

Supreme Court Registry
Demerara
Date Filed: 2024-06-26
Time Filed: 15:56

Filing Attorneys: Dr. VIVIAN M. WILLIAMS

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IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA

(REGULAR JURISDICTION)

2024 – HC – DEM – CIV – FDA – 921

BETWEEN:

1. BRIAN COLLISON

APPLICANT

-and-

1. THE ATTORNEY GENERAL
2. AUBREY NORTON as LEADER OF THE PEOPLE'S NATIONAL CONGRESS
3. BHARAT JAGDEO as GENERAL SECRETARY OF THE PEOPLE'S PROGRESSIVE PARTY

RESPONDENTS.

Jointly and severally



INFORMATION FOR COURT USE

1. This Proceeding is commenced as a:

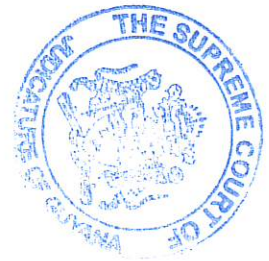
- Statement of Claim
- Fixed Date Application

2. This Proceeding falls under the High Court's

- Appellate Jurisdiction
- Admiralty Jurisdiction
- Commercial Jurisdiction
- Criminal Jurisdiction
- Regular Jurisdiction

3. The proceeding is a(n):

- Admiralty Proceeding in personam
- Admiralty Proceeding in rem
- Probate Proceeding
- Proceeding for Judicial Review
- Proceeding for relief under the Constitution
- Proceeding for other Administrative Order
- Proceeding for Administration
- Proceeding commenced under the Summary Jurisdiction (Appeals) Act Cap (3:04)
- Other proceeding



4. I certify that the above information is correct, to the best of my knowledge.

.....
Date


.....
Vivian M. Williams
Attorney-at-Law

Filing Attorneys: Dr. VIVIAN M. WILLIAMS

VMW LAW

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165 Waterloo Street North Georgetown

vwilliams@thewilliamsfirmnyc.com

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION
PROCEEDING FOR ADMINISTRATIVE ORDER

BETWEEN

1. BRIAN COLLISON

Applicant,

- and -

1. THE ATTORNEY GENERAL
2. AUBREY NORTON as LEADER OF THE PEOPLE'S NATIONAL CONGRESS
3. BHARAT JAGDEO as GENERAL SECRETARY OF THE PEOPLE'S PROGRESSIVE PARTY

Respondents.

Jointly and severally

FIXED DATE CLAIM

2024-HC-DEM-CIV-FDA-



BC-v-AG-FDA002

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim made by the Applicant is set out in the following pages.

THIS APPLICATION will come on for a hearing on 27th (day), Sept (date), at 9:00hrs (time), at the High Court of the Supreme Court of Judicature, Avenue of the Republic, Georgetown Guyana. *Before the Honourable Madam Justice R. George.*

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Attorney-at-Law acting for you must forthwith prepare an Affidavit in Defence in Form 10C prescribed by the Civil Procedure Rules 2016 and as subsequently amended, serve it on the applicants' Attorney-at-Law or, where the applicants do not have an Attorney-at-Law, serve it on the applicants, and file it, with proof of service, at a Registry, AT LEAST (TWO or FOUR, as applicable) DAYS before the date fixed for the hearing of the application, and you or your Attorney-at-Law must appear at the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, AN ORDER OR JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

THIS NOTICE OF APPLICATION has no validity unless it is served on you at least (seven or four, as applicable) days before the date fixed for the hearing of the application.

BC-v-AG-FDA003



Date: 26/06/2024

D James

Signature of Registry

Issued by: Dorri-Anne James

Avenue of the Republic

Georgetown, Demerara

TO:

1. The Attorney General
95 Carmichael Street, Georgetown
2. Aubrey Norton as Leader of the People's National Congress
Congress Place, Sophia, Georgetown
3. Bharat Jagdeo as General Secretary of the People's Progressive Party
Freedom House Robb Street, Georgetown



CERTIFIED A TRUE
COPY OF THE ORIGINAL
K. B. L. ...
Assistant Sworn Clerk
Supreme Court of Judicature

APPLICATION

1. BRIAN COLLISON (the Applicant) - make application and pray for the following orders:
 - a. A declaration that political parties are legal persons that can sue and be sued in their own name.
 - b. A declaration that political parties are entities organized pursuant to the Constitution of Guyana can own and hold property and transact business in their own name.
 - c. A declaration that it is not necessary for political parties to be incorporated to enjoy the rights, privileges and protection enjoyed by entities that are organized under the Companies Act or any other statute governing for-profit entities or not-for-profit organizations.

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- d. A declaration that the People's National Congress and the People's Progressive Party, perform functions that are exclusively reserved for the State which touch upon and impact Constitutional rights of Guyanese, particularly their members, and supporters.
- e. A declaration that the procedure(s) political parties, particularly the PNC and PPP, adopt to determine the candidates who appear on elections ballots, is a significant aspect of the elections process that circumscribes individuals' right to vote provided for at Articles 59, and 160(1) (b) of the Constitution, such that the procedure(s) must be fair and consistent with democratic ideals.
- f. A declaration that the PNC, PPP, and any political party that submit candidates to appear on election ballots must adopt a procedure that is fair and consistent with democratic ideals in determining candidates who appear on the ballots.
- g. Directing the government to remove or prohibit conditions and requirements that unduly interfere with the existence of and freedom of action of political parties provided for in the Constitution of Guyana.
- h. Directing the government to take necessary steps that would enable political parties to own property and transact business in their own name and stead without undue burden to ensure that



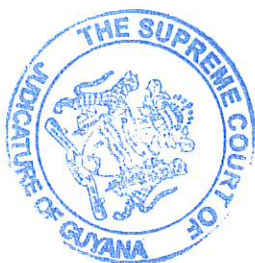
rights conferred upon political parties by the Constitution are given full force and effect.

- i. Such further or other order as to this Honourable Court may seem just.

2. AND TAKE NOTICE that the grounds for the application are:

a. **Preliminary Statement**

- i. Political parties are the only private entities referenced in the Constitution of Guyana. Indeed, the respondent political parties are the oldest private entities in the country. Their existence predates Guyana's Independence, status as a Republic and the Constitution itself.
- ii. It was the work of political parties and their leaders that procured for the nation, its Independence.
- iii. The nation was conceived and nurtured by the PNCR and PPP who struggled with its conceptualization for more than nine months before its birth.
- iv. The PNC and PPP have not only laid the foundation of the nation, but they are also thought of as malignant tumors festooned upon the very foundation they built.
- v. Political parties are so significant that they are referenced at least 20 times in the Constitution which delegates to



them, critical functions of the State.

- vi. Despite their significance and Constitutional grounding, the legal status of political parties is misconstrued by the government, its agencies, institutions, and servants in ways that place impermissible restraints or create the impression of impermissible restraints on political parties with resulting impairment of Constitutional rights conferred upon citizens.
- vii. The declarations prayed for will clarify and settle issues pertaining to the legal persona and obligations of political parties and the obligations of the government to ensure Constitutional rights that citizens may only enjoy through and in conjunction with political parties and rights conferred upon political parties themselves, are not contravened.



b. Political Party Can Sue and be Sued in Own Name

- i. Unincorporated associations are of many varieties, but political parties are a unique and exceptional variety. They are entities whose formation is recognized and guaranteed by Article 10 of the Constitution of Guyana.
- ii. Whereas the Constitution provides for and guarantees the formation of political parties, it mandates no

bureaucratic hurdles or statutory framework to be complied with.

- iii. The Constitution mandates that natural persons can only stand as candidates for election in any national or geographical constituency if they support or otherwise identify with the representative “list” of a political party i.e. through political parties.
- iv. The PNC and PPP historically garner more than ninety five percent of votes cast at general, regional, and local government elections such that any arbitrariness, unfairness, or discrimination in the procedure by which they determine the candidates who appear on the ballot, would significantly impair the right of citizens to elect representatives of their choice through elections held by the Guyana Elections Commission (GECOM).
- v. Incident to the existence of political parties and their performance of the functions delegated to them by the Constitution, is their ability to own property, employ various categories of workers and conduct commercial transactions.
- vi. Article 160 of the Constitution prescribes prohibitions against political parties and directs Parliament to pass



laws that provide offences that political parties may commit and penalties that may be imposed against political parties.

- vii. Where the Constitution (a) provides for the formation of an entity; (b) guarantees the existence of an entity; (c) confer rights upon an entity; (d) provides for offenses and penalties against an entity; (e) mandates that natural persons can only enjoy and exercise a fundamental right through support of and in association with an entity, that entity cannot be deemed a non-entity as unincorporated associations are generally considered.
- viii. Pursuant Article 161B of the Constitution, political parties are involved in the conduct of elections and determining policy for the conduct of elections by which Guyanese exercise their fundamental right to vote.
- ix. Where the Constitution provides for and guarantees the formation of an entity without setting conditions for its formation or mandating any agency or organ of government to set those conditions, the executive, legislature, or the judiciary cannot impose conditions to the formation and existence of that entity.
- x. The framers of the Constitution could neither have



intended to nor did they expressly or by implication, provide for and guaranteed the formation of political parties as entities that are outside of the orbit of the law.

c. State/Government Action by PNC and PPP

- i. The PNC and the PPP essentially constitute the Elections Commission. The Elections Commission is composed of three PNC Commissioners and three PPP Commissioners with a Chairperson that is effectively determined by the PNC and the PPP.
- ii. Pursuant to Article 161A of the Constitution, the Elections Commission which is composed of and effectively controlled by the PNC and PPP, is responsible for the functioning of the Secretariat of the Commission which includes hiring the employees of the Commission.
- iii. Pursuant to Article 161B of the Constitution the PNC and PPP effectively determine the policy of GECOM for the conduct of elections by which Guyanese exercise their fundamental right to vote.
- iv. It is trite law that the conduct of elections is an exclusively public function.
- v. The State has delegated to political parties, the authority and function to exclusively determine candidates who



appear on the national and regional elections ballots as the sole choices from which Guyanese may exercise their right to choose their elected representatives.

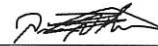
- vi. Impairment of the process by which political parties exercise the authority delegated solely to them to determine the candidates who appear on election ballots as the sole choices from which Guyanese may exercise their Constitutional right to vote, impairs and infringes that right.

- 3. The determination of this matter by the High Court is manifestly urgent and in the public interest.
 - a. It pertains to imminent actions to wit, the holding intraparty elections, now being undertaken by political parties, that could irreparably harm the rights of the applicants and citizens whose voting rights are constrained by procedures adopted by political parties.
 - b. There isn't adequate remedy at law for the harm the applicant would suffer by a delay in hearing and determining this matter.
 - c. It raises important and subsisting issues of law that are of utmost public interest.



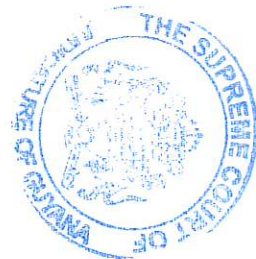
- d. The factual issues raised by these proceedings involve facts which are likely to be matters of formal record and therefore not likely to be in dispute.
 - e. In the premises the Applicant claims against the respondents for the Orders and/or reliefs set out in Paragraph 1 above.
4. The following documentary evidence will be used at the hearing of the application:
- a. Affidavit of Brian Collison with exhibit attached thereto.

(Date of issue) _____



Vivian M. Williams
Attorney for Applicant

The Registry is located at The Law Courts, Avenue of the Republic Georgetown, Demerara. The office is open to the public between 8:30 a.m. and 3:30 p.m. Mondays to Thursdays and 8:30 a.m. and 2:30 p.m. on Fridays, except holidays.



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IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA

(REGULAR JURISDICTION)

2024 – HC – DEM – CIV – FDA –

BETWEEN:

1. BRIAN COLLISON

APPLICANT

-and-

1. THE ATTORNEY GENERAL
2. AUBREY NORTON as LEADER OF THE PEOPLE'S NATIONAL CONGRESS
3. BHARAT JAGDEO as GENERAL SECRETARY OF THE PEOPLE'S PROGRESSIVE PARTY

RESPONDENTS.

Jointly and severally

AFFIDAVIT OF BRIAN COLLISON IN SUPPORT OF FIXED DATE APPLICATION



BC-v-AG-FDA013

I, **BRIAN COLLISON**, of 117-37 141st St. Jamaica NY 11439, hereby MAKE OATH AND STATE as follows:

1. I am the Applicant in the above-captioned matter.
2. This affidavit is submitted in support of the fixed date application and the relief requested therein.

The Parties

3. I am a citizen of Guyana by birth who is over the age of 18 years old and as such I am an eligible elector. **EXHIBIT BC 1.** (Proof of Citizenship).
4. I am current member of the People's National Congress who is vested with all the rights and privileges conferred upon members of that party by the Constitution of the PNC.
5. I have personal knowledges of the matters testified to herein.
6. As an eligible elector, the exercise and enjoyment of my fundamental right to vote that is guaranteed in the Constitution of Guyana, is being or will be impaired by matters affecting political parties through whom my right to vote is actualized.
7. For me to vote for a candidate in any election, that person must be tendered as a candidate by a political party before he or she is placed on the ballot.
8. The first named respondent is the Attorney General of Guyana who is the legal representative of the government. Counsel advises that the Attorney General is a necessary party to matters pertaining to interpretations or breaches of Guyana's Constitution.

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9. The second named respondent is the Leader of the People's National Congress (PNC), the party to which I belong.
10. The PNC is one of Guyana's oldest political parties that has formed the government for an aggregated 32 years and controls several municipalities and administrative regions of Guyana.
11. The third-named respondent is the General Secretary of the People's Progressive Party (PPP).
12. The General Secretary of the PPP is considered the Leader of the Party and is irresponsible for the organization and functioning of the Party.
13. The PPP is a political party that was founded in 1950 and has existed continuously thereafter.
14. The PPP currently forms the government of Guyana and has formed the government for an aggregated period of 27 years heretofore.
15. The PPP controls the affairs of several municipalities and administrative regions throughout Guyana.
16. Counsel advises that the Leader of the PNC and the General Secretary of the PPP are proper parties to be named in a representative capacity in an action brought against their respective parties as unincorporated associations where the relief prayed for touches upon and would impact their rights granted by the Constitution of Guyana.



17. The PNC and PPP are the only major parties in Guyana such that one or the other always formed the government of Guyana throughout the country's history. **EXHIBIT CB 2.**

Unincorporated Associations

18. A search of the Commercial Registry does not disclose any corporate registration of the PPP under the Company's Act or any other statutory framework that entities may be organized under.

19. A search of the Commercial Registry does not disclose any corporate registration of the PPP under the Companies Act or any other statutory framework that entities may be organized under.

20. Counsel advises that the Companies Act is not an appropriate statutory framework for political parties to subject themselves to.

21. I am guided by the advice of counsel that unincorporated associations are generally non-entities that lack legal capacity to own property in their own name and stead.

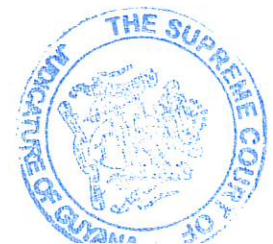
Formation and Freedom of Action of Political Parties Guaranteed

22. Article 10 of the Constitution guarantees the right to form political parties and their freedom of action.

23. To exercise and enjoy the Constitutional guarantee to form a political party and the freedom of action they are guaranteed, they must be able to own property, establish financial accounts to receive and maintain funds, and conduct business in their own name without hindrance.



24. Financial institutions operate pursuant to authority granted by the government and are subject to government regulations.
25. The government of Guyana has failed to remove barriers to political parties opening financial accounts in their own name without subjecting themselves to statutory or regulatory frameworks that will undermine the enjoyment of their rights guaranteed in Article 10 of the Constitution.
26. Financial institutions in Guyana only permit (a) incorporated companies; (b) registered businesses; and (c) personal account for natural persons to be opened.
27. To open an account for an incorporated company requires a certificate of incorporation, a TIN certificate, Tax Compliance Certificate among other requirement that cannot be satisfied by an unincorporated association acting in its own name and stead. EXHIBIT BC 3.
28. A registered business account is only available to a natural person who is trading as a registered business. EXHIBIT BC 4. The nature and requirements of this type of account also cannot be satisfied by an unincorporated association acting in its own name and stead.
29. Political parties also do NOT satisfy the current requirements to open personal accounts because they are natural persons.
30. The receipt, retention, and disbursement of large sums of money are necessary for political parties to enjoy the Constitutional rights they guaranteed.



31. To effectively enjoy the right to form political parties and the freedom of action they are guaranteed, political parties must, in their own name and stead, be able to engage in transactions, employ workers, and engage in conduct that have legal force, effect and consequences.

Political Parties Actualize Individuals Right to Vote

32. Political parties are mentioned in no less than twenty times in the Constitution of Guyana.
33. References to political parties in the Constitution include instances where rights are conferred, duties are imposed, and public functions are delegated to political parties.
34. Article 78B mandates that the electoral system shall provide for the involvement and representation of political parties.
35. Article 147 provides that no person shall be hindered in the enjoyment of his or her freedom "in particular" to form or belong to political parties.
36. Article 160 (3) (b)(i) provides for Parliament to provide "*for the criteria for the participation of political parties in the general elections*".
37. Article 10 of the Constitution imposes a duty upon political parties to respect the principles of national sovereignty and democracy.
38. Article 160A prohibits political parties from taking any action or advancing, disseminating, or communicating any idea which may result in racial or ethnic division among the people.



39. Article 161 provides for political parties to determine the composition of the Guyana Elections Commission (GECOM).
40. Article 161B declares that political parties shall be involved in the conduct of elections by GECOM, determining policy for such elections, and monitoring the electoral process.
41. The determination of policy and the conduct of elections by GECOM is a public function the performance of which touches upon and impact individuals' right to vote.
42. The Constitution mandates that a natural person can only stand as a candidate for election in any national or geographical constituency if he or she supports or otherwise identifies with the representative "list" submitted by a political party i.e. through political parties.
43. Article 160 further directs Parliament to pass laws that provide offences that political parties may commit and penalties that may be imposed against political parties.
44. Article 212D (c) of the Constitution empowers the Ethnic Relations Commission to discourage and prohibit political parties from indulging in, advocating or promoting discrimination or discriminatory practices on the grounds of ethnicity.
45. Article 212D (j) mandates that the Ethnic Relations Commission investigates complaints of racial discrimination and recommend measures to be taken in the event of a violation of Article 212D and refer such

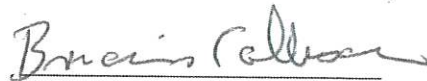


violations to the Human Rights Commission or other relevant authorities for further action to be taken.

46. In accordance with the provisions of the Constitution, political parties exclusively determine the candidates on elections ballots that citizens may vote for.
47. Counsel advises that by virtue of the rights and guarantees conferred by the Constitution upon political parties, the functions delegated to political parties by the Constitution, and provisions in the Constitution for political parties to be held accountable, the framers of the Constitution recognized political parties as legal entities.
48. Counsel advises and I do rely on such advice in alleging that because the Constitution recognizes political parties as entities conferred with rights that are guaranteed and a means through which the right to vote is actualized, without imposing any statutory or regulatory scheme for their formation, political parties are creatures of the Constitution that are not required to incorporate under the Companies Act or any similar legal framework.
49. I am guided by the advice of counsel in alleging that as creatures of the Constitution, political parties are entitled to the right enjoyed by legal persons such the right to own real, personal, and intellectual property in their own name and stead, and enforce rights conferred upon them.



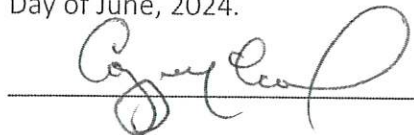
56. The PNC and PPP account for close to one hundred percent of the votes cast as elections. **EXHIBIT AM 6. (GECOM RESULT).**
57. Any unfairness in the procedure(s) adopted by the PNC and PPP or failure to confirm with democratic ideals in determining candidates who appear on election ballots does or will significantly impair individuals' right to elect a government of their choice – the right to vote.
58. The applicants have cause to verily believe that the procedure adopted by the major political parties are either grossly unfair or are not adhered to. **EXHIBIT AM 7.**
59. The declaration prayed for are therefore urgent and of great national importance such that the determination of this matter by the High Court is manifestly urgent and in the public interest.
60. This affidavit was prepared by Dr. Vivian M. Williams upon my instructions, whose place for service is at 165 Trafalgar Building, 1st Floor, Georgetown.
- Dated this 25TH day of June 2024 in Queens County, New York.



BRIAN COLLISON

Sworn to Before me on this 25TH

Day of June, 2024.



NOTARY PUBLIC

GREGG MCLEOD
Notary Public, State of New York
No. 01MC6193923
Qualified in Nassau County
My Commission Expires Sept. 22, 2024



BC-v-AG-FDA022