

EASTERN CARIBBEAN SUPREME COURT
STATUS HEARING

VIDEOCONFERENCE
TERRITORY OF THE VIRGIN ISLANDS
26th May 2021

Before: Mrs. Michelle John-Theobalds, Chief Registrar

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

Date: Wednesday, 26th May 2021

Appearances:

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

Issues: Status of the matter

Type of Order: Adjournment

Result / Order: [Oral Delivery]

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 27th September 2021.

Reason: The notice of appeal was filed on 12th February 2016. No submissions were filed by the appellant. Counsel for the appellant indicated that she has been attempting to take instructions on the matter but has been unable to.

Case Name:

**Jessroy McKelly
v
The Queen
[BVIHCRA2014/0002]**

Date:

Wednesday, 26th May 2021

Appearances:

Appellant:

Ms. Ruthilia Maximea

Respondent:

Ms. Kellee-Gai Smith, Principal Crown Counsel

Issues:

Status of the matter

Type of Order:

Directions

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

- 1. Counsel for the appellant shall notify the Registrar of the High Court of the page numbers which are missing from the Record of Appeal on or before 4th June 2021.**
- 2. The Registrar of the High Court shall use her best efforts to obtain the missing pages from the Record of Appeal and, if necessary, file the complete Record of Appeal on or before 30th July 2021.**
- 3. The matter is adjourned to the next Status Hearing of the court for the Territory of the Virgin Islands scheduled for 27th September 2021.**

Reason:

Counsel for the appellant confirmed that she has been assigned by the Legal Aid Board to the represent the appellant and intends to file a notice of acting. Counsel indicated that the record of appeal was received but notes that there are some documents that are missing.

The Registrar informed the Court, that as far as she was aware, the full record was served on the appellant.

Case Name: Steven Walters
v
The Queen
[BVIHCRAP2019/0001]

Date: Wednesday, 26th May 2021

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

Issues: Status of the matter

Type of Order: Adjournment

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

The matter is adjourned to the next status hearing of the Territory of the Virgin Islands scheduled for 27th September 2021, unless a notice of discontinuance is sooner filed.

Reason: Counsel the appellant expressed an intention to file a notice of discontinuance in the matter.

Case Name: The Attorney General of the British Virgin Islands
v
Partnerselskabet Parsifal
[BVIHCVAP2018/0001]

Date: **Wednesday, 26th May 2021**

Appearances:

Appellant:	Ms. Maya Berry on behalf of the Attorney General
Respondent:	Ms. Hazelann Boreland

Issues: **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 5th July 2021.**
- 2. The appellant shall file and serve written submissions with authorities on or before 23rd July 2021.**
- 3. The respondent shall file and serve written submissions with authorities on or before 20th August 2021.**
- 4. The appellant is at liberty to file and serve a reply, if necessary, on or before 6th September 2021.**
- 5. The hearing of the appeal is fixed for the sitting of the Court of Appeal in the Territory of the Virgin Islands during the week commencing 4th October 2021.**

Reason: **The judge's notes were received on 12th May 2021. The parties indicated their desire to have discussions regarding the prosecution of the appeal and sought directions for the progress of the appeal in the event that the discussions were unfruitful.**

Case Name:

**Claude Skelton-Cline
v
Cabinet of the Virgin Islands
[BVIHCVAP2019/0003]**

Date:

Wednesday, 26th May 2021

Appearances:

Appellant:

Ms. Ruthilia Maximea holding papers for Ms. Tana'ania Small-Davis

Respondent:

Ms. Maya Berry on behalf of the Attorney General

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 continue efforts to cause the transcript of proceedings in this matter.**
- 2. The matter is adjourned to the next status hearing of the Court scheduled for the Territory of the Virgin Islands scheduled for 27th September 2021.**

Reason:

The Registrar of the High Court indicated that the transcript of proceedings in the High Court was being prepared. Counsel was advised by the Chief Registrar that once notice of availability of the transcript is given, the timelines under the Civil Procedure Rules would take effect and that the parties are expected to comply with those timelines.

Case Name:

**Herbert Potter
v
Franka Potter
[BVIHCVAP2018/0002]**

Date:

Wednesday, 26th May 2021

Appearances:

Appellant: In person

Respondent: In person

Issues:

**Status of the matter – Failure to serve notice of appeal
– Rule 62.7 of the Civil Procedure Rules 2000**

Type of Order:

Oral Decision

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

- 1. The appeal is struck out.**
- 2. Each party shall bear their own costs.**

Reason:

The Court heard submissions from both the appellant, Mr. Herbert Potter, and the respondent, Ms. Franka Potter, who appeared in person and were unrepresented. The Court considered the notice of appeal which was filed on 3rd May 2018. The Court noted rule 62.7 of the Civil Procedure Rules 2000, which provides that a notice of appeal must be served on all parties to the proceedings within 14 days after the notice has been filed and noted that there is no evidence of service on the respondent of the notice of appeal in compliance with rule 62.7.

The Court further noted the indication by the appellant, that the notice of appeal, having been filed on 3rd May 2018, was never served on the respondent, and that an extension of time to serve the notice of appeal was never sought or obtained by him. The respondent indicated that, to date, she has not been served with

the notice of appeal and remained unaware of the contents of the notice of appeal including the grounds of the appellant's appeal.

In the circumstances, the Court was satisfied that the appellant failed to comply with rule 62.7 of the Civil Procedure Rules, having not served the notice of appeal over 3 years after it was filed, and therefore that the appeal should be struck out for failure to comply with rule 62.7.

Case Name: **Renard Benjamin**
v
Ellina Turnbull
[BVIHCVAP2019/0005]

Date: **Wednesday, 26th May 2021**

Appearances:
Appellant: **Ms. Marie Lou-Creque**
Respondent: **Ms. Ruthilia Maximea**

Issues: **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 17th June 2021.**
- 2. The appellant shall file and serve written submissions with authorities on or before 16th July 2021.**
- 3. The respondent shall file and serve written submissions with authorities on or before 16th August 2021.**

4. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 31st August 2021.
5. The hearing of the appeal is fixed for the Sitting of the court of appeal for the Territory of the Virgin Islands during the week commencing 4th October 2021.

Reason:

The parties were awaiting word from the Registrar about the transcript. The proceedings however were not recorded and were dealt with on the papers. There would not therefore have been any transcript of notes of evidence. Directions were given to progress the matter.

Case Name:

Commissioner of Police

V

**Medical Management Company Limited
[BVIMCRAP2020/0001]**

Date:

Wednesday, 26th May 2021

Appearances:

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

Respondent: Ms. Reynela Rawlins, appearing

Issues:

Status of the matter

Type of Order

Adjournment

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The respondent shall file and serve written submissions with authorities on or before 28th June 2021.
2. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 13th July 2021.
3. The hearing of the appeal is fixed for the Sitting of the court of appeal for the Territory of the Virgin Islands during the week commencing 4th October 2021.

Reason: Counsel for the respondent had not filed written submissions and requested time to do so.

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

Date: Wednesday, 26th May 2021

Appearances:

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

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 the Virgin Islands scheduled for 27th September

2021 for the appellant to indicate his position in relation to the status of his legal representation.

2. 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:

At the last occasion, the appellant sought an adjournment to permit him to seek counsel. On this occasion, the Court was informed by the Registrar of the High Court that the appellant had taken ill and was at the hospital seeking medical treatment.

Case Name:

Commissioner of Police

V

1. David Straker
 2. Lyndon Chiverton
 3. Donald George
 4. Anderson Flax
- [BVIMCRAP2019/0004]**

Date:

Wednesday, 26th May 2021

Appearances:

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

Respondents: Ms. Reynela Rawlins for Anderson Flax
No appearances for the remaining respondents

Issues:

Status of the matter

Type of Order

Adjournment

Result / Order:

[Oral Delivery]

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 27th September 2021, unless a notice of discontinuance is sooner filed.

Reason: Counsel the appellant expressed an intention to file a notice of discontinuance in the matter.

Case Name: **Floyd Isaacs**
v
Kerry Nichols
[BVIMCVAP2018/0003]

Date: Wednesday, 26th May 2021

Appearances:

Appellant:	Ms. Stacy Abel
Respondent:	Ms. Nadine Whyte-Laing appearing amicus curiae for the respondent

Issues: 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 18th June 2021.
2. The respondent shall file and serve written submissions with authorities on or before 19th July 2021.
3. The appellant is at liberty to file and serve written submissions with authorities in reply, if necessary, on or before 3rd August 2021.

4. The hearing of the appeal is fixed for the Sitting of the court of appeal for the Territory of the Virgin Islands during the week commencing 4th October 2021.

Reason: The record of appeal was served but submissions had not yet been filed.

Case Name: Kaz Penn
v
Amera Robinson Penn
[BVIMCVAP2017/0001]

Date: Wednesday, 26th May 2021

Appearances:
Appellant: Ms. Marie-Lou Creque
Respondent: Ms. Ruthilia Maximea

Issues: Status of the matter

Type of Order N/A

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:
The matter is removed from the court's list.

Reason: The Court noted that the appellant had not complied with an unless order made by the Full Court on 23rd November 2020. The consequence specified by the unless order was that the appeal would stand dismissed without further order.

Case Name:

**Kelly Ann Percival
v
Alimha Beresford
[BVIMCVAP2019/0001]**

Date:

Wednesday, 26th May 2021

Appearances:

Appellant: Mr. Michael Maduro

Respondent: Ms. Stacy Abel

Issues:

Status of the matter

Type of Order

Directions

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

- 1. The Senior Magistrate shall cause the Record of Appeal, to be prepared and submitted to the Registrar of the High Court on or before the 30th July 2021, 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 in the Territory of the Virgin Islands scheduled for 27th September, 2021.**

Reason:

The record of appeal had not been prepared.