

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL
STATUS HEARING

**VIDEOCONFERENCE
MONTSERRAT
WEDNESDAY, 13th SEPTEMBER 2023**

HIGH COURT CIVIL APPEALS

Case Name: Claude Gerald

v

**Public Service Commission et al
[MNIHCVAP2021/0004]**

Date: Wednesday, 13th September 2023

Coram: Ms. Danielia Chambers, Deputy Chief Registrar

Appearances:

Appellant: Dr. David Dorsett

Respondent: Ms. Renee Morgan holding papers for Ms. Cedricia Shiel

Issue: Status of the matter

Type of Order Directions

Result/Order [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The appellant shall file and serve the Record of Appeal on or before 15th September 2023.
2. The appellant shall file and serve written submissions with authorities on or before 15th January 2024.
3. The respondent shall file and serve written submissions with authorities in response on or before 29th February 2024.
4. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 15th March 2024.
5. The appellant shall file the agreed Hearing Bundle on or before 29th March 2024.
6. The appeal is fixed for hearing at the sitting of the Court of Appeal for the territory of Montserrat during the week commencing 15th April 2024.

Reason:

Counsel for the appellant stated that the Record of Appeal was prepared and sent via email to the appellant for filing in Montserrat, and copied to the Registrar of the High Court. However, the said Record had not yet been filed.

Additionally, Counsel for the appellant indicated his readiness for the sitting of the substantive appeal in April 2024. Counsel for the respondent indicated that she was holding papers but that the proposed time for the hearing of the appeal seemed feasible.

Case Name:

**Kenneth Krys et al v
Financial Services Commissioner
[MNIHCVAP2020/0020]**

Date:

Wednesday, 13th September 2023

Coram:

Ms. Danielia Chambers, Deputy Chief Registrar

Appearances:

Appellant: Ms. Lovetta Silcott

Respondent: Ms. Renee Morgan

Issue: Status of the matter

Type of Order: Adjournment

Result / Order: [Oral Delivery]

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 adjourned to the next Status Hearing of the Court of Appeal for the territory of Montserrat scheduled for 10th April 2024.

Reason:

The Court noted that the transcript was still incomplete. The Registrar informed the Court that it would be available by the end of November 2023, if not sooner.

The Court also noted that though the transcript was incomplete, the Record of Appeal had been prepared. However, it had not yet been filed and served due to the importance of the transcript and the fact that the Record may have to be updated when the transcript becomes available.

Case Name: Mary Casarin v
Maureen Dyett (The Sole Executrix of The
Late Mary Chapman)
[MNIHCVAP2022/0004]

Date: Wednesday, 13th September 2023

Coram: Ms. Danielia Chambers, Deputy Chief Registrar

Appearances:

Appellant: Dr. David Dorsett

Respondent: No appearance

Issue: Status of the matter

Type of Order: Adjournment

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The matter is adjourned to the next Status Hearing of the Court of Appeal for the territory of Montserrat scheduled for 10th April 2023 for the appellant to indicate whether she wishes to prosecute the appeal.
2. The Registrar of the High Court shall serve a copy of this order on the respondent and shall provide proof of service thereafter.

Reason: Counsel for the appellant informed the Court of his difficulties with effecting service. He stated that the respondent was an elderly woman who resided in

Toronto, Canada. Given the respondent's location, substituted service via FedEx had been attempted however, it would appear that, upon her receiving the package, she returned it to FedEx, unopened. Counsel for the appellant informed the Court that, given the age of the appellant, a decision would have to be made as to whether, as a practical matter, the appellant will be able to prosecute the appeal given the challenges with service. Counsel will seek instructions from the appellant in this regard.

Case Name: Verna Johnson
V
Mary Hogan
[MNIHCVAP2020/0025]

Date: Wednesday, 13th September 2023

Coram: Ms. Danielia Chambers, Deputy Chief Registrar

Appearances:
Appellant: No appearance
Respondent: Mr. Jean Kelsick

Issue: Status of the matter

Type of Order None

Result/Order No order

Reason: The Court noted that the last order in the matter was a Chamber order made in December 2020 which stated, in essence, that the application for leave was granted and that a notice of appeal had to be filed within 21 days. Since that time, no appeal has been filed.

Counsel for the respondent also informed the Court that the substantive litigation concerning the matter had been concluded.

The Court decided that there was no appeal before the Court and the matter had to be removed from the list.

Case Name: Commissioner of Police
v
Myron Green et al
[MNIHCVAP2021/0001]

Date: Wednesday, 13th September 2023

Coram: Ms. Danielia Chambers, Deputy Chief Registrar

Appearances:
Appellant: Mr. Oris Sullivan
Respondent: No appearance

Issue: Status of the matter

Type of Order: Directions

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The appellant shall file and serve the Record of Appeal on or before 2nd October 2023.
2. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 2nd October 2023.
3. The appeal is fixed for hearing at the sitting of the Court of Appeal for the territory of

Montserrat scheduled for the week commencing 15th April 2024.

4. The Registrar of the High Court shall serve a copy of this order on the respondent, Myron Green, and provide proof of service thereafter.

Reason:

Firstly, the Court noted that the appeal was a criminal appeal but it had been filed as a civil appeal. Counsel for the appellant acknowledged the error and Indicated that he will rectify the error.

Counsel for the appellant informed the Court that the appellant intends to proceed against Myron Green only as the other three respondents donot reside in Montserrat and they had been difficult to locate for the purposes of service. He further informed the Court that he would in due course file a notice of withdrawal against the said three respondents.

As it relates to the Record of Appeal, Counsel for the appellant stated that the Record was sent to Myron Green on or about 4th September 2023, however it had not yet been filed.

MAGISTERIAL CIVIL APPEALS

Case Name:

**Sylvester Solomon v Julian Romeo
[MNIMCVAP2020/0013]**

Date:

Wednesday, 13th September 2023

Coram:

Ms. Danielia Chambers, Deputy Chief Registrar

Appearances:

Appellant: No appearance

Respondent: No appearance

Issue:

Status of the Matter

Type of Order:

Adjournment

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

- 1. The Registrar of the High court shall serve a copy of the Record of appeal on the parties and shall provide proof of service thereafter.**
- 2. The matter is adjourned to the next Status Hearing of the Court of Appeal for the territory of Montserrat scheduled for 10th April 2024 to allow the appellant to be present, to indicate whether he is still interested in prosecuting the appeal.**
- 3. 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 affidavits of service on the parties of the certificate of result in respect of the last Status Hearing had been filed on the 26th and 30th of January 2023.

The Court also noted that Mr. Solomon no longer resided in Montserrat and effecting service had been difficult. As such, there had been no service of the Record of Appeal upon Mr. Solomon. The respondent has, however, also not been served with the record of appeal.

The Court requested that the Registrar of the High Court ensures that an affidavit of service or non-service, as the case may be, be filed in time for the next Status Hearing.

Case Name: Sylvester Solomon v Julian Romeo
[MNIMCVAP2020/0014]

Date: Wednesday, 13th September 2023

Coram: Ms. Danielia Chambers, Deputy Chief Registrar

Appearances:

Appellant: No appearance

Respondent: No appearance

Issue: Status of the matter

Type of Order Adjournment

Result/Order [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The Registrar of the High court shall serve a copy of the Record of appeal on the parties and shall provide proof of service thereafter.
2. The matter is adjourned to the next Status Hearing of the Court of Appeal for the territory of Montserrat scheduled for 10th April 2024 to allow the appellant to be present, to indicate whether he is still interested in prosecuting the appeal.

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 affidavits of service on the parties of the certificate of result in respect of the last

Status Hearing was filed on the 26th and 30th of January 2023.

The Court also noted that Mr. Solomon no longer resided in Montserrat and effecting service had been difficult. As such, there had been no service of the Record of Appeal upon Mr. Solomon. The respondent has, however, also not been served with the record of appeal.

The Court requested that the Registrar of the High Court ensures that an affidavit of service or non-service, as the case may be, be filed in time for the next Status Hearing.

Case Name:

**Penelope Beadle
v
James Henry Lee
[MNIMCVAP2020/0001]**

Date:

Wednesday, 13th September 2023

Coram:

Ms. Danielia Chambers, Deputy Chief Registrar

Appearances:

Appellant: No appearance

Respondent: In person

Issue:

Status of the matter

Type of Order:

Adjournment

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The matter is adjourned to the next Status Hearing of the Court of Appeal for the territory of Montserrat scheduled for 10th April 2024.
2. The Registrar of the High court shall serve a copy of the Record of Appeal filed on 27th November 2020 and a copy of this order on the parties and shall provide proof of service thereafter.

Reason:

The Registrar informed the Court that an affidavit of service of the Certificate of Result of the Status Hearing dated 19th January 2023 on the appellant was filed on 7th February 2023, and the same in respect of the respondent was filed on 1st February 2023.

The Registrar further informed the Court that the Record of Appeal had been filed since 27th November 2020 however the Record had not been served. He stated that service on the appellant had been challenging as she resides in the United States, although she does, from time to time, visit Montserrat.

Case Name:

**Sylvester Solomon v Cassandra Weekes
[MNIMCVAP2016/0002]**

Date:

Wednesday, 13th September 2023

Coram:

Ms. Danielia Chambers, Deputy Chief Registrar

Appearances:

Appellant: No appearance

Respondent: No appearance

Issue:

Status of the Matter

Type of Order: Adjournment

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The matter is adjourned to the next Status Hearing of the Court of Appeal for the territory of Montserrat scheduled for 10th April 2024 for the appellant to be present to indicate whether he is still interested in prosecuting the appeal.
2. The Registrar of the High Court shall serve the Record of Appeal and a copy of this order on the parties and shall provide proof of service thereafter.

Reason: The Registrar informed the Court that Ms. Weekes had been served via email however no affidavit of service had been filed. The appellant was not served due to challenges in locating the appellant for service

The Court, upon noting the absence of both parties at the Status Hearing decided that it would be best that the matter be adjourned. At the next Status Hearing, a decision would be made on how to proceed with the matter.

**HIGH COURT CRIMINAL APPEALS AGAINST
CONVICTION**

Case Name: John Allen v The King
[MNIHCRA2021/0003]

Date: Wednesday, 13th September 2023

Coram: Ms. Danielia Chambers, Deputy Chief Registrar

Appearances:

Appellant: In person
Respondent: Mr. Oris Sullivan

Issue: Status of the matter

Type of Order Adjournment

Result/Order [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The matter is adjourned to the next Status Hearing of the Court of Appeal for the territory of Montserrat scheduled for 10th April 2024.
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 Court noted that the Notice of Appeal was filed on 5th July 2021, the Record of Appeal was filed on 27th September 2022 and that no submissions had been filed yet.

The appellant stated to the Court that he wrote at least three letters to the Attorney General's Chambers requesting legal aid but he hasnot yet received ao response. He also informed the Court that his initial attorney, Mr. Cassell, is no longer in a position to assist him in the appeal given his (Mr. Cassel's) issues with the law.

The Registrar and Mr. Sullivan agreed to assist in rectifying the requests for legal aid made by the appellant.

It was agreed that the matter should be adjourned to the next Status Hearing during which time, every effort ought to be made so that the appellant is properly represented by counsel.

Case Name: David Brandt v The King
[MNIHCRAP2021/0004]

Date: Wednesday, 13th September 2023

Coram: Ms. Danielia Chambers, Deputy Chief Registrar

Appearances:

Appellant:	Dr. David Dorsett
Respondent:	Ms. Anesta Weekes, KC

Issue: Status of the matter

Type of Order: Directions

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The appellant shall file and serve written submissions with authorities on or before 15th January 2024.
2. The respondent shall file and serve written submissions with authorities in response on or before 19th February 2024.
3. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 16th March 2024.
4. The appellant shall file the agreed Hearing Bundle on or before 29th March 2024.
5. The matter is fixed for hearing at the next sitting of the Court of Appeal for Montserrat scheduled for the week commencing 15th April 2024.

Reason:

Counsel for the respondent stated that the matter had been lingering in the system for an inordinate period of time due to non-compliance with court directions. She expressed her hope that the Court schedule submissions to be filed before Christmas 2023. However, counsel for the appellant indicated that this timeline was not feasible for him, given his heavy case load but would be ready to proceed in the next sitting of the Court in the territory of Montserrat

The Court noted that the parties, being ready to proceed, required directions to enable the matter to be ready for hearing in the next Siting of the Court in the territory of Montserrat.

Counsel for the appellant notified the Court that there may be some issues with the Record of Appeal that was filed, however, he assured the Court that any such issues would be rectified before the sitting in April 2024.

MAGISTERIAL CRIMINAL APPEALS

Case Name:

**George Leonard v The Crown
[MNIMCRAP2021/0003]**

Date:

Wednesday, 13th September 2023

Coram:

Ms. Danielia Chambers, Deputy Chief Registrar

Appearances:

Appellant: Mr. Kenroy Hyman

Respondent: Mr. Oris Sullivan

Issue:

Status of the matter

Type of Order: **Adjournment**

Result / Order: **[Oral Delivery]**

IT IS HEREBY ORDERED THAT:

- 1. The Chief Magistrate shall cause a copy of the Record of Appeal to be prepared and served on the parties on or before 1st December 2023, failing which an affidavit containing the reasons for non-compliance shall be filed.**
- 2. The matter is adjourned to the next Status Hearing of the Court of Appeal for the Territory of Montserrat scheduled for 10th April 2024.**

Reason: **The Court noted that the Record of Appeal was still outstanding and there was no indication as to when this would be filed.**

Counsel for the appellant expressed to the Court that the matter had been in the system for an inordinate time and would like for the Record to be prepared soon. His view was that the Record should be filed by the middle of November 2023.

Case Name: **Cameron Yearwood
v
Commissioner of Police
[MNIMCRAP2019/0002]**

Date: **Wednesday, 13th September 2023**

Coram: **Ms. Danielia Chambers, Deputy Chief Registrar**

Appearances:

Appellant: In person
Respondent: Mr. Oris Sullivan

Issue: Status of the matter

Type of Order Directions

Result/Order [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. This matter is listed for hearing at the next sitting of the Court of Appeal for Montserrat scheduled for the week commencing 15th April 2024.
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 indicated to the Court that he did not wish to continue with his appeal given the time which had elapsed. The appellant, however, also stated that he intends to correspond with his attorney, Ms. Silcott. The Court, therefore, decided that it would be prudent to list the matter for the sitting in April 2024 to allow the appellant to present his final position on the prosecution of his appeal to the Full Court.