

URGENT - Attorney General To Meet With Lawyers On Court Case Delays

Christopher Thomas

The Gleaner



File

Marlene Malahoo Forte

WESTERN BUREAU:

Attorney General Marlene Malahoo Forte has expressed a desire to meet with representatives of the Jamaican

Bar Association and the Advocates Association of Jamaica to address the long-standing issue of the slow pace at which justice is delivered in the local court system.

"As attorney general, I take a very keen interest in the constitutionality of delay (of court matters) and the rights and economic implications that flow from there," said Malahoo Forte, in an interview with The Gleaner recently. "I am also keeping in sharp focus the ethical standards of attorneys-at-law.

"I will be meeting with my colleagues at the bar in short order, beginning with the leadership of the bar association and advocacy association, and I am confident that we can minimise the delay (of court case resolution)," added Malahoo Forte, in speaking to complaints by members of the public about the slow pace of justice in the courts.

Malahoo Forte also noted that multiple stakeholders, in the interest of justice, will have to play their part to rectify the situation.

HANG IN THE BALANCE

"Delay in our courts is not just a matter of perception, it is a reality. Many people are waiting for their cases to be tried, and for some, their lives hang in the balance while they wait," said Malahoo Forte, who is also a former magistrate. "Some use various delay tactics and manipulate the systematic weaknesses to their advantage and to the frustration of others.

"No one party is responsible for the problem of delay, and no one party can adequately address the problem," argued Malahoo Forte. "Everyone will have to work together and exercise the appropriate leadership in their arena. The ministries of justice and national security must collaborate, in a new way, with bench and bar, on the legislative and administrative barriers to trials being held within a reasonable time."

In January, the Committal Proceedings Act of 2013 was activated to abolish the preliminary enquiry system, in an effort to reduce the amount of time cases remain before the courts.

One result of the passage of the Act is that the prosecution in serious cases such as murder and sexual offences no longer needs to present the evidence of the prosecution's witnesses and have them cross-examined by the accused just to determine if the case in question can be tried in the Circuit Court.

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Big Spenders - ECJ Publishes Election Returns, Reports Delinquent Candidates To DPP

The Gleaner

Edmond Campbell



File
Llewellyn

- The Electoral Commission of Jamaica (ECJ) has submitted the names of 41 delinquent candidates who contested the February 25 general election to Director of Public Prosecutions Paula Llewellyn for

possible action.

This follows a breach of the April 6 deadline for submitting declarations of election spending to the oversight body.

At the same time, the oversight body revealed in an advertisement published today that candidates received donations of up to \$9 million and spent as much as \$13 million on their campaigns.

Candidates were allowed to receive up to \$10 million in donations.

Under Section 101 of the Representation of the People Act (ROPA), any candidate, or his agent, who fails to make a return or makes a false declaration in his return, commits an offence and, on conviction before the Circuit Court, is liable to a fine of between \$20,000 and \$80,000 or imprisonment for a term not less than three years. In addition, the candidate can be disqualified

from holding any post of election officer for a period of not less than seven years from the date of conviction.

A breakdown of the candidates who have run afoul of the law shows that 19 candidates of the People's National Party (PNP) are yet to submit their election returns, while 14 candidates who ran on the Jamaica Labour Party (JLP) ticket have not complied with the provision in ROPA.

Of the 26 independent candidates who contested the election, 18 filed returns, while eight are yet to comply with the law.

ROPA stipulates that a candidate contesting an election shall, within six weeks of election day, submit to the Electoral Commission a consolidated report, in the prescribed form, detailing all contributions/donations received within the campaign period.

April 6 was the statutory deadline for filing election returns.

Last evening, the ECJ reported that of the 152 candidates who contested the polls, 111 have declared election spending.

Of the candidates who filed returns, JLP MP for St Ann South Western, Zavia Taze Mayne, reported receiving \$7 million in donations and spent \$13.3 million, the highest of all candidates. Marisa Dalrymple Philibert, MP for Trelawny Southern, said she received no donations but spent \$11.6 million during the election campaign.

The JLP's Dr Christopher Tufton spent \$9 million, the same amount he received through donations.

The PNP's Imani Duncan-Price, who ran against the JLP's Juliet Holness, spent \$9.4 million, while receiving \$2.2 million in donations, while her sister, Patricia Duncan-Sutherland, who ran in Clarendon South Eastern, spent \$9.8 million having received a similar amount in donations. Dr Fenton Ferguson, of St Thomas Eastern, reported receiving no donations but spent \$9.2 million.

At the lower end, however, the JLP's Pearnel Charles Sr said he spent \$50,000 on his successful campaign against the PNP's Desmond Brennan.

The ECJ noted that the PNP's Denise Daley, St Catherine Eastern MP, and Dwight Peccoo, who challenged her for the constituency, both met the deadline for submitting their election returns but at the time of this report did not submit documents to the Office of the Director of Elections. edmond.campbell@gleanerjm.com

Names of 41 candidates who failed to file election expense returns being sent to DPP

The Observer



LLEWELLYN... will receive names of candidates in breach for her attention and possible action
THE Electoral Office of Jamaica (EOJ) says it intends to send to the Director of Public Prosecutions (DPP) the names of the 41 candidates who contested the February 25 General Election but who have not

yet filed their expense returns with the returning officer in their respective constituencies, as ordered by law.

Among those who have missed the statutory deadline of April 6 are five former Cabinet ministers of the People's National Party (PNP) Administration, as well as a number of high-profile candidates of the now ruling Jamaica Labour Party (JLP).

According to the EOJ, those in breach of the laws governing elections include Member of Parliament (MP) for Kingston Central Rev Ronald Thwaites; MP for St Andrew Western Anthony Hylton; St James Southern MP Derrick Kellier; and MP for Clarendon South Western Noel Arscott.

Some of the candidates of note whose names are missing from the EOJ's summary of the filings, which is published in today's newspapers, are the PNP's MP for St Catherine Eastern Denise Dailey; Joyan Silvera, who lost his St Mary Western seat to the JLP's Robert Montague; Sharon Ffolkes-Abrahams, who was defeated in her bid to return to St James West Central; as well as the JLP's Delano Seiveright, who lost the hotly contested St Thomas Eastern constituency.

The EOJ also said St James North Western MP Dr Horace Chang is yet to file returns, as well as teacher and newcomer Kerensia Morrison, who was given a seat in the Senate after being beaten in the race against the PNP's Natalie Neita-Headley in St Catherine North Central.

No returns have been filed for the JLP's Alando Terrelonge, who swept the St Catherine East Central seat in a surprise win against the PNP's Arnaldo Brown.

According to a summary of the returns filed by 111 of the total of 152 candidates, the biggest spender in the general election was the candidate for St Ann South Western Zavia Mayne, who expended some \$13.3 million on his campaign to unseat the PNP's Keith Walford. Some \$7 million of those funds came from contributions, the EOJ list stated.

The JLP's Marisa Dalrymple-Philibert spent the second highest amount of \$11.6 million, the EOJ's summary showed. Also, the JLP's Hanover Eastern candidate Dave 'Spoon' Brown spent \$10.2 million on his campaign, \$4.7 million of which was contributed. Other JLP candidates who ran well-funded campaigns include MP for St Catherine West Central Dr Christopher Tufton (\$9 million); MP for St Catherine South Western Everaldo Warmington (\$9.7 million); MP for St Elizabeth South Western Floyd Green (\$8.3 million); and Norman Dunn, who spent \$8.8 million but lost the St Mary South Eastern seat by five votes to the PNP's Dr Winston Green.

Some PNP candidates also spent big, such as Patricia Duncan Sutherland, who led with a \$9.8 million campaign but lost the Clarendon South Eastern seat, ahead of her younger sibling Imani Duncan-Price, who expended \$9.4 million in the race for the St Andrew East Rural seat, which she lost to newcomer Juliet Holness.

At the same time, former embattled Cabinet minister Dr Fenton Ferguson ran a \$9.2 million campaign in St Thomas Eastern, none of which, according to the EOJ's report, came from donations.

A total of 49 JLP candidates have filed, as well as 44 PNP candidates, and 18 independents. This means 14 JLP candidates, 19 PNP candidates, and eight independent candidates could find themselves in trouble with the law.

The EOJ said yesterday that, in keeping with the law, it will submit the names of those who did not meet the statutory deadline to the DPP "for her attention and possible action". The EOJ said the documents will be available for inspection on Friday, April 15 at its Duke Street offices in downtown Kingston.

JDF Warning - INDECOM Search Warrant Too Risky, Solicitor General Tells Court

The Gleaner

Livern Barrett



Gladstone Taylor

The entrance to the Jamaica Defence Force headquarters at Up Park Camp in St Andrew.

The nation's solicitor general, Nicole Foster-Pusey, is warning that granting the Independent Commission of Investigations (INDECOM) a

warrant to search the army's Up Park Camp headquarters could shake international confidence in Jamaica.

The warning came yesterday as the Judicial Review Court began hearing an application by the head of the Jamaican military, Major General Antony Anderson, and the Defence Board to quash a warrant obtained by INDECOM to conduct a search of the Jamaica Defence Force (JDF) headquarters.

As part of its investigations into the use of mortars during the May 2010 police-military operation in the west Kingston community of Tivoli Gardens, INDECOM surprised JDF officials with a search warrant last December.

The warrant was accompanied by seven notices that required JDF personnel to give evidence under oath about the use of mortars.

The warrant, which was scheduled to be executed on January 12 this year, gave INDECOM investigators the authority to enter Up Park Camp and gain access, make enquiries and inspect documents, records, information and property related to the procurement and use of the explosives during the operation.

While acknowledging that the intended purpose of the warrant was to access and inspect documents related to actions of members of the security forces in a specific operation, Foster-Pusey warned of the dangers this presented.

"The warrant is so wide in its scope that there are no restrictions on how the retrieval of the information and documents will be conducted, and it is likely that sensitive information and confidential international agreements will be obtained or accessed," she indicated in her submissions to the court.

"That is not the only possible consequence of the proposed act. There is substantial risk that if the warrant is executed ... certain confidential documents and information will be disclosed or accessed," she warned.

Added Foster-Pusey: "There will also be a negative impact on the confidence reposed in the Jamaica Defence Force, and, by extension, Jamaica due to this access."

The solicitor general also raised concerns that there appeared to be no protocol in place to prevent disclosure of records and information that INDECOM would not be authorised to view. She suggested that the court could consider and form a view on whether there is the need for a protocol to be put in place "in respect of information which may be outside of the realm of the Official Secrets Act".

Seventy-four civilians and one member of the JDF were killed in the operations, which were aimed at capturing then fugitive Christopher 'Dudus' Coke.

After initially denying that mortars were used in the operations, retired army chief Major General Stewart Saunders admitted, during testimony before the west Kingston commission of enquiry, that 37 mortars were fired into three open spaces in Tivoli Gardens during the operations. Foster-Pusey is scheduled to continue her submissions today.

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INDECOM arrests, charges two Westmoreland cops with murder



The Observer

THE Independent Commission of Investigations (INDECOM) yesterday morning arrested and charged two policemen with murder.

The commission, in a press release, said Constables Duan Barrett and Sasamarley Barrett, both assigned to the Fugitive Apprehension Unit of the



Jamaica Constabulary Force (JCF), were charged with the murder of Michael McKenzie, a resident of New Road, Westmoreland.

Both policemen appeared yesterday before Resident Magistrate Icolyn Reid in the Savanna-la-Mar Resident Magistrate's Court, where they were offered bail following applications by their attorneys. The accused men were represented by attorneys-at-law Herwin Smart and Michael Erskine.

They were offered bail in the sum of \$300,000 with one to three sureties and were ordered to surrender their travel documents. Stop orders were also placed on them at all ports.

“The police reported that on August 11, 2014 about 4:30 am a group of police officers went to a premises in New Road, Westmoreland allegedly to serve a warrant. It was reported that the police officers went into the room of the deceased where they were greeted with gunfire, the fire was returned and McKenzie was shot and killed. A firearm was allegedly recovered. The version of the police and that of civilian witnesses did not accord,” the INDECOM release said.

The matter is set for mention on June 21.

St Vincent businessman accused of trafficking J'cans freed

The Observer

KINGSTOWN, St Vincent (CMC) — A 61-year-old businessman has been freed of three counts of human trafficking after the prosecution withdrew the charges against him.

Adrian Deane of Brighton, owner of Farmer's Market Bakery & Snackette in Arnos Vale, appeared in court charged with trafficking three Jamaicans to the island, charges which he denied.

Deane was charged on October 5, 2015 and had been granted EC\$80,000 (One EC dollar = US\$0.37 cents) bail.

Deane told the Caribbean Media Corporation CMC Monday after he was freed that he had invited one of the Jamaicans, a man — who was at the time in Cayman Islands with his girlfriend — to St Vincent after he claimed to have expertise that Deane thought was an asset to his business.

The two other Jamaicans came here in 2014 and spent five days as guests at Deane's house before returning to the Cayman Islands.

Deane said they returned in May 2015, and the man insisted on bringing his girlfriend, and she insisted on bringing her 19-year-old son, who was in Jamaica at the time.

Immigration officials allowed them six months stay and Deane said he accommodated them at his home and later at a hotel and a rented private home, at great expense to himself.

In addition to providing lodging for the three Jamaicans, Deane said he provided food for them, including meeting their particular demands for bottled water and snapper fish.

Deane said he also provided health care for the man and his common-law wife, paying for a dental procedure for her and to treat a cyst on the man's eye.

In July, the relationship broke down after one of the Jamaicans allegedly pulled a cutlass on him in his own home, which he reported to the police. But he gave the trio a second chance, after they asked his forgiveness.

However, the relationship soured again while they were awaiting the outcome of applications for work permits.

“After I got charged, I went and researched what human trafficking is and what is the legal definition to see where I was in violation of any law. And to me, nothing lined up with the legal definition,” Deane told *CMC*.

He, however, said that his faith in God helped him through the difficult ordeal, which he said cost him an estimated EC\$30,000.

Deane’s attorney, Grant Connell, said the charges against his client were “just another case where the police put the cart before the horse”.

“The case had no merit. I guess it was done in haste to prove to the world that we were being effective, but in the process sacrificed a hard-working Vincentian who runs a business trying to make ends meet in this harsh economic climate. The police are in dire need of proper training. If the powers that be fail to address the issue the society will pay the price,” he said.

The charges against Deane came three months after the United States State Department released its 2015 Trafficking in Persons report, in which it placed St Vincent and the Grenadines on its Tier 2 Watch List, a downgrade of the 2014 ranking.

The End