

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

VIDEOCONFERENCE

MONTSERRAT

Tuesday 6th May 2025 to Thursday 8th May 2025

JUDGMENTS

Case Name:

**Ramesh Armanini
Mohan Amarnani (By his lawful son and
interested party of Mahesh Amarnani)**

v

AEA Company Limited

**[GDAHCVAP2023/0019]
(Grenada)**

Date:

Tuesday 6th May 2025

**Coram for
delivery:**

**The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]**

Appearances:

Appellant:

Ms. Gennilyn Ettienne

Respondent:

Ms. Mckaeda Augustine

Issues:

**Application for an extension of time to file an
application for leave to appeal – Application for leave
to appeal – Ancillary claims – Rule 18.2(4) of the Civil
Procedure Rules, 2000 - Time for service of an ancillary
claim form – Rule 18.5 of the Civil Procedure Rules,
2000 – Extension of time for service of an ancillary
claim form – Exercise of case management powers**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for extension of time is dismissed.**
- 2. The application for leave to appeal falls away.**
- 3. The applicants shall pay costs to the respondent to be assessed if not agreed within 21 days of today's date.**

Reason:

Granting an extension of time is a discretionary power of the Court, which will be exercised in favour of the applicant for good and substantial reasons. The factors which the Court will consider in the exercise of its discretion are: (1) the length of the delay; (2) the reasons for the delay; (3) the chances of the appeal succeeding if the extension is granted; and (4) the degree of prejudice to the respondent if the application is granted. These factors mirror those that must be considered in determining whether to dismiss an appeal.

John Cecil Rose v Anne Marie Uralis Rose SLUHCVP2003/0019 (delivered 22nd September 2003, unreported) followed; Carleen Pemberton v Mark Brantley SKBHCVP2011/0009 (delivered 14th October 2011, unreported) mentioned.

The ancillary claim did not lose its validity due to the period of 6 months having elapsed prior to service. CPR 18.2(4) disapplies CPR 8.12 and CPR 8.13 to ancillary claims. By disapplying CPR 8.12, CPR 18.2(4) makes clear that the 6-month period within which an ordinary claim must be served does not apply to ancillary claims. Additionally, by disapplying CPR 8.13, CPR 18.2(4) makes clear that the limitations on the extension of time stated therein do not apply such that there is nothing in CPR 18.2(4) precluding the court from extending any time for service of the ancillary claim. CPR 18.5 (service of the ancillary claim form) is subject to the court's general case management powers in Part 26 of the Civil Procedure Rules, 2000, in particular, CPR 26.1(2)(k) which states that the court

may extend or shorten the time for compliance with any rule, practice direction, order or direction of the court even if the application for an extension is made after the time for compliance has passed.

Rule 18.2(4) of the Civil Procedure Rules, 2000 applied.

A case management decision such as the court extending the time for compliance with any rule, practice direction, order or direction is a decision entrusted to the first instance judge. The appellate court could only interfere with the discretion of the first instance judge where he has misdirected himself in law, has failed to take relevant factors into account, has taken into account irrelevant factors, or has come to a decision that is plainly wrong in the sense of being outside the ambit where reasonable decision makers may disagree. The master was clearly exercising his case management powers in making the Consent Extension Order. Before him was a filed consent order from the parties seeking an extension of time for filing the ancillary defence. The applicants have not shown that the learned trial judge misdirected himself in law or had failed to take relevant factors into account, had considered irrelevant factors, or had come to a decision that is plainly wrong in the sense of being outside the ambit where reasonable decision makers may disagree. While the applicants had good reasons for the delay in seeking leave to appeal and the delay, in the circumstances, could not be said to be inordinate, the applicants have little or no chances of success of the appeal succeeding if the extension of time is granted to file the application for leave to appeal from the Consent Extension Order. Accordingly, the application for an extension of time must be dismissed.

Emmerson International Corporation v Renova Holding Limited BVIHCMAP2019/0001 (delivered 7th February 2023, unreported) considered.

Case Name:

Yannick Pelage
v
PC 785 Mario Chicquot

**[SLUMCRAP2023/0002]
(Saint Lucia)**

Date: Thursday 8th May 2025

Coram for delivery: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]

Appearances:

Appellant: Ms. Brender Portland-Reynolds holding papers for Mr. Horace Fraser

Respondent: Mr. Daarsrean Greene, Director of Public Prosecution

Issues: Magisterial Criminal Appeal – Appeal against conviction and sentence by the learned magistrate – Appellant found guilty of Offences contrary to the Customs (Control and Management) Act, Cap. 15.05 of the Revised Laws of Saint Lucia 2023 and the Fisheries Regulations under the Fisheries Act, Cap. 7.15 of the Revised Laws of Saint Lucia 2023 - Departing Saint Lucia without valid clearance - Fraudulent possession of restricted goods (conch, lobsters, sea urchins) - Failure to declare goods for export - Possession of sea urchins without permission - Arriving in Saint Lucia at a non-customs port - Possession of undersized and egg-bearing lobsters – Procedural irregularity - Whether the learned magistrate failed to consider the appellant’s written no-case submission before delivering her decision - Strict liability offences - Whether the learned magistrate erroneously treated the offences as strict liability offences — Sufficiency of evidence - Whether there was sufficient evidence to support the convictions - – Sentencing irregularity - Whether the learned magistrate erred in sentencing the appellant without inviting a plea in mitigation

Result / Order: IT IS HEREBY ORDERED THAT:

1. The appellant’s conviction on charge No. 0034C/2018 is quashed.

2. The convictions in relation to Charge Nos. 34/2018, 34B/2018, 35/2018 and 35A/2018 are affirmed.
3. The appeal against sentence in relation to charge Nos. 34/2018, 34B/2018, 35/2018 and 35A/2018 is upheld.
4. The sentences imposed by the learned magistrate are varied by substituting a fine of \$3,000.00 in relation to each Charge.
5. These fines must be paid within 30 days of the delivery of this judgement or in default the appellant will serve a term of imprisonment of six months.

Reason:

1. The learned magistrate did consider the no-case submission but failed to address some specific points raised in the appellant's written submissions before delivering her written decision. Nonetheless, when the Court of Appeal is considering the question whether a no-case submission should have been upheld, the Court of Appeal should not focus on the manner in which the learned magistrate has expressed herself but must examine the evidence itself to see whether there was a case to answer.

R v Galbraith [1981] 2 All ER 1060 applied, Edwin Gomez v The Queen ANUHCRA2014/0012 (delivered 17th August 2022, unreported) applied, R v McLeod and Others [2017] EWCA Crim 800 applied, Section 753 of the Criminal Code of Saint Lucia Cap. 3:01 of the Revised Laws of Saint Lucia applied, Section 77 of the Evidence Act Chap. 4:15 of the Revised Laws of Saint Lucia applied.

2. The magistrate did not misapprehend the substance of Mr. Fraser's oral submissions, whether described as a no-case submission or as evidential objections. While the learned magistrate did not state clearly whether she considered the evidence of the oral admissions

admissible or not, the way in which she treated with the submission was to say that this was not a case that depended wholly on the oral admissions. It is clear from the learned magistrate's ruling that her finding of guilt did not hinge upon her reliance on any of the oral utterances made by the appellant, whether pre-caution or post-caution, which were not factored into her decision. The appellant's post-caution admission that he knew that the bags on the vessel contained conch was, even without that admission, the irresistible inference to be drawn in circumstances in which he was the captain of the vessel on which some 39 bags were found in plain view. As the captain of the vessel, the physical custody and control of the vessel and its cargo was vested in him. There was therefore no unfairness in admitting the admission that the bags contained conch, which was made after caution. As to his admission that he was giving Ms. Poleon-Duplessis a ride to Martinique, that fact was self-evident as she was a passenger on board and he had told the police, at a time when he was not suspected of committing an offence, that he was headed to Martinique. The submission that the oral admissions made by the appellant should have been excluded therefore lacks merit.

Section 72 of the Evidence Act Cap. 4.15 of the Revised Laws of Saint Lucia applied., Michel Dufour et al v Helenair Corporation Ltd. et al (1996) 52 WIR 188, Jose Miranda Ortiz et al v The Police Magisterial Criminal Appeal No. 27 of 1992

3. In relation to the issue of the sufficiency of the evidence to sustain the charges, the evidence adduced by the prosecution justified the clear inference that the appellant (i) arrived in Saint Lucia at a non-customs port; (ii) was departing Saint Lucia without valid clearance; (iii) was in fraudulent possession of restricted goods, namely conch and lobsters; (iv) had failed to declare said goods for export; and (v) was in

possession of undersized and egg-bearing lobsters. However, there was no evidence to support the conviction for Charge No 34/C/2018, as there was no evidence of sea urchins being in the appellant's possession.

Section 37 of the Customs (Control and Management) Act, Cap. 15.05 of the Revised Laws of Saint Lucia 2023 applied, Section 3 of the Maritime Areas Act Cap 1.16 of the Revised Laws of Saint Lucia, 2015 applied;

Section 116 of the Customs (Control and Management) Act, Cap. 15.05 of the Revised Laws of Saint Lucia 2023 applied; Schedule 3, Part 3 of the Customs (Control and Management) Act, Cap. 15.05 of the Revised Laws of Saint Lucia 2023 applied; Regulation 47 of the Fisheries Regulations under the Fisheries Act, Cap. 7.15 of the Revised Laws of Saint Lucia 2023 applied;

Section 34 of the Customs (Control and Management) Act, Cap. 15.05 of the Revised Laws of Saint Lucia 2023 applied;

Regulation 36(a) of the Fisheries Regulations under the Fisheries Act, Cap. 7.15 of the Revised Laws of Saint Lucia 2023 applied, Section 16 of the Maritime Areas Act Cap 1.16 of the Revised Laws of Saint Lucia, 2015 applied;

Section 21 of the Customs (Control and Management) Act, Cap. 15.05 of the Revised Laws of Saint Lucia 2023 applied;

Director of Public Prosecutions v Brooks 1974) 2 AER 840 applied, R v Lambert [2002] 2 AC 545 applied, Regulation 32.2(d) of the Fisheries Regulations under the Fisheries Act, Cap. 7.15 of the Revised Laws of Saint Lucia 2023 applied, Section 16 of the Maritime Areas Act Cap 1.16 of the Revised Laws of Saint Lucia, 2015 applied.

4. The contention that the learned magistrate automatically convicted the appellant because she erroneously regarded the offences to be strict liability and without engaging with the evidence because she regarded conviction as flowing automatically from the fact that they were (in her view) offences of strict liability is not made out, having regard to the fact that she expressly directed herself that “it is not that there is no mental element required” and further found that “this defendant committed the requisite elements of each count of these CUSTOMS OFFENCES OF STRICT LIABILITY”; and also said that the appellant was “seised of both mental and physical elements of the customs offences.” Even though the learned magistrate erroneously mischaracterized all of the customs offences as strict liability offences, she nonetheless expressly addressed her mind to the need to satisfy herself that the elements of each offence was made out and identified the evidence on which she relied. The flaw lies in her failure to more fulsomely articulate why she found each element of each offence made out. Notwithstanding this, however, this ground of appeal is rejected because, as I have found, save for Charge No. 34C/2018, the elements of each offence were clearly established.

Gammon (Hong Kong) Limited v Attorney-General of Hong Kong [1985] A.C. 1, PC. followed, Nurse v Republic of Trinidad and Tobago; Canserve Ltd v Republic of Trinidad and Tobago [2019] UKPC 43 followed, Levar Devere Brown v The Chief of Police SKBMCRAP2021/0003 (delivered 5th July 2023, unreported) applied.

5. In relation to the appeal against sentence, the magistrate erred in failing to invite a plea in mitigation on behalf of the appellant and then proceeding to impose the maximum fine of \$5000 prescribed for all the offences, save for Charge No. 34A/2018. The maximum sentence is ordinarily reserved for the most egregious offending at the top end of the scale. It is a

cardinal principle that a sentence should be fashioned to meet the justice of the case having regard to the facts and the individual circumstances of the offender. A plea in mitigation serves the useful purpose of furnishing the court with information of the personal circumstances of the offender or features or circumstances surrounding the offending conduct which might mitigate the sentence. The evidence suggests that the appellant played a leading role in the commission of the offences, being the captain of the vessel. He must have taken a conscious decision to ignore and breach the Customs and Fisheries laws of Saint Lucia. Given the large quantity of sea food in his possession, it is likely that it was intended for commercial sale and not personal consumption. This suggests that the appellant was motivated to commit these offences for profit. These factors lead to the assignment of a high degree of culpability to the appellant. There are no further aggravating factors in relation to the offence, neither are there any other aggravating factors in relation to the appellant. In considering whether there are any personal mitigating circumstances which might reduce the sentence, in the absence of evidence of previous convictions, the appellant must be treated as a person of good character. On this account, the fines are reduced to \$3,000 on Charge Nos. 34/2018, 34B/2018, 35/2018 and 35A/2018. In relation to charge No. 34A/2018 for which he was fined \$5,000 instead of the maximum \$10,000.000, the appellant received from the learned magistrate a generous discount of 50%. That sentence has not been challenged by the respondents as unduly lenient and no adjustment is made to it.

APPLICATIONS AND APPEALS

Case Name:

Providence Estate Limited

v

1. Joel Osborne
2. Ingrid Osborne
3. Warren Cassell (d.b.a. cassell & lewis)
4. Meredith Lynch
5. Amelia H. Daley
6. David Brandt

[MNIHCVAP2024/0007]
(Montserrat)

Date: Tuesday 6th May 2025

Coram: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Khamaal Collymore and Ms. Anna-Kay Brown

Respondents: Mrs. Sheree Jemmotte-Rodney for the 5th respondent

Issues: Interlocutory Appeal - Abuse of process - Delay in bringing matter to trial - Want of prosecution - Inherent jurisdiction of the court to dismiss a claim - Constitutional right to a fair hearing in a reasonable time - Whether the learned judge erred in law in finding that he had inherent and constitutional jurisdiction to determine the constitutional issues as raised by the 5th Respondent without the Attorney General having been sued, joined as a party, or even served - Whether the learned judge erred in law in finding that there was inordinate and inexcusable delay on the part of appellant in prosecuting the claim - Whether the learned judge erred in law in treating the involvement of members of the Office of the Attorney General in this claim as party and counsel as service on or notice to the Attorney General

Type of Order: N/A

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The parties in the matter are to lodge an agreed chronology of the litigation on or before 16th May 2025.
2. Judgment is reserved pending receipt of the chronology.
3. In respect of the application for an adjournment, the Court will reserve the issue of costs and will indicate its ruling on that application in the judgment.

Case Name:

**Andre West
v
The Commissioner of Police**

**[MNIMCRAP2023/0002]
(Montserrat)**

Date:

Tuesday 6th May 2025

Coram:

**The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]**

Appearances:

Appellant:

Mr. Kenroy Hyman

Respondent:

**Mr. Oris Sullivan, Director of Public Prosecution of
Montserrat**

Issues:

**Magisterial criminal appeal - Appeal against conviction
- Section 231(1)(a)(i) of the Penal Code Cap 4.02 -
Section 231(1)(c)(i) of the Penal Code Cap 4.02 -
Section 232(1)(b)(i) of the Penal Code Cap 4.02 -
Whether the learned magistrate erred when she ruled
that she had jurisdiction to adjudicate on the case -
Whether the learned magistrate acted contrary to the**

Re-Trial Order of the Eastern Caribbean Court of Appeal - Whether the learned magistrate erred when ruling that the case is not statute-barred by virtue of Section 201 of the Criminal Procedure Code Chapter 4.01 of the laws of Montserrat - Whether the learned magistrate's decision to convict is erroneous and unsupported on the evidence - Whether the learned magistrate erred when she allowed the evidence of McMullin to be admitted into evidence - Whether the learned magistrate failed to apply proper legal principles in coming to her decision

Type of Order:

Directions

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The appellant is to file and serve supplemental written submissions and authorities in support of the appeal on or before 16th June 2025.**
- 2. The respondent is to file and serve submissions and authorities on or before 15th July 2025.**
- 3. The hearing of the appeal is adjourned to the next sitting of this Court in the territory of Montserrat commencing the week 29th September 2025.**

Reason:

Coming on for hearing was the notice of appeal filed on 8th August 2023. The appeal by way of case stated was purported to be filed on 10th August 2023. The court was satisfied that the appeal, by way of case stated was filed incorrectly, and not in accordance with the procedures established by the Criminal procedure code and was in fact, a nullity.

Counsel for the appellant, indicated that he was only recently retained by the appellant, and would require time to take proper instructions, and to prepare for this appeal. The court was satisfied that the oral application for an adjournment should be granted. There was no objection to the request for an adjournment by the Director of Public Prosecutions

therefore the hearing of the appeal was adjourned to the next sitting of the Court in Montserrat.

Case Name: Lloyd Rhenford Ryan
v
Neville Blake
Agnes Ryan
[MNIHCVAP2022/0003]
(Montserrat)

Date: Wednesday 7th May 2025

Coram for delivery: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]

Appearances:
Appellant: In person
Respondent: Mr. Jean Kelsick

Issues: Application to adduce fresh evidence - Pending appeal before the Court - Court's overriding objective to deal with cases justly

Type of order: Oral Decision

Result / Order: IT IS HEREBY ORDERED THAT:

The application to adduce fresh evidence filed on 18th September 2024 is adjourned to be case managed together with the amended notice of appeal filed on 16th October 2024 by the Chief Registrar.

Reason: Coming for hearing was the application to adduce fresh evidence filed on 18th September 2024 supported by an affidavit and supplemental affidavit. The Court noted that the application was opposed, a notice of opposition having been filed on 10th October 2025. The

notice of opposition was supported by the affidavit of the respondents of 2nd May 2025. The Court also noted that the matter commenced by way of an amended notice of appeal filed on 16th October 2024 and noted the recent order of the Court deeming the notice of appeal to be properly filed indicating that the appeal must proceed. The Court also noted that the order also directed that the appeal must proceed in accordance with the normal procedures. The Court therefore determined that the pending application to adduce fresh evidence should be heard together with the substantive notice of appeal.

Case Name:

**Leron Brade
v
The King
[MNIHCRAP2022/0001]
(Montserrat)**

Date:

Wednesday 7th May 2025

Coram:

**The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]**

Appearances:

Appellant:

In person

Respondent:

Mr. Oris Sullivan, Director of Public Prosecutions

Issues:

Application to deem appeal allowed - Whether the appeal is unopposed - Whether the applicant was served with the respondent's submissions

Type of Order:

Oral decision

Result / Order:

IT IS HEREBY ORDERED THAT:

The application filed on 3rd April 2025 is dismissed.

Reason: The applicant, a pro se litigant filed an application to deem the appeal allowed on 3rd April 2025 due to the non-filing of submissions by the respondent. However, it was noted that the respondent had filed submissions, but the applicant was not served. Therefore, in the circumstances the Court noted that the application was irregular and could not be sustained.

Case Name: Leron Brade
v
The King
[MNIHCRAP2022/0001]
(Montserrat)

Date: Wednesday 7th May 2025

Coram: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]

Appearances:
Appellant: In Person
Respondent: Mr. Oris Sullivan

Issues: Criminal Appeal - Appeal against conviction - Possession of firearm without licence - Carrying a firearm in a public place - Adjournment

Type of Order: Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The respondent is to serve the submissions and authorities filed on 25th April 2025 on the appellant by 15th May 2025.
2. The appellant is to file submissions in reply on or before 30th June 2025.
3. The hearing of the appeal is adjourned to the next sitting of the Court for the Territory of Montserrat scheduled for the week commencing 29th September 2025.

Reason:

The appellant, a pro se litigant, had not been served with the respondent's submissions, consequently the Court adjourned the hearing of the appeal to the next sitting of the Court in Montserrat to allow the respondent to serve the appellant. The Court also gave directions for the appellant to file and serve any submissions in response.

Case Name:

Oswald Murrain

v

The King

[MNIHCRA2023/0001]

(Montserrat)

Date:

Wednesday 7th May 2025

Coram:

**The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]**

Appearances:

Appellant:

In person

Respondent:

Mr. Oris Sullivan, Director of Public Prosecution

Issues:

**Criminal appeal against conviction and sentence -
Arson - Whether the learned judge erred when he
permitted the appellant to plea to an indictment which
was duplicitous - Whether the learned judge erred in
law when he imposed a sentence on the appellant**

without first obtaining a psychiatric report - Whether the sentence imposed by the learned judge was too severe in the circumstances

Type of Order:

Directions

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Director of Public Prosecution shall effect service of the hearing bundle filed on 11th April 2025 which includes the respondent's legal submissions and authorities within 7 days of today's date or by 15th May 2025.
2. The appellant shall file submissions in reply on or before 30th June 2025.
3. The appeal is adjourned to the next sitting of this Court in the territory of Montserrat commencing the week 29th September 2025.

Reason:

Before the Court was an appeal filed on 13th January 2023 by the appellant against his sentence and conviction. The Court noted that the appellant, a pro se litigant, had not been served with the respondent's submissions. As a result, the Court adjourned the hearing of the appeal to allow the respondent to effect service on the appellant. The Court also gave directions for the appellant to file and serve any submissions in response.

Case Name:

Golden Years Home for the Elderly

v

Ingrid Branford Hughes

[MNIMCVAP2024/0001]

(Montserrat)

Date:

Wednesday 7th May 2025

Coram:

**The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor M. Ward, Justice of Appeal**

The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Jean Kelsick

Respondent: Dr. David Dorsett

Issues:

Magisterial Civil Appeal - Appeal from decision of Labour Tribunal - Finding that the respondent had been unfairly dismissed - Whether the decision of the Labour Tribunal was unreasonable and/or could not be supported having regard to the evidence - Whether the actions of the respondent amounted to gross misconduct - Whether the Tribunal drew wrong inferences from the evidence - The Labour Tribunal erred in law when it found that the respondent was unfairly dismissed and was entitled to compensation - The Labour Tribunal erred by failing to properly consider whether the acts of misconduct on the respondent's part complained of by the appellant amounted to gross misconduct in accordance with the Labour Code, thus rendering its decision unfair and/or unsafe - Whether the Labour Tribunal applied the wrong test for summary dismissal and erred by implying that the appellant had not warned the respondent about her past work performance - Whether the Labour Tribunal erred in law by failing failing altogether to consider the requirements of sections 61(1) and (2) of the Labour Code when assessing if the respondent was guilty of gross misconduct and was therefore properly dismissed summarily - Whether the Labour Tribunal erred in awarding the respondent compensation of \$104,931.15 - Whether the amount awarded was excessive

Type of Order:

N/A

Result / Order:

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Case Name:

The Bank of Montserrat

V
Owen Martin Rooney

[MNIHCVAP2023/0001
Formerly MNIHCVAP2018/0007]
(Montserrat)

Date: **Thursday 8th May 2025**

Coram for delivery: **The Hon. Mde. Vicki Ann Ellis, Justice of Appeal**
The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]

Appearances:

Appellant: **Mr. Sylvester Carrot**

Respondent: **Ms. Anna-Kay Brown**

Issues: **Civil Appeal - Appeal against the decision of the learned judge's finding that there was no loan, that the loan was statute barred or that the appellant had not proved its case - Failure to make loan payment - Whether debt was statue barred - Whether the decision of the learned judge was perverse in that no reasonable tribunal could have reached the conclusion that the respondent had not acknowledged the debt - Whether the learned judge erred in law when he took into account a statement made by the respondent's oral argument that was never pleaded in his defence in addition to the refusal of the respondent to be affirmed or sworn - Whether the learned judge erred in his finding that the appellant failed in its burden to prove the existence of the debt**

Type of Order: **N/A**

Result / Order: **IT IS HEREBY ORDERED THAT:**

Judgment is reserved.

Reason: **N/A**

Case Name:

Tajrae Thomas
v
Attorney General
Chief Immigration Officer

[MNIMCVAP2024/0003]
(Montserrat)

Date:

Thursday 8th May 2025

Coram:

The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]

Appearances:

Appellant: **Mr. George Kirnon**

Respondent: **Mr. Oris Sullivan**

Issues:

Magisterial Criminal Appeal - Removal Order - Section 27 (1) of the Immigration Act Cap 13.01 Revised Laws of Montserrat - Whether there is a right of appeal in respect of a removal order in the circumstances of this case - Prohibited immigrant under section 9 (d) of the Immigration Act - Whether the withdrawal of the appeal against the decision of the Chief Immigration Officer renders this appeal a nullity - Section 41 of the Immigration Act - The procedure to appeal

Type of Order:

N/A

Result / Order:

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Case Name:

Kaschief Griffiths

v
Attorney General
Chief Immigration Officer

[MNIMCVAP2024/0002]
(Montserrat)

Date: Thursday 8th May 2025

Coram: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. George Kirnon

Respondents: Mr. Oris Sullivan, Director of Public Prosecutions

Issues: Magisterial Civil Appeal - Section 9(d) of the Immigration Act of Montserrat - Whether the judge erred in upholding the decision of the Chief Immigration Officer that the appellant is a prohibited immigrant and should be removed from Montserrat - Pending criminal appeal against conviction - Whether the appeal should be adjourned pending the outcome of the criminal appeal

Type of Order: Adjournment

Result / Order: IT IS HEREBY ORDERED THAT:

This appeal filed on 27th June 2024 is adjourned to a date to be fixed by the Chief Registrar pending the disposal of the criminal appeal in MNIHCRA2024/0002 - Griffiths and Griffiths v The King.

Reason: The Court noted the communication received from the Office of the Director of Public Prosecutions dated 7th May 2025 and heard submissions and representations

from the Director of Public Prosecutions and also Mr. Kirnon on behalf of the appellant. The Court also noted the declaration contained in the letter of 14th May 2024 and was satisfied that the criminal appeal in MNIHCRAP2024/0002 ought to be disposed of before this extant appeal comes on for hearing and determination and ordered that the matter be adjourned pending the disposal of the criminal appeal in MNIHCRAP2024/0002.