

**IN THE SUPREME COURT OF BELIZE A.D. 2018  
(CIVIL)**

**CLAIM NO. 14 OF 2018  
BETWEEN**

**WCPL625 DEBBIE REYNOLDS**

**APPLICANT**

**AND**

**ATTORNEY-GENERAL OF BELIZE  
THE COMMISSIONER OF POLICE**

**1<sup>st</sup> RESPONDENT  
2<sup>nd</sup> RESPONDENT**

**Before:** Madame Justice Shona Griffith  
**Date of Hearing:** 6<sup>th</sup> February, 2018; 5<sup>th</sup> March, 2018 (Oral Decision)  
**Appearances:** Ms. Tricia Pitts-Anderson for the Claimant and Ms. Briana Williams,  
Crown Counsel for the Respondents.

*Application for permission for Judicial Review, CPR Part 56 – Transfer by Commissioner of Police – Applicant pursuing alternative non-legal measures for relief against transfer - Delay in making application for permission – Whether delay unreasonable so as to bar grant of application for permission.*

**DECISION**

**Introduction**

1. This Application is for permission for judicial review against a transfer of the Applicant WCPL Debbie Reynolds, effected by the Commissioner of Police by letter dated 28<sup>th</sup> September, 2016. The Applicant was first orally advised of the transfer but received formal written notice of it on 18<sup>th</sup> October, 2016. The effect of the transfer is that the Applicant was relocated from her duty assignment as instructor at the Police Training Academy in Belmopan, to Belize City and no longer received an allowance of two hundred dollars (\$200) monthly which accompanied her station as instructor. The Applicant also claims that the transfer has caused her severe personal hardship and expense due to child care and other home related arrangements she has had to make. The Applicant alleges that the transfer was contrary to several of the Public Service Regulations, 2014 thereby being procedurally irregular, that it was punitive and made in breach of natural justice.

The Applicant applies for a number of declarations seeking to impugn the transfer, an order to quash the transfer and an order to be reinstated to her post as instructor at the Training Academy in Belmopan. At the oral hearing directed by the Court, the Respondents resisted the application for permission and contended primarily that the application ought to be refused on account of an unreasonable delay by the Applicant in making the application for permission.

## **Issues**

2. The issues for determination by the Court in this Application are as follows:-
  - (i) Whether there was unreasonable delay by the Applicant in making her application for permission to file a claim for judicial review; and
  - (ii) Whether there was good reason for the delay so as to justify extending the time within which to seek such permission.

## **Background**

3. The circumstances of the transfer were that in September, 2016, a recruit at the Police Training Academy in Belmopan alleged the occurrence of sexual relations with the Applicant, such relations being prohibited at the Academy. The Applicant says she was informed by her superior officer of the allegation on 27<sup>th</sup> September and advised that she was to be transferred with immediate effect from her station in Belmopan, to Belize City. As a result of the allegation, the Applicant says she became emotionally distressed and proceeded on sick leave for two weeks, but when she returned, she was handed the letter of transfer in October, 2016. The following is a chronology of the events thereafter occurring, as narrated by the Applicant:-
  - (i) After receiving the letter of transfer the Applicant obtained a further 14 days leave to return to work on the 2<sup>nd</sup> November, 2016;
  - (ii) Whilst on leave in October, 2016, the Applicant met with the Minister with responsibility for the Police and discussed her dissatisfaction with the transfer.

The Applicant obtained some assurance from the Minister that the matter would be resolved, but the Minister was re-assigned to a different Ministry and nothing was done regarding her transfer;

- (iii) Also in October, 2016 the Applicant wrote to the Commissioner of Police requesting reconsideration of her transfer on the basis of the difficulties caused in respect of her child care arrangements, and in that letter also complained of the failure to follow the Public Service Regulations procedures for transfers. The Applicant states however that her letter remained unanswered;
- (iv) Still distressed from the allegation made against her, the Applicant was unable to return to work on 2<sup>nd</sup> Nov, 2016 and obtained further leave until 21<sup>st</sup> Nov, 2016. During this period of leave, on 7<sup>th</sup> Nov, 2016 the Applicant lodged a complaint in respect of her transfer with the Ombudsman, who wrote a letter to the Commissioner of Police on her behalf in December, 2016. The Ombudsman's letter sought relief from the transfer and alleged various breaches of the Applicant's legal rights. The letter was copied to several senior police officers with responsibility for police welfare, as well as the Chief Executive Officer of the parent Ministry of Home Affairs;
- (v) In January, 2017, still with letters unanswered the Applicant received a notification of a formal complaint regarding the incident alleged by the recruit against her in September, 2016. She was instructed to, and did submit a duty report whereby she denied the allegation;
- (vi) On 4<sup>th</sup> April, 2017 the Applicant was charged with the internal disciplinary offence of having committed an act prejudicial to good order and discipline and a disciplinary hearing was scheduled for 20<sup>th</sup> April, 2017. On the day of the hearing the complainant failed to appear and the charge was dismissed. The Applicant however remained transferred;
- (vii) In August, 2017 via an attorney-at-law, the Applicant wrote once again to the Commissioner of Police seeking a reconsideration of her transfer and in November, 2017 wrote to the Public Service Commission asserting the breaches in procedure and requesting review of the transfer and reinstatement. The Applicant received no responses to either of these letters and remained transferred.

- (viii) As a result of the absence of response or relief, the Applicant made her application for permission for judicial review on 5<sup>th</sup> January, 2018.

### **The Application and Submissions**

4. The Application for permission was made based upon alleged breach of several of the Public Service Regulations applicable to the transfer of public officers. In particular, Regulations 96(5), 99, 100(1) and 100 (2) which in effect provide as follows:-
- (i) Regulation 96(5) – transfers are not to be used as a punitive measure;
  - (ii) Regulation 99 - notice of an intention to transfer must be given by a CEO or Head of Department (HOD) to the public officer, between the months of January and March of each year;
  - (iii) Regulation 100(1) – a change in station transfer is to be effected during July and August in any given year, in order to facilitate the smooth transfer of officers with children attending school;
  - (iv) Regulation 100(2) – transfers outside the period in Regulation 100(1) must be approved by the Commission as an exception with good justification therefor.
5. Counsel for the Applicant firstly submitted that the Public Service Regulations, 2014 apply to the Police Force given the absence of specific regulations in place for the Force under the Security Services Commission (as established under the Constitution), or any regulations made under the Police Act<sup>1</sup>. With respect to the principal requirements prescribed by Rule 56.3 in respect of an application for permission, Counsel submitted (i) that being the person directly affected by the transfer, the Applicant had the requisite interest to make the application; (ii) that there was no alternative remedy available to the Applicant; and (iii) albeit there was some delay in making the application, the delay was not unreasonable, having regard to the steps taken by the Applicant in seeking to resolve the matter by non-legal means.

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<sup>1</sup> The Commissioner of Police has power to make regulations subject to approval by the Minister, pursuant to section 53 of Cap. 138.

With respect to the grounds for relief, Counsel for the Applicant contends that the transfer was procedurally improper and where applicable, contrary to natural justice on account of breaches of the Regulations respectively occasioned in the following manner:-

- (i) The transfer which arose out of a complaint of sexual misconduct, was effected without investigation and prior to determination of the disciplinary charge instituted as a result of the complaint. Further, even after the disciplinary charge was dismissed, the transfer remained in effect. In such circumstances, it was contended that that not only was the transfer clearly punitive and as such in breach of regulation 96(5), but also effected contrary to natural justice as the Applicant was never given an opportunity to be heard prior to the transfer taking effect;
- (ii) In contravention of Regulation 99, the transfer was effected without notice given to the Applicant between the months of January and March;
- (iii) As a parent of a child attending school, the transfer was not effected during the months of July or August so as to enable the Applicant the opportunity to make smooth transition school arrangements, as provided by Regulation 100(1); and
- (iv) Having been effected outside the period of July and August stipulated in Regulation 100(1), the transfer was not made with the exceptional approval of the Commission as required by Regulation 100(2).

In all respects therefore the Applicant contends that her case is a strong one given the clear breaches of the Regulations as outlined above.

6. With reference to Rule 56.5, Counsel for the Applicant addressed the issue of delay. The transfer having been effected in September, 2016 and the disciplinary charge having been dismissed in April, 2017, the Application for permission for judicial review was made on 5<sup>th</sup> January, 2018. Depending on the view taken of when time started to run against the Applicant, the application was at worst one year three months after the date of the transfer; or at best, eight months thereafter, with reference to the date of dismissal of the disciplinary charge.

With further reference to Rule 56.5 which prescribes that applications for permission ought to be filed within three (3) months of the date of the decision sought to be challenged, Counsel for the Applicant firstly submitted that the delay in filing the application for permission was not unreasonable. Instead, the delay could be justified on the basis that in the intervening period the Applicant had been pursuing other (non-legal) means of resolving her grievance with the transfer. These other means were of course the representations made to the responsible Minister and Commissioner of Police, complaint to the Ombudsman and finally, representations made to the Public Service Commission. Further, with respect to Rule 56.5(2), Counsel for the Applicant contended that there would be no hardship or prejudice caused to the Respondents nor would the grant of permission be detrimental to good administration.

7. Counsel for the Applicant cited a few authorities for the Court to consider on the issue of delay. The first, **Clement Cacho v The Queen**<sup>2</sup> was commended unto the Court insofar as it established that delay need not operate to deny an applicant relief sought by way of judicial review. Further, that the Court is required to assess the reasons for the delay in order to determine whether the delay should be termed unreasonable. In this authority, there was a delay of eighteen months during which time the applicant therein had been awaiting the results of his appeal to the Belize Advisory Council from a decision of the Security Services Commission. The delay of eighteen months in the circumstance of the applicant therein pursuing an alternative remedy was held not to be unreasonable and for good reason. The Applicant submits to the Court that the actions taken by her in seeking to resolve the transfer should be similarly regarded. Reference was also made to Privy Council decision of **Sharma v Director of Public Prosecutions et al**<sup>3</sup> in support of Counsel for the Applicant's contention of the discretionary approach to the issue of delay.

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<sup>2</sup> Belize Supreme Court No. 20 of 2009

<sup>3</sup> [2006] UKPC 5

In response to the submissions on behalf of the Applicant, Counsel for the Crown contended that the delay was unreasonable even if factoring in the disciplinary charge which was instituted and later dismissed against the Applicant in April, 2017. Counsel claimed that the period of eight months which elapsed after the dismissal of the charge, was well in excess of the stipulated three months and the reasons put forth by the Applicant did not amount to good reason.

8. Additionally, Counsel for the Crown contended that the Applicant was not obliged by any law to take the steps that she did and that even whilst pursuing those avenues, she remained at liberty to lodge her application for judicial review in a timely manner. In the circumstances, Counsel for the Crown urged the Court that the delay being inordinate and unreasonable, the Applicant should be denied permission to seek relief. Counsel for the Applicant however replied that the Applicant had an undeniably strong case on paper and that the Crown having filed no evidence in response, was not in a position to refute the strength of the Applicant's case. Additionally, based upon the dicta in *Sharma v DPP et al* that given the strength of the Applicant's case, she ought to be allowed to have her case ventilated. Having filed no evidence, the Crown was also not in a position to assert that there was any prejudice which could be caused by a review of the Applicant's transfer, whilst the Applicant had by her affidavits demonstrated the hardship occasioned her by the transfer. Counsel finally made the point regarding prejudice (to the Applicant), that even though the charges had been dismissed, there had been no ventilation of the matter thus the Applicant still remained with the taint of the allegation made against her.

### **Discussion and Analysis**

9. CPR Rule 56.3 sets out the checklist of matters to be satisfied upon presentation of or contained in an application for permission for judicial review. The primary issue arising in this Application is that of delay. However, brief mention is made on the issue of alternative remedies as this was raised by Counsel for the Crown as being provided by section 25 of the Police Act, Cap. 138.

Section 25 of the Police Act provides for an appeal to the Belize Advisory Council by a person aggrieved by a sentence awarded, reduced, confirmed or altered in relation to a disciplinary offence charged and determined pursuant to section 24. The section speaks clearly for itself in the remedy it provides, however this was not a remedy available to the Applicant, as the prescribed appeal to the Advisory Council is triggered by a conviction of a disciplinary offence and imposition of a sanction. The Applicant's charge was dismissed therefore her circumstance did not fall within the parameters of section 25. It is further mentioned for completeness that the Public Service Commission Regulations themselves provide no scope for redress in relation to grievances against transfers and the appeal to the Advisory Council provided under section 111 of the Constitution arises in relation to a decision of a service commission. The transfer in this case was not authored by a service commission, thus the Court therefore agrees with Counsel for the Applicant that there was no alternative remedy available for redress in relation to her transfer. The primary issue of delay is now considered.

10. On the issue of delay, the applicable Rule 56.5 is set out in its entirety as follows:-

*(1) "In addition to any time limits imposed by any enactment, the judge may refuse permission to grant relief in any case in which the judge considers that there has been unreasonable delay before making the application.*

*(2) When considering whether to refuse permission or to grant relief because of delay the judge must consider whether the granting of permission or relief would be likely to – (a) cause substantial hardship to, or substantially prejudice, the rights of any person; or (b) be detrimental to good administration*

*(3) An application for permission to apply for judicial review shall be made promptly and in any event within three months from the date when grounds for the application first arose, "unless the court considers that there is a good reason for extending the period within which the application shall be made."*



11. The progression of this rule is important in terms of its interpretation and application. Firstly, by Rule 56.5(1), the Court must find the delay to be unreasonable. Additionally, the relevant factors (set out under Rule 56.5(2)) are that the Court is required to consider whether there will be substantial hardship or prejudice to any other person or detriment to good administration. As written, the Court finds that the rule is speaking to substantial hardship or prejudice in relation to a third person, not the Applicant. Therefore the Applicant's submissions in relation to the Respondents having failed to demonstrate that there would be any prejudice caused to them (the Respondents) by a review of the transfer is taken the Court's consideration on the issue of delay no further. With respect to the issue of delay relative to any detrimental effect on good administration, this factor plainly requires the Court to consider the public interest served by good administration of the business of public authorities. The importance of the progression of the Rule as mentioned above is that even after these factors may have been considered and established, it is nonetheless the case that there must be good reason for extending time if three months from the date of decision has expired. Put another way, the Court interprets total effect of Rule 56.5 in terms that even if a prospective application would cause no substantial prejudice or hardship to any third party, or would have no detrimental effect on good (public) administration, the absence of good reason for delay can defeat the application if made after three months.
12. In the instant case, the Application for permission was directed for hearing in open court and the Attorney-General instructed to be served. Although they filed submissions in opposition, the Crown filed no evidence in answer to the Application, thus there was not raised any issue of substantial hardship or prejudice or detrimental effect on good administration on the part of any third party or the Respondents, respectively. The consideration of Rule 56.5(2) can thus be regarded with favour towards the Applicant. However, as reasoned above, independently of the question of prejudice or detriment to good administration, an extension of time to file an application for permission beyond three months must nonetheless be based upon good reason having been established for the delay.

In examining the issue of good reason, the chronology of events as provided by the Applicant falls to be assessed. Before embarking on this exercise however, all things being equal, the Court is minded to find that the time material time for consideration of the delay should be October, 2016, i.e. the date of the Applicant's receipt of the letter formally notifying her of the transfer, which would mean a delay of fifteen (15) months. This is found to be the effective date as the transfer was an immediate response to the allegation of impropriety made against the Applicant and when the transfer was effected, there was no foreshadowing of a disciplinary charge and indeed such a charge was not levied against the Applicant until April, 2017. A delay therefore of 15 months, is considered substantial and with nothing more, unreasonable.

13. In assessing the Applicant's reasons for the delay, the Court notes the following:-

- (i) The Applicant's protest of her transfer was immediate as evidenced by her engaging with the Minister responsible for the Police seeking his intervention;
- (ii) After the Minister was transferred without affording her any reprieve, the Applicant made representations to the Commissioner of Police and in her representations asserted that her transfer was unlawful for being in breach of the Public Service Regulations. This fact indicates to the Court that the Applicant was at that early stage (October, 2016), aware of her legal rights;
- (iii) As further indication of her awareness of her legal rights, the Applicant engaged the attention of the Ombudsman and even if the Court could have accepted that the Applicant's knowledge as a layperson could only have facilitated her advancing her protest against her transfer on a limited legal basis, her engagement with the Ombudsman would certainly have afforded a more precise appreciation of her legal position. This engagement with the Ombudsman occurred in November, 2016;

- (iv) Despite not receiving any responses to her representations both written and oral some months prior, the Applicant chose once again in August, 2017 to engage the Commissioner of Police. At that stage the Applicant had retained the services of an Attorney-at-Law;
- (v) The Applicant made representations to the Public Service Commission in November, 2017 by letter from her Attorney-at-Law and received no response;
- (vi) As submitted by Counsel for the Crown, there was no legal obligation on the Applicant to have taken any of the above steps and there was nothing which prevented the Applicant from filing her application for permission even whilst she pursued these steps. Further, save for the second letter to the Commissioner of Police (the first having received no response) and that to the Commission, the Applicant's representations to senior police and public officials were all made within the first three months of her transfer.
- (vii) Albeit having taken leave as a result of the distressing effects of the allegations, it is noted that the Applicant actively engaged the attention of senior public officials against her transfer during this time. The continuous deferral of her return to work on the basis of emotional distress whilst having no difficulty advocating against her transfer does not assist the view that the Court is asked to take of the delay in filing the application for permission.

14. The Court now considers the authorities cited on behalf of the Applicant, as well as a few authorities relied upon by the Court. With respect to *Clement Cacho v The Queen*, this decision makes the point that the time limit of three months referred to in Rule 56.5(3) is not mandatory and that the Court may proceed to hear an application provided that the delay is not unreasonable and there is good reason for the delay. The Court agrees with this interpretation, however the primary issue in this case is whether the Applicant can satisfy the requirements for extending the time beyond three months, given her delay.

With respect to *Sharma vs The DPP*<sup>4</sup>, this authority was cited in support of delay only operating as a discretionary bar in relation to an application for permission to seek judicial review. It is not considered that this judgment assists the Applicant beyond confirming statements of general principles. This judgment<sup>5</sup> concerned the high threshold to be met in respect of applications seeking to review the institution of criminal proceedings, and within the course of its discussion, cited four (4) principles governing such applications and the consideration of permission for judicial review generally. Of those principles, it was stated that permission should not normally be refused where an applicant has an arguable case, not defeated by the discretionary bar of delay or an alternative remedy. There is again, ready acceptance of such a statement of general principle, however its application in respect of the circumstances in the case at bar is yet to be determined.

15. There are a few cases which the Court has come across which illustrate how the issue of delay has been considered in circumstances not dissimilar to the case at bar. Firstly, **R v Education Committee of Blackpool Borough Council ex p. Taylor**<sup>6</sup>. This case concerned an application for permission by a parent in respect of a decision of the Education Committee refusing entry of a child into a particular school. The period of delay was that of five (5) months from the date of the decision (the same three (3) month limit applied). Reasons given for the delay included that the parent sought the intervention of the Secretary of State as well as the local ombudsman. Of these interventions Kay J said thus:-

*“Neither had power to set aside the decision in this case, so there was no question that there was an obligation on the applicant to explore those avenues before coming to this court. In those circumstances, whilst nobody can be critical of them for looking to see what other options were open to them, there was a need on their behalf and on the part of their legal advisors to remember that, if they were contemplating the possibility of judicial review, there was an obligation to take prompt action in relation to it and there was a specific time limit, even over and above the obligation to act promptly, of three months.”*

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<sup>4</sup> Supra

<sup>5</sup> Lords Bingham of Cornhill and Walker of Gestingthorpe @ para 14

<sup>6</sup> [1999] ELR 237

In similar vein, reference is also made to **R v London Borough of Redbridge Ex parte "G"**<sup>7</sup> which concerned similar circumstances of an applicant writing to his MP (Member of Parliament), to seek redress against a decision of the Borough. Of that course of action the court said thus (emphasis mine):-

*"It seems to me that it is plain that the applicant's father knew of the decision which affected his daughter. He must, as it seems to me, take advice at that stage as to whether he has any remedy against the local authority. In fact what he did was to write to his MP and to seek the assistance of his Member of Parliament, but in my judgment a citizen who has a problem with local Government or any other bureaucracy is faced with a choice. He can either seek political means to influence the decision or he can consider whether he has any legal remedies against the authority. If he elects to adopt the first course and it achieves nothing, in my judgment he cannot rely upon that as a ground for extending time and it is no answer to say that until he had exhausted his attempts to persuade his Member of Parliament to assist him that he realized that he might have a ground of complaint against the local authority."*

16. Finally, reference is made to **R (on the application of British Aggregates Associates and others) v her Majesty's Treasury**<sup>8</sup> which concerned a large business seeking review of a levy of customs charges after several months of attempting to negotiate a reversal with the decision maker. From a business perspective and with reference to the particular circumstances, the Court acknowledged the prudence of the applicant's approach in trying to negotiate, but stated that *"...It is trite to observe that claimants cannot delay making claims merely because they are seeking to persuade the decision maker to change its mind."* It is found that the above extracts are clear and require very little explanation or interpretation by the Court with respect to how they relate to the circumstances of the instant case.

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<sup>7</sup> [1991] Lexis Nexis Citation 2617.

<sup>8</sup> [2002] EWHC 926

This view notwithstanding, it is expressly found in this case, firstly that the Applicant made a choice to engage with persons who as a matter of law, could not assist her in a legal resolution of any right she alleged to have been breached. Further, having regard to the representations made within the first three months of the transfer, whilst the Applicant (on the facts presented), had no legal representation, she was clearly aware of her legal rights. Thereafter, from August, 2017, the Applicant had the benefit of legal representation but still the application for permission was filed five (5) months after that time.

17. In the circumstances, the reasons put forward by the Applicant are not accepted as amounting to good reason for the delay which in any event, at 15 months from the decision, has been found to be unreasonable. The Court nonetheless considers other factors raised on behalf of the Applicant in support of her Application for permission. Counsel for the Applicant submits that the Applicant has a strong case and as such ought to be allowed to have her case ventilated. Also that the Applicant ought to be given the opportunity to address the damaging allegations made against her having regard to the fact that the charges were dismissed against her without a hearing. The Court can acknowledge that the Applicant perhaps has a strong case in the absence of any response from the opposing side at this stage of the proceedings. However, the rationale for the existence of delay as a discretionary bar must nonetheless be borne in mind. As explained per Lord Diplock in **O'Reilly v Mackman**<sup>9</sup>(emphasis mine):-

*“There is a public interest in good administration that public authorities and 3<sup>rd</sup> parties should not be kept in suspense as to the legal validity for any longer period than is absolutely necessary in fairness to the person affected. The law has chosen to place the time limit of 3 months and thereafter subject to good reason and circumstances of each case as balanced; the prerogative remedies are exceptional*

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<sup>9</sup> [1983] 2 AC 237

*in their nature and should not be made available to those who sleep on their rights..”*

18. The Court’s view is of course not that the Applicant has slept on her rights, however as found as above, she has failed to exercise her right to seek judicial review in a timely manner and the reason for her delay was due to a conscious choice to seek other means of intervention which she was not legally obliged to pursue. In such circumstances, the Court regards the end result of the delay, no differently than it would have been, had the Applicant in fact slept on her rights. In truth, the rationale as stated above is considered to be predicated upon the same grounds as Rule 56.5, insofar as it incorporates good reason and detriment to good administration as the standards to be met in order to extend the three months stipulated for permission to seek review. In further consideration of Counsel’s submission that the strength of the Applicant’s case is the more important factor for the Court bear in mind in deciding whether to grant permission, the nature of the rights and remedies in issue should also be considered. Upon close examination, it is not that the Regulations afforded the Applicant a right not to be transferred without hearing, they instead afforded the Applicant a transfer within a predictable and certain administrative framework.
19. Considering her case at its highest, it is not that the Applicant would have been able to resist the transfer, instead the Applicant would have been entitled to a certain timeframe within which to prepare or make other arrangements to put herself in order. As a result, the Court must consider that even if the Applicant were to be successful upon the conclusion of a hearing, the relief available upon judicial review is discretionary and is directed towards the decision making process. This Court cannot in the final analysis resolve the issue of the transfer in the Applicant’s favour. The process can be struck down by the Court but the Respondents could nonetheless simply transfer the Applicant once more, within the administrative framework that they ought to have employed. All this is said not to say that the Applicant would not be served by the grant of permission to review the transfer.

Had the Applicant been timely in her application for permission and all things being equal in relation to any other challenge to the application, such a consideration of ultimate outcome would not arise at this stage. However, in light of the factor of unreasonable delay, for which there has not been found good reason, the Court considers that every relevant factor falls to be weighed.

20. Therefore, in respect of the likely remedies and extent of breach of rights alleged by the Applicant, the extent of delay and absence of good reason outweigh any benefit to be afforded the Applicant by the apparent strength of her claim at this stage of the proceedings. Having regard to all the circumstances discussed above, it is concluded that the Applicant's delay in pursuing a claim for judicial review is fatal. The Applicant chose to engage with the decision maker to seek reconsideration of the transfer; she also chose to seek intervention from political officials none of whom possessed the legal capacity to effect her ultimate aim, which was the reversal of her transfer. As illustrated by the authorities cited earlier<sup>10</sup>, the Applicant is not faulted in pursuing those avenues, she was free to do so. However, having not been legally obliged to pursue those avenues which were ultimately unsuccessful, the Applicant is not now able to contend that she was awaiting the result of those efforts as the reason for failing to avail herself of her right to seek review within three months. The Applicant's delay in filing for permission has been inordinate and is not considered to have been incurred for good reason. Accordingly, the application for permission to review her transfer effected by the Commissioner of Police in October, 2016 is refused.

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<sup>10</sup> Paragraphs 15-16 supra.



**Disposition**

21. The following orders are made upon disposition of the Application:-

- (i) The Application for Permission for Judicial Review filed on the 5<sup>th</sup> January, 2018 is refused;
- (ii) There is no order as to costs.

**Dated the 30<sup>th</sup> day of April, 2018.**

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**Shona O. Griffith  
Supreme Court Judge.**