



**IN THE SUPREME COURT  
TURKS AND CAICOS ISLANDS**

**ACTION NO. CL-205/22  
CL-214/22**

**IN THE MATTER OF APPLICATIONS FOR LEAVE TO APPLY FOR JUDICIAL  
REVIEW**

**BETWEEN:**

**THE KING**

**-v-**

**THE SUPREME COURT OF THE  
TURKS AND CAICOS ISLANDS**

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

**and**

**THE ATTORNEY GENERAL**

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

**(EX PARTE PATRICK GEDEUS)  
(EX PARTE WILLEGINCE NOEL)**

**APPLICANTS**

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**REASONS**

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**Before:** The Hon. Mr. Justice Anthony S. Gruchot

**Appearances:** Ms Sheena Mair of F Chambers for the Applicants

Ms Clemar Hippolyte of the Attorney General's Chambers for  
the Respondents (by video link)

**Hearing Date:** 30<sup>th</sup> November 2022

**Venue:** Court 5, Graceway Plaza, Providenciales.

**To be Handed Down:** on 2<sup>nd</sup> December 2022 at 2:00pm (by email)



1. These were two separate applications pursuant to Ord. 53 r.3 (3) for leave to apply for judicial review of the decisions of Lobban-Jackson J in each case, to refuse the grant of bail to the Applicants, together with, in the case of Patrick Gedeus, an application to extend time for making the application.
2. The 2 applications were separate and independent but were listed to be heard at the same time given, the commonality of the applications.
3. I refused leave and at the request of counsel for the Applicants, I agreed I would give my reasons in writing.
4. Both Applicants are remanded in custody awaiting trial in the Supreme Court on separate and unconnected charges. Both were refused bail on renewed applications.
5. The Court raised initial concerns as to the jurisdiction of a Supreme Court judge to be able to judicially review another judge of the same Court and that the proper recourse should be to appeal the refusal decisions.
6. Ms. Mair directed the Court to section 6 of the Court of Appeal Ordinance which sets out the criminal jurisdiction of the Court of Appeal as being:

*“A person convicted on information in the Supreme Court may appeal to the Court under the provisions of this Ordinance—*

*“(a) against the conviction on any ground of appeal which involves a question of law alone;*

*(b) with the leave of the Court, or upon the certificate of the judge of the Supreme Court before whom he was tried that it is a case fit for appeal, against his conviction on any ground of appeal which involves a question of fact alone or a question of mixed law and fact or upon any other ground which appears to the Court or the judge aforesaid to be a sufficient ground of appeal; and*

*(c) with the leave of the Court against the sentence passed on his conviction unless the sentence is one fixed by law.”*

7. Ms. Mair submits that the above limits the Court of Appeal to hearing appeals from conviction and/or sentence only. In consequence, she submits that there is no other recourse other than judicial review open to the Applicants, absent renewing the application for bail on the grounds of a material change of circumstances, which she further submits, is one of her grounds for judicial review, in that she suggests, the learned judge failed to give sufficient weight to the time the Applicants have spent in custody/delay pending trial as being a material change, this being particularly relevant to Mr. Noel.
8. The Court referred to Halsbury's Laws of England<sup>1</sup> which states:

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<sup>1</sup> Judicial Review (Volume 61A (2018)) > 1. The Ambit of Judicial Review > (1) Introduction to the Ambit of Judicial Review > 1. General principles of judicial review.

*“The courts have an inherent jurisdiction to review the exercise by public bodies or officers of statutory powers impinging on legally recognised interests. Powers must be exercised fairly, and must not be exceeded or abused. Moreover, the repository of a statutory power or duty will be required genuinely to discharge its functions when the occasion for their performance has arisen.*

***The superior courts have a somewhat similar inherent jurisdiction over inferior courts and tribunals. If such a body has exceeded or acted without jurisdiction, or has failed to act fairly or in accordance with the rules of natural justice”*** (My Emphasis)

9. The learned writer of Judicial Review Proceedings – A Practitioner’s Guide<sup>2</sup> comments:

*“In general terms there are three types of body whose decisions may be challenged by way of judicial review:*

*a) inferior courts;*

*b) tribunals; and*

*c) other bodies performing public acts and duties, including local authorities.”*  
(My Emphasis)

10. The authors of de Smith<sup>3</sup> say *“There is often no functional difference between an appeal on a point of law and judicial review on some aspects of the ground of illegality.”*

11. On judicial review the Court is carrying out a review of the decision made by an inferior tribunal or a decision-making body and in that way judicial review can be viewed in terms of a quasi-appeal. Ms. Mair could not direct me to any authority to support her contention the judicial review was available to the Applicants, in particular to a court of equal standing and the Court in preparation for the hearing had been unable to find any such authority.

12. Ms. Hippolyte submitted that she had found authority in the Eastern Caribbean Court for the ability to judicially review the refusal of a grant of bail, but stated that this was specifically provided for within the legislation. There is no such legislation in the Turks and Caicos Islands and Ms. Mair conceded that the applications were being made down this avenue as there was no alternative way of having the decisions reviewed.

13. There is certainly authority from England and Wales that certain decisions of a Magistrate’s court may be justiciable to judicial review but by a superior court.

14. Accepting Ms Mair’s submission that there is no appeal to the Court of Appeal on a refusal of bail decision by the Supreme Court then, based on the England and Wales authorities,

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<sup>2</sup> Jonathan Manning – second edition – LAG - at chapter 2

<sup>3</sup> De Smith’s Judicial Review of Administrative Action – 5<sup>th</sup> Ed. N.B. The Court is aware that the text is now in its 8<sup>th</sup> edition as the scope of judicial review continues to expand, nonetheless the principle remains applicable.

I can see a scope for bringing the applications; however, absent statutory provision being made, I take the view that the Court has no jurisdiction to review a decision of another judge of the same Court and accordingly, I dismissed the applications for that reason. In the circumstances it was unnecessary to consider the application for an extension of time for applying for leave.

**2<sup>nd</sup> December 2022**

**The Hon. Justice Anthony S. Gruchot  
Judge**

