

**Siân McGibbon, led by Anand Beharrylal QC, acts in successful appeal to the
Judicial Committee of the Privy Council**

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Privy Council Appeal – Betaudier v AGTT

Siân McGibbon, led by Anand Beharrylal QC, represented the successful appellant in this appeal against the Attorney General of Trinidad and Tobago for wrongful arrest and false imprisonment of a soldier of the Trinidad and Tobago Defence Force ('TTDF') who had been arrested and detained for kidnapping on Christmas Eve before being released without charge late on Boxing Day.

The appellant was on duty in TTDF uniform and driving a TTDF vehicle in the company of another soldier when the vehicle was stopped. The appellant was then arrested essentially because he had in his possession \$7000 in an envelope and due to a random police intelligence report that TTDF soldiers were involved in a kidnapping ring. The appellant denied any knowledge or involvement when questioned.

The appellant issued a claim in tort for false imprisonment on the basis that there was no reasonable and probable cause for either his arrest or his detention post-arrest until Boxing Day. The High Court and Court of Appeal (by majority) ruled against him and dismissed his claim upholding the respondent's defence that it had shown that there was reasonable and probable cause to suspect he was involved in kidnapping and that his subsequent detention was justified to investigate that allegation.

On appeal to the Privy Council the appellant argued the courts below were wrong in their findings and that even on the primary facts this could not meet the threshold required in law for reasonable and probable cause and relied on the senior dissenting Court of Appeal judge as being correct. Argument was also made in the alternative that even if the arrest

was lawful the subsequent detention for effectively two days was wholly unjustified where there was no evidence of the appellant having committed any kidnapping or any meaningful investigation.

The Privy Council agreed with first argument that there was no reasonable and probable cause for the appellant's arrest, which consequently meant that his subsequent detention was also unlawful. The Privy Council also rejected the respondent's argument that the concurrent findings of fact of the courts below was a bar to the appellant succeeding in the appeal. The Privy Council pointed out that the courts below erred in their evaluative assessment of the primary facts, hence the normal principles on findings of fact on an appeal were not engaged.

Anand Beharrylal QC led Siân McGibbon assisted by Joshua Hitchens and Kenneth Thompson. They were instructed by Alvin Pariagsingh (Trinidad).

Read the Judgment:

[Betaudier \(Appellant\) v The Attorney General of Trinidad and Tobago \(Respondent\) \(Trinidad and Tobago\) - Judicial Committee of the Privy Council \(jcpc.uk\)](#)

Press links:

[Privy Council orders compensation for soldier arrested in 2005 \(newsday.co.tt\)](#)

[Privy Council rules in favour of soldier held for kidnapping - Trinidad Guardian](#)

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