

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL
STATUS HEARING

COMMONWEALTH OF DOMINICA
VIDEOCONFERENCE
Monday 27th May 2024

Case Name: **Pamela Green-Lander**

v

Andrew Green
Arnold Green

[DOMHCVAP2014/0023]

Date: **Monday 27th May 2024**

Before: **Mrs. Michelle John-Theobalds, Chief Registrar**

Appearances:

Applicant: **Mr. Gilden Richards**

Respondent: **Ms Noelize Knight - Didier holding papers for Ms. Joelle Harris**

Issues: **The 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 Commonwealth of Dominica scheduled for 2nd December 2024 to allow counsel to meet to discuss the way forward in this matter.

Reason: Counsel for the appellant indicated that the appellant will be seeking to appoint a receiver as she is unwell. Counsel indicated that the transcript was incomplete and an affidavit from the appellant would be necessary. Counsel for the parties agreed to meet to discuss how they can proceed in the matter.

Case Name: Joseph Raphael LeBlanc
v
James Cyrille
[DOMHCVAP2012/0003]

Date: Monday 27th May 2024

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Applicant:	In Person
Respondent:	No appearance

Issues: The status of the matter

Type of Order: Directions

Result/Order: IT IS HEREBY ORDERED THAT:

1. Upon the court noting that the respondent is deceased, the matter is de-listed until a personal representative has been appointed for the respondent.
2. The matter will be relisted upon the Notification of the appointment of the

personal representative for the respondent 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 and provide proof of service thereafter.

Reason:

The Court noted that the respondent is deceased. The appellant does not have counsel but wishes to progress the matter, however he does not have the financial resources to secure an attorney in this matter. The appellant indicated that he will consult with an attorney who is assisting him with other matters in the magistrate's court for guidance in moving the matter forward.

Case Name:

**Derwin Melrose Peltier
v
Jacinta Peltier nee Jno. Lewis
[DOMHCVAP2019/0001]**

Date:

Monday 27th May 2024

Before

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Applicant:

In Person

Respondent:

Mrs. Heather Felix-Evans

Issues:

The status of the matter

Type of Order:

Directions

Result/Order:

IT IS HEREBY ORDERED THAT:

1. The matter is adjourned to the next status hearing of the court for the Commonwealth of Dominica scheduled for 2nd December 2024 for the appellant to take the necessary steps to progress the appeal.
2. 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:

The appellant still has no update on the appeal and requested that the matter be adjourned to a later date to allow him to speak to his lawyer. Counsel for the respondent is concerned about the age of the appeal and indicated if there is no progress on the appeal, the respondent will be forced to take a certain course of action.

Case Name:

**John Augustine
Mitch Augustine
v
Damien Joseph Thomas
[DOMHCVAP2019/0002]**

Date:

Monday 27th May 2024

Before

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

**Appellant: No appearance
Respondent: In Person**

Issues:

The 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 Commonwealth of Dominica scheduled for 2nd December 2024 to allow the appellants to take the necessary steps to withdraw the appeal.

Reason: Counsel for the appellant had indicated on the previous occasion that the appeal would be withdrawn, however to date the necessary steps has not been taken to withdraw the appeal. Accordingly, the matter was adjourned to the next status hearing.

Case Name: Jennifer Hooper nee Magloire
v
Phyllis Jayne Magloire
[DOMHCVAP2021/0002]

Date: Monday 27th May 2024

Before Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:
Appellant: No appearance
Respondent: No appearance

Issues: The 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 Commonwealth of Dominica scheduled for 2nd December 2024 to allow the court office to complete the necessary searches for the recording in the court below.

Reason:

Neither party was present for the day's proceedings. The Registrar of the High Court indicated that the court office is still searching for the recording of the proceedings in the court below. Accordingly, the matter was adjourned to the next status hearing.

Case Name:

**Patrick Simeon
Franklyn Browne
v**

**Financial Secretary
The Public Service Commission**

[DOMHCVAP2022/0003]

Date:

Monday 27th May 2024

Before

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Ms. Dawn Yearwood

Respondents: Ms Nadira Lando (AG's Chambers)

Issues:

The status of the matter

Type of Order:

Directions

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The respondent shall respond to the notes of evidence as submitted by the appellant on or before 28th June 2024.**
- 2. The parties shall agree to the notes of evidence on or before 31st July 2024.**
- 3. The matter shall thereafter proceed in accordance with the Civil Procedure Rules 2000.**

Reason:

The Court noted that further to the status hearing held on 27th November 2023 and certificate of result issued therefrom, the judge's notes were unavailable, and the parties were to meet to agree the notes of evidence to be included in the Record of Appeal. Pursuant to this order, counsel for the appellant prepared the transcript and sent via email it to the respondent on 27th February 2024. To date there has been no reply. On 13th May 2024 counsel for the appellant contacted the respondent via email indicating the above and that there was no reply. Apologies were sent and she was told that they would get back to her. To date there has been no response. Counsel representing the respondent indicated that the person who has conduct of the matter as well as the counsel in the court below are unwell and have not been able to deal with the matter.

Case Name:

**Dexter Ducreay
v
Gifford Charles**

[DOMHCVAP2021/0001]

Date: Monday 27th May 2024

Before Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondent: Mr. David Bruney

Issues: The 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 Commonwealth of Dominica scheduled for 2nd December 2024 to allow the court office to complete the necessary searches for the recording in the court below.

Reason: The court office is still searching for the recording before it informs the parties of the unavailability of the transcript. Accordingly, the matter was adjourned to the next status hearing.

Case Name:

**Avandale Robinson Griffith
Marvelene Griffith
V
The Bank of Nova Scotia
Ascendancy Caribbean Ltd.**

Date: Monday 27th May 2024

Before Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. David Bruney

Respondents: Ms. Noelize Knight-Didier for the 2nd respondent
There was no appearance of the 1st respondent who is the BNS and no longer operates in the island

Issues: The status of the matter

Type of Order: Directions

Result/Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall inform the parties of the unavailability of the transcript in writing on or before 14th June 2024.
2. The parties shall indicate to the court in writing their position in relation to the unavailability of the transcript on or before 5th July 2024.
3. The matter is adjourned to the next status hearing of the Court of Appeal for the Commonwealth of Dominica scheduled for 2nd December 2024.

Reason: The parties informed that they have not received any notification from the court office in relation to this matter where the transcript of proceedings is concerned. The registrar of the high court has not

been able to locate the recording in this matter, however she is still searching and has requested the notes from the judge.

Case Name: **Public Works Corporation**
Elton Darwton
v
Matthew Nelson
[DOMHCVAP2021/0003]

Date: **Monday 27th May 2024**

Before **Mrs. Michelle John-Theobalds, Chief Registrar**

Appearances:

Appellants:	Mrs. Lisa De Freitas
Respondent:	No appearance

Issues: **The status of the matter**

Type of Order: **Directions**

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

- 1. The Registrar of the High Court shall inform the parties of the unavailability of the transcript in writing on or before 14th June 2024.**
- 2. The Master's notes of evidence shall be made available to the parties on or before 31st May 2024.**
- 3. The parties shall indicate to the court in writing their position in relation to the unavailability of the transcript on or before 28th June 2024.**

4. The matter is adjourned to the next status hearing of the Court of Appeal for the Commonwealth of Dominica scheduled for 2nd December 2024.
5. The Registrar of the High Court shall serve a copy of this order on the respondent and shall provide proof of service thereafter.

Reason:

The recording of the proceedings is not available, but the Master's notes of evidence are available. Accordingly, directions were given and the matter adjourned to the next status hearing.

Case Name:

**Omari Jules
v
The Police**

[DOMMCRAP2020/0006]

Date:

Monday 27th May 2024

Before

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellants: No appearance

Respondent: Ms. Sherma Dalrymple, DPP

Issues:

The status of the matter

Type of Order:

Directions

Result/Order:

IT IS HEREBY ORDERED THAT:

1. Upon noting the indication from the appellant on 27th November 2023 that he no longer

wishes to prosecute the appeal, the appellant shall take the necessary steps to file a Notice of Abandonment in accordance with section 59(1), Court of Appeal Rules 1968.

2. If paragraph 1 of the order is not complied with, the matter shall be listed for the next status hearing of the court of appeal for the Commonwealth of Dominica scheduled for 2nd December 2024.

Reason:

On the last occasion the appellant indicated that he would file a Notice of Abandonment of the appeal in accordance with section 59(1), Court of Appeal Rules 1968. The appellant however could not be located for service. The DPP advised that on 8th April 2022, he had served his time on that matter, and he was discharged on 16 March 2022.

Case Name:

Glendel Casey

v

The Police

[DOMMCRAP2014/0012]

Date:

Monday 27th May 2024

Before

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondent: Ms. Sherma Dalrymple, DPP

Issues:

The status of the matter

Type of Order: **Adjournment**

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

1. Upon noting that the appellant has served his sentence and is not present at today's hearing and could not be located for service, the matter is adjourned to the next status hearing for the Commonwealth of Dominica scheduled for 2nd December, 2024, for the appellant to be present to indicate whether he is still interested in prosecuting his appeal.
2. 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 Appellant has served his sentence and has not been located for personal service of the Certificate of Result of Status Hearing and with the Notice of Abandonment Form. Accordingly, the matter was adjourned to the next status hearing.

Case Name: **Kassim Shillingford**
v
The Police
[DOMMCRAP2020/0001]

Date: **Monday 27th May 2024**

Before **Mrs. Michelle John-Theobalds, Chief Registrar**

Appearances:

Appellant: **In Person**

Respondent: **Ms. Sherma Dalrymple, DPP**

Issues:	The status of the matter
Type of Order:	N/A
Result/Order:	IT IS HEREBY ORDERED THAT: N/A
Reason:	The Notice of abandonment of the appeal was filed on 22nd May 2024, consequently there was no order made by the Court.
Case Name:	Francoise Williams Robin v The Police [DOMMCRAP2016/0011]
Date:	Monday 27th May 2024
Before	Mrs. Michelle John-Theobalds, Chief Registrar
Appearances:	
Appellant:	No appearance
Respondent:	Ms. Sherma Dalrymple, DPP
Issues:	The status of the matter
Type of Order:	Adjournment
Result/Order:	IT IS HEREBY ORDERED THAT:

1. The matter is adjourned to the next status sitting of the Court of Appeal for the Commonwealth of Dominica scheduled for 2nd December 2024 for the appellant to be present to indicate whether he still interested in prosecuting the appeal.
2. The Registrar of the High Court shall serve a copy of this order on the appellant and provide proof of service thereafter.

Reason: The Court adjourned the matter to the next status hearing to give the appellant an opportunity to indicate whether he is still interested in prosecuting this appeal.

Case Name: **Lennox Robin**
v
The Police
[DOMMCRAP2016/0010]

Date: Monday 27th May 2024

Before Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondents: Ms. Sherma Dalrymple, DPP

Issues: The 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 Commonwealth of Dominica scheduled for 2nd December 2024 for the appellant to be present to indicate whether he still interested in prosecuting the appeal.
2. The Registrar of the High Court shall serve a copy of this order on the appellant and provide proof of service thereafter.

Reason:

The Court adjourned the matter to the next status hearing to give the appellant an opportunity to indicate whether he is still interested in prosecuting this appeal.

Case Name:

Addison Matthew

v

The Police

[DOMMCRAP2022/0006]

Date:

Monday 27th May 2024

Before

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:

Ms. Gina Dyer-Munro

Respondent:

Ms. Sherma Dalrymple, DPP

Issues:

The 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 Commonwealth of Dominica scheduled for 2nd December 2024 to allow the appellant to make an application in relation to the failure of the magistrate to provide written reasons in this matter.

Reason: The Court noted that the record of appeal was filed on 22nd March 2024 however the reasons for sentencing have not been included in the record. The magistrate has left the bench, and no reasons for sentence were given.

Case Name: Donald Massicot
v
The Police
[DOMMCRAP2022/0010]

Date: Monday 27th May 2024

Before Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: In Person

Respondent: Ms. Sherma Dalrymple, DPP

Issues: The status of the matter

Type of Order: Adjournment

Result/Order:

IT IS HEREBY ORDERED THAT:

1. The DPP shall file and serve written submissions with authorities in response to the appeal on or before 29th May 2024.
2. The hearing of this appeal will be fixed for the Court of Appeal sitting for the Commonwealth of Dominica scheduled for the week commencing 3rd June 2024.

Reason:

The Court noted that the Record of Appeal is incomplete and there are no reasons for sentence. Further, the reasons cannot be provided as the magistrate has left the bench. The appellant indicated that he only has a few more months to serve his sentence so he runs the risk of his appeal not being heard before then. The appellant stated that he said that he would like the court to consider allowing his appeal and varying his sentence to time served.

The DPP confirmed that the appellant's release date is 3rd August 2024. Taking this and the fact that the inability of the Magistrates court to provide reasons for the decision on sentence, the DPP had no objection to the matter being put before the full court at the sitting scheduled for the week commencing 3rd June 2024.

Case Name:

Jones Samson Telemaque

v

The Police

[DOMMCRAP2022/0005]

Date:

Monday 27th May 2024

Before Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondent: Ms. Sherma Dalrymple

Issues: The status of the matter

Type of Order: N/A

Result/Order: IT IS HEREBY ORDERED THAT:

The matter is adjourned to the next status hearing of the court for the Commonwealth of Dominica scheduled for 2nd December 2024 to allow the respondent to make submissions to the court on the magistrate's failure to provide written reasons in this matter.

Reason: The record of appeal does not contain the reasons for sentencing and the magistrate has left the bench. Counsel for the respondent indicated that she intends to make representation to the court in respect of the same, Accordingly the matter was adjourned to allow the respondent to file the appropriate submissions.

Case Name: John Hillman Julien
v

The Police

[DOMMCRAP2022/0011]

Date: Monday 27th May 2024

Before Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:	Mr. Wayne Norde
Respondent:	Ms. Sherma Dalrymple, DPP

Issues: The status of the matter

Type of Order: Directions

Result/Order: IT IS HEREBY ORDERED THAT:

1. The Chief Magistrate shall cause the Record of Appeal including the Notes of evidence and reasons for decision to be prepared and served on the parties by no later than 6th September 2024, failing which an affidavit giving reasons for the non-compliance shall be filed.
2. The matter is adjourned to the next status hearing of the court for the Commonwealth of Dominica scheduled for 2nd December 2024.

Reason: The record of appeal has not been provided by the magistrate's court despite requests made for the production of same by the court office.

Case Name: Thembar Hinds
v
The Police

[DOMMCRAP2022/0003]

Date: Monday 27th May 2024

Before Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Tiyani Behanzin

Respondent: Ms. Sherma Dalrymple, DPP

Issues: The 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 Commonwealth of Dominica scheduled for 2nd December 2024, to all counsel for the appellant to take the necessary steps in relation to the progress of the appeal.

Reason: The Court noted that counsel for the appellant wished to file certain documents in relation to the appeal and accordingly the matter was adjourned to allow counsel to take the necessary steps in relation to the prosecution of the appeal.

Case Name: Davidson Ettienne
v
The Police

[DOMMCRAP2019/0018]

Date: Monday 27th May 2024

Before Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mrs. Zena Moore-Dyer

Respondent: Ms. Sherma Dalrymple, DPP

Issues: The status of the matter

Type of Order: Adjournment

Result/Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall provide the parties with a copy of the letter from the Chief Magistrate dated 29th January 2024 on or before 31st May 2024.
2. Upon noting the letter from the Chief Magistrate dated 29th January 2024, the matter will be listed for hearing before the full court on a date to be fixed by the Chief Registrar.

Reason: On 7th December 2023 the Court made an order that the Chief Magistrate shall provide a copy of the record of evidence of the cross examination of the prosecution's witness Sergeant Bertrand to the parties and to the Chief Registrar within 6 weeks of the date of this order.

The Chief Magistrate however wrote that the Magistrates Court had no record of any evidence taken under cross examination of prosecution's witness Sergeant Bertrand in this matter. Sergeant Bertrand, who gave his evidence in chief, was on suspension for many years. The case progressed by the time he was reinstated, however through inadvertence he was never recalled for cross examination.

Therefore, counsel for the appellant requested that the matter be adjourned so that she be allowed to file submissions on the matter.

Case Name:	Guvyer Henry v The Police [DOMMCRAP2019/0002]
Date:	Monday 27th May 2024
Before	Mrs. Michelle John-Theobalds, Chief Registrar
Appearances:	
Appellant:	Mrs. Zena Moore-Dyer
Respondent:	Ms. Sherma Dalrymple, DPP
Issues:	The status of the matter
Type of Order:	Directions
Result/Order:	IT IS HEREBY ORDERED THAT:

1. Upon noting the indication from counsel for the appellant that the appellant no longer wishes to prosecute the appeal, the appellant shall take the necessary steps to file a Notice of Abandonment in accordance with section 59(1), Court of Appeal Rules 1968.
2. If paragraph 1 of the order is not complied with, the matter shall be listed for the next status hearing of the court of appeal for the Commonwealth of Dominica scheduled for 2nd December 2024.

Reason:

The Court noted that the appellant no longer wishes to prosecute the appeal, however, counsel filed a Notice of withdrawal as opposed to a notice of abandonment. Accordingly, time was given for counsel to file the correct documents in accordance with the Court of Appeal Rules 1968.

Case Name:

Guvyer Henry

v

The State

[DOMMCRAP2019/0003]

Date:

Monday 27th May 2024

Before

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:

Mrs. Zena Moore-Dyer

Respondent:

Ms. Sherma Dalrymple, DPP

Issues:

The status of the matter

Type of Order:

Directions

Result/Order:

IT IS HEREBY ORDERED THAT:

1. Upon noting the indication from counsel for the appellant that the appellant no longer wishes to prosecute the appeal, the appellant shall take the necessary steps to file a Notice of Abandonment in accordance with section 59(1), Court of Appeal Rules 1968.
2. If paragraph 1 of the order is not complied with, the matter shall be listed for the next status hearing of the court of appeal for the Commonwealth of Dominica scheduled for 2nd December 2024.

Reason:

The Court noted that the appellant no longer wishes to prosecute the appeal, however, counsel filed a Notice of withdrawal as opposed to a notice of abandonment. Accordingly, time was given for counsel to file the correct documents in accordance with the Court of Appeal Rules 1968.

Case Name:

Guvyer Henry

v

The Police

[DOMMCRAP2019/0004]

Date:

Monday 27th May 2024

Before

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mrs. Zena Moore-Dyer

Respondent: Ms. Sherma Dalrymple, DPP

Issues:	The status of the matter
Type of Order:	Directions
Result/Order:	IT IS HEREBY ORDERED THAT: 1. Upon noting the indication from counsel for the appellant that the appellant no longer wishes to prosecute the appeal, the appellant shall take the necessary steps to file a Notice of Abandonment in accordance with section 59(1), Court of Appeal Rules 1968. 2. If paragraph 1 of the order is not complied with, the matter shall be listed for the next status hearing of the court of appeal for the Commonwealth of Dominica scheduled for 2nd December 2024.
Reason:	The Court noted that the appellant no longer wishes to prosecute the appeal, however, counsel filed a Notice of withdrawal as opposed to a notice of abandonment. Accordingly, time was given for counsel to file the correct documents in accordance with the Court of Appeal Rules 1968.
Case Name:	Isaline Carbon V Lestrade Lamouthe [DOMMCVAP2020/0003]
Date:	Monday 27th May 2024
Before	Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Peter Alleyne

Respondent: No appearance

Issues:

The status of the matter

Type of Order:

Adjournment

Result/Order:

The matter is adjourned to the next Status Hearing of the Court for the Commonwealth of Dominica scheduled for 2nd December 2024 to allow the appellant to take the necessary steps to progress the appeal.

Reason:

Counsel for the appellant indicated that the respondent is represented by Mary Olive Joseph in the court below. However, the appellant needs more time to locate the representative and progress the matter.