Brent Symonette, that contrary to press reports I had refused an offer of the position of General Counsel to the Grand Bahama Port Authority group of companies and as a result I was not taking up an appointment with the Grand Bahama Port Authority. I advised him that I expected to be appointed Director of Public Prosecutions upon the resignation of Mr. Bernard S.A. Turner. Exhibited hereto and marked “**CB. 2**” is a copy of the said letter.
8. That Mr. Bernard S.A. Turner demitted office on the 30<sup>th</sup> October 2009.
9. That on the 2<sup>nd</sup> November, 2009 I commenced acting as Director of Public Prosecutions and performed all the requisite duties of the Director of Public Prosecutions as proscribed by the Office of the Attorney-General in a vacancy notice published in the National Dailies. I performed and/or supervised the work of the criminal division and its legal officers, managing the assignment of cases and Prosecuting Counsel, the representation of the department in constitutional applications, extradition proceedings and forfeiture and restraint applications, prosecuting criminal matters in the Magistrate's and Supreme Court, Court of Appeal, Privy Council, providing advice to the police, organizing and providing legal advice to officers beneath her command, advising the Attorney-General generally, attending local, regional, and international organizations and meetings and such other matters assigned by the Attorney-General.
10. That on the 26<sup>th</sup> November, 2009 I submitted a formal application for the position of Director of Public Prosecutions to the Judicial and Legal Services Commission along with the requisite documents. Exhibited hereto and marked “**CB. 3**” is a copy of the said application.
11. That on the 31<sup>st</sup> December, 2009 I met with the Right Honourable Prime Minister Hubert A. Ingraham (“the Prime Minister”) at the Cecil Wallace Whitfield Building at 3:00p.m. at his request. The Prime Minister advised me that he had recommended to the Judicial and Legal Services Commission and the Public Service Commission that I should be appointed to the position of Director of

Public Prosecutions. That it was his recommendation that I be appointed to act in that position for a period of twelve months commencing January 2010. That I took note of the position put to me by the Prime Minister.

12. That on the 11<sup>th</sup> January, 2010 I was interviewed by the Judicial and Legal Services Commission for the position of Director of Public Prosecutions. In addition to being orally interviewed, I submitted a written vision and proposed plan with respect to the reorganization of the Department of Public Prosecutions to the Commission. That I would request that this Honourable Court direct the Judicial and Legal Services Commission to provide their decision in relation to my application and interview and their reasons for such decision.
13. That on the 20<sup>th</sup> April, 2010 I met with the Prime Minister again, at his request, and was offered the position of Ambassador to a place of my choosing anywhere in the world. I advised the Prime Minister that I was unable to respond at that time and a meeting was rescheduled to the 26th April, 2010, which meeting did not take place. That I was taken aback that this proposal was being made when no reasonable explanation had been offered for me not being appointed as Director of Public Prosecutions. At this time I had not been advised by the Judicial and Legal Services Commission of the outcome of my interview and the interview process for the post of Director of Public Prosecutions.
14. That on the 3<sup>rd</sup> May, 2010 at 2:00p.m I met with the Honourable Attorney-General, Senator John K.F. Delaney, Q.C. (“the Attorney-General”), then Permanent Secretary, Mr. Harrison Thompson and Director of Legal Affairs, Mrs. Deborah Fraser and I was orally informed that I had been recommended for the post of Deputy Law Reform and Revision Commissioner.
15. That by letter dated the 4<sup>th</sup> May 2010 from the Secretary of the Judicial and Legal Services Commission I was formally advised of the recommendation to appoint me as Deputy Law Reform and Revision Commissioner and invited to attend a meeting scheduled for the 11<sup>th</sup> May 2010 at 3:00p.m at which time the recommendation would be considered. Exhibited hereto and marked “**CB.4**” is a copy of the said letter.

16. That on the 11<sup>th</sup> May, 2010 I attended the meeting held by the Judicial and Legal Services Commission concerning the abovementioned recommendation and at that time I presented a letter dated the 11<sup>th</sup> May 2010 to the Chairman of the Judicial and Legal Services Commission outlining my concerns and questions regarding why I was recommended and being considered for the position of Deputy Law Reform and Revision Commissioner. Exhibited hereto and marked “**CB.5**” is a copy of the said letter.
17. That by letter dated the 13<sup>th</sup> May 2010 (which was actually received by me on the 19<sup>th</sup> May 2010) from the Secretary of the Judicial and Legal Services Commission I was advised that I would be promoted to the post of Deputy Law Reform and Revision Commissioner with effect from the 1<sup>st</sup> June 2010. Exhibited hereto and marked “**CB.6**” is a copy of the said letter.
18. That by letter dated the 19<sup>th</sup> May 2010 I wrote the Judicial and Legal Services Commission rejecting the promotion and refusing to transfer to any other section of the Office of the Attorney General as I had not applied for a transfer. Exhibited hereto and marked “**CB.7**” is a copy of the said letter.
19. That I wrote a further letter on the 20<sup>th</sup> May 2010 to the Judicial and Legal Services Commission outlining why in my opinion an appointment to Deputy Law Reform and Revision Commissioner was not a promotion. Exhibited hereto and marked “**CB.8**” is a copy of the said letter.
20. That on Monday the 10<sup>th</sup> May 2010 I commenced a double murder re-trial which completed on the 27<sup>th</sup> May 2010. The Honourable Attorney-General was personally aware that I was lead Counsel in that murder re-trial and yet all the matters mentioned in paragraphs 16 to 19 above took place during that re-trial which caused me much emotional distress and anxiety. I interpreted the actions of the Honourable Attorney- General in his public and private capacity as effectively putting an end to my career in public prosecutions in the middle of leading a serious trial before a Senior Justice.
21. That on the 4<sup>th</sup> June 2010 at 9:00a.m. I met once again with the Prime Minister at the Cecil Wallace Whitfield Building to discuss his prior offer of the post of Ambassador. During the meeting, the Prime Minister became very hostile and

advised that he was not prepared to proceed with any of his previous offers and that I should accept whatever job the Judicial & Legal Services Commission offers me. Much to my amazement, the Prime Minister proceeded to threaten me by advising me that if I do not accept the offer proposed by the Judicial & Legal Services Commission or if I were to challenge any decision made by the Judicial & Legal Services Commission, that he would “bloody my face”, he would “abolish my post” and “retire me in the public interest.”

22. That on the 16<sup>th</sup> June 2010 I met with the Attorney-General and the Under Secretary Mr. Leroy Sumner at 10:00 a.m. During the meeting I was advised inter alia that I was no longer operating in my substantive post of Deputy Director of Public Prosecutions. That I was further advised that I should not appear before any courts, should only perform administrative duties, I should transfer all my files to Mr. Franklyn Williams and prepare to move to the Law Reform and Revision Department.
23. That my response to the Honourable Attorney-General was inter alia that he could not, in the manner he proposed, remove me from my substantive position as Deputy Director, that I did not request a transfer to another department and that their behavior is causing me emotional distress. Exhibited hereto and marked “**CB.9**” is a copy of the Minute of the meeting prepared by me and dated the 17<sup>th</sup> June 2010.
24. That on the 18<sup>th</sup> June 2010 I attended a meeting and upon my return I discovered Mr. Franklyn Williams who is now Deputy Director of Public Prosecutions, Mr. Harrison Thompson the then Permanent Secretary and the Honourable Attorney-General present in my office assigned to me. Mr. Williams was going through my desk, invading my private space and riffling through my personal items. I wrote a Minute of what transpired to the Honourable Attorney-General which is dated the 23<sup>rd</sup> June 2010 and is exhibited hereto and marked “**CB.10**”
25. That by letter dated the 30<sup>th</sup> June 2010 the newly appointed Permanent Secretary, Mr. Archie Nairn advised me inter alia that I no longer serve as Deputy Director of Public Prosecutions, that my transition of all files was to be completed by 30<sup>th</sup> June and that any room in the Office of the Attorney-General can be assessed by

authorized persons. Exhibited hereto and marked “**CB.11**” is a copy of the said letter.

26. That on the 5<sup>th</sup> July, 2010 I received an e-mail from the Department of Public Service enclosing a letter dated the 7<sup>th</sup> June 2010 from the Department of Public Service which advised me that the Governor-General had approved my “promotion” to the post of Deputy Law Reform and Revision Commissioner. Exhibited hereto and marked “**CB. 12**” is a copy of the said letter.
27. That by letter dated the 7<sup>th</sup> July 2010 my attorney Mr. Wayne R. Munroe wrote the Honourable Attorney-General advising him inter alia of my position with respect to the transition and my substantive post as Deputy Director of Public Prosecutions. Exhibited hereto and marked “**CB.13**” is a copy of the said letter.
28. That I received an unsigned letter dated the 13<sup>th</sup> July 2010 by email from Mr. Nairn advising me that a new office has been assigned for me at the British American Building and that I should fully vacate my office as it would be re-assigned as of 5:00p.m that day. Exhibited hereto and marked “**CB.14**” is a copy of the said letter.
29. That on the 14<sup>th</sup> July 2010 when I arrived at the Office of the Attorney-General I was astonished and amazed to discover that my office and adjacent office of my two administrative assistants namely Ms. Alicia Armbrister and Ms. Mornette McKenzie were locked and I was refused entry. I wept. I felt humiliated and embarrassed and betrayed as my colleagues looked on as I attempted to enter my office.
30. That Mr. Vernal Collie, Chief Counsel, Mrs. Olivia Nixen, Chief Counsel, Ms. Sandra Dee Gardiner, Chief Counsel, Mr. Eucal Bonaby, Counsel, Mr. Simon Rolle, Assistant Counsel, Mr. Terry Archer, Assistant Counsel, ASP Theresa Hanna, Mrs. Ingrid Laroda, Executive Secretary and my two said administrative assistants were present in the corridor and obviously commenting on the situation.
31. That I then phoned the Permanent Secretary asking whether I can access the office space assigned to me for purposes of removing my personal items and he advised that he would obtain instructions and revert to me.

32. That I then sat and waited in front of my office, in the corridor, for approximately two hours for the Permanent Secretary's response. No one from administration came to assist or speak to me or my said administrative assistants.
33. That I then instructed my two administrative assistants to visit the sixth floor to speak to Ms. Bridget Stuart, the Human Resource Manager, to which they left.
34. That I then went outside of the Office of The Attorney-General and waited on the porch situate on the ground floor of the Post Office Building for another hour. I once again telephoned the Permanent Secretary who advised that he had still not received any instructions.
35. I became so overwhelmed that I went directly to my private doctor to seek medical attention for my distress.
36. Later that day I received an unsigned letter by email from Mr. Nairn directing me to report to the Law Reform Commissioner the following day. Exhibited hereto and marked "**CB.15**" is a copy of the letter.
37. That as a result of the actions of the Honourable Attorney-General I have suffered much emotional distress and anxiety especially in light of two decades of loyal, committed and dedicated service to the Office of The Attorney-General. I felt belittled, demoralized, afflicted and personally attacked as no other officer who was being transferred at the time was locked out of their assigned offices.

Before me,