

Filed on behalf of the Claimant
by their Solicitors Prevost & Prevost,
6 Great George Street
Roseau

Telephone No. 448-8331/275-1292/235-8331
Affidavit No. 1
Sworn 24/10/2023
Filed 24/10/2023

THE EASTERN CARIBBEAN SUPREME COURT
COMMONWEALTH OF DOMINICA
IN THE HIGH COURT OF JUSTICE
DOMHCV /2023

IN THE MATTER OF SECTION 3 (1) THE CONSTITUTION OF THE COMMONWEALTH
OF DOMINICA;

IN THE MATTER OF SECTION 3 (3)(b) OF THE CONSTITUTION OF THE
COMMONWEALTH OF DOMINICA;

IN THE MATTER OF CIVIL PROCEDURE RULES 2000 PART 56;

IN THE MATTER OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS;
AND

IN THE MATTER OF THE FALSE IMPRISONMENT AND MALICIOUS PROSECUTION OF
GRACIA GROGG, ELIJAH GROGG AND NATHAN GROGG;

BETWEEN:-

GRACIA GROGG
ELIJAH GROGG
NATHAN GROGG
(by their father and Next Friend, JASON JAMES GROGG a.k.a. JASON
GROGG)

CLAIMANT

AND
**THE ATTORNEY GENERAL OF THE
COMMONWEALTH OF DOMINICA**

1ST DEFENDANT

**INSPECTOR OF POLICE DANIEL JAMES OF
THE COMMONWEALTH OF DOMINICA
POLICE FORCE**

2ND DEFENDANT

**SERGEANT OF POLICE LINDON TIMOTHY OF
THE COMMONWEALTH OF DOMINICA
POLICE FORCE**

3RD DEFENDANT

AFFIDAVIT IN SUPPORT OF APPLICATION FOR AN ADMINISTRATIVE ORDER

I, **Jason James Grogg a.k.a. Jason Grogg**, Millwright of Logansport, Indiana, United States but presently residing at Hillsborough Gardens in the Parish of St. Joseph in the Commonwealth of Dominica make oath and say as follows:-

1. I am the biological father and Next Friend of Gracia Ann Grogg a.k.a Gracia Grogg, Elijah Lynn Grogg a.k.a. Elijah Grogg and Nathaniel James Grogg a.k.a. Nathan Grogg, the Claimants herein, all of whom are minors. My children reside with me in Dominica. True copies of my three (3) children's birth certificates are hereto annexed and exhibited as 'G1', 'G2', and 'G3' respectively.
2. I make this Affidavit on behalf of my aforesaid children in support of my request for an Order awarding them compensation for breaches of their rights afforded by Sections 3 (1) and 3(3)(b) of the Constitution of Dominica, which occurred from the 18th to the 24th of April 2023, as well as other relief.
3. I am advised by my Legal Practitioner and verily believe that the 1st Defendant is vicariously liable for wrongful the acts and/or omissions of servants or agents of the State (whether criminal or civil) by virtue of the State Proceedings Act 7:80 Vol. 3 of the 2017 Laws of Dominica.
4. I am advised by my Legal Practitioner that the 2nd Defendant is and was at all material times an Inspector of Police at the Criminal Investigations Department of the Commonwealth of Dominica Police Force (hereinafter, C.D.P.F.), and was the Senior Officer supervising the police investigation into my children from the 18th to the 24th of April 2023. Further, that the 3rd Defendant was at all material times a Sergeant of the CDPF and was the officer authorizing the arrest and detention of my aforesaid children from the 18th to the 24th of April, 2023. I am further advised and verily believe that at all material times in the execution of his duties from 18th to 24th April 2023, actions of the 3rd Defendant were supervised by the 2nd Defendant.
5. I am advised by my Legal Practitioner and verily believe that the Order of the Lordship Justice Astaphan T.W.R. given 24th April 2023 in High Court Civil Case No. DOMHCV 0078/2023 is the basis for this claim. The said order Declared that my children's rights afforded by the Constitution of Dominica were breached by Officers of the Commonwealth of Dominica Police Force. A true

copy of that Order hereto annexed and exhibited as 'G4'.

6. In the said Order, the Court made three (3) Declarations at paragraphs 1, 2 and 3 thereof concerning my children, stating expressly, that my children's Constitutional Rights afforded by Sections 3(1) and 3(3)(b) of the Constitution of the Commonwealth of Dominica Ch. 1:01 Vol. 1 of the 2017 Laws of Dominica were violated by the Commonwealth of Dominica Police Force from the 18th of April 2023 until the 24th of April 2023. The Order goes further to say that the detention of my children was unlawful because the 3rd Defendant had no grounds of reasonable suspicion to detain my children.
7. I hereby give a summary of the incidents occurring from the 18th to 24th April 2023 as I recall:
 - a. In September of 2021 I migrated to Dominica from the United States accompanied by my wife Jennifer Grogg and our four children. In April of 2023 we resided at Belfast and my children were at all material times ages 18, 16, 14, and 12 years old respectively.
 - b. On 17th April 2023, I was arrested at the Pentecostal Church in Mahaut, Dominica, by officers of the CDPF who at the material time were supervised by the 3rd Defendant. I was arrested because I was alleged to be in unlawful possession of items violating the Firearms Act. I was taken into police custody and detained in the cells at Police Headquarters, Roseau.
 - c. At about 4:00p.m. on 18th April 2023, the police, led by the 2nd and 3rd Defendants, searched my residence at Belfast in the presence of my wife and my four (4) children. Being under arrest, I was accompanied by my Solicitor at the material time.
 - d. During the search, police discovered items which were unlawfully in my possession and violated the provisions of the Firearms Act. During the search I was questioned by the 2nd and 3rd Defendant about the unlawful items; I responded that the items belonged to me and that I was solely responsible for the unlawful possession. Further, I told the 2nd and 3rd Defendants that my wife and children had no knowledge of the existence of the items in the residence. My wife and children, when questioned by police in my presence, denied having any knowledge of

the items being in my possession or at the residence.

- e. Despite my admission of responsibility, the 2nd Defendant directed the 3rd Defendant to arrest and detain each member of my family. We were transported in police vehicles to the Police Headquarters in Roseau at approximately 5:30p.m. on 18th April 2023. I alone was detained in the cells there.
- f. My wife Jennifer Grogg and my daughters Hannah Grogg (18) and Gracia Grogg (16) were transported to the Grand Bay Police Station, Grand Bay, to be detained in the cells there. My children Eliyah and Nathan ages 14 and 12 were transported to Chances Orphanage in Jimmit, Dominica. At all material times during their arrest, there were friends and relatives present who informed the 2nd and 3rd Defendants that they were willing to take responsibility for my children Eliyah (14) and Nathan (12) during their parents' detention. On Wednesday 19th April, 2023, at the request of my Solicitors, the 2nd Defendant declined to release my children Eliyah and Nathan into the care of their paternal grandparents, Rebecca and Denis Grogg, who were present in Dominica. I am advised by my Solicitor and verily believe that the denial of this request by the 2nd and 3rd Defendants was unreasonable and an abuse of Police powers of detention conveyed by law.
- g. I am informed by my Legal Practitioner and verily believe that from the 19th to the 21st of April 2023, my children Eliyah and Nathaniel were subjected to at least twelve (12) hours of rigorous police interviews, during which they consistently pleaded their ignorance and innocence during the investigation into possession of illicit firearms.
- h. My daughter Gracia Grogg (16) was subjected to no less than twenty (20) hours of police interviews at the Police Headquarters in Roseau, from the 19th to the 21st of April 2023. These interviews were conducted by the 3rd Defendant and the investigating officer, one Corporal Bruno L. of the Anti-Crime Task force of the CDPF; the interviews were supervised by the 2nd Defendant. I am informed by my daughter Gracia that at all material times during interviews, she consistently denied any knowledge and or possession of the offensive items, and was co-operative with the police investigation.

- i. I am informed by Gracia, Eliyah and Nathan and verily believe that during their time at Police Headquarters, they were provided inadequate, irregular meals by the police, mostly consisting of bread and artificial fruit juices. Further, they would be detained at Police Headquarters daily from roughly 8:00a.m. to 6:00p.m. and subjected to intermittent interviews. My children described being made to wait 5-8 hours each day between interviews to accommodate the 2nd and 3rd Defendant's work schedules.
- j. For three (3) consecutive days, my children Nathan (12) and Eliyah (14) were taken from Chances by Police each morning at approximately 8:00a.m. and kept at Police Headquarters until nightfall, during which time they would be subjected to repeated and redundant interviews.
- k. Each night from 18th to 23rd April 2023, Gracia was transported by police back to the Grand Bay jail cells as a prisoner, where she was forced to sleep on the floor of the cells on cardboard. Gracia describes her cell as being approximately ten feet by four feet in dimension, with fecal matter smeared on the walls of the cells and a horrific, persistent odor of feces in the cells, where she spent up to fourteen (14) hours per day. From the 18th to 22nd April 2023, my daughter Gracia was not permitted to bathe, wash, or change her clothing, not even her underwear. No blankets, toiletries, or feminine sanitary products were provided to my daughter. Gracia informed me and I verily believe that the toilet in these cells would not flush, and were too filthy to be sat upon, therefore she held her stools for days and only used the toilet at Police Headquarters on 20th and 21st April 2023. She also describes not having bathed or changed her clothing at all between Tuesday 18th April and Saturday 22nd April 2023. Gracia was only allowed to change her clothes on 24th April 2023 when she was to appear in court as an applicant for Habeas Corpus. She also received no exercise privileges and no sunlight whilst in the cells at Grand Bay.
- l. From 17th to 23rd April 2023, I too was interviewed by the 3rd Defendant multiple times per day, and by the 2nd Defendant on at least four (4) separate occasions; during each interview, I confessed to being solely responsible for any illicit items found at my residence, and repeatedly pleaded with the Police to release my innocent children.

- m. I am informed by my children, my wife and their Solicitor that on Friday April 21st no meals were provided to my children from 8:00am to 5:00p.m. whilst in police custody at the Police Headquarters. From 2:00pm to 3:00p.m. my family and I were interviewed by a representative Agent from the United States Embassy in Barbados.
- n. At 5:00p.m., a meal was provided out-of-pocket by our Solicitor; during this period Gracia describes feeling "weak, depressed and hungry," and was interrogated by Police for two (2) hours from 3:00p.m. to 5:00p.m. and asked the same questions which she had been asked and answered during previous interviews. I am informed by my Solicitor and verily believe that at 5:40p.m. on Friday 21st April 2023 over 72-hours after their arrest, my children Nathan (12) and Eliyah (14) were released into the care of their grandparents without any charges.
- o. I am advised by my Solicitor and verily believe that Gracia was not charged with an offence until 8:10p.m. on Friday 21st April 2023. The charges were read to her by the 3rd Defendant at the Criminal Investigations Department. This time frame exceeded the 72-hour Constitutional time frame within which a criminal charge should have been preferred against a person in police custody. Gracia was charged with six (6) criminal offenses at 8:10p.m. on Friday 21st April 2023. Gracia was then further detained at the Grand Bay cells at 9:00p.m. on 21st April 2023, and spent the weekend in custody.
- p. I am advised by my Solicitors and verily believe that this prompted them to file a *Writ of habeas corpus* for my family, which was heard urgently on 24th April 2023. Gracia was not released until her release was ordered by Justice Astaphan T.W.R. on 24th April 2023 at 11:00a.m. That same day, the Office of the Director of Public Prosecutions withdrew all criminal charges against my daughter Gracia Grogg.
- q. I was present during the hearing of the *Writ of Habeas Corpus*. I heard Justice Astaphan question the 3rd Defendant, who appeared in the witness box on behalf of the Police. I am informed by my Solicitor and verily believe that the Commissioner of Police, the District Superintendent of Police, and State Attorneys from the Office of the 1st Defendant were also present at the hearing to answer to the Writ.

r. I recall that when the 3rd Defendant was asked whether at any material time he had any reasonable suspicion that my children Gracia, Eliyah or Nathan Grogg were in possession of illicit firearms, the 3rd Defendant replied that he had no reasonable suspicion at any time; when asked by the Judge if he had any reasonable suspicion or grounds that my children had committed any crimes, he replied that he had no reasonable grounds or suspicion at any time.

8. I am advised by my Solicitor and verily believe that the 2nd and 3rd Defendants' failure to complete the investigation by Friday 21st April 2023 (72 hours after arrest) amounted to undue delay, abuse of police powers and infringement of my children's Constitutional rights. Furthermore, my children were never charged with any offences; I am advised by my solicitor and verily believe that this underscores the 3rd Defendant's admission that he had no reason to believe my children had committed any crimes. I am advised by my Solicitor and verily believe that this amounted to the malicious prosecution and false imprisonment of my children.

9. I am advised by my Solicitor and verily believe that due to the youth and innocence of my three (3) children, their detention amounted to torture, inhumane treatment, and violations of their rights under Section 5 of the Constitution of Dominica, and violation of their rights as provided by the United Nations Universal Declaration of Human Rights, particularly with respect to Gracia who was detained and treated as an adult in adult jail cells despite being only 16 years old. Gracia has told me that she felt "degraded and tortured" by the experience. She described experiencing a fear that she would remain imprisoned to no end because her parents, who were also detained, were helpless at the material time. She described feeling discriminated against and treated with unreasonable suspicion by Police due to being a white American national with a conservative and unknown background. I have been advised by my Solicitor and verily believe that such discrimination or suspicion perpetrated against my children on the basis that they are foreign nationals with few communal ties amounted to an infringement of their rights provided by Section 13(2) and (3) of the Constitution.

10. I am informed by my children and have observed that as a result of their experiences from 18th to 24th April 2023, they appear to be traumatized. My children become very anxious if they see or hear police vehicles. They live in

constant fear of us being arrested or abused by police. My daughter Eliyah Grogg seems very affected and shows signs of anxiety. Eliyah has become unfriendly towards people outside of her immediate family and church. She regularly makes remarks indicating paranoia and distrust of others. My son Nathan Grogg appears to be very angry about the experience and often talks about it; he expresses a distrust in public authorities. He also has physical responses of anger and describes feeling "helpless" and degraded by the experience. My children were raised as conservative, home-schooled Christians and never displayed this behavior before their detention in April 2023. I verily believe that due to their sheltered, Christian upbringing, my children were especially sensitive to suffering emotional and psychological harm from their unlawful detention.

11. Ultimately, I was the only person in my family prosecuted and convicted of any criminal offenses at the end of the police investigation. I am advised by my Solicitors and verily believe that the detention of my children Eliyah and Nathan for 72 hours and my daughter Gracia for approximately 138 hours was an abuse of Police powers. Furthermore, having no reasonable suspicion that my children had or were likely to commit a crime, their detention amounted to false imprisonment and malicious prosecution, as the charges preferred against Gracia were withdrawn within days.

12. I am advised by my Solicitor and verily believe that the inhumane, unreasonable, and abusive conduct of the 2nd and 3rd Defendants attracts an award of exemplary damages; at no time did the 2nd or 3rd Defendant exercise their discretion to reduce or eliminate the chance of infringing my children's Constitutional rights. The 2nd and 3rd Defendants acted recklessly and abusively, giving no regard to the legal implications or consequences of their actions and omissions.

13. I am advised by my Solicitors and verily believe that the 1st Defendant is equally liable and vicariously liable for the violations of my children's rights committed by the CDPF from 18th to 24th April 2023; the 1st Defendant is the legal advisor to the State and therefore was responsible for advising the CDPF on the legal implications of the actions or omissions of agents of the State. I verily believe that the 1st Defendant was aware of the circumstances of my children's arrests by the morning of Friday 21st April 2023, as the Agent from the United States Embassy informed me that the U.S. Embassy had engaged in conversations with the 1st Defendant and other agents of the Government of

Dominica before making a diplomatic visit.

14. I am advised by my Solicitor and verily believe that notwithstanding, the 1st Defendant failed to intervene during the 2nd and 3rd Defendants' unlawful actions or otherwise to advise the Minister responsible for Legal Affairs to appropriately direct to the CDPF. The 1st Defendant failed to mitigate the potential loss to the State and my children by intervening to ensure that no Constitutional infringements occurred. I am advised and verily believe therefore that the 1st Defendant knew, or ought to have been aware of the circumstances of my children's detention and the legal implications stemming therefrom.
15. I am advised by my Solicitor and verily believe that no alternative forms of redress exist due to the number of Constitutional violations which occurred and because the basis of this claim is a Constitutional Declaration of the High Court; therefore, this claim is made at that threshold. I am informed by my Solicitor and verily believe that by letter dated 3rd October 2023 and served on the 1st Defendant on 4th October 2023, my Solicitors requested damages from the 1st Defendant, outlining the infringements of my children's Constitutional rights and providing authorities for the assessment of damages. To date, the 1st Defendant has made no admission nor offer of compensation, forcing this action. A true copy of that letter is hereto annexed and exhibited as 'G5'.
16. Taken together with the Declaration ordered on 24th April 2023, I am advised by my Solicitor and verily believe that my children (the Claimants herein) are entitled to damages and compensation for:-
 - a. infringement of their rights under Sections 3(1), 3(3)(b), 5, and 13 the Constitution of Dominica;
 - b. infringement of their rights afforded by Sections 3, 5, 6, 8, 9, 11, 24, 25, and 28 of the Universal Declaration of Human Rights;
 - c. false imprisonment for 72 hours (Nathan and Eliyah) and 138 hours (Gracia)
 - d. Malicious prosecution;
 - e. Exemplary damages for reckless and abusive conduct by the 2nd and 3rd Defendants and other officers of the C.D.P.F.
 - f. Interest
 - g. Costs
 - h. Any other relief this Honourable Court deems appropriate.

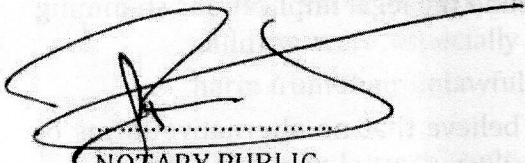
Sworn to at Roseau

Jason James Grogg

JASON JAMES GROGG
A.K.A. JASON GROGG

This 24 day of October, 2023

Before me:-



NOTARY PUBLIC

JULIEN PREVOST
NOTARY PUBLIC

The Claimant's address for service is Prevost & Prevost Chambers, 6 Great George St., Roseau, Commonwealth of Dominica, telephone numbers (767)448-8331 / (767)-275-1292, email prevostchambers@gmail.com

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56;
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GROGG AND NATHAN GROGG;

**GRACIA GROGG
ELIJAH GROGG
NATHAN GROGG**
(by their father and Next Friend, JASON JAMES GROGG
a.k.a. JASON GROGG) *CLAIMANT*

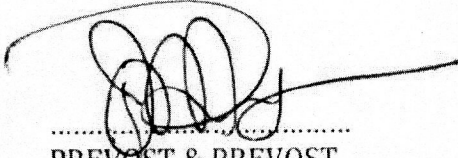
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AFFIDAVIT IN SUPPORT OF FIXED DATE CLAIM FORM


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**PREVOST & PREVOST
SOLICITORS FOR THE CLAIMANT**