

IN THE SUPREME COURT OF TONGA
CIVIL JURISDICTION
NUKU'ALOFA REGISTRY

CV 783 of 2007

BETWEEN: SITALEKI TONGI *[Signature]* Plaintiff

AND : THE KINGDOM OF TONGA - Defendant

BEFORE THE HON. JUSTICE ANDREW

Counsel : Mr Edwards for the plaintiff
Mr Little for the defendant

Date of judgment: 19 March 2009

J U D G M E N T

The plaintiff commenced proceedings against the defendants "for and in respect of the conduct, acts and omissions of the police for false arrest and imprisonment of the Plaintiff at Central Police from mid-day Friday the 24th November, 2006 until mid-day Sunday the 26th November 2006 without proper cause or reason."

In the course of the trial the defendants acknowledged liability to the extent that when on this day (the 26th November 2006), the plaintiff had been invited to the Police Station, he was then placed in custody without being informed as to why or what he was being arrested for.

The facts are not greatly in dispute. This was around the time of the riots in NUKU'ALOFA. I accept that Inspector ~~Kaufusi~~ had obtained

some information that a refrigerator had been stolen and that the goods were on the plaintiff's allotment. I accept that police had received some information that they had been transported by the plaintiff's taxi. The police located the plaintiff in his taxi at the wharf area. I accept that the police told the plaintiff what they were enquiring about and they asked the plaintiff if he would come to the police station and talk about this. After he had been waiting at the police station for some time without apparently being spoken to, he was then placed in a cell without being told why he was being arrested. He was released 48 hours later without being charged, apparently when it was decided there was no evidence or insufficient evidence against him.

The plaintiff had said that he was never told why he was incarcerated nor did he know of the police making enquiries in relation to the refrigerator. I do not know that that is entirely accurate because the police took a statement from him on the Sunday, 26th November 2006, shortly before he was released without charge. But the plaintiff was arrested or imprisoned without being informed as to why he was being arrested and that constitutes the false imprisonment.

False imprisonment is a tort of strict liability : see *EDWARDS v POHIVA 2003 TONGA LAW REPORTS 231*. In relation to damages I look at all of the circumstances. Whilst there can be no excuse for unlawful arrest I think there is at least some explanation in this case in that these events were all taking place at the central police station in the time of the catastrophic events of the riots of 16/11. Neither do I see the type of conduct on the part of the police which would normally attract "aggravated damages".

In all of the circumstances I would assess damages in the sum of \$1,000.

Costs are awarded to the plaintiff.

DATED: 13 February 2009.



Andrew J
JUDGE