THE COURT OF APPEAL

UNAPPROVED **NO REDACTION NEEDED**

Neutral Citation Number [2020] IECA 345
Appeal No. 2019/273

The President
Whelan J.
Kennedy J.

BETWEEN

CORNELIUS PRICE

APPELLANT

AND

THE GOVERNOR OF WHEATFIELD PRISON

RESPONDENT

Judgment of the Court delivered by Ms. Justice Máire Whelan on the 8th day of December 2020

Introduction

1. On 17 May 2019, the High Court (Noonan J.), in an *ex tempore* judgment, declined to order the release of the appellant on foot of an enquiry pursuant to Article 40 of the Constitution. The appellant has appealed that decision and that appeal has come before this court. It comes before the court in circumstances where he has long since been released from custody. Indeed, when Noonan J. dealt with the enquiry on 17 May 2019, he was dealing with it in circumstances where the contention on behalf of the appellant was that, at midnight 17 May 2019, he had completed serving a sentence of imprisonment. The argument on behalf of the respondent Prison Governor,

seeking to justify the detention, was that the prison sentence in question had not yet expired and would not expire until midnight 18 May 2019 *i.e*. some hours later.

2. The background to the case is to be found in the fact that on 24 February 2017, the appellant was sentenced to a term of three years imprisonment in respect of an offence of endangerment contrary to s. 13 of the Non-Fatal Offences Against the Person Act 1997. The sentence was to date from 17 February 2017. It was not in dispute between the parties that this was a sentence to which standard remission of one-quarter applied *i.e*. there was no suggestion that it was a case where enhanced remission was applicable, nor, on the other side of the coin, was there any suggestion that it was a case where any remission had been forfeited. Thus, the disagreement between the parties distilled down to a disagreement about how remission should be calculated, and in practical terms, that was a disagreement as to whether, when remission was applied, the sentence was served at midnight on 17 May 2019 or at midnight on 18 May 2019.

3. Both in the trial court and in this court, counsel on behalf of the appellant was at pains to point out that the application came about as a result of concerns over how it was that the media had made references to the appellant's pending release date. Counsel on behalf of the appellant was anxious to avoid any suggestion that the application for an order under Article 40 might be seen as a disproportionate response to a disagreement about how remission was calculated which had limited practical effect.

4. The explanation as to how the parties find themselves in disagreement about the lawfulness of the detention for a 24-hour period arises in circumstances where the practice of the Irish Prison Service in calculating release dates on the basis of standard remission is to first of all express the sentence in terms of a total number of days, divide that figure by four and multiply by three. When, as a result of this exercise, a fraction of a day results, the practice of the Prison Service is to round this number down.

5. The application of this mathematical exercise in the present case means that the sentence imposed by the court, without regard to remission, was 1,095 days, and the sentence, having regard to standard remission, was one of 821.25 days, rounded down to 821 days. The appellant, on the other hand, takes issue with the approach of the Irish Prison Service, positing that the appropriate and more correct way to calculate remission, and therefore the sentence required to be served, is to express the sentence in terms of months. On that basis, the sentence imposed was one of 36 months, giving rise to an entitlement of 9 months remission and a net sentence of 27 months to be served which would see the sentence served on 17 May 2019.

High Court hearing

6. The trial judge heard evidence from Ms. Aisling Heaney, an executive officer in Wheatfield Prison responsible for calculating release dates. She confirmed that the method of calculation in a case such as this where standard remission applies involves converting a sentence into a number of days (taking a year to be 365 days), then dividing that by four and multiplying by three. She informed the court that this calculation is done initially on a computer system and then is checked manually. She confirmed that this was done by convention across the prison services.

***Ex tempore* judgment**

7. In an *ex tempore* judgment delivered on 17 May 2019, the day of the appellant's Article 40 application, the trial judge held that the detention of the appellant was lawful. The trial judge noted that it was not in dispute that it was the convention of the Irish Prison Service to calculate release dates based on standard remission by converting a sentence to days, applying the relevant percentage of remission to that and then proceed to round down to the nearest full day. On that calculation, the appellant was due to be released at midnight following the hearing.

8. The trial judge further noted that this convention was acknowledged in *Dumbrell v. Governor of St. Patrick's Institution* [2006] IEHC 9, [2006] 4 I.R. 268. However, it appeared that

the appropriate method of calculating release dates was not argued or contested in that case so it was of little assistance to the trial judge.

9. The trial judge accepted that the correct question to be posed in this case is what is 75% of 3 years; the obvious answer being 2.25 years. He held that the only logical way to calculate 2.25 years was by reference to days. He considered that the approach of the Irish Prison Service was likely adopted because doing so by reference to calendar months, as proposed by the appellant, could potentially give rise to anomalies where sentences expressed in equal terms of years could result in different periods of detention depending on the time of year they were imposed.

10. The trial judge held that the manner in which the sentence was both expressed and calculated in terms of remission could only lead to the conclusion that the calculation method would be in terms of days. Thus, the appellant's detention was lawful in all the circumstances.

Grounds of appeal

11. In his notice of appeal, the appellant raised six grounds of appeal which, in summary, contended that the trial judge erred in law and in fact in:

i. finding that the correct method of calculation of a sentence involved the conversion of a sentence expressed in years into a period of days, rather than calendar months;

ii. failing to interpret the order of sentence of the Circuit Court in a correct manner by failing to give due regard and weight to relevant matters including the appellant's constitutional right to liberty, the lack of statutory basis for the method of calculation of release dates adopted by the respondent, the relevant provisions of the Interpretation Act 2005 and relevant caselaw; and,

iii. not finding that, where two valid methods of calculation of sentences exist, the method of calculation which resulted in the least term of imprisonment in a given case should be adopted in that case by the respondent.

12. The respondent opposed the appeal in its entirety.

Submissions of the appellant

13. The appellant noted that, pursuant to Rule 59(1) of the Prison Rules 2007, as amended, he qualified for standard remission of one-quarter of his sentence. He further noted that the Prisons Act 2007 and the Prison Rules 2007 are silent as to how the length of sentences subject to standard remission are to be calculated when that requires the calculation of a fraction of a year which arises where the sentence imposed is expressed in years rather than months, weeks or days.

14. The appellant submitted that the Interpretation Act 2005 is of significance to the determination of the correct mechanism to calculate part of a year. It was noted that Part 1 of the Schedule to the 2005 Act provides that:-

> "'year', when used without qualification, means a period of 12 months beginning on the 1st day of January in any year."

Part 1 of the Schedule also provides that "'month' means a calendar month".

15. Section 21(1) of the 2005 Act provides that:-

> "In an enactment, a word or expression to which a particular meaning, construction or effect is assigned in Part 1 of the Schedule has the meaning, construction or effect so assigned to it."

16. The appellant submitted that a judge exercises a statutory jurisdiction when determining a sentence to be imposed and that the Oireachtas, through the 2005 Act, has determined that for all statutory intents and purposes a year is to be considered 12 months, unless qualified. It was further submitted that the word "year" in the penalty provisions of statutes is to be interpreted in accordance with the 2005 Act. The appellant argued that, in the absence of a statutory basis for calculating sentences subject to standard remission of one-quarter, the role of the respondent is to give effect to the sentences of imprisonment ordered by judges, whose intention must be that the words used carry the same meaning as they do in the statutes from which a judge's power to impose the sentence concerned arises. Had the respondent interpreted the sentence imposed in accordance

with the 2005 Act, then, it was posited, 75% of the three-year sentence imposed would have been considered to be 27 months. The appellant submitted that the trial judge erred in holding that the respondent was entitled to calculate the appellant's sentence otherwise than set out above.

17. In the alternative, the appellant contended that, if there were two bases for calculating 75% of the sentence imposed, the method of calculation which resulted in the least term of imprisonment in a given case should have been adopted by the respondent. In this regard, the appellant relied on *Dundon v. Governor of Cloverhill Prison* [2005] IESC 83, [2006] 1 I.R. 518 where it was stated by the Supreme Court at p. 539 that:-

> "As a general proposition I would agree with counsel for the applicant that, where there is an ambiguity in legislation as to whether the Oireachtas intended, in a given instance, detention or freedom, there is a *prima facie* presumption in favour of an interpretation involving freedom."

18. The appellant submitted that, absent a clear statutory mandate requiring that sentences of imprisonment be calculated in a particular way, to interpret a sentence in a manner that prolongs the detention of person is a matter of significant constitutional concern and that the convention of the respondent is insufficient to justify the continuing detention of a person. Accordingly, it was submitted that the trial judge erred in failing to have adequate regard to the appellant's constitutional right to liberty in declining to hold that the means of calculation which best gives effect to the appellant's liberty ought to have been adopted.

Submissions of the respondent

19. The respondent disputed the appellant's characterisation of the question that came before the High Court, as "whether the respondent was correct to calculate 25% of a year using days rather than months as the next smaller units with which to calculate a fraction of a year". The respondent asserted that the High Court was not charged with determining whether in broad terms, days or months were preferable to be used by the respondent in calculating a percentage of a year

in the context of an individual's release date or asked to make any declaration in respect of what method should be used on a general basis across the Irish Prison Service. Rather, the net issue before the High Court was whether the appellant's detention was lawful for the period in dispute, namely the 24-hour period between midnight 17 May 2019 and midnight 18 May 2019.

20. The respondent submitted that the provisions of the 2005 Act relied upon by the appellant are not directly relevant to the present case. Section 4(1) of the 2005 was referred to which provides that:-

> "A provision of this Act applies to an enactment except in so far as the contrary intention appears in this Act, in the enactment itself or, where relevant, in the Act under which the enactment is made."

Further, s. 2(1) of the 2005 Act provides that:-

> "'enactment' means an Act or a statutory instrument or any portion of an Act or statutory instrument".

It was argued that, as there is no act or statutory instrument or portion thereof directly applicable under consideration in the present case, the 2005 Act does not appear to be applicable albeit the terms of the 2005 Act may be of assistance to this court in determining the issues involved.

21. The respondent noted that the 2005 Act does not provide a definition of "calendar month". However, it was submitted that consideration of sentences which are constructed in terms of months are not relevant to the present case where the sentence in question was expressed in years.

22. The respondent submitted that the definition of a year provided by the 2005 Act implicitly recognised that not all years are of the same length; a leap year comprising 366 days and a non-leap year comprising 365 days, but both considered a "year" by the 2005 Act as they are both a period of 12 months "beginning on the 1st day of January in any year" (emphasis added). The respondent referred to the evidence of Ms. Aisling Heaney given in the High Court which

confirmed that the three years of the appellant's sentence each comprised 365 days as the period did not include a leap day.

23. The respondent noted that it was not in dispute that 75% of the three year sentence was 821.25 days. Rounded down to 821 days, this resulted in a release date of 18 May 2019 which was accepted by the appellant as being correct if this method of calculation was used. It was submitted that neither the High Court nor this court should be concerned with anything other than the accuracy of this calculation.

24. The respondent disputed the appellant's contention that any method of calculation which "prolongs the detention of a person" would be of significant constitutional concern. Rather, the respondent contended, if the method used by the respondent is accurate in that it correctly calculates 75% of a fixed term of imprisonment, no issue of unlawful detention can arise at all.

25. The respondent submitted that taking 75% of three years to be 27 months, as the appellant proposes, cannot be the correct or preferable method of calculation where this does not correlate to 75% of the sentence in fact imposed which, the respondent contended, is 75% of three years of 365 days length each. Nor, it was submitted, can the failure to use the method proposed by the appellant give rise to any issues in relation to the lawfulness of the appellant's detention.

26. The respondent further disputed the appellant's contention that the method of calculation which best gives effect to the appellant's liberty ought to have been adopted. It was submitted that, where a precise term of imprisonment in years is imposed by a court, the means of calculation of remission which gives the most accurate effect to that term of imprisonment ought to be adopted, while allowing for one quarter remission.

Discussion

27. As Mary Rogan notes in *Prison Law* (1st ed., Bloomsbury Professional, 2014) at para. 4.03, "Remission is the complete ending of a sentence at a reduced point." It is generally accepted that remission of sentences owes its origins to Captain Alexander Maconochie, a Scotsman who was

Governor of the Australian penal colony in Norfolk Island in the mid-19th Century. The primary purpose underpinning the system of early release was to reduce prison mutinies, improve discipline and establish a system to incentivise good behaviour and compliance with prison rules. Assessment of eligibility was exclusively determined by the Governor and was a privilege in his gift. A useful analysis is to be found in John Clay, *Maconochie's Experiment* (1st ed., London: John Murray Publishers Limited, 2001).

28. The Prisons (Ireland) Act 1907, "An Act to enable portion of a term of imprisonment in Ireland to be remitted as a reward for good conduct", became operative in Ireland on 21 August 1907. The purpose of remission of a portion of a convicted person's sentence of imprisonment was therein expressed to be as a reward for good behaviour. The Act did not identify what fraction was to be remitted and generally the approach then operating in England and Wales of one sixth remission of sentence was followed.

29. Article 13.6 of Bunreacht na hÉireann provides: -

> "The right of pardon and the power to commute or remit punishment imposed by any court exercising criminal jurisdiction are hereby vested in the President, but such power of commutation or remission may also be conferred by law on other authorities."

30. Thomas O'Malley in *Sentencing Law and Practice* (3rd edn., Round Hall, 2016) observes at para. 21-29: -

> "…The Constitution vests in the President the power to commute or remit any punishment imposed by a court exercising jurisdiction, but it permits that power to be conferred by law on other authorities. It has in fact been conferred on the Government which, in turn, may by order delegate it to the Minister for Justice. Remission has the effect of ending the punishment to which it applies."

O'Malley observes in fn. 115 that the delegation permitted by s. 23 of the Criminal Justice Act 1951, as amended by s. 17 of the Criminal Justice (Miscellaneous Provisions) Act 1997, was

effected by the Criminal Justice Act 1951 (Section 23) (Delegation of Powers) Order 1998 (S.I. No. 416 of 1998). This framework was recently reiterated by O'Malley J. in *M. v. The Parole Board* [2020] IESC 24 at para. 40.

31. The provisions of the 1907 Act in regard to remission continued in operation until the introduction of the Rules for the Government of Prisons 1947 (S.I. No. 320 of 1947). Rule 38(1) provided: -

> "A convicted prisoner sentenced to imprisonment, whether by one sentence or cumulative sentences, for a period exceeding one calendar month, shall be eligible, by industry and good conduct, to earn a remission of a portion of his imprisonment, not exceeding one-fourth of the whole sentence, provided that the remission so granted does not result in the prisoner being discharged before he has served one month."

32. In 2007 the Prisons Act was introduced and also the Prison Rules 2007 (S.I. No. 252 of 2007). At issue in the instant appeal is the methodology employed by the Prison Governor and operated by the Irish Prison Service for the calculation of standard remission enuring for the benefit of the appellant. The issue is confined to Rule 59(1). The said rule was defined in the Prison Rules 2007, as amended by the Prison (Amendment) Rules 2014 (S.I. No. 227 of 2014). It now provides as follows: -

> "(1) A prisoner who has been sentenced to—
>
> (a) a term of imprisonment, or
>
> (b) terms of imprisonment to be served consecutively,
>
> shall be eligible, by good conduct, to earn a remission of sentence not exceeding one quarter of such term or terms, as the case may be."

The proposition advanced by the appellant elects to measure the one quarter remission period of the appellant's three-year sentence by converting same to months. The sentence in question was for a period of three years from 17 February 2017.

33. Gemma McLoughlin-Burke in her article "Automatic Remission in Ireland: Time for Reconsideration?" (2019) Irish Criminal Law Journal 29(4), 105 points out the automatic nature of remission arising from the 2007 Act which she suggests at p. 109: –

> "…is illustrated perhaps most clearly by s. 13(1) of the Prisons Act 2007, which states that prisoners who directly breach the prison rules can be punished by a forfeiture of a maximum of 14 days' remission. The decision to reduce the level of remission to which a prisoner is entitled is made by the prison governor and decisions may be appealed to an independent appeals board."

34. It is imperative in the context of the exercise of a prisoner's rights that the principles of fairness and equity are accorded pre-eminent importance to foster harmony and minimise disaffection. To command the respect of the prison population and avoid engendering grievances based on anomalies, it is imperative that the approach to be adopted in the accurate calculation of one quarter remission is transparent, neutral and provides a universality of outcome. For the individual in detention it is imperative that at the point when they commence to serve a sentence imposed for a term of years they can ascertain with confidence the end point of that sentence based on their general entitlement to standard remission. Further it is important that the means of calculation of standard remission will be operated equitably so as to minimise anomalies or ambiguities so that each prisoner can expect to serve a sentence of like duration with any other offender the subject of an identical sentence of imprisonment in terms of years irrespective of the date or month of the year in which the sentence commences.

35. As the editors of *Bennion on Statutory Interpretation* (5th ed., LexisNexis, 2008) observe at p. 986: -

> "The court seeks to avoid a construction that creates an anomaly or otherwise produces an irrational or illogical result."

The editors further observe: –

"*Avoiding anomaly*

Every legal system must seek to avoid unjustified differences and inconsistencies in the way it deals with similar matters. As Lord Devlin said, 'no system of law can be workable if it has not got *logic* at the root of it.' The logic here referred to is not formal or syllogistic logic. It was this formal logic that Lord Halsbury had in mind when he said that 'every lawyer must acknowledge that the law is not always logical'." (emphasis in original, footnotes omitted)

The editors continue at p. 987 in their analysis of the importance of avoiding an anomalous or illogical result: –

"*Benefit not available in like cases*

Consistency requires that a statutory remedy or other benefit should be available, and should operate in the same way, in all cases of the same kind."

36. Analysing the interpretative presumptions and in particular the presumption that a literal meaning be followed, the editors of *Bennion* note at p. 868 that, in relation to time factors, "[a]s with all enactments, expressions relating to time are to be construed with common sense." The common sense construction rule is articulated at pp. 551 to 552 thus: -

"It is a rule of law (in this Code referred to as the common sense construction rule) that when considering, in relation to the facts of the instant case, which of the opposing constructions of the enactment would give effect to the legislative intention, the court should presume that the legislator intended common sense to be used in construing the enactment."

Application of the principles

37. The appellant quite correctly placed reliance on the words "Periods of time" in s. 18(h) of the Interpretation Act 2005 which provides the general rules of construction. It follows that since it was clear on the face of the order committing the appellant to prison for three years that the

sentence takes effect from 17 February 2017, the said date is to be "deemed to be included in the period". I do not understand that proposition to be controversial. It identifies day one of the term of imprisonment imposed on the appellant.

38. The proposition that "one quarter" of the sentence, as represents the appellant's standard remission, be measured in months and not otherwise brings forth by happenstance an outcome particularly attractive to the appellant insofar as it could potentially result in him serving one day less in custody.

39. The calculation methodology identified by Ms. Aisling Heaney was commendably straightforward, logical and clear. Firstly they checked the warrant and the judge's order. They then calculated the number of days in the sentence. In the appellant's case that was three years. None being a leap year, that resulted in a total number of days of 1,095, representing the sentence before the calculation of earned remission. They then divided the number of days by four and multiplied by three (rounding down as appropriate), which in effect identified the release date having discounted the one quarter remission to which the prisoner is *prima facie* eligible to earn pursuant to Rule 59(1).

40. In explaining to the trial judge why months are not deployed rather than days in calculating one quarter remission, Ms. Heaney responded that "each month has a different number of days, so they take every single day and count it as another individual."

41. Judicial recognition of what is a long-standing approach is to be found implicitly in cases such as *Dumbrell v. Governor of St. Patrick's Institution*, *Harris v. Delahunt* [2008] IEHC 152 and *Leonard v. Governor of Wheatfield Prison* [2009] IEHC 336, though it must be said that the specific issue was not directly in point in those cases. The approach to the calculation of standard remission was alluded to by Charleton J. in *Harris v. Delahunt*:-

> "5. As I understand it, the prison authorities work out the appropriate sentence in the following way. First of all, the initial sentence is calculated in terms of its duration minus

25%, which is currently the statutory remission of sentence for good behaviour. This is translated into days. Then the second sentence, to date from the lawful termination of that first sentence, on the second warrant, is again translated into days using the 25% discount. This is added to the first sentence. The third and fourth sentences will have a similar exercise applied to them. When a portion of a sentence is suspended, this is simply removed for the purpose of calculating the appropriate sentence, which is the actual time to be served minus 25% for good conduct. Bad conduct by a prisoner can result in the loss of remission."

42. Charleton J. in *Leonard v. Governor of Wheatfield Prison* at para. 4 observed:-

"…The normal method of calculating a sentence is to divide the actual time period to be served by a prisoner into days, as opposed to months or weeks. This is then divided by four and multiplied by three. Since, in the ordinary course, a prisoner is entitled to remission of a quarter of his or her sentence for good behaviour, the release date is three-quarters of the way through the term of the sentence. Of course such remission can be lost in the event of any infringement of the prison rules. A straightforward calculation of a four year sentence imposed on 6th February 2007, would mean that it would not ordinarily expire until a date that would be in or around 6th February 2010. Clearly, if the applicant is doing better than that, he has no cause for complaint before this court."

In that case the issue concerned the calculation of remission where, *inter alia*, the applicant was serving a sentence of four years to run concurrently with a sentence of two and a half years he was already serving.

43. In approaching the calculation of one quarter standard remission of the term of the appellant's sentence, a number of options were hypothetically available to the respondent. Same could, arguably, have been measured in months, weeks or days. Months vary significantly in duration from 28 days to 31 days and represent the least predictable – and therefore the least rational, least certain and least accurate – metric.

44. Adopting a calculation of the relevant remission to which each prisoner serving a three year sentence and eligible to standard remission was entitled based on months would give rise to inconsistencies, uncertainty, lack of clarity and inequality of outcome from sentence to sentence, notwithstanding that each such sentence was for an identical duration and the remission was in each case calculable pursuant to Rule 59(1) as standard remission of one quarter. No logical basis was identified for the operation of such an invidious and inconsistent approach.

45. It is not in the public interest to encourage calculations that are anomalous. To do so in the context of remission, where individuals are in detention and where the calculation of a release date is an important consideration in their overall expectation, risks engendering a sense of grievance. It could give rise to an impression of unfairness or indeed caprice since in each case the aggregate number of days to be served would arguably be identical but an individual, such as the appellant, who was sentenced before the end of February to a term of years could benefit from a temporal windfall, which in absolute terms would result in him obtaining ordinary remission which substantively exceeded one quarter of his term. It will be recalled that the language of Rule 59(1) specifically provides that a prisoner may earn a remission "not exceeding one quarter of such term or terms".

46. It is important that the calculation is equitable as between like-sentenced prisoners; that it is resilient and provides a universality as to outcome; that insofar as practicable it avoids anomaly, and that it is robust and logical in its approach.

47. The measurement of remission by reference to a month is the least satisfactory approach available since months are not synchronised as to duration and lack universality as to measure. As units of time, calendar months represent the least neutral metric for calculation of earned remission.

Conclusion

48. The appellant has not identified any basis for the proposition that the calculation of remission should be placed on a statutory footing. There is force in the respondent's reliance on the dictum of the Supreme Court in *Dundon v. Governor of Cloverhill Prison* at p. 539:-

> "…just because some particular aspect is not expressly spelled out in an Act does not necessarily mean that there is an ambiguity as far as interpretation is concerned. There is a duty on the courts to read the Act as a whole and interpret it."

49. The approach as outlined by Ms. Heaney and as operated by the respondent is logical, operates with certainty and clarity, and affords greater accuracy of calculation to the eligible prison population. It avoids anomalous outcomes which would inevitably result if the calculation was based on months. It produces a universality and harmony of outcome insofar as all prisoners sentenced to an identical term of years in custody can expect to serve a sentence of identical duration measured as to days, irrespective of the particular calendar month or date in which each sentence commences, where normal remission is operated pursuant to Rule 59(1), as amended.

50. By contrast the proposition contended for by the appellant, that remission in cases where a sentence of years of imprisonment is imposed should be measured in months, produces inevitable anomalies, resulting in variations as between prisoners who are the subject of identical terms of imprisonment. There is no ambiguity in the approach of the respondent of the kind alluded to by the Supreme Court in *Dundon v. Governor of Cloverhill Prison*. The approach contended for by the appellant is contrary to logic, risks ambiguities and anomalous circumstances, and, more importantly, carries inbuilt elements of unfairness, capriciousness and chance which risk undermining morale and certainty within the prison population. Such an outcome would be contrary to the public interest.

51. To recalibrate a sentence imposed in terms of years to one given in terms of calendar months rather than days for the purpose of the calculation of standard remission would introduce

an unjustified element of ambiguity and generate unwarranted anomalies and inconsistencies since, unlike days, “calendar months”, though all are accorded the like unitary descriptor, have been throughout history of varying, contested and irregular duration.

52. The method of calculation of the appellant’s standard remission was correct. It reflected not only the precise terms of the sentencing order, but also the precise length in years of which the sentence was comprised. Accordingly the appellant’s detention was lawful for the period in dispute, namely the 24-hour period between midnight 17 May 2019 and midnight 18 May 2019, and the trial judge was correct in so determining. I would dismiss the appeal for the reasons stated.

53. With regard to the appropriate form of final order, the appellant is hereby granted liberty to file further written submissions within 14 days of electronic delivery of this judgment, same not to exceed 1,000 words. The respondent will have a like period in which to furnish a response of equivalent length.

54. The President and Kennedy J. have confirmed their agreement with this judgment.