Neutral Citation Number [2026] CIGC (Civ) 7

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

Grand Court Cause No. G 2026-0016

IN THE MATTER OF AN APPLICATION FOR LEAVE TO SEEK JUDCIAL REVIEW

BETWEEN

THE KING (on the application of WAYNE CARLOS MYLES)

Applicant

-and-

THE DIRECTOR OF HIS MAJESTY'S CAYMAN ISLANDS PRISON SERVICE

Respondent

ON THE PAPERS

Before: **Hon. Justice Marlene Carter**

Parties: **Applicant unrepresented**
Attorney General's Chambers for the Respondent

Date of Decision: **20 February 2026**

Civil Law – Application for leave for Judicial Review – Section 7, Conditional Release Act, 2014 - calculation of Conditional Release Eligibility Date – concurrent sentences - application of credits to sentence

RULING

1. The Applicant filed an application for leave for judicial review on 28 January 2026. The applicant seeks the following relief:

> *"1) Declaration that the plaintiff's continued detention beyond the lawful CRED[1] (30 January 2026) violated Court orders, section 10 and 11A of the Prison Act 2021, therefore incompatible with the bill of rights.*
>
> *2) An order by this court of Mandamus requiring the Direction of HMCIPS to recalculate the sentence in accordance with the judicial orders;*
>
> *3) An order for immediate interim relief, including treatment as eligible for conditional relief (sic.).*
>
> *4) Costs*
>
> *5) Such other further relief (including but not limited to damages) or other relief as the Court thinks fit."*

Relevant Factual Background

2. The Applicant was sentenced on several occasions by both the Grand Court and the Summary Court in respect of separate criminal matters. On 11 May 2018, the Applicant was sentenced in the Grand Court to a term of three years' imprisonment in respect of Indictment No. 0088/2016.

3. On 30 January 2020, the Applicant was sentenced in the Summary Court by Magistrate Gunn in respect of multiple matters: Criminal Case Nos. 02851/2017, 00728/2017, 728/2017 and 03675/2016. The Summary Court imposed an aggregate term amounting to thirteen years' imprisonment and expressly ordered that those sentences were to run concurrently with the earlier Grand Court sentence.

4. Subsequently, on 6 March 2020, the Applicant was sentenced in the Grand Court to a further term of two years' imprisonment on Indictment No. 0096/2016. This sentence, read together with the sentence of the Summary Court, resulted in an overall custodial term of fifteen years' imprisonment.

The Application

5. The grounds of the application surround what the Applicant has referred to as clear breaches of judicial orders as confirmed in the letter to the Applicant dated 25 November 2025. The letter communicated the following to the Applicant:

[1] Conditional Release Eligibility Date

"Sentence history and calculation

On 11 May 2018, you were sentenced on IND 0088/2016 to 3 years' imprisonment, with a Conditional Release Eligibility Date (CRED) of 27 February 2019. All applicable remand time was deducted as ordered.

On 30 January 2020, you were sentenced in the Summary Court to 13 years' imprisonment on cases 02851/2017 and 00728/2017. This term was not combined with the earlier sentence because the initial CRED had already passed.

Remand time on IND 80/2016 as well as the period between your original CRED and this sentence (28 February 2019-29 January 2020), was deducted. The resulting CRED was 9 September 2025.

On 6 March 2020, you were sentenced in the Grand Court on IND 0099/2016 to 2 years' imprisonment. The court ordered that no time in custody be deducted; however, you benefited from the previously deducted remand time when this sentence was amalgamated with the 13 years term under Law 18 2018.

The combined 15 years resulted in a CRED of 21 November 2026."

6. The Applicant contends that *"the decision of the Prison under the principles of totality in respect to concurrency of those separate sentencing matters resulted in:*

- *Unlawful LDR[2]: 21 November 2032*
- *Unlawful CRED: 21 November 2026"*

7. The grounds of relief identified are:

(i) **Ground 1 – "*Classic Illegality & Ultra Vires Action*".**

The Applicant complains that there were four binding judicial orders requiring concurrency since May 2018 and single-aggregate credits to be applied equally to 0285/2017 and IND 0088/2016. He contends that the prison authorities have refused to give immediate effect to these orders with the result that this refusal was ultra vires and unlawful as they resulted in the Director of HMP Northward failing to place the Applicant before the conditional release board before 30 January 2026 as per Section 7 of the *Conditional Release Act*.

[2] Latest Date of Release.

(ii) **Ground 2 - that there had been *"a violation of the Double Jeopardy Principle in sentencing".***

Between 16 June 2016 and 11 May 2018, the Applicant had already served 463 days. It is submitted that by refusing to credit those days against the aggregate concurrent term, the Respondent forced the Applicant to serve them a second time.

(iii) **Ground 3 – "*Wednesbury Unreasonableness*"**

That no reasonable Prison Director could interpret Magistrate Gunn's order as authorizing zero credit or a later start date.

8. Upon the application for leave for judicial review coming before this court for consideration, it was apparent that the Applicant had failed to consider the Judicial Review Protocol. Coupled with the nature of the contravention claimed, these factors led this court to direct the Application for Leave and Grounds to the Respondent for its input.

9. The Respondent filed submissions in reply on the 6 February 2026. The Respondent opposes the application for leave and submits that the application discloses no arguable ground with a realistic prospect of success and leave to apply for judicial review should be refused. The Respondent contends that the grounds of relief identified by the Applicant all relate to the accuracy of the commencement of the aggregate term for the purpose of the conditional release eligibility date.

Court's considerations and decision

10. The *Conditional Release Act* states at Section 7:

> *"Minimum periods of incarceration*
>
> *7. (1) Prisoners shall be eligible for conditional release as follows:*
>
> *(a) prisoners sentenced to imprisonment for life shall be eligible to be considered for conditional release on licence after serving the minimum period of incarceration imposed under section 14(1);*
>
> *(b) prisoners serving a term of imprisonment exceeding one year, other than prisoners referred to in paragraph (a), are eligible to be considered for conditional release on licence after serving sixty per cent of the sentence imposed by a court; and*

(c) prisoners who are sentenced to a term of imprisonment not exceeding one year shall be released by the Director of Prisons after serving sixty percent of the sentence imposed by a court, but may be held for a longer period in accordance with any remission they may have forfeited under the Prison Law, 1975 [Law 14 of 1975] or regulations made thereunder.

(2) Where a prisoner who is serving a sentence is convicted of another offence and a consecutive sentence is imposed for the additional offence, the sentences shall, for purposes of subsection (1), be treated as one sentence and the conditional release date shall be adjusted accordingly.

(3) The Director of Prisons shall refer terminally ill or incapacitated prisoners to the Advisory Committee on the Prerogative of Mercy but this does not limit any rights relating to conditional release."

11. In his affidavit in support of the application for leave, the Applicant contends that:

"*8. Correct calculation: Nominal 15 years (5,475 days) from 11 May 2018 minus 463 days equals 5,012 effective days. LDR: 30 January 2032. CRED: 30 January 2026. Discussions with HMCIPS officials (Marlon Hodgson, Supervisor Simpson) confirmed errors, including case number confusion and unaccounted time (all creditable under totality principle).*

9. Pre-sentence credits total 463 days (custody, ankle monitoring, qualified curfew), applied once to the aggregate:

Period Start	***Period End***	***Days***	***Type***
16/06/2016	*19/06/2016*	*4*	*Police Custody – First Arrest Drug Offences*
20/06/2016	*19/07/2016*	*30*	*Prison Custody*
20/07/2016	*01/02/2017*	*99*	*Ankle Monitor*
02/02/2017	*05/02/2017*	*4*	*Police Custody – Second Arrest Drug Offences*
06/02/2017	*09/08/2017*	*185*	*Prison Custody*
10/08/2017	*29/03/2018*	*116*	*Ankle Monitor*
30/3/3018	*03/04/2018*	*5*	*Police Custody – Breach of Curfew*
04/04/2018	*05/04/2018*	*18*	*Ankle Monitor*
06/04/2018	*10/05/2018*	*18*	*Ankle Monitor*
Total		***463***	

4[3]. HMCIPS's errors are:

(a) Refusal to backdate to 11 May 2018
(b) Failure to apply credits once (but not twice means single application, not zero);
(c) Unlawful policy: constitutes daily false imprisonment.

It breaches Constitution ss.5(1) (arbitrary detention), 6 (degrading treatment) and 19 (unlawful administration), warranting damages under s.26(1)."

12. The Respondent submits:

"*13. The Grand Court sentence imposed in March 2020 was expressly ordered to run consecutively to the Summary Court sentences imposed in January 2020 and, by operation of section 7(2) of the Conditional Release Act (2019 Revision), was required to be treated together with those sentences as a single combined sentence for the purpose of calculation conditional release eligibility. Where a sentence is ordered to run consecutively, it is added to the existing custodial sentence so as to form one aggregate sentence under the Act. By contrast, the Summary Court sentences imposed in January 2020 were ordered to run concurrently and therefore operated at the same time as the sentence imposed in 2018. It follows that the sixty per cent period applicable to the final combined sentence of fifteen years could not lawfully have commenced in 2018, when the earlier sentence began.*

In the present case, the Applicant has failed to identify any arguable public law error in the calculation of his sentence or conditional release eligibility date. The evidence shows that the prison authorities applied the sentencing orders as made and calculated eligibility in accordance with section 7 of the Conditional Release Act (2019 Revision). The Applicant's complaint rests on the misconceived assertion that the sixty per cent period applicable to the aggregate sentence should have commenced in 2018. That contention is inconsistent with the statutory scheme and the express terms of the sentencing orders and does not disclose any illegality, irrationality or procedural impropriety."

13. The imposition of a concurrent sentence and its effect is the ultimate issue on this application. The sentence of the Grand Court on Indictment 0088 of 2016 was a three-year term of imprisonment imposed on 18 May 2018.

[3] The paragraph numbering is taken directly from the affidavit. There is an obvious mis-numbering.

14. Magistrate Gunn imposed the sentence in respect of the Summary Court matters Nos 02851/2017, 00728/2017 and 03675/2016 on 30 January 2020**.** At this point, the Applicant had already served part of his sentence on Indictment 0088 of 2016. The total sentence of 13 years was ordered to be served concurrently with this earlier sentence. This is an indication that the balance of the sentence imposed on Indictment 0088 of 2016 that remained to be served at 30 January 2020 was to be served at the same time as the sentence imposed by the Summary Court. This is the effect of the concurrent sentence, that the Applicant would benefit from the balance of the term of the sentence on Indictment 0088 of 2016 being served at the same time as the sentence then imposed by the Summary Court.

15. Section 39 of the Penal Code states:

> "*Where a person after conviction for an offence is convicted of another offence, either before sentence is passed upon that person under the first conviction or before the expiration of that sentence, any sentence which is passed upon that person under the subsequent conviction shall be executed after the expiration of the former sentence, unless the court directs that it shall be executed concurrently with the former sentence or of any part thereof:"*

16. It appears that the Applicant has misapprehended the effect of the Summary Court order that the sentence of 13 years was to run concurrently to the sentence on Indictment 0088 of 2016. The effect of the concurrent sentence was not to have that sentence run retrospectively, as if it began in May 2018. The sentence from the Summary Court, ordered to run concurrently to the sentence on Grand Court 0088/2016, did not begin to run at the end of the Grand Court sentence as would have been the usual application of Section 39 above. The sentence, *"directed to be executed concurrently with the former sentence"*, ran from the date that it was pronounced, with the Magistrate fully appreciating that the sentence for the Grand Court matter had not yet expired.

17. The Magistrate had no power to impose a sentence in respect of the summary court matters in May 2018. The sentence imposed by the Magistrate could only begin at the time that it was pronounced, on 30 January 2020. When the Applicant was subsequently sentenced to two years imprisonment on Indictment 0096/2016, that sentence was ordered to be served consecutively to the Summary Court sentence to take the total sentence to 15 years imprisonment. There is no merit in the submission that the Respondent was at fault for "*refusing to backdate the 15-year term*".

18. It must be noted and emphasized that the initial Grand Court sentence is not part of the sentence being considered for the purposes of Section 7 of the *Conditional Release Act*. When Magistrate

Gunn imposed the sentence to run concurrently, it was not tied to the initial Grand Court sentence for the purposes of that *Act*, because the *Act* accounts for a sentence and subsequent conviction for another offence where the subsequent sentence, for the additional offence, is ordered to run consecutively. It is only then that the sentences "*shall for purposes of subsection (1), be treated as one sentence and the conditional release date shall be adjusted accordingly*".

19. The further issue raised by the Applicant is the application of credit for the time spent in custody. The Applicant does not dispute the pre-sentence credit total of 463 days or the amount of the credit applied in the Grand Court. He however argues that there has been a failure on the part of the Respondent in the application of credits upon the Summary Court sentence. The Applicant submitted that the Magistrate ordered that the credit be applied *"equally (but not twice),"* however the Respondent has applied zero credit when calculating credits surrounding the summary court sentence.

20. The remarks of the Magistrate on this point in the sentence judgment of 30 January 2020 are relevant:

> "*17. I find that the appropriate sentence for the charge of being concerned in the supply of cocaine (2851/17)(1) in this instance is 11 years' imprisonment. As I have already stated, the Grand Court conspiracy charge for which the defendant has already been sentenced is intrinsically related to these offences before me. I note that Wood J. when sentencing the defendant, ordered –*
>
> > **'***Therefore, by order of this court, the defendant is to receive no further credit for time in custody on his other cases currently in the Summary Court or Grand Court.'*
>
> *18. The Learned Judge's intention was clearly to avoid any double accounting. Given the nexus and to achieve the Grand Court's intention I order that the sentence imposed on 2851/2017(1) shall run concurrently to that imposed by the Grand Court thereby making the previous credit applied to the Grand Court order apply equally (but not twice) to the summary court matters. While I note that Wood J. gave 134 days credit for time on curfew, a careful review of the Summary Court file discloses that there was an additional 197 (21 July 2016 – 2 February 2017) for which the defendant did not receive credit. Therefore, I order that the defendant is given an additional 99 days credit. For the avoidance of doubt, as a concurrent sentence, time served in relation to IND 101/2016[4] shall be credited to 2851/17(1) and any period in custody*

[4] The Learned Magistrate appeared to have made a mistaken reference here. The Grand Court Indictment on which the Applicant was sentenced before Wood J. (Ag.) was Indictment 0088 of 2016.

after the expiry of the sentence in IND 0101/2017 shall be credited to 285/17(1) also."

21. The Minute of Order of Wood J. (Ag.) regarding the defendant's sentence was as follows:

> "*1. Defendant went to trial on the 3rd Indictment which has ONLY 9 counts.*
>
> *2. Defendant was on counts 7+8.*
>
> *3. Defendant FOUND GUILTY BY JURY on count 7.*
>
> *4. Defendant sentenced to 3 years' imprisonment.*
>
> *5. 134 days – half the time on the EMDT – to be deducted.*
>
> *6. All the time the defendant has spent in custody since his arrest on this case even if the time relates to another case – is to be DEDUCTED from this sentence.*
>
> *7. Therefore, by order of this court, the defendant is to receive no further credit for time in custody on his other cases currently in the Summary Court or Grand Court.*
>
> *8. EMDT to be removed."*

22. It is not the case that the credit ordered on the Grand Court sentence in 0088/2016 was not applied at all. The Learned Magistrate was careful to explain the extent of her order and the manner in which that credit, applied to the Grand Court sentence, was to relate to the sentence in the Summary Court. Taking account of Wood J.'s order in the Grand Court matter, the Magistrate, in imposing the concurrent sentence, ordered that the previous credit applied to the Grand Court sentence Order was to apply equally to the Summary Court sentence. It was not to be applied twice, meaning it was applied to the Grand Court sentence and was not to be applied again, as a further credit of the same amount to the Summary Court sentence. This is the effect of the sentences being ordered to be served concurrently.

23. The Magistrate's statement of the previous credit being applied equally but not twice was to ensure that there was no double counting in respect of the Grand Court matter and the Summary Court sentence because the matters were so intrinsically related. This is the sentiment noted by each of the sentencing judges. There is no basis for the Applicant's submission that the Respondent applied zero credit in contravention of the order of Magistrate Gunn. The Respondent has applied the sentence orders as Wood J. (Ag.) and Magistrate Gunn sought for them to be applied.

24. Accordingly, there is no basis for the submission that the prison authorities have refused to give immediate effect to the sentence orders of the Grand Court and the Summary Court in respect of the Applicant, with the result that this refusal was ultra vires and unlawful, and resulting in the Respondent failing to place the Applicant before the Conditional Release Board before 30 January 2026 as per Section 7 of the *Conditional Release Act*. The Respondent has applied the credits to the Applicant's term of imprisonment as ordered by the respective courts. No issue of *Wednesbury Unreasonableness* arises regarding the actions of the Respondent in this case. There is no basis in the submission that the Applicant's continuing detention is as a result of an unlawful policy which constitutes daily false imprisonment.

25. In considering whether to grant leave to apply for judicial review, the court's role is to consider whether "*there is some arguable case or claim which is not obviously untenable, vexatious or frivolous*".[5]

26. The Respondent submitted that an application for leave for judicial review must,

> *"...identify an arguable error of public law arising from a decision or act amenable to judicial review. Where the complaint rests on a misunderstanding of the legal effect of sentencing orders or the operation of the statutory scheme, the threshold for leave is not met."*

27. I agree with this submission. The requirement for leave to apply for judicial review is "*a filter to weed out groundless cases*"[6] None of the grounds advanced by the Applicant amount to an arguable ground with a realistic prospect of success. The arguments are ultimately without basis. For this reason, the application for leave for judicial review is dismissed.

Carter J.

Hon. Justice Marlene I. Carter
Judge of the Grand Court

[5] Smith v Commissioner of Police [1980-83 CILR 126]
[6] Knibbs v Revenue Customs Commissioners [2020] 1 WLR 731, para 25.