

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL
STATUS HEARING
TERRITORY OF THE VIRGIN ISLANDS
Monday, 27th September 2021

Case Name: Penelope Beaumont (In her Capacity as
administratrix
of the estate of Martin Beaumont,
Deceased)
v
Michael Radix

[GDAHCVAP2019/0014]
(Grenada)

Date: Monday, 27th September 2021

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Peter Foster, QC with him Ms. Afi Ventour De
Vega and Ms. Aloytha Thomas

Respondent: Mr. Dickon Mitchell

Issues: Status of the matter

Type of Order: N/A

Result / Order: The matter is removed from the status hearing list
until a representative has been appointed for the
respondent.

Reason: Counsel for the respondent indicated that the
respondent is deceased. Counsel also indicated
that the named executor of the will, has informed
that she has retained the firm of Wilkinson and

Wilkinson to inform that she will not be taking up the probate in the estate. The beneficiaries are the wife, Helen Radix and his former wife who is deceased. Accordingly, Mr. Mitchell does not have any instructions. The appellant intends to make an application to the Court to appoint a representative.

The appellant has also suggested that the notes of the proceedings made by the appellant be adopted by the court for the purposes of proceeding with the appeal.

Case Name:	Alberto Rosa de la Rosa v The Queen [BVIHCRAP2016/0001] (Territory of the Virgin Islands)
Date:	Monday, 27 th September 2021
Coram:	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:	Adjournment
Result / Order:	The matter is adjourned to the next Status Hearing of the Court for the Territory of the Virgin Islands scheduled for 6 th January 2022.

Reason:

The court noted that on a previous occasion, counsel for the appellant indicated that she does not have instructions to proceed with the matter nor does she have instructions to discontinue the matter. Counsel indicated that the position has not changed since the appellant has been deported from the Territory in December 2020 and she has no contact with him.

The Crown confirmed that the appellant has been deported and is no longer in the jurisdiction and therefore the Crown intends to file an application to strike out the matter.

Case Name:

Jessroy McKelly

v

The Queen

[BVIHC RAP2014/0002]

(Territory of the Virgin Islands)

Date:

Monday, 27th September 2021

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:

Ms. Nellien Bute

Respondent:

Mrs. Tiffany Scatliffe-Esprit, Director of Public Prosecutions

Issues:

Status of the matter

Type of Order:

Adjournment

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Registrar of the High court shall take the necessary steps to refer the matter to legal aid for the appointment for new counsel to represent the appellant.
2. The matter is adjourned to the next Status hearing of the Court for the Territory of the Virgin Islands scheduled for 6th January 2022.
3. The Registrar of the High Court shall serve a copy of this order on the appellant, personally and shall provide proof of service thereafter.

Reason:

Counsel on record for the appellant indicated that the appellant no longer wishes to retain services of the chambers. A notice of acting was filed by Maximea & Co on 26th May 2021, however counsel informed that she wishes the same to be withdrawn. The files were returned to the appellant on 24th September 2021, having indicated that he no longer wishes for counsel to represent him.

The Court also noted that the missing pages from record from the last occasion, have been supplied to the appellant therefore the record is ready and complete. The appellant continuously maintained that he does not wish to maintain current counsel and has declined representation from four different state counsel in the past.

The Court noted that this matter has been ongoing since 2015, at which point the learned Chief Justice explained to the appellant that given the seriousness and complex nature of the appeal he ought to obtain legal counsel. Despite the efforts of previous counsel, from PST Law, Mr. Thompson, the appellant severely criticised counsel, stating for instance that the counsel was not communicating with him. The Court noted that counsel assigned to the legal aid roster have been exhausted. The Crown indicated that it has had no discussion with the appellant in the matter and that if this is not resolved by the next status hearing the Crown will make the necessary application as this appeal is antiquated and needs to be dealt with.

Case Name:

**Claude Skelton-Cline
v
Cabinet of the Virgin Islands**

**[BVIHCRAP2019/0003]
(Territory of the Virgin Islands)**

Date:

Monday, 27th September 2021

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Ms. Nelline Bute

Respondent: Ms. Maya M. Barry

Issues:

Status of the matter

Type of Order:

Adjournment

Result / Order:

The matter is adjourned to the next Status Hearing of the Court for the Territory of the Virgin Islands scheduled for 6th January 2022 for the appellant to indicate whether he is still interested in prosecuting his appeal.

Reason:

Counsel for the appellant informed the Court that the transcript of proceedings has been prepared and is available. However, since then, the appellant has not given counsel any further instructions and has not supplied the sum for the payment of the transcript. She therefore requested an adjournment in order to receive further instructions from the appellant. Counsel for the respondent did not object.

Case Name:

**Kelly Ann Percival
v
Alimha Beresford**

**[BVIMCVAP2019/0001]
(Territory of the Virgin Islands)**

Date:

Monday, 27th September 2021

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Michael Maduro

Respondent: Ms. Stacy L. Abel

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 29th October 2021.**
- 2. The respondent shall file and serve written submissions with authorities on or before 29th November 2021.**
- 3. The appellant is at liberty to file and serve written submissions, with authorities, in reply, if necessary, on or before 14th December 2021.**
- 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 10th January 2022.**

Reason: The transcript has been prepared and sent to parties. The record of appeal has also been filed. Directions were therefore necessary in order to further the matter.

Case Name: Isabella Merton
v
The Queen

[BVIHC RAP2020/0001]
(Territory of the Virgin Islands)

Date: Monday, 27th September 2021

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Ms. Reynela Rawlins

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

Issues: Status of the matter

Type of Order: N/A

Result / Order:

1. Counsel for the appellant shall provide a copy of the authorisation code in this matter to the respondent on or before 28th September 2021.
2. The Registrar of the High Court shall continue efforts to cause the transcript of proceedings to be prepared and served on the parties.
3. The matter removed from the Status Hearing list pending the availability of the transcript.
4. The matter will be relisted at the next Status Hearing upon availability of the transcript or

on a date fixed to be fixed by the Chief Registrar.

Reason:

The notice of appeal was filed on the portal on 4th September 2020. However, the Crown indicated that there is no record of service of the notice of appeal and the authorisation on its office. The appellant confirmed that it was served on a member of the Director of Public Prosecutions' chambers by email but the authorisation code was not served. Counsel gave an undertaking to rectify this at the soonest.

The Court also noted that record of appeal has not been prepared and the parties are awaiting the transcript of proceedings which was requested on 15th September 2020. The matter was therefore be removed from the list till the matter is ready to proceed.

The Court also noted that counsel for the appellant indicated that since Mr. Thompson has left the firm, the appellant will have to obtain new counsel. The appellant has since applied for legal aid. However, legal aid has informed that the appellant's matter does not come under the list of matters eligible for legal aid. Ms. Rawlins indicated that she has written to legal aid to ask them to re-consider. The law firm however will be removed from the record and the appellant will have to get alternative counsel.

Case Name:

**The Queen
v
Lennox Da Silva also known as "Ocho"**

**[BVIHCRAP2019/0003]
(Territory of the Virgin Islands)**

Date:

Monday, 27th September 2021

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

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

Respondent: In person

Issue: Status of the matter

Type of Order: N/A

Result / Order: Upon noting the notice of discontinuance filed by the appellant on 21st September 2021, the appeal is hereby withdrawn and dismissed.

Reason: The Court noted that the record of appeal has not been prepared, The Court also noted that the respondent, Mr. Lennox Da Silva is up for early release and would be immediately deported from the Territory. Accordingly, he would not be present for hearing. In light of this, the Crown has decided to discontinue the appeal and filed a notice of discontinuance on 21st September 2021. The notice of discontinuance was subsequently served on the appellant, who confirmed this in Court.

Case Name:

**The Queen
v
[1] Yan Edwards
[2] Allen Baptiste**

**[BVIHCRA2020/0002]
(Territory of the Virgin Islands)**

Date: Monday, 27th September 2021

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

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

Respondent: Mr. Sherfield Bowen for the 1st respondent
No appearance for 2nd respondent; Mr. Israel Bruce on record

Issue: Status of the matter

Type of Order: Adjournment

Result / Order: IT IS HEREBY ORDERED THAT.

1. The Registrar of the High Court shall continue efforts to cause the transcript of proceedings to be prepared 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 6th January 2022.

Reason: The transcript of proceedings was requested on 10th November 2020 and has not been prepared. The Court noted that the court reporting unit is working on the same in order to have it ready by the end of the week. The record of appeal has been prepared.

Case Name:

Antonio Stoutt

v

The Commissioner of Police

[BVIMCRAP2015/0006]

(Territory of the Virgin Islands)

Date: Monday, 27th September 2021

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: In person

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

Issues: Status of the matter

Type of Order: Adjournment

Result / Order:

1. The matter is adjourned to the next Status Hearing of the Court for the Territory of the Virgin Islands scheduled for 6th January 2022 for the appellant to regularise his legal representation.
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:

The Court noted that the office of David Penn came off the Record on behalf of the appellant in 2020. The appellant informed the Court that he wishes to retain Mr. Stephen Daniels as his lawyer. However Mr. Daniels is not properly on the Record.

The appellant also informed the Court that his previous counsel Mr. Penn has a copy of the record of appeal. The appellant was advised that he should retrieve the same from Mr. Penn.

Case Name:

The Commissioner of Police
v
[1] David Straker
[2] Lyndon Chiverton

**[3] Donald George
[4] Anderson Flax**

**[BVIMCRAP2019/0004]
(Territory of the Virgin Islands)**

Date: Monday, 27th September 2021

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

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

Respondents: Mr. Marlon Markland Gordon with him Mr. Thornton Smith for 1st respondent
Ms. Reynela Rawlins for the 4th respondent
No appearance of Mr. Stephen Daniels on record for the 2nd and 3rd respondents

Issue: Status of the matter

Type of Order: N/A

Result / Order: Upon noting the notice of discontinuance filed by the appellant on 13th September 2021, the matter is hereby withdrawn and dismissed.

Reason: A notice of discontinuance had been filed on 13th September 2020 and served on the respondent, accordingly the matter was withdrawn and dismissed.

Case Name:

**Starcy Huggins
v
The Commissioner of Police**

**[BVIMCRAP2019/0001]
(Territory of the Virgin Islands)**

Date: Monday, 27th September 2021

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:	Ms. Akilah Anderson
Respondent:	Mrs. Tiffany Scatliffe-Esprit, Director of Public Prosecutions

Issue: Status of the matter

Type of Order: N/A

Result / Order: The matter is removed from the Status Hearing list pending the determination of the application to amend the notice of appeal filed by the appellant on 27th September 2021.

Reason: The Court having noted that the appellant has filed an application to amend the notice of appeal, removed the matter from the list to facilitate hearing of the application.