

EASTERN CARIBBEAN SUPREME COURT
STATUS HEARING

VIDEOCONFERENCE
TERRITORY OF THE VIRGIN ISLANDS
Monday 25th September 2023

Case Name:

McArthur Engineering Company Limited
V
1. Christian Cottoy
2. Anita Cottoy

[BVIHCVAP2016/0001]
(Territory of the Virgin Islands)

Coram:

Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant: **Mr. Monroe Penn, Managing Director for the appellant**

Respondents: **No appearance**

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 for the Territory of the Virgin Islands scheduled for 5th February 2024 to allow the appellant to provide the court with a filed copy of the Notice of Appeal in this matter.**
- 2. This is the final adjournment for this purpose.**

3. The Registrar of the High Court shall serve a copy of the order on the appellant and provide proof of service thereafter.

Reason: The Court noted that leave to appeal was granted by Blenman JA on 25th February 2016 and that the appellant was required to file the notice of appeal within 21 days of that order, but never did. The Court being minded to remove the matter from the cause list as no live appeal was before, was persuaded by the appellant that one final adjournment should be granted so that the appellant could obtain information from his counsel as to the readiness of the notice of appeal.

Case Name:

1. Sylvia Maduro-Dale
2. Lucia Chalwell
v
The Registrar of Lands
[BVIHCVAP2010/0022]
(Territory of the Virgin Islands)

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

Appearances:

Appellants:	No appearance
Respondent:	Ms. Shonice Warner

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 for the Territory of the Virgin Islands scheduled for 5th February 2024, to allow the respondent to take whatever steps

they deem necessary in relation to the appellants failure to prosecute this appeal.

2. The Registrar of the High Court shall serve a copy of this order on the appellants by publication of this order in 2 copies of a newspaper in the Territory of the Virgin Islands, and shall provide proof of publication thereafter.

Reason:

The Court noted that there was general difficulty in locating the appellants for service of its notice of hearing and as such was of the view that the matter should be adjourned to allow the respondent to take whatever further steps it deemed necessary in relation to the appellants failure to prosecute their appeal.

Case Name:

Forbes Hare

v

Abdel-Taher Karim Itum

[BVIHCVAP2020/0013]

(Territory of the Virgin Islands)

Coram:

Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant:

Mr. Gareth Timms

Respondent:

Ms. Elizabeth Ryan

Issues:

Status of the matter

Type of Order

Directions

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall continue efforts to cause the transcript of the proceedings to be prepared 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.

Reason:

The Court was informed by the Registrar of the High Court that the Court Reporting Unit has had difficulties in producing the transcript of proceedings and that it remained incomplete. As such the Court made the above order to facilitate the progression of the matter.

Case Name:

**Victorija Fetaimia
v
Albert Court (Westminster) Management
Company Limited
[BVIHCMAP2020/0018]
(Territory of the Virgin Islands)**

Coram:

Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant: Mr. John Carrington, KC
Respondent: Mr. Jonathan Ado on behalf of the respondent
Mr. Alasdair Davidson on behalf of the joint liquidators

Issues:

Status of the matter

Type of Order

Directions

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The Registrar shall inform the parties of the unavailability of the transcript of proceedings in accordance with rule 62.12(2) Civil Procedure Rules (Revised Edition) 2023, by no later than Friday 29th September 2023.**
- 2. The parties shall provide in writing their agreement to dispense with the need for the transcript of proceedings to be included in the record, on or before 6th October 2023.**
- 3. The respondent shall inform the appellant of the documents that it wishes to have included in the record in accordance with rule 62.15(2) Civil Procedure Rules (Revised Edition) 2023, on or before 27th October 2023.**
- 4. The appellant shall file and serve an amended or supplemental record of appeal, as is necessary, on or before 17th November 2023.**
- 5. The appellant shall file and serve supplemental submissions with authorities on or before 15th December 2023.**
- 6. The respondents shall file and serve written submissions with authorities on or before 15th January 2024.**
- 7. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 29th January 2024.**
- 8. The hearing of the appeal is fixed for the next court of appeal sitting in the Territory of the Virgin Islands scheduled for the week commencing 12th February 2024.**

Reason:

The Court was informed that the Court Reporting Unit is having difficulties retrieving the recording of proceedings. As such the Court made the above directions to assist with the progression of the matter.

Case Name:

**The King
v
1. Pamphill Prevost
2. Simon Power**

**[BVIHCRA2022/0001]
(Territory of the Virgin Islands)**

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

Appearances:

Appellant: Mr. Sandip Patel, KC

Respondents: No appearance

Issues: Status of the Matter

Type of Order Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The appellant shall take the necessary steps to make an application to regularize the notice of appeal which was filed out of time.
2. The Registrar of the High Court shall continue efforts to cause the transcript of the proceedings to be prepared and served on the parties.
3. The matter is removed from the status hearing list pending the availability of the transcript and the making of the application under paragraph 1 of this order.
4. If necessary, the matter will be relisted on a date to be fixed by the Chief Registrar.
5. 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 the notice of appeal was filed out of time and counsel for the appellant requested permission to file an application for the delay in filing the notice of appeal out of time. Additionally, the Court noted that a request to the Court Reporting Unit for a transcript of proceedings remained outstanding. It was therefore of the view that the above directions were necessary for the matter's progression.

Case Name:

**Antonio Stoutt
v
The Commissioner of Police**

**[BVIMCRAP2015/0006]
(Territory of the Virgin Islands)**

Coram:

Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant: In person and Mr Stephen Daniels appearing curiae for the appellant

Respondent: Mrs. Tiffany Scatliffe- Esprit, The Director of Public Prosecutions

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 5th February 2024 to allow the appellant to take the necessary steps to settle his legal representation.**
- 2. This is the final adjournment for this purpose.**

Reason:

The appellant prayed to the Court for one final adjournment to allow the Mr. Daniels to make an application to try to assist the appellant to vary his bail so that the cash component could be removed. Once this is done the appellant could finance the

Prosecution his appeal. The Director of Public Prosecutions did not oppose the application for an adjournment but intimated to the Court that this should be the final adjournment as on the next occasion the crown would make the necessary application in relation to the prosecution of this matter.

Case Name:

**Ricardo Leonard
v
The Commissioner of Police**

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

Coram:

Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant: Mr. Stephen Daniels, appearing amicus curiae

Respondent: Mrs Tiffany Scatliffe-Esprit, The Director of Public Prosecutions

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 parties with the Authorisation code for the E-Litigation Portal on or before 27th September 2023.**
- 2. The appellant shall file and serve written submissions with authorities on or before 17th November 2023.**

3. The respondent shall file and serve written submissions with authorities on or before 20th December 2023.
4. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 10th January 2024.
5. The hearing of this appeal is fixed for the next Court of Appeal sitting for the Territory of the Virgin Islands scheduled for the week commencing 12th February 2024.

Reason:

The Court noted that the Crown only received the notice of appeal on 22nd September 2023, and the E-Litigation Portal authorisation code was not served on it. To rectify this, and to further the progression of the matter, the Court made the above order.

Case Name:

**The Commissioner of Police
v
Marley Sebastien
[BVIMCRAP2022/0005]
(Territory of the Virgin Islands)**

Coram:

Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant: Mr. Sandip Patel, KC

Respondent: Mr. Valston Graham

Issues:

Status of the Matter

Type of Order

Adjournment

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Senior 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 15th December 2023, 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 of Appeal for the Territory of the Virgin Islands scheduled for 5th February 2024.

Reason:

The Court noted that the record of appeal was still outstanding, and the Court made the above order.

Case Name:

David Straker

v

The Commissioner of Police

[BVIMCRAP2020/0006]

(Territory of the Virgin Islands)

Coram:

Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant:

In person

Respondent:

Mrs. Tiffany Scatliffe-Esprit, The Director of Public Prosecutions

Issues:

Status of the Matter

Type of Order

Adjournment

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Registrar shall provide the parties with the Authorisation code for the E-Litigation Portal on or before 27th September 2023.

2. The appellant shall take the necessary steps to regularize the Notices of Appeal in this matter and BVIMCRAP2020/0007.

3. The matter is adjourned to the next status hearing of the Court of Appeal for the Territory of the Virgin Islands scheduled for 5th February 2024, to allow the appellant to settle his legal representation.

Reason:

The Court noted that the notice of appeal was filed on 22nd December 2020 and that the appellant had failed to serve the E-Litigation Portal authorisation code on the Crown. As such the Court made the above directions.

Case Name:

David Straker

V

The Commissioner of Police

[BVIMCRAP2020/0007]

(Territory of the Virgin Islands)

Coram:

Mrs. Michelle John-Theobalds, The Chief Registrar

Appearances:

Appellant:

In person

Respondent:

Mrs. Tiffany Scatliffe-Esprit, The Director of Public Prosecutions

Issues:

Status of the Matter

Type of Order

Adjournment

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Registrar shall provide the parties with the Authorisation code for the E-Litigation Portal on or before 27th September 2023.

2. The appellant shall take the necessary steps to regularize the Notices of Appeal in this matter and BVIMCRAP2020/0006.
3. The matter is adjourned to the next status hearing of the Court of Appeal for the Territory of the Virgin Islands scheduled for 5th February 2024, to allow the appellant to settle his legal representation.

Reason: The Court noted that the appellant had failed to serve the E-Litigation Portal authorisation code on the Crown. As such the Court made the above directions.

Case Name: The Commissioner of Police
v
1. Nickel Simon
2. Cryton Browne
3. Hober Efren Morillo Ybarbia
4. Wilfredo Jose Lopez Vargas
[BVIMCRAP2022/0001]
(Territory of the Virgin Islands)

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

Appearances:
Appellant: Ms. Tiffany Scatliffe-Esprit, The Director of Public Prosecutions
Respondent: No appearance

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 5th February 2024, to allow the appellant to provide proof of service of the Notice of Appeal on the respondents.

Reason:

The Court noted that there were several matters to be addressed namely, that the affidavit of service of the appellant was never affirmed and filed and that the Crown had to ascertain if all the accused parties were within the jurisdiction. The Court therefore adjourned the matter to facilitate the resolution of those matters.

Case Name:

Kelly Ann Percival

v

Alimha Beresford

[BVIMCVAP2019/0001]

(Territory of the Virgin Islands)

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 5th February 2024, unless a consent order is sooner filed.

Reason:

The parties intimated to the Court that there was a settlement agreement between them and that a consent order would be forwarded to the Court at the end of the day. In light of this the Court made the above order.