

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL
STATUS HEARING

TERRITORY OF THE VIRGIN ISLANDS
VIDEOCONFERENCE

Monday, 26th September 2022

Case Name:

Mex Clearing

v

[1] Von der Heydt Invest SA

[2] Mex Securities S.A.R.L.

**[3] Multibank FX International
Corporation**

[BVIHCMAP2021/0026]

(Territory of the Virgin Islands)

Date:

Monday, 26th September 2022

Before:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Robert Nader, appearing *amicus curiae*

Respondents: Mr. Simon Hall for the 1st respondent

Issue:

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
30th January 2023 to allow the appellant to indicate whether
it is still interested in prosecuting the appeal.**

Reason: The notice of appeal was filed on 11th October 2021. An amended notice of appeal was filed on 22nd October 2021. Since then, no submissions or record of appeal has been filed. Counsel indicated that a stay pending appeal was sought and refused. Subsequently, the application was renewed. However, there nothing further has been done to further the appeal.

Case Name: Greater Sail Limited
(A company incorporated in the British Virgin Islands)
v

[1] Nam Tai Property Inc.
(a company incorporated in the British Virgin Islands)

[2] Nam Tai Group Limited
(a company incorporated in the Cayman Islands)

[3] Nam Tai Investment (Shenzhen) Co. Ltd.
(a company incorporated in the People's Republic of China)

[BVIHCMAP2022/0022]
(Territory of the Virgin Islands)

Date: Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. John Carrington, KC and Mr. Andrew Emery

Respondents: Mr. Rondelle Keller

Issue: Status of the matter

Type of Order: Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The parties shall take the necessary steps to regularise the filings on the Electronic Litigation Portal in relation to this appeal and shall notify the Court Office thereafter.
2. The matter shall thereafter be listed for hearing at the next available sitting of the Court of Appeal for the Territory of the Virgin Islands.

Reason: The notice of appeal was filed on 17th June 2022. Written submissions have been filed by both parties. However, the parties indicated that only an index to the record of appeal has been filed on 20th June 2022 and the record of appeal has not been filed. Counsel requires additional time to regularise the filing of hearing bundle and record of appeal. Directions were necessary to further the appeal.

Case Name: Claude Skelton-Cline
v
Cabinet of the Virgin Islands
[BVIHCVAP2019/0003]
(Territory of the Virgin Islands)

Date: Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:	Ms. Ruthilia Maximea holding papers for Mr. Anand Ramlogan
Respondent:	Ms. Maya Barry

Issue: Status of the matter

Type of Order: Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall serve a copy of the transcript of proceedings in this matter on the respondent on or before Friday 30th September 2022.
2. The respondent shall inform the appellant of the documents that it wishes to have included in the record of appeal on or before 24th October 2022.
3. The appellant shall file and serve the record of appeal on or before 30th November 2022.
4. The appellant shall file and serve written submissions with authorities on or before 30th December 2022.
5. The respondent shall file and serve written submissions with authorities on or before 30th January 2023.
6. The appellant shall file and serve written submissions with authorities in reply, if necessary, on or before 14th February 2023.
7. The appeal is fixed for hearing at the Court of Appeal sitting for the Territory of the Virgin Islands scheduled for the week commencing 22nd May 2023.

Reason:

On the last occasion the appellant indicated that additional time was required to secure the transcript of proceedings. The transcript has since been paid for and prepared. However, counsel indicated that a copy of the transcript has not been served on the respondent. The court office in the Territory of the Virgin Islands made an undertaking to serve a copy on the respondent by the end of the business day. Counsel for the appellant sought an adjournment to the next status hearing. The respondent did not oppose the application.

Case Name:

**Charmaine Rosan-Bunbury
v
The Attorney General
[BVIHCVAP2015/0017]
(Territory of the Virgin Islands)**

Date:

Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. David Penn

Respondent: Ms. Maya Berry

Issue: Status of the matter

Type of Order: Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Court of Appeal registry shall provide the parties and the High Court office with copies of the documents filed in this matter to allow the reconstruction of the file on or before 21st October 2022.
2. The matter is adjourned to the next status hearing of the Court for the Territory of the Virgin Islands scheduled for 30th January 2023.

Reason: The parties required additional time to reconstruct the appeal file since the documents filed by the appellants were destroyed by a tropical storm.

Case Name: McArthur Engineering Company Limited

v

[1] Christian Cottoy

[2] Annita Cottoy

[BVIHCVAP2016/0001]

(Territory of the Virgin Islands)

Date: Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondents: No appearance

Issue: Status of the matter

Type of Order: Adjournment

Result / Order: IT IS HEREBY ORDERED THAT:

1. Upon noting that the parts were served to be present but are not, the matter is adjourned to the next status hearing of the Court for the Territory of the Virgin Islands scheduled for 30th January 2023.
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 notice of hearing was served on both parties. Notwithstanding, there was no appearance.

Case Name:

[1] Sylvia Maduro-Dale
[2] Lucia Chalwell
v
The Registrar of Lands

[BVIHCVAP2010/0022]
(Territory of the Virgin Islands)

Date: Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellants: No appearance

Respondent: Ms. Jo-Ann Williams Roberts

Issue: Status of the matter

Type of Order: Adjournment

Result / Order: IT IS HEREBY ORDERED THAT:

1. Upon noting that the appellants were not served to be present at this status hearing, the matter is adjourned to the next status hearing of the Court for the Territory of the Virgin Islands scheduled for 30th January 2023 to allow the appellants to indicate whether they are still interested in prosecuting this appeal.
2. 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 matter was adjourned to allow the appellants to be present to indicate their interest in the appeal.

Case Name: Louisa Fahie
v
[1] Samonia Vanterpool
[2] Dion Vanterpool
[BVIHCVAP2017/0007]
(Territory of the Virgin Islands)

Date: Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. David Penn

Respondents: No appearance

Issue: Status of the matter

Type of Order: N/A

Result / Order: Nil

Reason: The respondents were not served in this matter. The notice of appeal has not been filed therefore there is no matter before the Court.

Case Name: Malcolm Maduro (DBA Sunshine Power Boat Rental)
v
Department of Customs
[BVIHCVAP2022/0001]
(Territory of the Virgin Islands)

Date: Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. David Abednego

Respondent: Ms. Nicosie Dummett

Issue: Status of the matter

Type of Order: N/A

Result / Order: IT IS HEREBY ORDERED THAT:

Upon noting the without notice application filed on 26th September 2022 by the respondent to amend the counter notice of appeal, the matter is removed from the status hearing list pending the determination of the application.

Reason: The respondent made an *ex parte* application to amend the counter notice of appeal, accordingly the matter was removed from the status hearing list pending the determination of the application.

Case Name:

Jessroy McKelly

v

The King

[BVIHCRAP2014/0002]

(Territory of the Virgin Islands)

Date:

Monday, 26th September 2022

Before:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Michael Maduro

Respondents: Ms. Tiffany Scatliffe-Esprit, Director of Public Prosecutions

Issue:

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 30th January 2023 to allow the appellant to take the necessary steps to make application to amend the grounds of appeal.

Reason:

Counsel for the appellant requested an adjournment to facilitate preparation and filing of the submissions and to finalise instructions. Counsel also indicated an intention to make an application to amend the grounds of appeal by the end of October 2022.

Case Name:

Antonio Stoutt

v

The Commissioner of Police
[BVIMCRAP2015/0006]
(Territory of the Virgin Islands)

Date: Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Stephen Daniels appearing amicus curiae

Respondents: Ms. Tiffany Scatliffe-Esprit, Director of Public Prosecutions

Issue: 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 30th January 2023 to allow the appellant to take the necessary steps to settle his legal representation.

Reason: The appellant requested an adjournment in order to settle his legal representation. The Crown did not oppose the application.

Case Name: Jaime Scatliffe
v
The Commissioner of Police

[BVIMCRAP2020/0008]
[BVIMCRAP2020/0009]
[BVIMCRAP2020/0010]
(Territory of the Virgin Islands)

Date: Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Michael Maduro

Respondents: Mr. Kael London

Issue: 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 30th January 2023 for the appellant to regularise his legal representation.

Reason: The appellant informed that he remains interested in prosecuting his appeal, however he would need additional time to settle legal representation.

Case Name:

Delvin Green
v
The Commissioner of Police
[BVIMCRAP2020/0002]
(Territory of the Virgin Islands)

Date: Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Ms. Valerie Gordon

Respondents: Ms. Tiffany Scatliffe-Esprit, Director of Public Prosecutions

Issue: **Status of the matter**

Type of Order: **Directions**

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

1. The Senior Magistrate shall cause a supplemental record of appeal to be filed to include the reasons for conviction and sentence, the full evidence given by the appellant and any other missing information from the Record of appeal on or before 1st December 2022, failing which the Magistrate shall provide an affidavit giving reasons for the non-compliance.

2. The matter is adjourned to the next Status Hearing of the Court for the Territory of the Virgin Islands scheduled for 30th January 2023.

Reason: Counsel for both parties informed that there was a gap in the transcript of proceedings in relation to the sentencing and evidence adduced by the appellant. Also, there appears to be no reasons for decision. Directions were necessary to further the matter.

Case Name: **Ricardo Leonard**
v
The Commissioner of Police
[BVIMCRAP2020/0003]
[BVIMCRAP2020/0004]
[BVIMCRAP2020/0005]
(Territory of the Virgin Islands)

Date: **Monday, 26th September 2022**

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

Appearances:
Appellant: **Mr. Stephens Daniels**

Respondents: **No appearance**

Issue: Status of the matter

Type of Order: Directions

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 30th January 2023 to allow the appellant to take the necessary steps regularise service of the notice of appeal on the respondent.

Reason: The notice of appeal had not been served on the respondent.

Case Name: Brian Penn
v
The Commissioner of Police
[BVIMCRAP2018/0003]
(Territory of the Virgin Islands)

Date: Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: In person

Respondents: Ms. Tiffany Scatliffe-Esprit, Director of Public Prosecutions

Issue: Status of the matter

Type of Order: Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The appellant shall serve the Notice of Appeal on the respondent and shall file an affidavit of service thereafter

setting out the details of the service including the documents served, the date, time and place of service and the name of the person on whom the document was served, on or before 4th October 2022.

2. The matter is adjourned to the next Status Hearing of the Court for the Territory of the Virgin Islands scheduled for 30th January 2023.

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

Reason: The notice of appeal had not been served on the respondent. The appellant also informed that he wishes to settle legal representation.

Case Name: Kaverne Richards
v
The Commissioner of Police
[BVIMCRAP2021/0002]
(Territory of the Virgin Islands)

Date: Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:
Appellant: Ms. Ruthilia Maximea holding papers for Mr. Sherfield Bowen

Respondents: Mr. Kael London

Issue: 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 September 2022.

2. The respondent shall file and serve written submissions with authorities on or before 28th October 2022.
3. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 14th November 2022.
4. The hearing of the appeal is fixed for the next court of appeal sitting for the Territory of the Virgin Islands scheduled for the week commencing 6th February 2023.

Reason: The record of appeal was filed on 7th April 2022. Directions were necessary to further the matter.

Case Name: Sayied Scatliffe
v
Smith Seaman
[BVIMCVAP2016/0002]
(Territory of the Virgin Islands)

Date: Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:
Appellant: Mr. Michael Maduro
Respondents: Ms. Ruthilia Maximea

Issue: Status of the matter

Type of Order: Directions

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 30th January 2023, unless a Notice of Discontinuance is sooner filed.

Reason: The parties informed the Court that the matter had been settled on a judgment summons in the court below and the respondent has made partial payment of the matter. In light of this, the appellant has informed his counsel that he does not wish to proceed with the appeal however, counsel indicated that this has not been conveyed in writing and he would prefer to such confirmation. Counsel therefore requested an adjournment to facilitate the filing of a notice of discontinuance.

Case Name: Kelly Ann Percival
v
Alimha Beresford
[BVIMCVAP2019/0001]
(Territory of the Virgin Islands)

Date: Monday, 26th September 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Michael Maduro

Respondents: No appearance; Ms. Stacy Abel on record

Issue: 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 30th January 2023 to allow the parties to continue settlement discussions.

Reason: The parties requested an adjournment to allow for settlement discussions to continue. The parties also

indicated that a draft settlement agreement has been prepared for review and finalization.