

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL
STATUS HEARING

**SAINT LUCIA
VIDEOCONFERENCE**

Tuesday, 1st December– Wednesday, 2nd December 2020

Case Name: [1] Seafari St. Lucia Limited
[2] Rodney Bayside Limited
[3] Marcarius Joinville

v

[1] The Harbour Proprietors Unit Plan No.
02/2008 otherwise known as the Harbour
Condominium
[2] Michael Whitfield

[SLUHCVAP2016/0008]

Date: Tuesday, 1st December 2020

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellants: Mr. Mark Maragh

Respondents: Mr. Leslie Prospere

Issues: Status of the matter

Type of Order: Adjournment

Result / Order: IT IS HEREBY ORDERED THAT:

1. Counsel for the appellant shall provide the respondent with the proposed settlement order by 4:00 pm on 1st December 2020.

2. The matter is adjourned to 15th December 2020 to 8:30 am for report.

Reason:

The Court noted that the parties were involved in settlement discussions, however, counsel for the appellant had not yet sent a copy of the proposed settlement to the respondent. Counsel for the respondent indicated that his clients have instructed that the matter ought to proceed as it had been languishing in the system waiting for the appellant to act. In the circumstances, the Court proposed to adjourn the matter for 2 weeks to allow the parties to discuss the settlement agreement and revert to the Court. Both parties accepted the Court's proposition.

Case Name:

Clint Louis

v

Miguel Jeffrey

[SLUHCVAP2018/0010]

Date:

Tuesday, 1st December 2020

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: In person

Respondent: Ms. Sueanna Frederick holding papers for Mr. Dexter Theodore, QC

Issues:

Status of the matter

Type of Order:

N/A

Result / Order:

IT IS HEREBY ORDERED THAT:

Upon the Court noting that there is a pending application before the Court, the matter is removed from the Status Hearing list pending the determination of the application.

Reason:

The appellant explained to the Court that he had been experiencing financial difficulties which prevented him from being able to make payments to his attorney. The appellant further advised the Court that he had previously changed counsel, however, he intended to revert to his previous attorney since he now had the funds to make the necessary payments. He therefore requested an adjournment to allow him to re-engage his previous attorney and to provide the necessary instructions.

Counsel for the respondent indicated to the Court that on 27th November 2020 she filed an application for the matter to be dismissed for want of prosecution, however, that application had not yet been served on the appellant. The Court further noted that it was not yet in receipt of that application.

In light of the pending application to dismiss the appeal, the Court removed the matter from the Status Hearing list.

Case Name:

**[1] Organisation of Eastern Caribbean States
[2] Maxine Alexander Nestor**

v

Barbara Vargas

[SLUHCVP2018/0012]

Date:

Tuesday, 1st December 2020

Coram:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellants: Ms. Ann-Alicia Fagan

Respondent: Ms. Sueanna Frederick holding papers for Mr. Dexter Theodore, QC

Issues: Status of the matter

Type of Order: Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The hearing of the appeal is fixed for the Court of Appeal sitting in the state of Saint Lucia scheduled for the week commencing 8th March 2021.
2. The Registrar of the High Court shall serve a copy of this order on the respondent and shall provide proof of service thereafter.

Reason: The Court noted that an application was made by the appellant to migrate the matter to the E-Litigation Portal. The respondent was served with that application on 27th November 2020. The Court noted further that written submissions were filed on 26th November 2020 by the appellant along with the interlocutory bundle. These documents however, had not yet been served on the respondent. This Court was also not yet in receipt of a copy of the written submissions or the interlocutory bundle.

Ms. Sueanna Frederick informed the Court that Mr. Dexter Theodore, QC no longer represented the respondent, despite still being on record. Counsel for the appellant also informed the Court that attorney Ms. Diana Thomas has indicated that she will be sending a letter to the appellant's counsel agreeing to accept service on behalf of the respondent. The Court therefore made orders necessary for the matter to proceed.

Case Name: William Wilson

v

Christine Robinson

[SLUHCVAP2018/0019]

Date: Tuesday, 1st December 2020

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Colin Foster

Respondent: Mr. Ramon R. Raveneau

Issues: Status of the matter

Type of Order: Direction

Result / Order: IT IS HEREBY ORDERED THAT:

1. The respondent shall inform the appellant of the documents that she would like to have included in the record or the core bundle on or before 23rd December 2020.
2. The matter shall thereafter proceed in accordance with Civil Procedure Rules 2000.

Reason: Counsel for the respondent informed the Court that though he had accepted service on behalf of the respondent in the matter, he had not yet been fully retained.

Counsel for the appellant informed the Court that he had experienced some constraints in taking instructions from the appellant. Further, there was a request made by the respondent for security for costs, however no formal application was made. Mr. Raveneau indicated that the request would be followed by a formal application. Counsel for the appellant advised the Court that in the interim he wished to proceed with the filing of the record of appeal. The respondent had not yet informed the appellant of the documents to be included in the record, which should have been done within 21 days of receipt of the notice of availability of transcript, in accordance with rule 62.12(2) of

the Civil Procedure Rules. The Court therefore gave a direction for the respondent so do.

Case Name: **Brian Samuel**
v
The Public Service Commission
[SLUHCVP2018/0028]

Date: **Tuesday, 1st December 2020**

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

Appearances:
Appellant: **Mr. Leslie Prospere**
Respondent: **Mr. Vilan Edward**

Issues: **Status of the matter**

Type of Order: **Directions**

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

1. The appellant shall file and serve the Record of Appeal along with written submissions and authorities on or before 15th January, 2021.
2. The respondent shall file and serve written submissions along with authorities in response on or before 15th February, 2021.
3. The appellant is at liberty to file and serve written submissions with authorities in reply if necessary on or before 2nd March, 2021.
4. The hearing of the appeal is fixed for the next court of appeal sitting in the state of Saint Lucia

scheduled for the week commencing 8th March, 2021.

Reason: The Court noted that the parties had settled the documents which were to be included in the Record of Appeal on 11th August 2020. However, the Record of Appeal had not yet been filed. The appellant proposed to the Court that the Record of Appeal and written submission be filed by 15th January 2020, with no objection from the respondent. In the circumstances, the Court was of the view that appropriate directions were required for the further progress of the appeal.

Case Name: [1] Perline Fanfane
[2] Desire Khodra
[3] Curlyna St. Ville
[4] Nadia Louis

v

AIM – U Medversity Inc

[SLUHCVP2018/0021]

Date: Tuesday, 1st December 2020

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:
Appellants: In person
Respondent: Mr. Gokul Raj, representative for the 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 provide the parties with a copy of the order of Cenac-Phulgence J dated 12th April, 2018 on or before Wednesday 2nd December 2020.
2. The matter is adjourned to the next Status Hearing of the Court scheduled for 1st March 2021 for the appellant to indicate whether they wish to continue with this appeal.

Reason:

The Court considered that the appellants indicated their wish to discontinue the appeal. The appellants were of the opinion that the appeal would be a waste of time and they wished to move on from the matter. The appellants prepared a notice of discontinuance, however, same was not filed.

On the matter of costs, the appellants did not appear to understand why they ought to pay costs to the respondent as ordered against them in the court below in circumstances where the respondent had not proven that they were an accredited institution and had not provided the appellants with their transcripts as ordered by Cenac-Phulgence J.

In the circumstances, the Court was of the view that the appellants did not fully understand what a discontinuance would mean for them, including that the costs ordered in the court below would still be required to be paid. The Court considered that it would therefore be best to adjourn the matter to give the parties time to discuss amongst themselves how they wished to proceed with the matter.

Case Name:

Dr. Keith Mondesir

v

Hyacinth Dwarkasingh

[SLUHCVAP2018/0023]

Date:

Tuesday, 1st December 2020

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondent: Mr. Sahleem Charles

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 scheduled for 1st March 2021.
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: Counsel for the respondent informed the Court that he intended to make an application for this matter to be dismissed for want of prosecution. In the circumstances, the Court was of the view that the matter ought to be adjourned until further indication is given by counsel for both parties.

Case Name: Evariste Ambrose

v

Antoine Baptiste

[SLUHCVP2015/0029]

Date: Tuesday, 1st December 2020

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mrs. Wauneen Louis-Harris

Respondent: Ms. Leandra Verneuil

Issues: Status of the matter

Type of Order: Adjournment

Result / Order: IT IS HEREBY ORDERED THAT:

Upon the court noting the indication from counsel for the respondent that the respondent is deceased, the matter is adjourned to the next Status Hearing of the court scheduled for 1st March, 2021 to allow counsel for the respondent to make contact with the family of the respondent and to take instructions in this matter.

Reason: Counsel for the appellant indicated to the Court that the Record of Appeal had not yet been filed. Counsel for the respondent informed the Court that the respondent had passed away earlier in 2020 and she had not been able to make contact with the family of the respondent in order to receive instructions in this matter. In the circumstances, the Court was of the view that the matter ought to be adjourned to give counsel for the respondent time to receive further instructions.

Case Name: First Caribbean International Bank

v

[1] Sunset Village Inc.

[2] Moshe Yovel

[3] Digby Ambris

[SLUHCMA2019/0006]

Date: Tuesday, 1st December 2020

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Ms. Marie-Ange Symmonds

Respondents: No appearances

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 scheduled for 1st March, 2021 to allow counsel for the appellant to continue their efforts to serve the 2nd respondent with the application for an extension of time to serve the record of appeal with notice of appeal.

Reason: Counsel for the appellant informed the Court that the issue of non-service continues as the second respondent could not be located. Counsel requested an adjournment to the next status hearing so that she may make further attempts to contact the second respondent. The Court was of the view that in the circumstances the adjournment ought to be granted.

Case Name: Sebastian Marcus Day

v

The Attorney General

[SLUHCVAP2020/0023]

Date: Tuesday, 1st December 2020

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance

Respondent: Mr. Rene Williams

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 scheduled for the 1st March, 2021 for the appellant to indicate whether he is still interested in prosecuting the appeal.
2. The Registrar of the High Court shall serve a copy of this order on counsel for the appellant and shall provide proof of service thereafter.

Reason: The Court considered that this matter is one dealing with extradition and the subject had already been extradited. Counsel for the respondent indicated to the court that he was uncertain of whether the appellant still intended to proceed with the appeal. The Court was of the view that the matter ought to therefore be adjourned to the next status hearing for the appellant to indicate whether he still intended to prosecute the appeal.

Case Name: Kendall Caul

v

The Queen

[SLUHCRA2017/0007]

Date: Wednesday, 2nd December 2020

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: In person
Respondent: Mrs. Tanya Alexis-Francis

Issues: Status of the matter

Type of Order: Adjournment

Result / Order: IT IS HEREBY ORDERED THAT:

Upon noting that the appellant has made an application for legal aid to the Legal Aid Office and that application is still pending, the matter is adjourned to the next status hearing of the court scheduled for 1st March, 2021.

Reason: The Court considered that the matter concerned a conviction for murder and further that the appellant had made an application to the Legal Aid Office for legal aid but that application was still pending. The Court informed the appellant that if he did not receive a response from the Legal Aid Office by 1st February 2021 he should write a letter to the Court requesting that an attorney be appointed and such letter would be treated as an application and listed accordingly.

The Court was of the view that, in the circumstances, the appellant ought to be represented and the matter ought to be adjourned to the next status hearing to give the appellant an opportunity to obtain counsel.

Case Name: Glenroy Shawn Victor

v

The Queen

[SLUHCRA2014/0001]

Date: Wednesday, 2nd December 2020

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Leslie Mondesir

Respondent: Mr. Linton Robinson

Issues: Status of the matter

Type of Order: Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The appellant is at liberty to file and serve supplemental written submissions and authorities on or before 22nd January, 2021.
2. The respondent is at liberty to file and serve supplemental written submissions along with authorities in response on or before 19th February, 2021.
3. The appellant is at liberty to file and serve written submissions with authorities in reply if necessary on or before 3rd March, 2021.
4. The hearing of the appeal is fixed for the next court of appeal sitting in the state of Saint Lucia scheduled for the week commencing 8th March, 2021.

Reason: Counsel for the appellant informed the Court that he had been very recently engaged by the appellant and would require time to peruse the appeal documents.

The Court was of the view that, given the vintage of the matter and the request by counsel for the appellant for time to review the documents, directions ought to be given for the matter to be ready for the next sitting of the Court.

Case Name: Baston Duncan

v

The Police

[SLUMCRAP2018/0015]

Date: Wednesday, 2nd December 2020

Coram: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. David Moyston

Respondent: Mr. Linton Robinson

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 scheduled for 1st March, 2021 for counsel for the appellant to take instructions from the appellant as to whether he is still interested in prosecuting his appeal.

Reason: Counsel for the appellant informed the Court that the appellant has had to seek medical attention outside of the state. He therefore requested an adjournment so that he may take further instructions from the appellant, including an indication of whether the appellant was still interested in prosecuting the appeal. The Court was of the view that in the circumstances, and there being no objection from the Crown, that the matter ought to be adjourned to the next status hearing.

Case Name: Processus Jn Baptiste

V

The Police (PC 797 Henry)

[SLUMCRAP2016/0007]

Date: **Wednesday, 2nd December 2020**

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

Appearances:

Appellant: **In person**

Respondent: **Mr. Linton Robinson**

Issues: **Status of the matter**

Type of Order: **Oral Decision**

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

Upon noting the indication by the appellant that he no longer intends to pursue the appeal, the appeal is hereby withdrawn and discontinued.

Reason: **The Court noted that the appellant indicated his wish to withdraw the appeal since he was informed that it would not tarnish his reputation or his record. The Court accordingly granted the request for the appeal to be withdrawn.**