

SUPREME COURT OF SEYCHELLES

Reportable
[2023] SCSC
XP 261/2022

In the ex parte matter of:

THE ATTORNEY GENERAL
(represented by Mrs. Hashini G. Naidu)

APPLICANT

Neutral Citation: *In the matter of Attorney General (XP261/2022)* [2023] SCSC (21 February 2023)

Summary: Application to order an enquiry to be carried out to ascertain whether Peter, Guy, Clement is dead/ Section 2 of the Presumption of Deaths Act.

Before: B Adeline, J

Heard: 01 February 2023

Delivered: 21 February 2023

FINAL ORDER

Application, by petition, to order an enquiry to ascertain whether the person is dead – Applicant has reason to believe that the person is dead – The application is allowed, and accordingly, I order that a Magistrate (whose selection shall be approved by the Minister) holds a public enquiry into the circumstances under which Peter, Guy, Clement alleged to be dead disappeared.

ORDER

Adeline J

- [1] This is an application, by petition, lodged in court by the Attorney General pursuant to Section 2 read with Section 3 of the Presumption of Deaths Act. By its application, the Attorney General petitions this court for an order to “order an enquiry in order to ascertain whether Peter, Guy, Clement is dead”. The Application is supported by an affidavit sworn by one Corporal (CpL) Shanny, Bonne of the Seychelles Police Force containing averments justifying the need to hold such an enquiry.
- [2] As per the affidavit evidence in support of the application, Mr. Peter, Guy Clement, a British National and bearer of passport No. 542759552, on the 12th May 2022, checked in at the Labriz Hotel, Silhouette, Hilton Seychelles.
- [3] On the 16th of May 2022, the housekeeper, informed the Assistant Security Manager at the hotel, that room 103 occupied by Mr. Peter, Guy, Clement had not been used or slept in, on the night of 15th May 2022.
- [4] It is averred in the supporting affidavit that, on the same day, the Assistant Security Manager, one Kumara Shantha, viewed the CCTV footage and saw Mr. Peter, Guy, Clement having his breakfast the previous day, the 15th May 2022. He was then seen heading to the activity centre where he stayed for 2 – 3 minutes, and thereafter, went back to his room, 103. No footage of him was seen thereafter.
- [5] CpL Bonne avers, that an emergency search team was mobilised and dispatched to search for Mr. Peter, Guy, Clement focusing at Anse Mondon, Anse Lanscar, Ramassen Tout and Jardin Maron Trails but without sight of him, and at 8 pm on the same day the 16th May 2022, the Police was informed that he was a missing person.
- [6] It is also averred by CpL Bonne that, on the same day that Mr. Peter, Guy, Clement went missing on the 15th May 2022, he and security officer Anthony, Lespoire spoke to each other at around lunch time shortly before Mr. Peter, Guy, Clement had indicated that, he was going to climb a hiking trail, and that security officer Lespoire did warn him of the danger of hiking the trail alone. His response was that he can manage it.
- [7] It is further averred that, on the 17th May 2022, Police officers arrived on Silhouette Island to investigate the report made to the Police that Mr. Peter, Guy, Clement had gone

missing. The Police Investigation Unit comprised of the CID, the Dogs Unit, the PSSW and the Drones Team. Once on Silhouette Island, the Police Unit conducted a joint search to try and locate Mr. Peter, Guy, Clement.

- [8] It is an averment in the supporting affidavit to the petition that, on the 30th May 2022, from 08:15 am, a team led by Police Officer CpL Rose, conducted a search starting from the Presidential beach to Bellevue view point and then Mondon beach. The search entailed, searching through the bushes, places between boulders and within rocky areas, rivers and streams.
- [9] It is also an averment in the supporting affidavit that, another team led by Police Officers Sgt Nourice, CpL Bibi and PC Roseline conducted a search at La Passe, Gran Kaz and Dauban Mausoleum. Search was also carried out across the footpaths leading to the mountain side, Anse Lascar 1&2 and Anse Patate. A drone was used for an aerial surveillance of the coastal line, but all these efforts ended without success.
- [10] CpL Bonne avers that, while the Police were conducting their own search, on the same day, the 30th of May 2022, a team of Military Officers arrived on Silhouette Island to participate in the search. The following day, the 31st May 2022, Police Officers and Military Officers combined, formed a three search team and proceeded to search the Grand Barbe area, Jardin Marron and Mont Deauban Trail. They also searched the surrounding sea and coastal areas, and used drone to assist them in their search, but without success in locating Mr. Peter, Guy, Clement.
- [11] It is averred by CpL Bonne, that it is now 7 months since the date Mr. Peter, Guy, Clement disappeared, and that all efforts made to find him have been futile, and that to date, no new information or leads as to his whereabouts have been received by the Police.
- [12] Section 2 of the Presumption of Deaths Act under which this application is made, reads;
“The Attorney General, the relatives of a person who has disappeared, or anyone interested in the property of the person who has disappeared, may whenever he or any of them have reasons to believe that such person is dead, but such death cannot be proved or registered because the dead body has not been found or else because it is not possible

to give formal proof of such death, lodge a petition at the Registry of the Supreme Court requesting a Judge to order an enquiry in order to ascertain whether such person is dead”.

- [13] Section 2 must be read with Section 3 of the same Act, that reads;
“If the person has disappeared while residing in Seychelles, a Judge shall, on receiving such petition, order a Magistrate (whose selection shall be approved by the Minister) to hold a public enquiry into the circumstances under which the person alleged to be dead disappeared, and the Judge shall direct such Magistrate to summon as a witness any person whose evidence he may think necessary. The evidence of the witness shall be taken on oath and taken down in writing”.
- [14] On account of the affidavit evidence, I am satisfied, that the Attorney General’s application does have merits, in that, it has reason to believe that, Peter, Guy, Clement is dead but such death cannot be proved or registered because the dead body has not been found, and is therefore not possible to give a formal proof of such death.
- [15] In the circumstances, the application is allowed, and accordingly, I order that a Magistrate (whose selection shall be approved by the Minister) holds a public enquiry into the circumstances under which Peter, Guy, Clement alleged to be dead disappeared.
- [16] Therefore, I direct the Magistrate so ordered, to summon the Commissioner of Police to produce any evidence that may be at its disposal as well as any other persons whose evidence would be relevant and necessary to establish the circumstances Peter, Guy, Clement alleged to be dead disappeared.

Signed, dated and delivered at Ile du Port / Victoria on 21 February 2023.

B Adeline J