

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL
STATUS HEARING
TERRITORY OF THE VIRGIN ISLANDS
Thursday, 6th January 2022

Case Name: Alberto Rosa de la Rosa
v
The Queen
[BVIHCRA2016/0001]

Date: Thursday, 6th January 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:	Ms. Reynela Rawlins
Respondent:	Ms. Kellee-Gai Smith, Principal Crown Counsel

Issues: Status of the matter

Type of Order: N/A

Result / Order: IT IS HEREBY ORDERED THAT:

The matter is removed from the Status Hearing list pending the determination of the application filed by the respondent on 23rd December 2021 to dismiss the appeal for want of prosecution.

Reason: Counsel for the appellant informed the Court that she had been unable to locate the appellant to take further instructions.

Case Name:

Jessroy McKelly

v

The Queen

[BVIHCRAP2014/0002]

Date:

Thursday, 6th January 2022

Before:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:

Mr. Michael Maduro

Respondent:

Ms. Kellee-Gai Smith, Principal Crown Counsel

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 7th March, 2022.**
- 2. The respondent shall file and serve written submissions with authorities on or before 7th April, 2022.**
- 3. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 22nd April, 2022.**
- 4. 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 9th May, 2022.**

Reason: Counsel for the appellant, Mr. Maduro had recently been appointed to this matter through legal aid. Additional time was required to secure the Record of Appeal and to receive further instructions from the appellant.

Case Name: The Queen
v
[1] Yan Edwards
[2] Allen Baptiste
[BVIHCRA2020/0002]

Date: Thursday, 6th January 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:
Appellant: Ms. Kellee-Gai Smith, Principal Crown Counsel
Respondent: Mr. Sherfield Bowen and Ms. Ruthilia Maximea for the 1st respondent
Mr. Israel Bruce for the 2nd respondent.

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 and shall give priority to cause the transcript of the proceedings to be completed and served on the parties on or before 1st February, 2022, failing

which the Registrar shall provide an affidavit outlining the reason non-compliance.

2. The matter is adjourned to the next Status Hearing of the court for the Territory of the Virgin Islands scheduled for 2nd May 2022.

Reason:

The transcripts in this matter had not been prepared as the transcriptionist had took ill for some while. Directions were necessary to further the matter as it had been outstanding for some time.

Case Name:

**Claude Skelton-Cline
v
Cabinet of the Virgin Islands
[BVIHCRA2019/0003]**

Date:

Thursday, 6th January 2022

Before:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Ms. Ruthilia Maximea

Respondent: Ms. Maya M. Barry

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 2nd May 2022 to allow the appellant to

make the necessary arrangements for the payment of the transcript of proceedings.

Reason:

Counsel for the appellant informed the Court that due to financial constraints he has not been able to procure the transcripts and would require additional time to do so. Counsel also informed that the appellant was still interested in prosecuting his appeal

Case Name:

The Attorney General of the British Virgin Islands

v

Partnerselskabet Parsifal

[BVIHCVAP2018/0001]

Date:

Thursday, 6th January 2022

Before:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Ms. Maya Barry

Respondent: Ms. Hazel-Ann Hannaway Boreland

Issues:

Status of the matter

Type of Order:

Adjournment

Result / Order:

IT IS HEREBY ORDERED THAT:

Upon noting the indication from counsel for the appellant that the appellant is minded to take a

certain course of action and upon noting the indication from counsel for the respondent that an application was filed on 24th December 2021, of which the court has not had sight, the matter is adjourned to the next Status Hearing of the court for the Territory of the Virgin Islands scheduled for 2nd May, 2022.

Reason:

The Court noted that the directions given previously had not been complied with. Counsel also noted that the parties have been in discussions with a view to settle the matter however the discussions have not progressed.

Counsel for the appellant informed the Court that the appellant intends to take a certain course of action, which should be done by the end of the day.

Case Name:

**Forbes Hare
v
Abdel-Taher Karim Itum
[BVIHCVAP2020/0013]**

Date:

Thursday, 6th January 2022

Before:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Robert Nader

Respondent: Ms. Nelcia St. Jean

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 noted that the transcript of proceedings have not been prepared.

Case Name: Dr. Bernadette McKelly
v
The Registrar of Lands
[BVIHCVAP2020/0007]

Date: Thursday, 6th January 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: In person

Respondent: Ms. Fiona Forbes Vanterpool

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 outstanding portion of the transcript of the proceedings for 5th March 2019 to be completed and served on the parties.**
- 2. The matter is adjourned to the next Status Hearing of the court for the Territory of the Virgin Islands scheduled for 2nd May 2022.**

Reason:

The Court noted that the transcript of proceedings had not been completed in full.

Case Name:

**John Forster Emmott
V
Michael Wilson & Partners Ltd**

[BVIHCMAP2017/0002]

**Michael Wilson & Partners Ltd
V
John Forster Emmott**

[BVIHCMAP2017/0003]

**[1] Kazholdings Incorporated
[2] Kazholdings LLP et**

**V
John Forster Emmott
V
Michael Wilson & Partners**

[BVIHCMAP2017/0005]

Date: Thursday, 6th January 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: In person

Respondent: Ms. Laura Gunn counsel for Michael Wilson & Partners, Kazholdings Incorporated and Kazholdings Incorporated LLP

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 2nd May, 2022 to allow the parties to reach an agreement in relation to the transcript of proceedings and the progress of this appeal.

Reason:

Ms. Laura Gunn of Messrs Campbells, counsel for Kazholdings Incorporated and Kazholdings LLP, explained that due to the current state of emergency and crisis in Kazakhstan, and the telephone and internet outages, MWP itself was unable to connect and attend, and for which absence due to the force majeure situation, they apologized to the Court”.

Court office informed that the Notice to say transcript was ready was sent on 12th August 2021. To date the appellants have not collected or paid for the same.

Mr. Emmot informed that he did not have a copy of the transcript. Counsel, Ms. Gunn informed that her clients had a copy of the transcript. Counsel was informed that the court’s note was that the transcript has not yet been picked up. Ms. Gunn informed that

she is new to the matter and these were her instructions, however she will look into the same.

Mr. Emmot indicated that the proposal was put to the appellants in the other appeal that the costs of the preparation of the transcripts be shared. The parties are to discuss the same and come to an agreement.

Case Name: Antonio Stoutt
V
The Commissioner of Police
[BVIMCRAP2015/0006]

Date: Thursday, 6th January 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:
Appellant: No appearance
Respondent: Ms. Kellee-Gai Smith, Principal Crown Counsel

Issues: 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 Territory of the Virgin Islands scheduled for 2nd May 2022.
2. The Registrar of the High Court shall serve a copy of the order on the appellant personally and shall provide proof of service thereafter.

Reason: Counsel for the Crown informed that the appellant indicated that he would be unable to be present to deal with this matter since he was attending to the death of his brother.

The Court noted that the Record of Appeal has been prepared and the appellant was invited to collect it from his previous counsel. There was no indication from the appellant as to whether he has new counsel as there is no Notice of Acting on record for the appellant. Notwithstanding, the appellant appeared to still be interested in prosecuting this appeal.

Case Name: Jaime Scatliffe
v
The Commissioner of Police

[BVIMCRAP2020/0008]
[BVIMCRAP2020/0009]
[BVIMCRAP2020/0010]

Date: Thursday, 6th January 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:
Appellant: Mr. Michael Maduro appearing amicus curiae
Respondent: Ms. Kellee-Gai Smith, Principal Crown Counsel

Issues: Status of the matter

Type of Order: Directions

Result / Order: IT IS HEREBY ORDERED THAT:

- 1. The Senior Magistrate shall cause the Record of Appeal, including the notice of appeal, the notes of evidence, the minute of conviction and reasons for decision to be prepared and submitted to the Registrar of the High Court on or before 18th February, 2022, failing which the Senior 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 during the week commencing 2nd May, 2022.**
- 3. 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 Mr. Stephen Daniels is on record for the appellant. However, Mr. Michael Maduro indicated that he was contacted by the appellant personally to attend this status hearing on his behalf as he was uncertain about the status of Mr. Daniels' representation.

The court office informed this Court that a request for the Magistrate's Court Record was made by it on the 3rd December 2020 and has yet to receive it.

Case Name:

Delvin Green

V

The Commissioner of Police

[BVIMCRAP2020/0002]

Date:

Thursday, 6th January 2022

Before:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Ms. Valerie R. Gordon

Respondent: Ms. Kellee-Gai Smith, Principal Crown Counsel

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 Virgin Islands scheduled for 2nd May, 2022 for the appellant to provide proof of service of the Notice of Appeal on the respondent.

Reason:

Counsel indicated that the Record of Appeal has been received uploaded on the 18th January, 2021, however it was incomplete since the reasons for decision was not included. By email dated 5th January 2022, Crown Counsel Ms. Kellee-Gai Smith informed that the Office of the Director of Public Prosecutions has not been served with a Notice of Appeal in relation to this appeal. Counsel for the appellant informed that she has a return of service evidencing service on the DPP's office However an affidavit has not been filed. Additional time was therefore needed to regularise the Record of Appeal.

Case Name:

Ricardo Leonard

v

The Commissioner of Police

[BVIMCRAP2020/0003]

[BVIMCRAP2020/0004]

[BVIMCRAP2020/0005]

Date:

Thursday, 6th January 2022

Before: Mrs. Michelle John-Theobalds, 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. The matter is adjourned to the next Status Hearing of the court for the Virgin Islands scheduled for 2nd May, 2022 for the appellant to provide proof of service of the Notice of Appeal on the respondent.
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 that the Office of the Director of Public Prosecutions has not been served with a Notice of Appeal in relation to this appeal.

Case Name:

Reynard Benjamin

V

[1] Ellina Turnbull

[2] George Turnbull

[BVIHCVAP2019/0005]

Date: Thursday, 6th January 2022

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Ms. Marie-Lou Creque

Respondent: Ms. Ruthilia Maximea

Issues:

Status of the matter

Type of Order:

Adjourned

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 2nd May 2022 to allow the parties to take the necessary steps in relation to the progress of the appeal.

Reason:

The Court noted that the file is unable to be located. The Record of Appeal was substantially complete but it is missing some orders as well as the appellant's written submissions. Accordingly, the appellant had not filed the Record of Appeal in this matter.

The Court also noted the unless order of Baptiste JA made on 28th September 2021 directing the applicant to serve a copy of the application on the respondent, failing which the application for extension of time shall stand dismissed was not complied with. Consequently, the application filed on 22nd June 2021 fell away. Counsel for the appellant indicated that she may take a certain course of action.