

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL
STATUS HEARING

MONTSERRAT
VIDEOCONFERENCE
Wednesday 29th June 2022

STATUS HEARING

Case Name:

Bertrand Burke

v

[1] Mildred Kirwan
[2] Highlander Properties Ltd.

[MNIHCVAP2019/0007]

Date:

Wednesday, 29th June 2022

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: **No appearance**

Respondents: **1st respondent in person**

No appearance for the 2nd respondent

Issues:

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 for the Territory of Montserrat scheduled for 19th January 2023.
2. The Registrar of the High Court shall cause a copy of this order to be served on the parties and shall provide proof of service thereafter.

Reason: The Court was unable to receive an update on the status of the matter because both the appellant and 2nd respondent were absent.

Case Name: Catherine Tuitt
(The Lawful Attorney for Mary Skelton)

v

[1] Ann Thomas
[2] Justin Thomas

[MNIHCVAP2019/0015]

Date: Wednesday, 29th June 2022

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: In person

Respondents: No appearance

Issues: Status of the matter

Type of Order:

Directions

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

- 1. The respondents shall inform the appellant of the documents they wish to be included in the record of appeal in accordance with rule 62.12(2) Civil Procedure Rules, on or before 20th July 2022.**
- 2. The appellant shall file the record of appeal including written submissions with authorities on or before 2nd September 2022.**
- 3. The respondents shall file and serve written submissions with authorities on or before 3rd October 2022.**
- 4. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 18th October 2022.**
- 5. The appeal is fixed for hearing at the next sitting of the Court of Appeal Sitting for the Territory of Montserrat during the week commencing 23rd January 2023.**
- 6. 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 appellant was not successful in retaining counsel and indicated the intention to proceed with the appeal as a pro se litigant. Directions were therefore given by the Court so that the appeal could proceed.

Case Name:

Dennison Daley

v

[1] Denzel West

[2] Attorney General of Montserrat

[MNIHCVAP2019/0011]

Date: **Wednesday, 29th June 2022**

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

Appearances:

Appellant: **In person**

Respondents: **Ms. Renee Morgan**

Issues: **Status of the matter**

Type of Order: **N/A**

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

IT IS HEREBY ORDERED THAT:

1. Upon noting the indication from the appellant that he no longer wishes to pursue this appeal, the appeal is withdrawn and dismissed.

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 that it was difficult to maintain contact with his lawyer, and as a result he did not consider it fruitful to pursue the appeal. Therefore, he wished to have the matter withdrawn.**

Case Name:

Harold Sweeney

v

[1] Julia Ernestine Lee

[2] Montserrat Utilities Limited

[MNIHCVAP2019/0005]

Date:

Wednesday, 29th June 2022

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:

No appearance

Respondents:

Mr. Sylvester Carrott for 1st respondent; No appearance for 2nd respondent

Issues:

Status of the matter

Type of Order:

N/A

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

- 1. Upon noting that the appellant is deceased and that a representative has not yet been appointed for the appellant, the matter is removed from the status hearing list pending the appointment of a representative for the appellant.**
- 2. The matter will be relisted at the next status hearing upon notice being given of the appointment of a representative for the appellant 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 2nd respondent and shall provide proof of service thereafter.

Reason: The appellant is deceased and an application for the grant of probate has not been filed in the matter. Therefore, there is no representative for the appellant's estate.

Case Name: Claude Gerald

v

**[1] Public Service Commission
[2] Deputy Governor**

[MNIHCVAP2021/0004]

Date: Wednesday, 29th June 2022

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondents: Ms. Renee Morgan, holding papers for Ms. Cedrica Shiell

Issues: 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 for the Territory of Montserrat scheduled for 19th January 2023.
2. The Registrar of the High Court shall cause a copy of this order to be served on the appellant and shall provide proof of service thereafter.

Reason:

The appellant was absent for the status hearing, and therefore the court was unable to obtain an update on the status of the matter.

Case Name:

[1] Kenneth Kryss
[2] Greg Mitchell
(Joint Liquidators)

v

Financial Services Commissioner

[MNIHCVAP2020/0020]

Date:

Wednesday, 29th June 2022

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellants: No appearance

Respondent: Ms. Renee Morgan

Issues:

Status of the matter

Type of Order:

Adjournment

Result: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. Upon noting that the absence of appellants at this status hearing, the matter is adjourned to the next Status Hearing of the court for the Territory of Montserrat scheduled for 19th January 2023 for the appellants to be present to indicate whether they are still interested in prosecuting this appeal.
2. The Registrar of the High Court shall cause a copy of this order to be served on the appellants and shall provide proof of service thereafter.

Reason:

The record of the appeal has not been filed in this case, and the appellants have not filed any additional documents since filing the notice of appeal and written submissions in support of their appeal. The appellants were absent at the status hearing therefore the court was unable to ascertain whether they were still interested in prosecuting the appeal.

Case Name:

Commissioner of Police

v

[1] Myron Green

[2] Dimitri Tuitt

[3] Dion Tuitt

[4] Norvelle Greenway

[MNIHCVAP2021/0001]

Date:

Wednesday, 29th June 2022

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Oris Sullivan

Respondents: No appearance

Issues:

Status of the matter

Type of Order:

Adjournment

Result / Order:

1. The appellant shall file and serve the record of appeal on or before 29th July 2022.
2. The matter is adjourned to the next Status Hearing of the Court for the Territory of Montserrat scheduled for 19th January 2023.
3. The Registrar of the High Court shall cause a copy of this order to be served on the respondent and shall provide proof of service thereafter.

Reason:

The record of appeal has not been filed, or served on the respondents. Further, the respondents were not served with notice to be present at the status hearing.

Case Name:

[1] Office of the Deputy Governor
[2] Ministry of Agriculture

v

Ashel Bramble

[MNIHCVAP2021/0006]

Date: Wednesday, 29th June 2022

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellants:	Ms. Renee Morgan
Respondent:	Mr. Sylvester Carrott

Issues: Status of the matter

Type of Order: Directions

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The respondent shall inform the appellants of the documents that he wishes to be included in the Record of appeal in accordance with rule 62.12(2) of the Civil Procedure Rules 2000, on or before 29th July 2022.
2. The appellants shall file and serve the Record of Appeal including written submissions with authorities on or before 30th September 2022.
3. The respondent shall file and serve written submissions with authorities on or before 31st October 2022.
4. The appellants are at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 15th November 2022.
5. The appeal is fixed for hearing at the next sitting of the Court of Appeal Sitting for the Territory of Montserrat scheduled for the week commencing 23rd January 2023.

Reason: The record of appeal and written submissions are still outstanding and needed to be filed. Accordingly, the court gave directions for the progress of the appeal.

Case Name: Benjamin Ponteen, the Lawful Attorney for
Carolie Ponteen

v

**[1] Montserrat Land Development
[2] The Hon. Attorney-General**

[MNIHCVAP2018/0011]

Date: Wednesday, 29th June 2022

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondent: Mr. Rushaine Cunningham holding papers for Ms.
Chivone Gerald for the 1st respondent.

Ms. Renee Morgan holding papers for Ms. Cedricia
Shiell for the 2nd respondent.

Issues: Status of the matter

Type of Order: N/A

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. Upon noting the application to strike out the appeal filed by the 2nd respondent on 24th June

2022, the matter is removed from the Status Hearing list pending the determination of the application.

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 2nd respondent filed an application on 24th June 2022 to strike out the appeal. The application has been served on the appellant and 1st respondent.

Case Name:

[1] Terence Mc Phoy
[2] Eloise Mc Phoy

v

[1] Victoria Hilton
[2] Ministry of Communication & Works
[3] The Hon Attorney-General

[MNIHCVAP2020/0015]

Date:

Wednesday, 29th June 2022

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellants:

Terrence Mc Phoy, the 1st appellant, appearing in person
No appearance by or on behalf of the 2nd appellant

Respondents:

Ms. Sheree Jemmotte-Rodney for the 2nd and 3rd respondent
No appearance by or on behalf of the 1st respondent

Issues:

Status of the matter

Type of Order:

Directions

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

- 1. The appellants shall file and serve the Record of Appeal on or before 5th August 2022.**
- 2. The appellants are at liberty to file and serve written submissions with authorities on or before 6th September 2022.**
- 3. The respondents are at liberty to file and serve supplemental written submissions with authorities on or before 7th October 2022.**
- 4. The appellants are at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 24th October 2022.**
- 5. The matter is fixed for hearing at the sitting of the Court of Appeal for Montserrat scheduled for the week commencing 23rd January 2023.**

Reason:

The 2nd and 3rd respondents filed written submissions on 30th May 2022 however the appellant has not filed a record of appeal or written submissions and the parties have not reached an agreement on the documents that will be included in the record of appeal. The court gave directions for the progress of the appeal.

Case Name:

David Brandt

v

Regina

[MNIHCRAP2020/0011]

Date: Wednesday, 29th June 2022

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: In person

Respondent: Ms. Anesta Weeks, QC

Issues: Status of the matter

Type of Order: Directions

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The Registrar of the High Court shall cause the Record of Appeal to be prepared and served on the parties in both electronic and printed format on or before 22nd July 2022.
2. The appellant shall file and serve written submissions with authorities on or before 23rd September 2022.
3. The respondent shall file and serve written submissions with authorities on or before 11th November 2022.
4. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 9th December 2022.
5. The matter is fixed for hearing at the sitting of the Court of Appeal for the Territory of Montserrat during the week commencing 23rd January 2023.

Reason: The transcript of proceedings has been received and the Record of appeal is being prepared. Accordingly, the court gave directions for the progress of the appeal.

Case Name: Donovan Peart

v

Kenneth Farrell

[MNIMCVAP2020/0012]

Date: Wednesday, 29th June 2022

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: In person

Respondent: Mr. Jean Kelsick

Issues: Status of the matter

Type of Order: Adjournment

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The Bailiff of the High Court shall file and serve an affidavit of service evidencing service of the Notice of Appeal and supporting document on the respondent on or before 22nd July 2022.
2. The matter is adjourned to the next Status hearing of the court for the Territory of Montserrat scheduled for 19th January 2023 to allow the appellant to seek new legal counsel in this matter.
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 appellant requested an extension of time to allow him to seek legal counsel to assist him with this appeal. The court office has not filed the affidavit of service evidencing service of the notice of appeal and supporting document on the respondent as directed by a previous order of the court.

Case Name:

Sylvester Solomon

v

Julian Romeo

[MNIMCVAP2020/0013]

Date:

Wednesday, 29th June 2022

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondent: In person

Issues:

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 for the Territory of Montserrat scheduled for 19th January 2023 to allow the appellant to be present to indicate whether he is still interested in prosecuting this appeal.**
- 3. The Registrar shall serve a copy of this order on the parties and shall provide proof of service thereafter.**

Reason:

The bailiff has not been able to effect service of the notice of the status hearing. The court office was informed that the appellant has left the Territory since March 2020. The Respondent indicated that the appellant has returned to the Territory several times but may be avoiding service.

Case Name:

Sylvester Solomon

v

Julian Romeo

[MNIMCVAP2020/0014]

Date: **Wednesday, 29th June 2022**

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

Appearances:

Appellant:	No appearance
Respondent:	In person

Issues: **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 for the Territory of Montserrat scheduled for 19th January 2023 to allow the appellant to be present to indicate whether he is still interested in prosecuting this appeal.**
- 3. The Registrar shall serve a copy of this order on the parties and shall provide proof of service thereafter.**

Reason: The bailiff has not been able to effect service of the notice of the status hearing. The court office was informed that the appellant has left the Territory since March 2020. The Respondent indicated that the appellant has returned to the Territory several times but may be avoiding service.

Case Name:

Everlyn White

v

Clifford Ryan

[MNIMCVAP2021/0002]

Date: Wednesday, 29th June 2022

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondent: Mr. Rushaine Cunningham holding papers for Ms. Chivone Gerald

Issues: 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 cause the Record of Appeal to be uploaded to the Electronic Litigation Portal on or before 1st July 2022 and thereafter to be served on the appellant.
2. The matter is adjourned to the next status hearing of the court for the Territory of Montserrat scheduled for 19th January 2023.
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 appellant was not served with notice to be present at the status hearing. The record of appeal was received by the court office electronically on 28th June 2022. Time was given to allow for the Record of Appeal to be uploaded to the Electronic Litigation Portal.

Case Name:

Penelope Beadle

v

James Henry Lee

[MNIMCVAP2020/0001]

Date:

Wednesday, 29th June 2022

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondent: No appearance

Issues:

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 for the Territory of Montserrat scheduled for 19th 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: There being no appearance by either party the matter was adjourned.

Case Name: Karen Allen

v

Commissioner of Police

[MNIMCRAP2021/0002]

Date: Wednesday, 29th June 2022

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondent: Mr. Oris Sullivan

Issues: 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 31st October 2022, 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 for the Territory of Montserrat scheduled for 19th January 2023.**
- 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 Record of Appeal is still pending from the Magistrate's Court.

Case Name:

George Leonard

v

The Crown

[MNIMCRAP2021/0003]

Date:

Wednesday, 29th June 2022

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:

No appearance

Respondent: Mr. Oris Sullivan

Issues: 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 31st October 2022, 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 for the Territory of Montserrat scheduled for 19th January 2023.
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 Record of Appeal is still pending from the Magistrate's Court.

Case Name: D'Iar Selah Kunter

v

Commissioner of Police

[MNIMCRAP2020/0012]

Date: Wednesday, 29th June 2022

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:	In person
Respondent:	Mr. Oris Sullivan

Issues: Status of the matter

Type of Order: Directions

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The Director of Public Prosecutions shall file and serve written submissions in relation to the appeal on or before 1st July 2022.
2. The matter is listed before the full court at the next court of appeal sitting for the Territory of Montserrat, on Tuesday 5th July 2022.

Reason: The DPP indicated that the crown is willing to concede the appeal.