

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CIVIL APPEAL No 70/2016

**BEFORE: THE HON MR JUSTICE MORRISON P
THE HON MRS JUSTICE MCDONALD BISHOP JA
THE HON MR JUSTICE F WILLIAMS JA**

BETWEEN	PUBLIC DEFENDER	APPELLANT
AND	THE ATTORNEY GENERAL OF JAMAICA	RESPONDENT
AND	MAURICE TOMLINSON	INTERVENOR

Lord Anthony Gifford QC instructed by Gifford Thompson & Shields for the appellant

Mrs Nicole Foster-Pusey QC and Miss Carla Thomas instructed by the Director of State Proceedings for the respondent

Mrs Shawn Wilkinson and Lenroy Stewart instructed by Wilkinson Law for the intervenor

20 December 2018

MORRISON P

[1] We handed down judgment in favour of the respondent in this matter on 9 November 2018. At that time, the court invited written submissions from the parties on the question of costs.

[2] In response to this invitation, written submissions were received from the attorneys-at-law representing the appellant on 28 November 2018 and from the attorneys-at-law representing the intervenor on 30 November 2018. Both submissions

contended that, despite the fact that the respondent was the successful party in the appeal, there should be no order as to costs. Among other things, the appellant said this (at paragraph 3 of the submissions):

“The parties to the appeal were two public institutions. No private individual suffered any burden of costs. It would not be appropriate or necessary, when a public institution has raised a matter which was in no way trivial, for it to [be] penalized in costs and potentially go through the expense of a taxation at the suit of the Attorney General.”

[3] Happily, in the light of a letter received from attorneys-at-law for the respondents on 30 November 2018, it is not necessary for us to consider these submissions. Insofar as is relevant, that letter stated as follows:

“We are requesting that the court be advised that the respondent (who was the successful party in the appeal) is not desirous of pursuing the issue of costs in the circumstances. Accordingly, we seek the court’s leave to be excused from filing submissions on the issue.”

[4] In these circumstances, in keeping with what is now the unanimous position of the parties to the appeal, we are content to make no order as to the costs of the appeal.