

EASTERN CARIBBEAN SUPREME COURT

STATUS HEARING

VIDEOCONFERENCE

TERRITORY OF THE VIRGIN ISLANDS

MONDAY 17TH MARCH 2025

Case Name: Mex Clearing Limited
v
Von der Heydt Invest et al
[BVIHCMAP2021/0026]
(Territory of the Virgin Islands)

Date: Monday, 17th March 2025

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondent: Mr. Christopher McCarthy for the first respondent
Mr. Andrew Willins for the third respondent

Issues: Status of the Matter

Type of Order N/A

Result/Order: IT IS HEREBY ORDERED THAT:

1. Upon noting that there is no appearance of the appellant, the matter is removed from the status hearing list.

2. The matter will be relisted either at the request of the parties or on a date to be fixed by the Chief Registrar.

Reasons:

The Court noted that in circumstances where the only respondent who was opposing the appeal was the first respondent, the matter should be either adjourned or taken off the status hearing list.

Case Name:

Greater Sail Limited

v

IsZo Capital LP

[BVIHCMAP2023/0030]

(Territory of the Virgin Islands)

Date:

Monday, 17th March 2025

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:

Mr. Andrew Emery

Respondent:

Mr. Nicholas Burkill

Issues:

Status of the Matter

Type of Order

N/A

Reason:

There was no order to be made in the matter as a notice of discontinuance was filed on 17th March 2025.

Case Name:

Andrey Titarenko

v

Arabella Di Iorio

**[BVIHCVAP2021/0003]
(Territory of the Virgin Islands)**

Date: Monday, 17th March 2025

Coram: Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant:	No appearance
Respondent:	In person

Issues: Status of the Matter

Type of Order Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The appellant is at liberty to file and serve written submissions with authorities on or before 23rd April 2025.
2. The respondent is at liberty to file and serve written submissions with authorities on or before 24th May 2025.
3. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 9th June 2025.
4. This appeal will be listed for hearing at a Court of Appeal sitting for the Territory of the Virgin Islands, on a date to be fixed by the Chief Registrar on the matter being ready for hearing.

Reason: The Court noted that the record of appeal was emailed to the parties on 24th June 2024 and that the matter was ready for the filing of submissions.

Case Name:

Global Ocean Transport Inc.

V

Dwight Flax et al

[BVIHCVAP2017/0006]

(Territory of the Virgin Islands)

Date:

Monday, 17th March 2025

Coram:

Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant: No appearance

Respondent: No appearance

Issues:

Status of the Matter

Type of Order

Adjournment

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. Upon noting that the appellant was served to be present at today's hearing but is not, the matter is adjourned to the next status hearing of the court of appeal for the Territory of the Virgin Islands scheduled for 9th June 2025, to allow the appellant to be present to indicate whether it is still interested in prosecuting the appeal.**
- 2. The Registrar of the High Court shall serve a copy of this order on the parties and shall provide proof of service thereafter.**

Reason:

The Court noted that the appellant was served to be present but did not attend the hearing.

Case Name: Icis Malone
v
Road Town Wholesale Limited
[BVIHCVAP2024/0012]
(Territory of the Virgin Islands)

Date: Monday, 17th March 2025

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:
Appellant: Ms. Khyra Powell holding papers for Ms. Dancia Penn
KC
Respondents: Mr. Laurence Neale

Issues: Status of the Matter

Type of Order N/A

Result / Order: IT IS HEREBY ORDERED THAT:

Upon noting the application filed by counsel for the appellant on 14th March 2025 for a stay of execution, the matter is removed from the status hearing list pending the determination of the application.

Reason: The Court noted that there was a pending application for a stay of execution filed on 14th March 2025.

Case Name: Michael Wilson & Partners, Limited
v
Temujin International Limited et al

**[BVIHCVAP2023/0006]
(Territory of the Virgin Islands)**

Date: Monday, 17th March 2025

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Michael Wilson

Respondents: Ms. Alik Skelton Lettsome for Mr. Paul Pretlove

Issues: Status of the Matter

Type of Order Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall provide the appellant with the authorisation codes for the appellant and the respondents in this matter.
2. The appellant shall provide the court with proof of service of the filings in this matter as well as the authorisation codes on the respondents on or before 18th April 2025.
3. The Registrar of the High Court shall cause the transcript of the proceedings to be prepared and served on the parties.
4. The matter is removed from the status hearing list pending the availability of the transcript.
5. The matter will be relisted at the next status hearing upon availability of the transcript or on a date to be fixed by the Chief Registrar.
6. The Registrar of the High Court shall serve a copy of this order on the appellant and shall provide proof of service thereafter.

Reason: The transcript of proceedings is outstanding. The Court also noted that the respondents do not have an access code.

Case Name: Lisa Smith, Lenice Smith and Michelle Smith
as representatives of Michael Smith
(deceased)
v
Duff's Valley Corporation Ltd. et al
[BVIHCVAP2023/0004
(Territory of the Virgin Islands)

Date: Monday, 17th March 2025

Coram: Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellants:	Ms. Lisa Smith, Ms. Lenice Smith Mr. Anthea Smith as amicus curiae for Byron Smith No appearance of Edric Brathwaite
Respondent:	Mr. Daniel Fligelstone Davies

Issues: Status of the Matter

Type of Order Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall cause the transcript of the proceedings before the master to be prepared on an expedited basis and served on the parties.
2. The matter is removed from the status hearing list pending the availability of the transcript.

3. The matter will be relisted at the next status hearing upon availability of the transcript or on a date to be fixed by the Chief Registrar.
4. The Registrar of the High Court shall serve a copy of this order on the appellants and shall provide proof of service thereafter.

Reason: The record of appeal was filed on 2nd February 2024, however it was not done with the transcript. The appellants contended that the master gave no reasons within the order under appeal so the transcript would be helpful in this regard. The respondent agreed.

Case Name: Marcianno Devon Pickering
v
Enid Geraldine Pickering et al
[BVIHCVAP2023/0002]
(Territory of the Virgin Islands)

Date: Monday, 17th March 2025

Coram: Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant:	Ms. Giselle Jackman Lumy holding papers for Ms. Karlene Thomas -Lucien
Respondent:	Mr. Sydney Bennett KC with him Ms Anthea Smith

Issues: Status of the Matter

Type of Order Directions

Result / Order: IT IS HEREBY ORDERED THAT:

Upon noting that the parties have received Notice of availability of the transcript of proceedings on 18th February 2025, the matter shall thereafter proceed in accordance with The Civil Procedure Rules, (Revised Edition) 2023.

Reason: The Court noted that the notice to indicate that the transcript is ready was posted on the 18th February 2025.

Case Name: Nelson Callwood
V
The King
[BVIHCRA2022/0005]
(Territory of the Virgin Islands)

Date: Monday, 17th March 2025

Coram: Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:
Appellant: Mr. David Penn
Respondent: Ms. Tiffany Scatliffe, Director of Public Prosecutions

Issues: Status of the Matter

Type of Order Adjournment

Result / Order: IT IS HEREBY ORDERED THAT:

The matter is adjourned to the next status hearing of the court for the Territory of the Virgin Islands scheduled for 9th June 2025, to allow the appellant to make the necessary arrangements to pay for and

collect the transcript of proceedings in this matter.

Reason:

The court is awaiting payment for the Transcripts to prepare the Record. On the last occasion, counsel for the appellant said that payment would have been made by the end of October 2024.

Mr. Penn said that the matter is being dealt with pro bono and the law firm will be responsible for making the payment for the transcript. He was unable to make it on the last occasion because there were some heavy rains which caused a challenge. He indicated his intention do so by the end of the month.

Case Name:

The Commissioner of Police

V

Nickel Simon et al

[BVIMCRAP2022/0001]

(Territory of the Virgin Islands)

Date:

Monday, 17th March 2025

Coram:

Mrs. Michelle John Theobalds, The Chief Registrar

Appearances:

Appellant:

Ms. Tiffany Scatliffe holding papers for Ms. Kellee-Gai Smith

Respondents:

No appearances

Issues:

Status of the Matter

Type of Order

N/A

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The matter is removed from the court's list until there is proof of service of the Record of Appeal on the respondents.
2. The matter will be relisted at the next status hearing upon notice being given or on a date to be fixed by the Chief Registrar.
3. The Registrar of the High Court shall serve a copy of this order on the respondents and shall provide proof of service thereafter.

Reason:

The Court noted that attempts to serve the respondents were unsuccessful. The Immigration department indicated that the 3rd respondent, Hober Efren Morillo Ybarbia and the 4th respondent Wilfredo Jose Lopez Vargas are no longer in the Territory of the Virgin Islands.

Case Name:

**Ricardo Leonard
v
The Commissioner of Police**

**[BVIMCRAP2020/0003]
[BVIMCRAP2020/0004]
[BVIMCRAP2020/0005]
(Territory of the Virgin Islands)**

Date:

Monday, 17th March 2025

Coram:

Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant:

Mr. Stephen Daniels

Respondent:

Ms. Tiffany Scatliffe, Director of Public Prosecutions

Issues:

Status of the Matter

Type of Order

N/A

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. Upon noting that the appellant's counsel has not been able to take instructions from the appellant as to whether he is still interested in prosecuting the appeal, the matter is removed from the status hearing list.**
- 2. The matter will be relisted either at the request of the appellant or on a date to be fixed by the Chief Registrar.**
- 3. The Registrar of the High Court shall serve a copy of this order on the appellant personally and shall provide proof of service thereafter.**

Reason:

Counsel for the appellant has not had any communication with the appellant. Counsel has been trying to make contact with the appellant, who keeps promising to "check" counsel but this never materialises. The DPP suggested that the matter be removed from the status hearing list. The appellant's counsel also agreed.

Case Name:

Korrey Stout

v

The Commissioner of Police

[BVIMCRAP2023/0004]

(Territory of the Virgin Islands)

Date:

Monday, 17th March 2025

Coram:

Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant: Mr. Stephen Daniels

Respondent: Ms. Tiffany Scatliffe, Director of Public Prosecutions
holding papers for Ms. Tracey Vidale

Issues:

Status of the Matter

Type of Order

Directions

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The appellant shall file and serve written submissions with authorities on or before 30th April 2025.
2. The respondent shall file and serve written submissions with authorities on or before 2nd June 2025.
3. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 17th June 2025.
4. This appeal will be listed for hearing at a Court of Appeal sitting for the Territory of the Virgin Islands, on a date to be fixed by the Chief Registrar on the matter being ready for hearing.

Reason:

The Court noted that the Record of Appeal was filed on 10th June 2024. The Court staggered the time lines to 2 weeks to allow counsel for the respondent to review by 31st March 2025 to confirm that the Record of Appeal is in order.

Case Name:

**Jaime Scatliffe
v**

The Commissioner of Police

[BVIMCRAP2020/0008]

[BVIMCRAP2020/0009]

[BVIMCRAP2020/0010]

(Territory of the Virgin Islands)

Date: Monday, 17th March 2025

Coram: Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant: Mr. Michael Maduro

Respondent: Ms. Tiffany Scatliffe, Director of Public Prosecutions,
holding papers for Ms. Tracey Vidale

Issues: Status of the Matter

Type of Order N/A

Result / Order: IT IS HEREBY ORDERED THAT:

1. The matter is removed from the court's list.
2. The matter will be relisted upon either of the parties filing written submissions in the matter or on a date to be fixed by the Chief Registrar.

Reason: Although directions were given on the previous occasion, submissions have remained unfiled.

Case Name:

David Straker

V

The Commissioner of Police

**[BVIMCRAP2020/0006]
(Territory of the Virgin Islands)**

Date: Monday, 17th March 2025

Coram: Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant: Mr. Stephen Daniels

Respondent: Ms. Tiffany Scatliffe, Director of Public Prosecutions

Issues: Status of the Matter

Type of Order N/A

Result / Order: IT IS HEREBY ORDERED THAT:

1. This matter will be heard together with BVIMCRAP2020/0007.
2. The matter is removed from the court's list.
3. The matter will be relisted upon either of the parties filing written submissions in the matter or on a date to be fixed by the Chief Registrar.

Reason: Although directions were given on the previous occasions for the filing of submissions, submissions have remained unfiled.

Case Name: David Straker
v
The Commissioner of Police

**[BVIMCRAP2020/0007]
(Territory of the Virgin Islands)**

Date: Monday, 17th March 2025

Coram: Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant: Mr. Stephen Daniels

Respondent: Ms. Kellie-Gai Smith holding papers for Ms. Tiffany Scatliffe, Director of Public Prosecutions

Issues: Status of the Matter

Type of Order N/A

Result / Order: IT IS HEREBY ORDERED THAT:

1. This matter will be heard together with BVIMCRAP2020/0006.
2. The matter is removed from the Court's list.
3. The matter will be relisted upon either of the parties filing written submissions in the matter or on a date to be fixed by the Chief Registrar.

Reason: Although directions were given on the previous occasions for the filing of submissions, submissions have remained unfiled.

Case Name: Kelly Ann Percival

V

Alimha Beresford

[BVIMCVAP2019/0001]
(Territory of the Virgin Islands)

Date: Monday, 17th March 2025

Coram: Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant: Mr. Michael Maduro

Respondent: Ms. Stacy Abel

Issues: Status of the Matter

Type of Order Adjournment

Result / Order: IT IS HEREBY ORDERED THAT:

The matter is adjourned to the next status hearing of the court of appeal for the Territory of the Virgin Islands scheduled for 9th June 2025, unless a consent order is sooner filed.

Reason: The Court was informed that a settlement agreement was prepared, which included the payment and other terms of the agreement. It however was not prepared as a draft consent order for the Court's consideration. It was indicated that this would have been done and submitted to the Court by the end of the week.

Case Name: Monroe Penn
v
Elaine Richards

[BVIMCVAP2022/0002]
(Territory of the Virgin Islands)

Date: Monday, 17th March 2025

Coram: Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant: In person

Respondent: In person

Issues:	Status of the Matter
Type of Order	Adjournment
Result / Order:	IT IS HEREBY ORDERED THAT: 1. The matter is adjourned to the next status hearing of the court of appeal for the Territory of the Virgin Islands scheduled for 9th June 2025 to allow the appellant's counsel to be present. 2. The Registrar of the High Court shall serve a copy of this order on the parties and shall provide proof of service thereafter.
Reason:	The Court noted that while directions should have been given for the filing of submissions, since Mr. Penn said that he has counsel, and this is the first status hearing, then the matter would be adjourned.
Case Name:	Kelvin Smith v Shanika James [BVIMCVAP2023/0001] (Territory of the Virgin Islands)
Date:	Monday, 17th March 2025
Coram:	Mrs. Michelle John-Theobalds, The Chief Registrar
Appearances:	
Appellant:	Ms. Stacy Abel
Respondent:	In person
Issues:	Status of the Matter

Type of Order

Adjournment

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The Registrar of the High Court shall serve a copy of the Record of Appeal on the respondent on or before 31st March 2025.**
- 2. The matter is adjourned to the next Status Hearing of the Court of Appeal for the Territory of the Virgin Islands scheduled for 9th June 2025.**

Reason:

The Court noted that directions could not be given because the Record of Appeal was not served on the respondent.