

**EASTERN CARIBBEAN SUPREME COURT**  
**COURT OF APPEAL SITTING**

**SAINT VINCENT AND THE GRENADINES**  
**14 – 18 OCTOBER 2019**

**APPLICATIONS AND APPEALS**

**Case Name:**

**Thirston George**  
**V**  
**The Commissioner of Police**

**[SVGMCRAP2018/0044]**  
**[St. Vincent and the Grenadines]**

**Date:**

**Monday, 14<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice**  
**The Hon. Mde. Louise Esther Blenman, Justice of Appeal**  
**The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

|                    |                                                                                        |
|--------------------|----------------------------------------------------------------------------------------|
| <b>Appellant:</b>  | <b>Mrs. Kay Bacchus Baptiste, Counsel for the Appellant</b><br><b>Appellant absent</b> |
| <b>Respondent:</b> | <b>Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.)</b>                     |

**Issues:**

**Appeal against Sentence – Theft**

**Type of Oral  
Result Order  
Delivered:**

**N/A**

**Result / Order:**

**[Oral delivery]**

**IT IS HEREBY ORDERED THAT:**

**The matter is stood down to Wednesday, 16<sup>th</sup> October, 2019.**

**Reasons:** Counsel for the Appellant notified the Court that she was just served with Skeleton Arguments and required time to peruse the documents and take further instructions from the Appellant, if necessary.

Counsel requested a short adjournment.

There was no objection by Counsel for the Respondent.

**Case Name:** Simon Hoyte  
v  
The Queen

[SVGHCRAP2016/0008]  
[St. Vincent and the Grenadines]

**Date:** Monday, 14<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Simon Hoyte, present and unrepresented

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Rose-Ann Richardson, Crown Counsel

**Issues:** Appeal against Conviction and Sentence – Unlawful Sexual Intercourse - Application for transcript to be made available

**Type of Oral  
Result Order  
Delivered:**

**Directions**

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

**IT IS HEREBY ORDERED THAT:**

1. The transcript of proceedings in the Court below to be prepared and served on the appellant and the Director of Public Prosecutions by 13<sup>th</sup> December 2019.
2. The appellant shall prepare and file his grounds of appeal together with his supporting statement on or before 10 January 2020.
3. The respondent shall file and serve written submissions on or before Friday 31<sup>st</sup> January 2020.
4. The hearing of the appeal shall be fixed for the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week commencing 24<sup>th</sup> February 2020.

**Reasons:**

The appellant stated that he has not received a Transcript of the proceedings.

**Case Name:**

**Kentish Campbell**

**v**

**The Queen**

**[SVGHCRAP2008/0014]**

**[St. Vincent and the Grenadines]**

**Date:**

**Monday, 14<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice**

**The Hon. Mde. Louise Esther Blenman, Justice of Appeal**

**The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant: Mr. Kentish Campbell, present and unrepresented**

**Respondent: Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Renee Simmons, Crown Counsel for the Respondent**

**Issues:**

**Appeal against Conviction – Murder**

**Type of Oral  
Result Order  
Delivered:**

**Oral Judgment**

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The appeal is dismissed.**
- 2. The conviction and sentence are affirmed.**

**Reasons:**

**The appellant pleaded guilty to the following offences and was sentenced as follows:**

- Attempted Murder - sentenced to 20 years imprisonment**
- Wounding – sentenced to 15 years imprisonment**
- Unlawful use of Firearm – sentenced to 5 years imprisonment**
- Possession of Firearm with intent to commit an offence 2 counts – sentenced to 12 years imprisonment**
- Attempted Robbery – sentenced to 12 years imprisonment**
- Abduction – sentenced to 3 years imprisonment**

**Sentences to run concurrently.**

**The appellant requested that time on remand be taken into consideration.**

**The time on remand which the appellant was referring to, was in relation to a previous offence.**

**The Court cannot entertain an application in relation to a matter that is not before the Court.**

**In relation to the offence attempted murder, there was no remand time.**

**In fact, the Record disclosed that the appellant was serving a sentence at the time he was convicted for attempted murder.**

**Case Name:**

**Deno Walker**

**V**  
**The Commissioner of Police**

**[SVGMCRAP2017/0057]**  
**[St. Vincent and the Grenadines]**

**Date:** Monday, 14<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Appellant:** No appearance of or for the appellant

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mrs. Tammika McKenzie, Crown Counsel for the Respondent

**Issues:** Application for Legal Practitioner to be removed from the Record

**Type of Oral Result Order Delivered:** N/A

**Result / Order:** [Oral delivery]  
IT IS HEREBY ORDERED THAT:

The matter is stood down.

**Reasons:** Ms. Samantha Robertson of counsel appeared amicus curiae and requested that the matter be stood down in order to make contact with Ms. Vynnette Frederick, counsel for the appellant.

**Case Name:** Jevonne Samuel  
**V**  
**The Queen**

**[SVGHCRA2017/0016]  
[St. Vincent and the Grenadines]**

**Date:** Monday, 14<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Jevonne Samuel, present and unrepresented

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mr. Karim Nelson, Crown Counsel for the Respondent

**Issues:** Appeal against Sentence – Attempted Murder

**Type of Oral Result Order Delivered:** Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

1. The appeal against sentence is dismissed.  
2. The sentence is affirmed.

**Reasons:**

The appellant was found guilty of the following offences and was sentenced as follows:

- Attempted Murder, contrary to Section 315(1) of the Criminal Code Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 12 years imprisonment
- Wounding, contrary to Section 174 of the Criminal Code Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 – sentenced to 5 years imprisonment

Sentences to run concurrently.

The appellant indicated that he was appealing against sentence. He stated that in his view, the sentence should be more lenient.

Time spent on remand and the guilty plea were taken into account by the Court below.

The appellant had several convictions in relation to matters with the same virtual complainant.

The Court noted the aggravating factors and observed that there was no remorse on the part of the appellant.

The Court found the sentence to be lenient and there was no reason to disturb the sentence.

**Case Name:**

**Tedford Baptiste**

**V**

**The Queen**

**[SVGHCRA2017/0012]**

**[St. Vincent and the Grenadines]**

**Date:**

**Monday, 14<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice**

**The Hon. Mde. Louise Esther Blenman, Justice of Appeal**

**The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant: Mr. Tedford Baptiste, present and unrepresented**

**Respondent: Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Rose-Ann Richardson, Crown Counsel for the Respondent**

**Issues:**

**Appeal against Sentence – Aggravated Burglary**

**Type of Oral  
Result Order  
Delivered:**

**Oral Judgment**

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The appeal against sentence is allowed.**
- 2. The sentence is varied from a term of imprisonment of 16 years to a term of imprisonment for 13½ years to be served from the date of conviction.**

**Reasons:**

**The appellant pleaded guilty to the following offences and was sentenced as follows:**

- Aggravated Burglary, contrary to Section 218 (1) of the Criminal Code CAP 171 of the laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 16 years imprisonment**
- Burglary, contrary to Section 217(1)(b) of the Criminal Code Chapter 171 of the laws of Saint Vincent and the Grenadines 2009 – sentenced to 7 years imprisonment**
- Unlawful use of Firearm – sentenced to 5 years imprisonment**
- Wounding, contrary to Section 174 of the Criminal Code Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 – sentenced to 7 years imprisonment**

**Sentences to run concurrently.**

**This was an appeal against sentence.**

**The appellant submitted that the sentence was harsh and that he pleaded guilty.**

**The record disclosed that the guilty plea was entered on the morning of the trial.**

**The Court noted that the appellant had previous convictions for similar offences.**

**The Court found that the trial judge only gave the appellant credit for one year.**

**The Court held that the guilty plea was not early, but it warranted at least a 20 percent discount.**

**Case Name:**

**Kirk Williams  
Allan Wilson  
v  
The Commissioner of Police**

**[SVGMCRAP2008/0046]  
[St. Vincent and the Grenadines]**

**Date:**

**Monday, 14<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice M. Pereira, DBE, LL.D.,  
Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of  
Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant:**

**Mr. Kirk Williams, present and unrepresented  
No appearance of or for Mr. Allan Wilson**

**Respondent:**

**Ms. Sejilla McDowall, Director of Public Prosecutions  
(Ag.) with Mrs. Tammika McKenzie, Crown Counsel for  
the Respondent**

**Issues:**

**Appeal against Conviction – Trespassing and Stealing**

**Type of Oral  
Result Order  
Delivered:**

**N/A**

**Result / Order:**

**[Oral delivery]  
IT IS HEREBY ORDERED THAT:**

**The matter is stood down to Wednesday, 16<sup>th</sup> October,  
2019.**

**Reasons:**

**The Court noted that there was another appellant,  
Mr. Allan Wilson, who was not present.**

**Counsel for the respondent requested that the matter  
be stood down.**

**Case Name:**

**David Hepburn  
v  
The Commissioner of Police**

**[SVGMCRAP2019/0021]  
[St. Vincent and the Grenadines]**

**Date:**

**Monday, 14<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant: Mr. David Hepburn, present and unrepresented**

**Respondent: Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Renee Simmons, Crown Counsel for the Respondent.**

**Issues:**

**Appeal against Conviction – Attempting to Export a Controlled Drug**

**Type of Oral  
Result Order  
Delivered:**

**Oral Judgment**

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The appeal against conviction is dismissed.**
- 2. The appeal against sentence is dismissed.**
- 3. The conviction and sentence are affirmed.**

**Reasons:**

**The appellant was found guilty of the following offences and was sentenced as follows:**

- Attempted to export of a controlled drug, contrary to Section 20 of the Drug (Prevention of Misuse) Act, Chapter 284 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 5 years imprisonment**

- Possession of a Controlled Drug with Intention to supply, contrary to Section 7(3) of the Drug (Prevention of Misuse) Act, Chapter 284 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 – sentenced to 5 years imprisonment
- Drug Trafficking, contrary to Section 16(1) of the Drug (Prevention of Misuse) Act, Chapter 284 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 – sentenced to 5 years imprisonment

Sentences to run concurrently.

The appellant appealed against conviction and sentence.

The appellant said he had no knowledge of the drugs. He said that he had only asked for a ride.

The Court informed the appellant that the facts were placed before the learned magistrate and the learned magistrate did not believe him and it was not the role of the Court of Appeal to review the facts of a case.

The appellant submitted that the sentence was excessive because the other person pleaded guilty; he had no knowledge of the drugs and was concerned about the welfare of his family.

The Court noted that the other accused received a discount for his early guilty plea.

The Court found no reason to interfere with the finding of guilt. There was sufficient evidence on which the learned magistrate could find the appellant guilty.

The Court looked at sentences imposed for similar offences. The sentence imposed in this case was not out of range and the Court found no reason to disturb the sentence passed by the magistrate.

Case Name:

**Casseon Pereira**  
**v**  
**The Commissioner of Police**

**[SVGMCRAP2019/0018]**

**[St. Vincent and the Grenadines]**

**Date:** Monday, 14<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Casseon Pereira, present and unrepresented

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mr. John Ballah Counsel for the Respondent

**Issues:** Appeal against Conviction – Unlawful and Malicious Wounding

**Type of Oral Result Order Delivered:** Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

1. The appeal against sentence is dismissed.  
2. The sentence of 4½ years imprisonment is affirmed.

**Reasons:**

The appellant pleaded guilty to the following offence and was sentenced as follows:

- Unlawful and Malicious Wounding, contrary to Section 174 of the Criminal Code, CAP 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 4½ years imprisonment

The appellant indicated that he was no longer appealing against conviction. He had pleaded guilty.

The appellant requested a reduced sentence because of the poor conditions at the prison. The appellant indicated that he damaged his spine and is now

wheelchair bound.

The Court noted that the virtual complainant was the Appellant's sister. The injury was serious. The Appellant had previous convictions, one being for murder plus five other convictions.

The Court found that the sentence in all the circumstances was fair.

There was no reason to disturb the sentence.

**Case Name:**

**Dean Nash**

**V**

**The Commissioner of Police**

**[SVGMCRAP2019/0025]**

**[St. Vincent and the Grenadines]**

**Date:**

**Monday, 14<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice**

**The Hon. Mde. Louise Esther Blenman, Justice of Appeal**

**The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant: Mr. Dean Nash, present and unrepresented**

**Respondent: Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Rose-Ann Richardson, Crown Counsel for the Respondent**

**Issues:**

**Appeal against Conviction – Trespassing with Intent to Commit an Offence**

**Type of Oral  
Result Order  
Delivered:**

**Oral Judgment**

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

With the leave of the Court, the appeal is withdrawn.

**Reasons:**

The appellant pleaded guilty to the offence of Burglary contrary to Section 217(1)(a) of the Criminal Code CAP 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 and was sentenced to one (1) year imprisonment

The appellant indicated that he served his time and wished to withdraw the appeal.

There was no objection by the Crown.

**Case Name:**

**Andrew Myers**  
**V**  
**The Commissioner of Police**

**[SVGMCRAP2018/0054]**  
**[St. Vincent and the Grenadines]**

**Date:**

**Monday, 14<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice**  
**The Hon. Mde. Louise Esther Blenman, Justice of Appeal**  
**The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant:** **Ms. Kensha Theobalds, Counsel for the Appellant**  
**Mr. Andrew Myers, present**

**Respondent:** **Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mrs. Tammika McKenzie, Crown Counsel for the Respondent**

**Issues:**

**Appeal against Sentence – Unlawful and Malicious Wounding**

**Type of Oral  
Result Order  
Delivered:**

**Directions**

**Result / Order:**

**[Oral delivery]**

**IT IS HEREBY ORDERED THAT:**

1. The matter is stood down to Wednesday, 16<sup>th</sup> October, 2019.
2. The respondent to file and serve skeleton arguments by 3:00 p.m. on Monday 14<sup>th</sup> October 2019.

**Reasons:**

The respondent indicated that no response was filed to the submissions because the office of the Director of Public Prosecutions was trying to clarify a discrepancy in the record.

The matter is stood down to allow the respondent to file skeleton arguments.

**Case Name:**

**Deno Walker  
v  
The Commissioner of Police**

**[SVGMCRAP2017/0057]  
[St. Vincent and the Grenadines]**

**Date:**

**Monday, 14<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant: Mr. Ronald Marks holding for Ms. Vynnette Frederick,  
Counsel for the Appellant  
Mr. Deno Walker, absent**

**Respondent: Ms. Sejilla McDowall, Director of Public Prosecutions  
(Ag.) with Mrs. Tammika McKenzie, Crown Counsel for  
the Respondent**

**Issues:**

**Application for Legal Practitioner to be removed from  
the Record**

**Type of Oral  
Result Order  
Delivered:**

**Directions**

**Result / Order:**

**[Oral delivery]  
IT IS HEREBY ORDERED THAT:**

- 1. The matter is stood down to Wednesday, 16 October, 2019.**
- 2. The Registrar of the High Court shall serve the Appellant with a Notice of Hearing.**

**Reasons:**

**The Appellant was absent but the Crown informed the Court that the Appellant was present at the Status Hearing on the Tuesday, 8<sup>th</sup> October 2019 and was advised to return to Court today.**

**The Court noted that although an Affidavit of Service was filed by Counsel for the Appellant, the Affidavit was vague. The Court was not sure if the Appellant received the application based on the wording of the Affidavit.**

**Case Name:**

**Garth Oliver  
v  
Beulah Phillips**

**[SVGHC VAP2013/0008]  
[St. Vincent and the Grenadines]**

**Date:**

**Monday, 14<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant: Ms. Samantha Robertson, Counsel for the Appellant  
Appellant absent**

**Respondent: Mr. Duane Daniel, Counsel for the Respondent**

**Ms. Beulah Phillips present**

**Issues:**

**Appeal against Breach of Contract**

**Type of Oral  
Result Order  
Delivered:**

**Oral Judgment**

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. Leave is granted to the respondent to deem the skeleton arguments filed on the 13<sup>th</sup> August 2019 properly filed.**
- 2. The appeal is allowed.**
- 3. The case is remitted to the Court below for a retrial.**

**Reasons:**

**Counsel for the respondent made an oral application to deem skeleton arguments filed out of time by the respondent, as properly filed.**

**There was no objection by counsel for the appellant.**

**In relation to the substantive appeal, the Court noted that there was no reason or explanation as to how the Court arrived at its decision.**

**The matter was remitted to the High Court but the Court urged the parties to consider mediation.**

**Case Name:**

**The News Limited**

**v**

**Joseph Delves**

**Venold Coombs**

**[SVGHCVAP2017/0011]**

**[St. Vincent and the Grenadines]**

**Date:**

**Tuesday, 15<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal**

**The Hon. Mde. Gertel Thom, Justice of Appeal  
The Hon. Mr. Paul Webster QC, Justice of Appeal (Ag.)**

**Appearances:**

**Appellant:** Mr. Stanley John QC, Counsel for the Appellant with him Mr. Akin John  
Ms. Jacqueline Kydd, the representative of The News Limited present

**Respondent:** Mr. Grahame Bollers, Counsel for the First Respondent  
Mr. Joseph Delves present  
Mr. Venold Coombs present, unrepresented

**Issues:** Appeal against Decision of the master

**Type of Oral  
Result Order  
Delivered:** Oral Judgment

**Result / Order:** [Oral delivery]  
**IT IS HEREBY ORDERED THAT:**

1. The appeal is allowed.
2. The respondent Mr. Joseph Delves shall pay the appellant, The News Limited costs in the sum of \$3,000.00.
3. No costs awarded to the second respondent Mr. Venold Coombs.
4. The matter is remitted to the High Court to be determined by a Judge of the Court.

**Reasons:** This was an appeal against the order of the Learned Master on an application made pursuant to the Civil Procedure Rules 69.4 requiring the Master to determine whether the words complained of are capable of bearing the meaning or meanings attributed to them in the Statement of Case.

The Learned Master in his determination made a decision as to the actual meaning of the words.

The Court considered the oral and written submissions and the concession rightly made by

**Counsel for the First Respondent.**

**The Court was of the view that the Learned Master was only required to determine whether the words complained of are capable of bearing a meaning or meanings attributed to them in the Statement of Case.**

**On the issue of costs, the Court considered that costs should be awarded to the Appellant and made no order as to costs against the Second Respondent as he had not filed any documents since he filed the Notice of Appeal and he did not make any meaningful contribution to the Appeal.**

**Case Name:**

**Ian Orvin Abbott**

**V**

**The Queen**

**[SVGHCRA2015/0006]**

**[St. Vincent and the Grenadines]**

**Date:**

**Tuesday, 15<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal**

**The Hon. Mde. Gertel Thom, Justice of Appeal**

**The Hon. Mr. Paul Webster QC, Justice of Appeal (Ag.)**

**Appearances:**

**Appellant: Mr. Ian Orvin Abbott, present and unrepresented**

**Respondent: Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mrs. Tammika McKenzie, Crown Counsel for the Respondent**

**Issues:**

**Appeal against Sentence – Manslaughter**

**Type of Oral  
Result Order  
Delivered:**

**Oral Judgment**

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

1. The appeal is dismissed.
2. The sentence of 10 years imprisonment is affirmed.

**Reasons:**

This is an appeal against the sentence of the Learned Trial Judge where a sentence of 10 years imprisonment was imposed for the offence of Manslaughter. Time spent on remand being 18 months, was deducted.

The appellant was indicted for Murder but pleaded guilty to Manslaughter.

The appellant appealed against sentence on the ground that the sentence was excessive.

The Court looked at the Record and considered the Submissions of the parties.

The Court found no error in the sentencing remarks of the Court below. The learned trial judge started with the notional sentence of 15 years which was in keeping with the notional sentence for this offence. The learned trial judge also gave a 1/3 discount for the early guilty plea and considered time spent on remand.

There was therefore no reason to interfere with the sentence imposed.

**Case Name:**

**Israel Thomas  
v  
The Commissioner of Police**

**[SVGMCRAP2019/0017]  
[St. Vincent and the Grenadines]**

**Date:**

**Tuesday, 15<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal  
The Hon. Mde. Gertel Thom, Justice of Appeal  
The Hon. Mr. Paul Webster QC, Justice of Appeal (Ag.)**

**Appearances:**

**Appellant:** Mr. Israel Thomas, present and unrepresented

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Rose-Ann Richardson, Crown Counsel for the Respondent

**Issues:** Appeal against Sentence - Possession of a controlled drugs with intent to supply it to another

**Type of Oral Result Order Delivered:** Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

The appeal is allowed to the extent that the sentence of 5 years imprisonment imposed by the learned magistrate is set aside and a sentence of 4 years imprisonment is substituted in its place.

**Reasons:**

The appellant was charged with possession of a controlled drug with intent to supply contrary to Section 7 (3) of the (Drugs Prevention of Misuse) Act, CAP 284 of the Laws of Saint Vincent and the Grenadines Revised Edition 2009.

The Appellant pleaded guilty and the learned magistrate sentenced him to 5 years imprisonment.

He appealed against sentence on the ground that the sentence was excessive.

In his submissions to the Court, the appellant stated that he pleaded guilty at the first opportunity and had no previous convictions.

The Court found no aggravating factors. The Court observed that the maximum penalty for this offence where the matter is tried summarily is 7 years imprisonment.

The Court considered the approach of the Court in matters of this nature and taking into account the

mitigating factors, the Court was of the view that the term of imprisonment for 5 years was excessive in the absence of any aggravating factors. The Court also observed that the learned magistrate gave no reason as to how the sentence of 5 years was arrived at.

**Case Name:** **Deshawn Slater**  
**V**  
**The Commissioner of Police**  
**[SVGMCRAP2019/0015]**  
**[St. Vincent and the Grenadines]**

**Date:** **Tuesday, 15<sup>th</sup> October 2019**

**Coram:** **The Hon. Mde. Gertel Thom, Justice of Appeal**  
**The Hon. Mr. Paul Webster QC, Justice of Appeal (Ag.)**

**Appearances:**

|                    |                                                                                                                             |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------|
| <b>Appellant:</b>  | <b>Mr. Deshawn Slater, present and unrepresented</b>                                                                        |
| <b>Respondent:</b> | <b>Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Renee Simmons, Crown Counsel for the Respondent</b> |

**Issues:** **Appeal against Sentence - Possession of Firearm and Ammunition without Licence**

**Type of Oral Result Order Delivered:** **Oral Judgment**

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

- 1. The appeal against sentence is dismissed.**
- 2. The sentence of 4½ years imprisonment is affirmed.**

**Reasons:** **The appellant was charged with the following offences and was sentenced as follows:**

- Possession of one Smith and Wesson .38 Special**

Revolver Serial Number CCV7678 without a licence issued under the Firearm Act, contrary to Section 4(3) Firearm Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 4½ years imprisonment.

- Possession of five rounds of .38 Special Ammunition without a license issued under the Firearms Act, contrary to Section 4(3) Firearm Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 – sentenced to 10 months imprisonment.

Sentences to run concurrently.

The appellant pleaded not guilty initially. The trial commenced and during the course of the trial he changed his plea to guilty.

The Court reviewed the reasons of the learned magistrate and disagreed with the manner in which the learned magistrate treated the aggravating factors. The learned magistrate erred in listing the aggravating factors and then applying 4 months imprisonment for each aggravating factor.

The Court noted further that the factors identified by the learned magistrate were not all aggravating factors. The most important aggravating factor was that the appellant had a previous conviction for a similar offence and had just been released from prison for that offence.

The mitigating factor was that the appellant was a young person.

The Court accepted that the notional sentence is 5 years and agreed that a 1/10 discount should be applied in which case the sentence would be 4½ years.

The Court held that a term of imprisonment for 4½ years is not out of line with what is a reasonable sentence in all the circumstances of this case.

Case Name:

**Lendon Abraham**

**V**  
**The Commissioner of Police**

**[SVGMCRAP2018/0030]**  
**[St. Vincent and the Grenadines]**

**Date:** Tuesday, 15<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Gertel Thom, Justice of Appeal  
The Hon. Mr. Paul Webster QC, Justice of Appeal (Ag.)

**Appearances:**

|                    |                                                                                                                                   |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| <b>Appellant:</b>  | <b>Mr. Lendon Abraham, present and unrepresented</b>                                                                              |
| <b>Respondent:</b> | <b>Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Rose-Ann Richardson, Crown Counsel for the Respondent</b> |

**Issues:** Appeal against Sentence – Driving Whilst being disqualified from holding or obtaining a driving permit, using vehicle without insurance policy in force

**Type of Oral Result Order Delivered:** Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. Leave is granted to the appellant to withdraw the appeal.**
- 2. The appeal is accordingly dismissed.**

**Reasons:** The appellant pleaded guilty to the following offences and was sentenced as follows:

- Driving an uninsured vehicle, contrary to Section 3(1) of the Motor Vehicle (Third Party Risk) Act, Chapter 309 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 – fined \$1,500.00 by 30 June 2017, in default 6 months imprisonment and disqualified from driving for 15 months.**
- Driving while disqualified from driving, contrary to Section 29(1) of the Motor Vehicle and Road Traffic Act, Chapter 483 of the Laws of Saint Vincent and**

the Grenadines, Revised Edition 2009 – fined \$3,000.00 by 29 September 2017 in default 1 year imprisonment.

The Appellant informed the Court that he had already served his sentence and wished to withdraw his appeal.

There was no objection by Counsel for the Respondent.

Case Name:

**Tevin Simmons**  
**V**  
**The Commissioner of Police**

**[SVGMCRAP2019/0006]**  
**[St. Vincent and the Grenadines]**

Date:

Tuesday, 15<sup>th</sup> October 2019

Coram:

The Hon. Mde. Gertel Thom, Justice of Appeal  
The Hon. Mr. Paul Webster QC, Justice of Appeal (Ag.)

Appearances:

**Appellant:** Mr. Deshawn Slater, present and unrepresented  
**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mr. John Ballah, Counsel for the Respondent

Issues:

**Appeal against Sentence – Possession of Unlicensed Firearm and Ammunition**

Type of Oral  
Result Order  
Delivered:

**Oral Judgment**

Result / Order:

**[Oral delivery]**  
**IT IS HEREBY ORDERED THAT:**

- 1. The appeal against sentence is dismissed.**
- 2. The sentence of 5 years imprisonment imposed by the learned magistrate is affirmed.**

**Reasons:**

The appellant was found guilty of the following offences and was sentenced as follows:

- Possession of a firearm without a licence contrary to Section 4(3) Firearm Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 5 years imprisonment.
- Possession of two rounds of Ammunition without a license, contrary to Section 4(3) Firearm Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 – sentenced to 6 months imprisonment.

Sentences to run concurrently.

The Court noted that the weapon was a .22 Smith and Wesson Semi Automatic Pistol.

The appellant appealed against sentence on the ground that the sentence of 5 years imprisonment was manifestly excessive in all the circumstances.

The Court took into account that the maximum penalty which could be imposed is 5 years imprisonment.

The Court noted that at the relevant time, the appellant had no previous convictions and was 22 years old. The Court further noted that age can be important in some matters and not so important in others, as in this case, where the offence is of a very serious nature.

The offence was committed in the dead of night. The firearm was loaded and the Court noted the prevalence of firearm offences in St. Vincent and the Grenadines.

The Court found no basis to interfere with the sentence of 5 years imprisonment and concluded that the sentence was not manifestly excessive.

**Case Name:**

**Romando Andrews**  
**v**  
**The Commissioner of Police**

**[SVGMCRAP2019/0034]**  
**[St. Vincent and the Grenadines]**

**Date:** Tuesday, 15<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Gertel Thom, Justice of Appeal  
The Hon. Mr. Paul Webster QC, Justice of Appeal (Ag.)

**Appearances:**

**Appellant:** No appearance of or for the Appellant

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mr. John Ballah, Counsel for the Respondent

**Issues:** Appeal against Sentence – Handling Stolen Goods

**Type of Oral  
Result Order  
Delivered:** Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

The appeal is dismissed for want of prosecution.

**Reasons:** The appellant was found guilty of handling stolen goods, contrary to Section 233 of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 and was sentenced to 2 years imprisonment.

The appellant was absent. The Court noted that the appellant was served with a Notice of Hearing on 23<sup>rd</sup> May 2019. The Court was advised by Counsel for the Respondent and the Court observed the Prison Status Report, that the appellant had already served his sentence.

**Case Name:**

**Ranell Mathurin**  
**V**  
**The Commissioner of Police**

**[SVGMCRAP2019/0032]  
[St. Vincent and the Grenadines]**

**Date:** Tuesday, 15<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Gertel Thom, Justice of Appeal  
The Hon. Mr. Paul Webster QC, Justice of Appeal (Ag.)

**Appearances:**

|                    |                                                                                                                                   |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| <b>Appellant:</b>  | <b>Mr. Ranell Mathurin, present and unrepresented</b>                                                                             |
| <b>Respondent:</b> | <b>Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Rose-Ann Richardson, Crown Counsel for the Respondent</b> |

**Issues:** Appeal against Sentence – Damage to property, trespassing

**Type of Oral Result Order Delivered:** Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

The appeal against sentence is allowed to the extent that the sentences imposed by the learned magistrate shall run concurrently.

**Reasons:**

The appellant pleaded guilty to the following offences and was sentenced as follows:

- Buglary, contrary to Section 217(1) of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 3 years imprisonment.
- Damage to Property contrary to Section 267(1) of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 – sentenced to 1 year imprisonment.
- Going equipped to steal, contrary to Section 237(1) of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 – sentenced to 1 year imprisonment

**Sentences to run consecutively.**

**Concerning the sentence of 3 years imprisonment for Burglary, the appellant requested the Court to reduce the sentence. The notional sentence is 4 years. Taking into account the guilty plea and noting the aggravating factor of previous convictions for similar offences, the learned magistrate did not err in imposing a sentence of 3 years imprisonment.**

**Concerning the issue as to whether the sentences should run consecutively or concurrently, the respondent correctly conceded that the sentences should run concurrently.**

**Case Name:**

**The Commissioner of Police**

**V**

**Cornelius Haynes**

**[SVGMCRAP2018/0052]**

**[St. Vincent and the Grenadines]**

**Date:**

**Tuesday, 15<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Gertel Thom, Justice of Appeal**

**The Hon. Mr. Paul Webster QC, Justice of Appeal (Ag.)**

**Appearances:**

**Appellant:**

**Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mrs. Tammika McKenzie, Crown Counsel for the Appellant**

**Respondent:**

**Mr. Ronald Marks, Counsel for the Respondent  
Mr. Cornelius Haynes, present**

**Issues:**

**Appeal against Conviction – Use of threatening Language**

**Type of Oral  
Result Order  
Delivered:**

**Oral Judgment**

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

The appeal having been discontinued, is accordingly dismissed.

**Reasons:**

The Appellant was found not guilty of the offence of breach of peace by use of threatening, contrary to Section 289(c) of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009.

Counsel for the Appellant advised the Court that a Notice of Discontinuance was filed on 10 October 2019.

**Case Name:**

**Julius Carter  
v  
The Commissioner of Police**

**[SVGMCRAP2019/0027]  
[St. Vincent and the Grenadines]**

**Date:**

**Tuesday, 15<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Gertel Thom, Justice of Appeal  
The Hon. Mr. Paul Webster QC, Justice of Appeal (Ag.)**

**Appearances:**

**Appellant: Mr. Julius Carter, present and unrepresented**  
**Respondent: Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Rose-Ann Richardson, Crown Counsel for the Respondent**

**Issues:**

**Appeal against Conviction – Obtaining money by deception**

**Type of Oral  
Result Result Order  
Delivered:**

**Oral Judgment**

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The appeal is dismissed.**
- 2. The sentence imposed by the Court to pay compensation of \$750.00 in default 6 months imprisonment is substituted with a sentence of 6 months imprisonment commencing today.**

**Reasons:**

The appellant was found guilty of the offence of deception, contrary to Section 223(1)(a) of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 – compensation order to pay the virtual complainant \$750.00 by 31 May 2018 or in default 6 months imprisonment.

The appellant was charged with the offence of theft.

At the hearing of the matter, the offence was amended to deception.

At the adjourned hearing date, the appellant gave evidence in response to the prosecution evidence, including the evidence of the virtual complainant.

Having heard the evidence of the prosecution witnesses and the appellant, the learned magistrate concluded that the prosecution had proved its case.

The appellant was found guilty and the learned magistrate ordered the appellant to pay compensation in the sum of \$750.00, in default 6 months imprisonment.

The appellant appealed against conviction and sentence.

**Appeal against Conviction –**

The appellant contended that he was convicted for the wrong offence. He said that the prosecution withdrew the application to amend the charge. The Court found no record of a withdrawal. The record disclosed that the charge was in fact amended from theft to deception.

The learned magistrate had evidence on which the appellant could have been convicted for deception.

**There was no basis to interfere with the conviction.**

**Appeal against Sentence –**

**In relation to the compensation order, the appellant submitted that he spent 6 months on remand. The Court pointed out that the learned magistrate did not impose a term of imprisonment in which it would have been necessary to give credit for the time on remand. The sentence was for an order for compensation and time on remand does not arise on an order for compensation.**

**The appellant was given one month to pay the compensation. The appellant admitted that to date, the compensation has not been paid.**

**The Court saw no reason to interfere with the sentence imposed as the maximum sentence for deception was a term of imprisonment for 2 years.**

**The order for compensation of \$750.00 was not unreasonable and excessive.**

**The learned magistrate took into account the youthfulness of the Appellant but failed to conduct a means test before making an order for compensation.**

**However, having regard to the time that had passed; the Court was minded to allow the appellant some time to pay the compensation.**

**The Court then conducted a means test but the appellant admitted that he was not employed and had no source of income.**

**The Court was satisfied that the appellant did not have the means to pay the compensation. Noting that the appellant had no previous convictions and that the maximum sentence is 2 years imprisonment, the Court imposed a sentence of 6 months imprisonment.**

**Case Name:**

**Augustine Badnock  
v  
The Commissioner of Police**

**[SVGMCRAP2019/0033]  
[St. Vincent and the Grenadines]**

**Date:** Tuesday, 15<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Gertel Thom, Justice of Appeal  
The Hon. Mr. Paul Webster QC, Justice of Appeal (Ag.)

**Appearances:**

**Appellant:** Mr. Augustine Badnock, present and unrepresented

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Rose-Ann Richardson, Crown Counsel for the Respondent

**Issues:** Appeal against conviction – Stealing

**Type of Oral Result Order Delivered:** Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

1. The appeal against conviction is dismissed. The conviction is affirmed.
2. The order imposing a fine of \$3,000.00 is varied and the appellant is ordered to pay a fine of \$1,000.00 in 3 months, in default 3 months imprisonment.
3. The order for compensation in the sum of \$6,000.00 is set aside, having regard to the fact that the engine was returned to the virtual complainant.

**Reasons:** The appellant was found guilty of the offence of theft, contrary to Section 209(1) of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 and was fined \$3,000.00 to be paid in one month, in default 12 months imprisonment. Compensation Order in the sum of \$6,000.00 to be paid in two months, in default 18 months imprisonment.

**Sentences to run concurrently.**

The appellant was tried by the learned magistrate after pleading not guilty.

The learned magistrate, after hearing the evidence led by the prosecution, was satisfied beyond reasonable doubt that the engine was stolen and the Appellant attempted to sell it.

The learned magistrate heard the evidence by the prosecution and by the Appellant and convicted the appellant. The appellant appealed against sentence. At the beginning of the appeal, the appellant made an oral application to appeal against conviction. Leave was granted to appeal against conviction.

Where the learned magistrate hears evidence in a matter and makes a decision after having the opportunity to see the prosecution and defence witnesses and observe their demeanor, the Court of Appeal will be slow to disturb the learned magistrate findings of the learned magistrate.

Concerning the appeal against conviction, the Court was satisfied that the learned magistrate had evidence before him on which he could convict the appellant. There is no basis to interfere with the decision.

In relation to the default provision attaching to the compensation order for \$6,000.00, the Court noted that 18 months is in excess of the jurisdiction of the learned magistrate. The maximum default sentence is 12 months. The Court noted that the engine that was stolen was returned to the virtual complainant. There was no evidence as to its condition. The Court set aside the compensation order.

The appellant said that he is not working full time. However, the appellant stated that he drives a passenger van, goes fishing, does maintenance work and is assisted by his mother who resides in Canada. The fine was reduced to \$1,000.

**Case Name:**

**Cosmos Hackshaw  
v  
The Commissioner of Police**

**[SVGMCRAP2019/0008]  
[St. Vincent and the Grenadines]**

**Date:**

**Tuesday, 15<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Gertel Thom, Justice of Appeal  
The Hon. Mr. Paul Webster QC, Justice of Appeal (Ag.)**

**Appearances:**

**Appellant: Mr. Cosmos Hackshaw, present and unrepresented**  
**Respondent: Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Renee Simmons, Crown Counsel for the Respondent**

**Issues:**

**Appeal against Conviction – Breaking Traffic Regulations**

**Type of Oral  
Result Order  
Delivered:**

**Oral Judgment**

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The appeal against sentence is dismissed.**
- 2. The sentence of a fine of \$500.00 is affirmed.**
- 3. The sentence is varied to the extent that the date for payment of the fine having already passed on 12<sup>th</sup> December, 2018, the fine shall now be paid on or before 15<sup>th</sup> November 2019, in default 2 months imprisonment.**
- 4. The fine is imposed for each offence.**

**Reasons:**

**The appellant pleaded guilty of the following offences and was sentenced as follows:**

- Being the driver of motor vehicle H-5905 did fail to comply with road sign ‘No Crossover’, contrary to**

Regulation 26(7)(e) Motor Vehicle and Road Traffic Regulations, Chapter 483 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 – fine of \$500.00 to be paid by 12 December 2018 in default 2 months imprisonment.

- Being the driver of motor vehicle H-5905 did willfully allow the said vehicle to stand on such a road so as to cause unnecessary obstruction to the free flow of traffic, contrary to Regulation 26(6) of the Motor Vehicle and Road Traffic Regulations, Chapter 483 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 – fine of \$500.00 to be paid by 12 December 2018 in default 2 months imprisonment.

The Court found that the fine was not excessive.

The appellant indicated that he is making good money and was in a position to pay the fine.

## **JUDGMENT**

Case Name:

**Ferdinand James**

**v**

**Planviron (Caribbean Practice) Limited  
Rodney Bay Marina Limited**

**[SLUHCVP2017/0050]  
[St. Lucia]**

Date:

**Wednesday, 16<sup>th</sup> October 2019**

Coram for delivery  
of judgment:

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief  
Justice**

**The Hon. Mde. Louise Esther Blenman, Justice of  
Appeal**

**The Hon. Mr. Mario Michel, Justice of Appeal**

Appearances:

**Appellant: Mr. Duane Daniel holding papers for Mr. Andy George,  
Counsel for the Appellant**

**Respondent: Ms. Dannielle France holding papers for Counsel for**

## **the First and Second Respondents**

### **Issues:**

**Civil Appeal – Civil Code of Saint Lucia – Article 2103A – Supreme Court Prescription by Thirty Years (Declaration of Title) Rules – Land Registration Act – Title to immovables by positive prescription – Jurisdiction to determine claims for prescriptive title to registered land – Whether the Court’s jurisdiction under article 2103A has been impliedly repealed by the Land Registration Act – Whether the Supreme Court Prescription by Thirty Years(Declaration of Title) Rules were impliedly repealed by the Land Registration Act**

### **Result/ Order**

**Held: (per Pereira CJ and Webster JA [Ag.]), dismissing the appeal with costs to the respondents to be assessed unless agreed within 21 days, that:**

- 1. The registered land system, operated under the LRA, replaced the previous system whereby title to land was conferred by deed and subsequently registered by volume and folio (the “title by deed system”). There is simply no system of land ownership in Saint Lucia existing outside the registered land system under the LRA, in respect of which a declaration of title may effectively vest title. Accordingly, it is not open to any person to ignore the plain language and express provisions of the LRA and to continue to use the procedure under the Civil Code and the Prescription Rules, when the LRA does not provide for it and, instead, expressly provides its own procedure or gateway for obtaining title by prescription.**
- 2. Sections 104 and 105 of the LRA expressly vest the High Court with an advisory and an appellate jurisdiction over decisions of the registrar to rectify or refuse to rectify the register on the basis of a prescription claim. It would be incongruous were the court, on declaring title pursuant to article 2103A and the Prescription Rules, to have a person aggrieved by the act of rectification by the registrar, return to the same High Court (which**

issued the declaration in the first place) for determination of that grievance by way of an advisory opinion or appeal. This circularity is within the realm of a repugnance which does not permit the reposeful existence between the two procedures, and is an indication that the procedure under the Prescription Rules was intended by Parliament to cease to be an effectual mode of obtaining prescriptive title.

Article 2103A of the Civil Code of Saint Lucia Cap 4.01, Revised Laws of Saint Lucia 2015 considered; Sections 104 and 105 of the Land Registration Act Cap 5.01, Revised Laws of Saint Lucia 2015 considered.

3. In all the circumstances, it is not reasonably possible to construe the procedures under the Prescription Rules and the LRA in a manner that gives sensible effect to both. In any event, even if one were to take a contrary view, there is the ineluctable conclusion that the court's jurisdiction under article 2103A has been rendered redundant and therefore, an exercise in futility, as the registrar is not obliged to accept a declaration of title issued by the court, without more. Neither is the registrar relieved, in any way, of the duty to, himself, be satisfied that the claim for title by prescription has been made out.

Halsbury's Laws of England (4<sup>th</sup> Edn., 1973), Vol. 44 paras 966 and 969 considered; article 2103A of the Civil Code of Saint Lucia Cap 4.01, Revised Laws of Saint Lucia 2015 considered; sections 97, 98, 104 and 105 of the Land Registration Act Cap 5.01, Revised Laws of Saint Lucia 2015 considered; William Quinto and anor v Santiago Castillo Limited [2009] UKPC 15 considered; Sylvina Louisien v Joachim Rodney Jacob [2009] UKPC 3 considered; Loopsome Portland el al v Sidonia Joseph Saint Lucia Civ. App No.2 of 1992 (delivered 25th January 1993, unreported) considered.

4. The LRA vests the registrar with judicial and quasi-judicial powers, including the power to determine when an instrument should be registered, and when an instrument should not be registered.

While it is true that the earlier findings herein have the effect of ousting the High Court's original jurisdiction to determine prescription claims, the court retains an advisory and appellate jurisdiction over decisions of the registrar on prescription claims under section 94. Quite apart from the court's powers under section 98 (which speaks to court-ordered rectification), section 115 of the LRA expressly retains the court's jurisdiction in respect of civil suits and proceedings related to the ownership of land. Such a civil suit can result in a rectification of the land register where a fraud or a mistake has been made out either in respect of a first registration or a subsequent registration. The court's jurisdiction therefore has not been completely ousted in prescription claims.

E. A. Francis: *The Law and Practice Relating to Torrens Title in Australasia: Volume 1* (1972) Butterworth & Co. (Australia) Ltd at p.46 considered; sections 98 and 115 of the Land Registration Act Cap 5.01, Revised Laws of Saint Lucia 2015 considered; *Skelton v Skelton* (1986) 37 WIR 177 considered; *Webster v Fleming* Anguilla Civil Appeal No 6 of 1993, (delivered 8<sup>th</sup> May 1995, unreported) considered; *Sylvina Louisien v Joachim Rodney Jacob* [2009] UKPC 3 considered.

5. Section 80 deals with the registration of ownership in land by way of transmission and has nothing to do with rectification of the land register. It simply permits registration, where the land in question has passed from a registered owner to a subsequent owner by operation of law on death or insolvency or otherwise. A registration by virtue of a transmission is not in play here. In any event, there is no provision in the LRA which permits the registrar to rectify the land register on the basis of a transmission.

Section 80 of the Land Registration Act Cap 5.01, Revised Laws of Saint Lucia 2015 interpreted; *George v Guye* DOMHCVAP 2012/0013 (delivered 12<sup>th</sup> June 2017, unreported) applied.

6. The 1987 amendment to section 3 of the LRA did

not have the effect of allowing the procedure provided in the Civil Code and the Prescription Rules to continue to apply alongside the provisions of the LRA. Firstly, any petition filed in accordance with the Prescription Rules would necessarily be in respect of land registered under the LRA, which is the legislation that exclusively applies to all land, interests in land or dealings in registered land. In any event, the original section 3 is couched in strikingly mandatory terms which would have had the effect of repealing the court's jurisdiction under article 2103A and the accompanying Prescription Rules. The original section 3 is strong evidence that the court's jurisdiction was not intended to survive the implementation of the registered land system.

Section 3 of the Land Registration Act Act No.12 of 1984 considered; section 3 of the Land Registration Act Cap 5.01, of the Revised Laws of Saint Lucia 2015 considered.

7. The Court must give effect to the clear and unambiguous will of a sovereign parliament, that jurisdiction to determine claims for prescriptive title to land in Saint Lucia vests in the registrar. There is no legal principle that enables the court to ignore the law when an issue arises for determination, because persons have chosen to ignore it for several years. It is however the function of the court to decide what the law is on an issue raised before it. As such, a complaint that the judge did not consider the effect of his judgment on previous declarations, therefore, takes the appeal no further.

Beverley Levy v Ken Sales and Marketing Ltd [2008] UKPC 6 considered; section 19 of the Eastern Caribbean Supreme Court Act Cap 2.01, Revised Laws of Saint Lucia 2015 considered; Spiricor of St Lucia Ltd v Attorney- General of St Lucia and Another (1997) 55 WIR 123 considered.

Per Michel JA (dissenting):

1. Article 2103A of the Civil Code is the legislative

provision which gave the court jurisdiction to issue the Prescription Order in January 2011. In so far as the declaration of title was issued pursuant to the court's jurisdiction under article 2103A and not the Prescription Rules, the learned judge erred when he purported to set aside the order on the basis that the Prescription Rules were repealed. In any event, the Prescription Rules are merely procedural rules that set out the manner in which an application for title to land by prescription under article 2103A of the Civil Code should be made. A finding that the Rules had been impliedly repealed has no real impact therefore on the jurisdiction of the High Court to issue a declaration of title. The order of the learned judge setting aside the Prescription Order was therefore made on a wrong foundation and must be set aside as there was no application or declaration for prescriptive title under the Prescription Rules, and accordingly no basis for the finding that the Prescription Rules and the Land Registration Act are inconsistent.

Article 2103A of the Civil Code of Saint Lucia Cap 4.01, Revised Laws of Saint Lucia 2015, considered; rule 4 of the Supreme Court Prescription by Thirty Years (Declaration of Title) Rules S.I. No. 7 of 1970 considered.

2. There is a very strong presumption against implied repeal in circumstances where: (i) the allegedly conflicting pieces of legislation have coexisted without difficulty for a long period of time; (ii) the legislation said to have been impliedly repealed is a very "weighty" enactment, like the Civil Code of Saint Lucia; (iii) the consequence of an implied repeal would be to oust the original jurisdiction of the Supreme Court; and where (iv) the consequence of an implied repeal would be to nullify several declarations issued by the court within the last thirty-four years. The Land Registration Act was never intended to oust the jurisdiction of the Supreme Court to adjudicate upon disputes as to title to land. On the contrary, parliament sought to ensure that the Act would be minimally disruptive to the existing land law of Saint Lucia contained in the Civil Code. In the

absence of a clear indication that article 2103A and the Land Registration Act were not intended to coexist, there is no basis on which to find that article 2103A has been impliedly repealed or that the presumption against implied repeal in this case has been rebutted.

West Ham Churchwardens and Overseers v Fourth City Mutual Building Society [1982] 1 QB 654 applied; Henry Boot Construction (UK) Ltd. v Malmaison Hotel (Manchester) Ltd. [2001] QB 388 applied; BH (AP) v The Lord Advocate [2012] UKSC 24 applied; section 115 of the Land Registration Act Cap 5.01, Revised Laws of Saint Lucia 2015 considered; Land Adjudication Act Cap 5.06, Revised Laws of Saint Lucia 2015 considered; Land Surveyors' Act Cap 5.07, Revised Laws of Saint Lucia 2015 considered.

3. The Civil Code is more than just a statute which prescribes or proscribes some action or course of action. It is a code setting out an entire body of laws covering a significant portion of what constitutes the law or laws of Saint Lucia. One does not simply jettison long-standing and frequently-used provisions in the Civil Code because ordinary legislation subsequently enacted appears to be inconsistent with the codal provisions. This is of even greater moment when the jurisdiction that is taken to be impliedly curtailed is the very fountain of jurisdiction of our legal system – the Supreme Court.
4. Section 94 provides a route by which a person may apply to the registrar of lands for prescriptive title but does not exclude the jurisdiction of the High Court under article 2103A to determine whether a person has acquired prescriptive title. There is therefore no necessary or unresolvable inconsistency, or repugnancy, arising from the possibility of there being an application before the registrar for the grant of prescriptive title, and an application to the High Court for the grant of a declaration of title with regard to the same portion of land. If this in fact occurs, the court may stay its own proceedings pending adjudication by the

registrar, or may order a stay of the proceedings by the registrar pending adjudication by the court.

5. Section 97 of the Act gives power to the registrar of lands to rectify the land register in the circumstances mentioned in the section. This cannot be taken to mean that the registrar may not otherwise rectify the land register and, in particular, that he or she cannot do so if directed by order of a competent court.

Sections 97 and 115 of the Land Registration Act Cap 5.01, Revised Laws of Saint Lucia 2015 considered.

6. Section 96 of the Act gives the registrar of lands the same authority to receive and approve applications for servitudes over land as do sections 94 and 95 with respect to applications for ownership of land by prescription. Any finding that the registrar is the sole authority empowered to receive and adjudicate applications for ownership of land by prescription must also mean that the power of the Supreme Court to determine that a person has acquired a right of way or some other easement over land is extinguished by section 96. Furthermore, if it is to be taken that declarations of title issued under article 2103A are now futile, the same reasoning may be applied to deeds of sale, deeds of donation, mortgages, and all other forms of transfer of registered land, which have been and continue to be the modes of conveyance of registered land in Saint Lucia. This reinforces the view that article 2103A of the Civil Code and section 94 of the Act are not inconsistent with or repugnant to each other, and that, if it was the will of parliament that prescriptive title be removed altogether from the jurisdiction of the Court and placed exclusively in the domain of a civil servant, then parliament's intention would have been legislatively expressed and not judicially implied.

Sections 94, 95 and 96 of the Land Registration Act Cap 5.01, Revised Laws of Saint Lucia 2015 considered.

7. *Spiricor of St. Lucia Limited v Attorney-General of*

St. Lucia and Another concerned an obvious conflict between articles 957 and 1382 of the Civil Code and sections 23, 26, 37(1) and 56 of the Land Registration Act (which are at the heart of the land registration system). The nature of the conflict in Spiricor does not arise in this case. In any event, it is hardly conceivable that a conflict bearing on the jurisdiction of the Supreme Court to adjudicate disputes relating to land ownership could have escaped the notice of the drafters, through whose words the intention of parliament is expressed.

Spiricor of St Lucia Limited v the Attorney-General of St Lucia and Another (1997) 55 WIR 123 distinguished.

## **APPLICATION AND APPEALS**

**Case Name:**

**Deno Walker  
v  
The Commissioner of Police**

**[SVGMCRAP2017/0057]  
[St. Vincent and the Grenadines]**

**Date:**

**Wednesday, 16<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Applicant:**

**Mr. Ronald Marks, holding for Ms. Vynnette Frederick, Counsel for the appellant in relation to the Application for Legal Practitioner to be removed from the Record  
Mr. Deno Walker, present and unrepresented in relation to the substantive matter – Appeal against Sentence for Possession of an Offensive Weapon**

**Respondent:**

**Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mrs. Tammika McKenzie, Crown Counsel for the Respondent**

**Issues:** Application for Legal Practitioner be removed from the Record

**Type of Oral Result Order Delivered:** Oral Decision

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

1. The order sought on the application by Ms. Vynnette Frederick to be removed as the Legal Representative for Mr. Deno Walker is hereby granted.
2. The Applicant shall file an order with the Court and a copy of the order shall be served on Mr. Deno Walker in accordance with Rules of Court.

**Reasons:** The appellant was found guilty the offence of Possession of an Offensive Weapon, contrary to Section 76(1) of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 and was sentenced to a term of 6 months imprisonment.

This was an application by counsel on record for the appellant to be removed as counsel.

The appellant indicated that he had no objections to the application.

**Case Name:** Deno Walker  
v  
The Commissioner of Police  
[SVGMCRAP2017/0057]  
[St. Vincent and the Grenadines]

**Date:** Wednesday, 16<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Ronald Marks, holding for Ms. Vynnette Frederick, Counsel for the appellant in relation to the Application for Legal Practitioner to be removed from the Record  
Mr. Deno Walker, present and unrepresented in relation to the substantive matter – Appeal against Sentence for Possession of an Offensive Weapon

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mrs. Tammika McKenzie, Crown Counsel for the Respondent

**Issues:** Appeal against Sentence – Possession of an Offensive Weapon

**Type of Oral  
Result Order  
Delivered:**

Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

1. The appeal against conviction is dismissed.
2. The appeal against sentence is allowed.
3. The sentence of a term of imprisonment of 6 months is varied to time served.

**Reasons:**

The appellant was found guilty the offence of Possession of an Offensive Weapon, contrary to Section 76(1) of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 and was sentenced to a term of 6 months imprisonment.

The Court was of the view that the sentence should be varied to time served.

**Case Name:**

**Kirk Williams  
Allan Wilson  
V  
The Commissioner of Police**

**[SVGMCRAP2018/0046]  
[St. Vincent and the Grenadines]**

**Date:**

**Wednesday, 16<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant: Mr. Kirk Williams, present and unrepresented  
Mr. Allan Wilson, present and unrepresented**

**Respondent: Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mrs. Tammika McKenzie, Crown Counsel for the Respondent**

**Issues:**

**Appeal against Conviction – Trespassing and Stealing**

**Type of Oral  
Result Order  
Delivered:**

**Oral Judgment**

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The Appeal by Mr. Kirk Williams against conviction and sentence is dismissed.**
- 2. The conviction and sentence of Mr. Kirk Williams are affirmed.**
- 3. The Appeal by Mr. Allan Wilson against conviction and sentence is adjourned to enable a search to be made as to the completeness of the record of proceedings in the Court below.**

4. The hearing of the Appeal will come up at the next sitting of the Court of Appeal in the State of St. Vincent and the Grenadines during the week commencing 24 February 2020.

**Reasons:**

The Appellants were found guilty the offence of 3 counts of Burglary, contrary to Section 217(1)(a) of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 and were sentenced to a term of 4 years imprisonment on all 3 counts.

Sentences to run concurrently.

**Kirk Williams**

Concerning the Appeal against conviction, there was no basis for disturbing the conviction. There was ample and cogent evidence before the learned magistrate to reach the conclusion of guilt.

Concerning the Appeal against sentence, there is no basis for disturbing the sentence in all the circumstances of the case as the sentence was within the range of sentences for this offence.

**Allan Wilson**

There was some discrepancy as to the accuracy of the record before the Court.

**Case Name:**

**Andrew Myers  
v  
The Commissioner of Police**

**[SVGMCRAP2018/0054]  
[St. Vincent and the Grenadines]**

**Date:**

**Wednesday, 16<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant:** Ms. Kensha Theobalds holding papers for Mr. Israel Bruce, Counsel for the Appellant  
Mr. Andrew Myers, present

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mrs. Tammika McKenzie, Crown Counsel for the Respondent

**Issues:** Appeal against Sentence – Unlawful and Malicious Wounding

**Type of Oral Result Order Delivered:** Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

1. The appeal against conviction is withdrawn.
2. The appeal against sentence is allowed.
3. The sentence is varied to the extent that the sentence is varied to time served.

**Reasons:**

The appellant pleaded guilty to the offence of Wounding, contrary to Section 174 of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 and was sentenced to a term of 4 years imprisonment.

Counsel for the appellant made an oral application to withdraw the appeal against conviction.

In relation to the appeal against sentence, counsel for the appellant submitted that the sentence was excessive. The appellant pleaded guilty and had no previous convictions. Counsel submitted that the sentence be varied to time served.

Counsel for the respondent conceded that the sentence was excessive but submitted that the balance of the sentence be varied to a suspended sentence.

The Court found that the sentence was excessive in all the circumstances of the case. The appellant pleaded guilty and had no previous convictions.

**Case Name:** **Thirston George**  
**V**  
**The Commissioner of Police**  
**[SVGMCRAP2018/0044]**  
**[St. Vincent and the Grenadines]**

**Date:** **Wednesday, 16<sup>th</sup> October 2019**

**Coram:** **The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice**  
**The Hon. Mde. Louise Esther Blenman, Justice of Appeal**  
**The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

|                    |                                                                                                                                 |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------|
| <b>Appellant:</b>  | <b>Mrs. Kay Bacchus-Baptiste, Counsel for the appellant</b><br><b>Mr. Thirston George, present</b>                              |
| <b>Respondent:</b> | <b>Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mrs. Tammika McKenzie, Crown Counsel for the respondent</b> |

**Issues:** **Appeal against Conviction and Sentence - Theft**

**Type of Oral Result Order Delivered:** **Oral Judgment**

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

- 1. With the leave of the Court, the appeal against conviction is withdrawn.**
- 2. The conviction is affirmed.**
- 3. The appeal against sentence is allowed.**
- 4. The sentence of a term of imprisonment of 16 months is varied to time served.**

5. The payment of the sum of \$299.00 by way of compensation to the virtual complainant, to be paid by 16<sup>th</sup> December 2019, in default 6 months imprisonment.

**Reasons:**

The appellant pleaded guilty the offence of Theft, contrary to Section 209 of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 and was sentenced to a term of 16 months imprisonment.

Counsel for the appellant made an oral application to withdraw the appeal against conviction.

Concerning the appeal against sentence, counsel for the appellant submitted that the Learned Magistrate did not take into account the mitigating factors and that the factors identified as aggravating factors, were not really aggravating factors in all the circumstances of the case.

Counsel for the respondent conceded the appeal and suggested that the Court make a compensation order for the phone which was valued at \$299.00.

**Case Name:**

**Allie Franklyn Providence  
v  
The Commissioner of Police**

**[SVGMCRAP2018/0038]  
[St. Vincent and the Grenadines]**

**Date:**

**Wednesday, 16<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant: Mr. Allie Franklyn Providence, present and unrepresented**

**Respondent: Ms. Sejilla McDowall, Director of Public Prosecutions**

**(Ag.) with Mrs. Tammika McKenzie, Crown Counsel for the Respondent**

**Issues:**

**Appeal against Conviction – Dishonest/Inducement**

**Type of Oral  
Result Order  
Delivered:**

**Adjournment**

**Result / Order:**

**[Oral delivery]  
IT IS HEREBY ORDERED THAT:**

**The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in the Saint Vincent and the Grenadines during the week commencing 24<sup>th</sup> February 2020.**

**Reasons:**

**The appellant maintained that he always had funds on his credit card to pay the outstanding hotel bills but that the hotel refused to draw down the money from his credit card. The appellant stated that this was the agreed mode of payment between him and the hotel.**

**After some discussion, the appellant made an oral application for an adjournment to retain the services of a lawyer. There was no objection by Counsel for the respondent.**

**The Court granted the application.**

**Case Name:**

**The Commissioner of Police**

**V**

**Brenton Carr**

**[SVGMCRAP2018/0028]**

**[St. Vincent and the Grenadines]**

**Date:**

**Wednesday, 16<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice**

**The Hon. Mde. Louise Esther Blenman, Justice of**

**Appeal**  
**The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mr. Karim Nelson, Crown Counsel for the Appellant

**Respondent:** Mr. Ronald Marks, Counsel for the Appellant  
Mr. Brenton Carr, present

**Issues:** Appeal against Conviction – Upholding no Case to Answer

**Type of Oral  
Result Order  
Delivered:**

**Adjournment**

**Result / Order:** [Oral delivery]  
**IT IS HEREBY ORDERED THAT:**

At the request of the respondent, the hearing of the appeal is adjourned to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week commencing 24 February 2020.

**Reasons:** Mr. Ronald Marks indicated to the Court that the appellant had recently contacted him with a view to retaining his services. However, all necessary arrangements were not yet made.

Counsel made an oral application for an adjournment.

There was no objection by counsel for the appellant.

**Case Name:**

**Dennis Richardson**  
**V**  
**The Commissioner of Police**

**[SVGMCRAP2018/0043]**  
**[St. Vincent and the Grenadines]**

**Date:** Wednesday, 16<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Dennis Richardson, present and unrepresented

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.)

**Issues:** Appeal against Conviction – Possession of Firearm without Licence

**Type of Oral  
Result Order  
Delivered:**

Adjournment

**Result / Order:**

[Oral delivery]  
IT IS HEREBY ORDERED THAT:

The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week commencing 24<sup>th</sup> February 2020.

**Reasons:**

The appellant made an oral application for an adjournment to retain the services of a lawyer.

Counsel for the respondent noted that this was the second time the appellant was requesting time to retain a lawyer but stated that the respondent was not objecting to the application.

**Case Name:**

**Randy Shallow  
Frieakesha Douglas  
v  
The Commissioner of Police**

**[SVGMCRAP2018/0035]  
[St. Vincent and the Grenadines]**

**Date:** Wednesday, 16<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Randy Shallow, present, unrepresented  
Mr. Ronald Marks holding papers for Mr. Michael Wyllie, Counsel for Ms. Friequesha Douglas  
Ms. Friequesha Douglas, present

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.)

**Issues:** Appeal against Conviction – Possession of Firearm without Licence

**Type of Oral Result Order Delivered:** Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

1. The appeal by Mr. Randy Shallow against conviction is dismissed.
2. The appeal by Mr. Randy Shallow against sentence is dismissed.
3. The conviction and sentence of Mr. Randy Shallow are affirmed.
4. The appeal by Ms. Freiquesha Douglas against conviction is dismissed.
5. The appeal by Ms. Freiquesha Douglas against sentence is allowed to the extent that:
  - (i) In relation to the prohibited weapons, the sentence of 8 years imprisonment is substituted for 4 years imprisonment.
  - (ii) In relation to the other weapons a

- sentence of 4 years is imposed.
- (iii) The other offences a sentence of 4 years is imposed.
- (iv) Time on remand to be taken into account.
- (v) Sentences to run concurrently.

**Reasons:**

The appellants were found guilty of the following offences and were sentenced as follows:

- Possession of one Glock 9mm Pistol without a licence, contrary to Section 4(3) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 5 years imprisonment
- Possession of one .38 Revolver without a licence, contrary to Section 4(3) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 5 years imprisonment
- Possession of a prohibited weapon to wit “One Sub Machine Gun Serial Number 529343, contrary to Section 14(4)(A) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 8 years imprisonment
- Possession of a component part of a prohibited weapon to wit “a magazine of one AK 47 Rifle, contrary to Section 14(4)(A) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 3 years imprisonment
- Possession of one round of 7.62 ammunition without a licence, contrary to Section 4(3) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 5 months imprisonment
- Possession of one round of .38 ammunition without a licence, contrary to Section 4(3) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 3 months imprisonment
- Possession of forty two rounds of 9mm ammunitions without a licence, contrary to Section 4(3) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 5 months imprisonment
- Possession of fourteen rounds of .40 ammunitions

without a licence, contrary to Section 4(3) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 15 months imprisonment

Sentences to run concurrently. Time on remand to be discounted.

**Randy Shallow**

**Appeal against conviction**

This was an appeal against conviction and sentence.

The first appellant submitted that there were several discrepancies and inconsistencies in the prosecution evidence.

The Court noted that every case has inconsistencies but the Magistrate has to assess the evidence in its totality.

The Court further noted that there was cogent evidence against the first appellant.

There is no basis to overturn the conviction. The Learned Magistrate was entitled to reach a finding of guilt.

**Appeal against sentence**

The Court noted that the firearm was a prohibited weapon for which a licence cannot be obtained.

The Court noted everything that the Learned Magistrate took into account in sentencing and saw no reason to interfere with the sentence imposed. The sentence is within the range of sentences for these types of offences.

**Friekesha Douglas**

**Appeal against conviction**

Counsel for the second appellant contended that sufficient evidence was not adduced against her. The premises were rented by the first appellant and the name on the Search Warrant was Randy Shallow.

Counsel conceded that the second appellant was also occupying the premises and admitted that the Appellants were in a relationship.

Counsel submitted that the second appellant was occupying a separate room and argued that knowledge was critical to prove possession.

The Court held that there was no basis to interfere with the conclusion reached by the Learned Magistrate having seen and heard the witnesses and having visited the locus.

#### **Appeal against sentence**

Counsel submitted that the second appellant was a minor player and received the same sentence as the First Appellant in circumstances where she had no previous convictions and was 22 years old at the relevant time.

Counsel for the second appellant suggested to the Court that an appropriate sentence would be a sentence between 3 - 6 years.

The Court observed that the mitigating factors were not taken into account in the sentencing of the Second Appellant.

The sentence ought to be reduced to reflect the mitigating factors. The Court believed that 4 years would be appropriate.

Counsel for the respondent stated that 4 years imprisonment appears to be lenient and that 5 years would be more appropriate.

The Court suggested that the maximum sentence is 10 years and that the notional sentence should be no more than 7 years.

The Court found that the Learned Magistrate did not take into account the mitigating factors in relation to the second appellant which differentiated her from the first appellant. The first appellant clearly being the mastermind of this offence. The sentence should be

reduced taking into account her minor role, no previous convictions and her age.

|                           |                                                                                                                                                                                             |
|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Case Name:                | <b>Devon Ashton</b><br><b>V</b><br><b>The Commissioner of Police</b><br><br><b>[SVGMCRAP2019/0014]</b><br><b>[St. Vincent and the Grenadines]</b>                                           |
| Date:                     | <b>Wednesday, 16<sup>th</sup> October 2019</b>                                                                                                                                              |
| Coram:                    | <b>The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice</b><br><b>The Hon. Mde. Louise Esther Blenman, Justice of Appeal</b><br><b>The Hon. Mr. Mario Michel, Justice of Appeal</b> |
| Appearances:              |                                                                                                                                                                                             |
| Appellant:                | <b>Mr. Devon Ashton, present and unrepresented</b>                                                                                                                                          |
| Respondent:               | <b>Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Rose-Ann Ricahrdson, Crown Counsel for the Respondent</b>                                                           |
| Issues:                   | <b>Appeal against Conviction – Possession of a Firearm without Licence</b>                                                                                                                  |
| Type of Result Delivered: | <b>Oral Judgment</b>                                                                                                                                                                        |

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The appeal against conviction is dismissed.**
- 2. The appeal against sentence is dismissed.**
- 3. The sentence and conviction are affirmed.**

**Reasons:**

**The appellant was found guilty of the following offences and was sentenced as follows:**

- Possession of a firearm without a licence, contrary to Section 4(3) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 4½ years imprisonment**
- Possession of ammunition without a licence, contrary to Section 4(3) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 3 months imprisonment**

**Sentences to run concurrently.**

**The appellant submitted that the evidence led by the prosecution was fabricated.**

**The Court decided that there was no basis to disturb the conviction. There was sufficient evidence on which the Learned Magistrate could convict the appellant.**

**There was no merit in the appeal. The sentence was appropriate after a full trial and given the previous convictions of the appellant for similar offences.**

**Case Name:**

**Kimani Joe**

**V**

**The Commissioner of Police**

**[SVGMCRAP2019/0012]**

**[St. Vincent and the Grenadines]**

**Date:** Wednesday, 16<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Kimani Joe, present and unrepresented

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mr. Karim Nelson, Crown Counsel for the Respondent

**Issues:** Appeal against Conviction – Possession of Firearm without Licence

**Type of Oral Result Order Delivered:** Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

1. Leave is granted to withdraw the appeal.  
2. The conviction and sentence are affirmed.

**Reasons:** The appellant was found guilty of the following offences and was sentenced as follows:

- Possession of a Firearm without a licence, contrary to Section 4(3) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 4½ years imprisonment
- Possession of ammunition without a licence, contrary to Section 4(3) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 11 months imprisonment

Sentences to run concurrently.

The appellant indicated that he wished to withdraw the appeal.

There was no objection by counsel for the respondent.

**Case Name:** Collin David  
V  
The Commissioner of Police  
[SVGMCRAP2019/0019]  
[St. Vincent and the Grenadines]

**Date:** Wednesday, 16<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Collin David, present and unrepresented

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Renee Simmons, Crown Counsel for the Respondent

**Issues:** Appeal against Conviction – Possession of Firearm without Licence

**Type of Oral Result Order Delivered:** Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The appeal against conviction is withdrawn.**
- 2. The sentence of 5 years imprisonment is affirmed but the sentence is to run concurrently with the sentence currently being served.**

**Reasons:**

**The appellant was found guilty of the following offences and was sentenced as follows:**

- Possession of one Canik 9mm Semi Automatic Pistol Serial Number T6472-16 AP 19974 without a licence, contrary to Section 4(3) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 5 years imprisonment**
- Possession of thirty six rounds of 9mm ammunition without a licence, contrary to Section 4(3) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 2½ years imprisonment**

**Sentences to run concurrently.**

**The appellant made an oral application to withdraw the appeal against conviction.**

**Concerning the appeal against sentence, the appellant informed the Court that he was serving a sentence for a similar offence and that this sentence for the above mentioned offences was to run consecutively.**

**Case Name:**

**Clete Exeter**

**V**

**The Commissioner of Police**

**[SVGMCRAP2018/0037]**

**[St. Vincent and the Grenadines]**

**Date:**

**Wednesday, 16<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice**

**The Hon. Mde. Louise Esther Blenman, Justice of**

**Appeal**  
**The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant:** Mrs. Kay Bacchus-Baptiste, Counsel for the Appellant  
Mr. Clete Exeter, present

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions  
(Ag.) with Mr. Karim Nelson, Crown Counsel for the  
Respondent

**Issues:** Appeal against Conviction – Entering household as a  
Trespasser and Stealing

**Type of Oral  
Result Order  
Delivered:**

**Oral Judgment**

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

1. The appeal against conviction is dismissed.
2. The appeal against sentence is allowed to the extent that the sentence of 4 years imprisonment is varied to 3 years imprisonment.

**Reasons:**

Counsel for the appellant raised the issue that the identification of the appellant at the scene of the crime was not sound.

Counsel for the appellant was suggesting that the learned magistrate did not apply the Turnbull Directions.

The Court noted that Turnbull Directions were required in a Jury Trial. However, the learned magistrate being the trier of facts and law did not require the learned magistrate to spell out the Turnbull Directions.

The record disclosed that the learned magistrate did in fact consider the Turnbull Directions although this

was not articulated.

Concerning the appeal against sentence, Counsel for the appellant noted that the appellant had no previous convictions.

Counsel for the respondent noted that the appellant did not have any previous relevant convictions and noted further that persons convicted of similar offences and with previous convictions, the sentence imposed was in the range of 4 years imprisonment.

The Court concluded in relation to the appeal against conviction, that the evidence in relation to the identification was sufficient to found the conviction. There was no basis, having regard to the reasons given by the learned magistrate, to disturb the findings. There was no merit in the appeal against conviction.

In relation to the appeal against sentence, the Court concluded that a sentence of 3½ years would be appropriate taking into account the fact that the appellant had no previous relevant convictions and the sentences imposed in similar cases.

**Case Name:**

**Gregory Greaves  
v  
The Commissioner of Police**

**[SVGMCRAP2019/0014]  
[St. Vincent and the Grenadines]**

**Date:**

**Wednesday, 16<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant:** Mr. Gregory Greaves, present and unrepresented

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Rose-Ann Ricahrdson, Crown Counsel for the Respondent

**Issues:** Appeal against Conviction – Possession of Firearm without Licence

**Type of Oral Result Order Delivered:** Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

1. The appeal is allowed.
2. The sentence of 2½ years imprisonment is varied to time served in all the circumstances of the case.

**Reasons:** The appellant pleaded guilty to the offence of possession of a firearm without a licence, contrary to Section 4(3) of the Firearms Act, Chapter 386 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 and was sentenced to 2½ years imprisonment

The appellant apologised for having a firearm in his possession.

The Court noted that the appellant had no previous convictions, he pleaded guilty, the peculiar circumstances of the case were such that the appellant and his family were being threatened and the age of the appellant.

The Court emphasised that the circumstances of this case were very peculiar. The appellant was sought out by the police who told him there was a threat on his life and the Court was of the view that the threat must have been credible. The Court noted that the appellant cooperated with the police and allowed them

to search his mobile phone. During the search, the police came upon a video of the appellant firing off a firearm. The Police executed a search of his home and found the firearm. He admitted that he had associated with persons of questionable character and at the trial of the matter he pleaded guilty. He had no previous convictions and was a young person. To date, the appellant had spent 9 months in prison.

The Court believed that the sentence of time served was appropriate given the peculiar facts as outlined above.

**Case Name:**

**Iso Lynch  
v  
The Commissioner of Police**

**[SVGMCRAP2018/0050]  
[St. Vincent and the Grenadines]**

**Date:**

**Wednesday, 16<sup>th</sup> October 2019**

**Coram:**

**The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant:**

**Mr. Iso Lynch, present ,unrepresented**

**Respondent:**

**Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mrs. Tammika McKenzie, Crown Counsel for the Respondent**

**Issues:**

**Appeal against Conviction – Deception and Impersonation**

**Type of Oral  
Result Order**

**Oral Judgment**

**Delivered:**

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

The Appeal against sentence is allowed to the extent that the sentence of 6 months imprisonment for deception is to run concurrently with the sentence of 6 months imprisonment for impersonation.

**Reasons:**

The appellant pleaded guilty of the following offences and was sentenced as follows:

- Impersonation of a member of the Royal Saint Vincent and the Grenadines Police Force, contrary to Section 261(1) of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 6 months imprisonment
- Deception, contrary to Section 223(1) of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 6 months imprisonment

Sentences to run consecutively.

The Court noted that the appellant was serving 2 consecutive 6 month sentences.

Although the appellant pleaded guilty, the Court noted that the Appellant had a string of previous convictions for similar offences.

The appellant requested the Court that the sentences run concurrently.

The Court was minded to allow the appeal to the extent that the 6 month sentence for deception run concurrently with the 6 month sentence for impersonation.

**Case Name:**

**Raymond Guy  
v**

**The Commissioner of Police**

**[SVGMCRAP2018/0053]**

**[St. Vincent and the Grenadines]**

**Date:** Wednesday, 16<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise E. Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Raymond Guy, present, unrepresented

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Renee Simmons, Crown Counsel for the Respondent

**Issues:** Appeal against Conviction – Unlawful and Malicious Wounding

**Type of Oral Result Order Delivered:** Oral Judgment

**Result / Order:**

**IT IS HEREBY ORDERED THAT:**

The appeal against sentence is allowed to the extent that the sentence of 9 months imprisonment for assault is varied to time served.

**Reasons:**

The appellant was found guilty of the following offences and was sentenced as follows:

- Unlawful and malicious wounding, contrary to Section 174 of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 6 months imprisonment, Bond of 10 March 2017 activated

which cause Appellant to pay \$500.00 or 4 months concurrent

- Assault with intent to commit an offence to with wounding, contrary to Section 195 of the Criminal Code, Chapter 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 (2 counts) - sentenced to 9 months imprisonment on both counts

Sentences to run concurrently.

The appellant submitted that he believed that the sentence of 9 months imprisonment was excessive for the assault.

The appellant noted that the issue came about after his child complained to him that she was sexually assaulted. In addition, there was an order from the Family Court for the appellant to have custody of the child on weekends. However, the Appellant was not getting custody of the child.

The appellant also complained that the child was taken out of school and on one occasion when he went to look for the child, he saw the child coming from premises where the person she alleged to have assaulted her, resides.

The Court recognised that although the Appellant is very passionate about his child, the Appellant has to operate within the law and advised him accordingly.

Counsel for the Respondent

The Court is minded to vary the sentence to time served. The Court noted that the sentence for wounding has been completed.

Case Name:

**Keith Warren**  
**v**  
**The Commissioner of Police**

**[SVGMCRAP2018/0036]**  
**[St. Vincent and the Grenadines]**

**Date:** Wednesday, 16<sup>th</sup> October 2019

**Coram:** The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Ronald Marks, Counsel for the Appellant  
Mr. Keith Warren, present

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Ms. Rose-Ann Ricahrdson, Crown Counsel for the Respondent

**Issues:** Appeal against Conviction – Possession of a Firearm without Licence

**Type of Oral Result Order Delivered:** Oral Judgment

**Result / Order:** [Oral delivery]  
IT IS HEREBY ORDERED THAT:

The Appeal against sentence is allowed to the extent that the sentence of 3 years imprisonment is varied to time served.

**Reasons:** The Appellant pleaded guilty of the following offences and was sentenced as follows:

- Possession of a controlled drug with intent to supply, contrary to Section 7(3) of the Drug (Prevention of Misuse) Act, Chapter 284 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 3 years imprisonment
- Possession of a controlled drug for a purpose of drug trafficking, contrary to Section 16(1) of the Drug (Prevention of Misuse) Act, Chapter 284 of the

Laws of Saint Vincent and the Grenadines, Revised Edition 2009 - sentenced to 3 years and fine \$25,000.00 to be paid in 6 months after release in default 1 year imprisonment

Sentences to run concurrently.

This was an appeal against sentence. There were 2 grounds of appeal -

- The learned magistrate erroneously determined that the role the Defendant played was significant.
- The sentence was excessive in all the circumstances.

Counsel for the appellant indicated that in relation to the fine, no means test was conducted.

Also, the appellant had served to date, 16 calendar months of the custodial sentence.

Counsel for the respondent indicated that the respondent stands by its submissions.

The Court noted that the approach taken by the learned magistrate was incorrect. It appeared that the learned magistrate began by applying the Draft Sentencing Guidelines and then applied precedents.

The Court noted that the appellant had no previous convictions and reasoned that if the starting point is 9 months plus 3 months for concealment minus 3 months for no previous convictions minus 3 months for the appellant being the primary care giver of his family, this calculation equals 6 months imprisonment plus the fine.

Case Name:

**Austin McDowall**

**v**

**The Queen**

**[SVGHCRA2014/0004]**

**[St. Vincent and the Grenadines]**

Date:

**Wednesday, 16<sup>th</sup> October 2019**

**Coram:** The Hon. Mde. Dame Janice Pereira, DBE, LL.D., Chief Justice  
The Hon. Mde. Louise Esther Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Appellant:** Ms. Michelle Fife, Counsel for the Appellant  
Mr. Austin McDowall, present

**Respondent:** Ms. Sejilla McDowall, Director of Public Prosecutions (Ag.) with Mr. Karim Nelson, Crown Counsel for the Respondent

**Issues:** Appeal against Conviction – Aggravated Burglary, Wounding with Intent – Possession of Firearm without Licence

**Type of Oral Result Order Delivered:**

**Directions**

**Result / Order:**

**[Oral Delivery]**

**IT IS HEREBY ORDERED THAT:**

1. Leave is granted to the appellant to amend his grounds of appeal by Thursday 31<sup>st</sup> October 2019 and to serve same on the respondent.
2. The appellant shall file and serve written submissions in support of the grounds of Appeal by 29<sup>th</sup> November 2019.
3. The respondent shall be at liberty to file and serve written submissions in response by 31<sup>st</sup> December 2019.
4. The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week commencing 24<sup>th</sup>

February 2020.

**Reasons:**

Counsel for the appellant informed the Court that having perused the transcript the appellant wished to amend the grounds of appeal.

Counsel for the appellant then made an oral application to amend the grounds of appeal and to file written submissions.

There was no objection by counsel for the respondent.

**Case Name:**

**Convoy Collateral Limited  
v  
Broad Idea International Limited  
Cho Kwai Chee (also known as Cho Kwai Roy)**  
  
**[BVIHCMAP2019/0014]  
[Territory of the Virgin Islands]**

**Date:**

Friday, 18<sup>th</sup> October 2019

**Coram:**

The Hon. Mr. David Kelvin Baptiste, Justice of Appeal  
The Hon. Mde. Gertel Thom, Justice of Appeal  
The Hon. Mr. Paul Webster QC, Justice of Appeal (Ag.)

**Appearances:**

|                    |                                                                                            |
|--------------------|--------------------------------------------------------------------------------------------|
| <b>Appellant:</b>  | Mr. Paul McGarth QC with Mr. Jonathan Addo and Ms. Lucy Hannett, Counsel for the Appellant |
| <b>Respondent:</b> | Mr. David Mumford QC with Mr. Fraser Mitchell                                              |

**Issues:**

**Type of Oral  
Result Order  
Delivered:**

N/A

**Result / Order:**

**[Oral delivery]  
Decision reserved.**