

**EASTERN CARIBBEAN SUPREME COURT
IN THE COURT OF APPEAL
TERRITORY OF THE VIRGIN ISLANDS
[MONDAY 2nd DECEMBER 2019]**

STATUS HEARING DIGEST

STATUS HEARING

Case Name:

**John Forster Emmott
v
Michael Wilson & Partners Ltd.**

[BVIHCMAP2017/0002]

Consolidated with

**Michael Wilson & Partners Ltd.
v
John Forster Emmott**

[BVIHCMAP2017/0003]

Consolidated with

**[1] Kazholdings Incorporated
[2] Kas Holding LLP
v
[1] John Forster
[2] Michael Wilson & Partners Ltd**

[BVIHCMAP2017/0005]

Date:

Monday, 2nd December 2019

Before:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. John Emmott, in person for the appellant in the first appeal and the respondent in the other appeals.

Respondent: No appearance

Issue: Status of the Matter

Type of Oral Result / Order Delivered: Directions

Result / Order: Upon the court noting that the transcript of proceedings in this matter is not yet completed, the matter is delisted until the transcript is completed or a date is fixed by the Chief Registrar.

Reason: Transcript is not available and is still pending.

Case Name:

[1] Thelma Fahie (Original Claimant)
[2] Wilmore Daniel
[3] Denzil Daniel
(Substituted as Claimants by Order dated 9th March 2016)
v
Elaine Chapdelaine
[BVIHCVAP2016/0008]

Date: Monday, 2nd December 2019

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: No appearance (Mr. David Penn is on record)

Respondent: Ms. Anthea Smith

Issue:	Status of the matter
Type of Oral Result / Order Delivered:	Directions
Result / Order:	The matter is adjourned to the next status hearing of the court in the Virgin Islands during the week commencing the 2nd March 2020 for the appellant to indicate to the court whether she is still interested in prosecuting her appeal.
Reason:	Since the Notice of Availability of transcript was sent to the appellant on 18th June 2018 the transcript of proceedings has not been collected and noting further has been filed by the appellant. The court also notes that at the last Status Hearing on 8th July, 2019 the matter was adjourned for the parties to hold settlement discussions. The respondent has not indicated that the matter has been settled.
Case Name:	Global Ocean Transport Inc. v Dwight Flax [BVIHCVAP2017/0006]
Date:	Monday, 2nd December 2019
Before:	Mrs. Michelle John-Theobalds, Chief Registrar
Appearances:	
Appellant:	Mr. Leroy Jones
Respondent:	Ms. Anthea Smith

Issue:	Status of the matter
Type of Oral Result / Order Delivered:	Directions
Result / Order:	Upon noting the pending application filed by counsel for the appellant to be removed as legal practitioner on record for the appellant, the matter is adjourned until the application has been determined by the court.

Case Name:	Wakeem Guishard v The Attorney General of the Virgin Islands [BVIHCVAP2018/00006]
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Date:	Monday, 2nd December 2019
Before:	Mrs. Michelle John-Theobalds, Chief Registrar
Appearances:	
Appellant:	Mr. Andrae Silburn.
Respondent:	Ms. Giselle Jackman-Lumy holding for Ms. Maya Barry

Issue:	Status of the mater
Type of Oral Result / Order Delivered:	Adjournment
Result / Order:	1. The appellant shall file and serve a supplemental record of appeal on or before 17th December 2019.

2. The appellant shall file and serve written submissions with authorities, on or before 17th January 2020
3. The respondent shall file and serve written submissions with authorities, on or before 17th February 2020
4. The appellant is at liberty to file a reply, if necessary, on or before 3rd March 2020.
5. The hearing of the appeal is fixed for the next Court of Appeal sitting in the Virgin Islands during the week commencing 23rd March 2020.

Reason:

The Record of Appeal was filed. However, the respondent contends that the parties' written submissions before the Master were not included and they would like to have the same included.

The respondent informed that counsel with conduct of the matter intends to take a preliminary point and to make an application for the appeal to be struck out. The court noted that in the absence of such an application being filed, directions would be given for the filing of submissions and in the event that an application is filed the application will then take its course.

Case Name:

Doyle Guishard

v

The Queen

[BVIHCRA2015/0004]

Denzil Wheatley

v

The Queen

[BVIHCRA2015/0005]

**Samuel Harris
v
The Queen
[BVIHCRAP2015/0006]**

Date: Monday, 2nd December 2019

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:	Mr. Patrick Thompson for the appellants Doyle Guishard and Samuel Harris
	Mr. Michael Maduro for Denzil Wheatley
Respondent:	Mrs. Tiffany Scatliffe-Esprit, Principal Crown Counsel

Issue: Status of the matter

Type of Oral Result / Order Delivered: Directions

Result / Order:

1. The appellants shall file and serve written submissions with authorities on or before 30TH August 2019.
2. The respondent shall file and serve written submissions with authorities on or before the 30th September 2019.
3. The appellants are at liberty to file and serve written submissions, with authorities, in reply if necessary, on or before 15th October 2019.
4. The hearing of the appeal is fixed for the next Court of Appeal sitting in the Virgin Islands during the week commencing 9th December, 2019

Reason: Written submissions have been filed on behalf of the

appellant Samuel Harris and have been served on the respondent. Directions were necessary in relation to the other parties.

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

Date: Monday, 2nd December 2019

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:
Appellant: Mr. Patrick Thompson
Respondent: Mrs. Shannon Jones-Gittens holding for the Director of Public Prosecutions

Issue: Status of the matter

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

Result / Order: Upon the court noting that the Record of Appeal is still outstanding, the matter is adjourned to the next Status Hearing of the Court in the Virgin Islands during the week commencing 16th March, 2020

Reason: Record of appeal has not been prepared. The Court office has indicated that the Record of appeal should be completed by February 2020.

Case name:

**Joel Gumbs
v
The Commissioner of Police
[BVIMCRAP2017/0002]**

Date:

Monday, 2nd December 2019

Before:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:

Mr. Andrae Silburn holding for Mr. Jamal Smith of Smith & Co

Respondent:

Mrs. Tiffany Scatliffe-Esprit, Principal Crown Counsel holding for Ms. Tamara Foster, Senior Crown Counsel

Issue:

Status of the matter

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

Directions

Result / Order:

- 1. The appellant shall file and serve written submissions with authorities, on or before 6th January, 2020.**
- 2. The respondent shall file and serve written submissions with authorities, on or before 6th February, 2020**
- 3. The appellant is at liberty to file a reply, if necessary, on or before 21st February, 2020.**
- 4. The hearing of the appeal is fixed for the next Court of Appeal sitting in the Virgin Islands during the week commencing 23rd March, 2020.**

Reasons: The ROA has been filed but submissions have not been filed. Counsel who was holding papers could not offer a reason for the failure to comply.

Case Name: Eric Freeman Jr.
v
The Commissioner of Police
[BVIMCRAP2017/0001]

Date: Monday, 2nd December 2019

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:	In person
Respondent:	Mrs. Tiffany Scatliffe-Esprit, Principal Crown Counsel holding for Ms. Melissa Brewley, Crown Counsel

Issue: Status of the mater

Type of Oral Result / Order Delivered: Oral Decision

Result / Order: Upon the court noting the oral application of the appellant to withdraw the appeal, the appeal is hereby withdrawn and dismissed as of 2nd December 2019.

Reason: The appellant has made an oral application to discontinue the appeal as he is no longer interested in pursuing the same. The crown has no objection to

the application.

Case Name:

Nelson Callwood

v

The Queen

[BVIHCRAP2017/0002]

Date:

Monday, 2nd December 2019

Before:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:

In person (Mr. David Penn on record)

Respondent:

Mrs. Tiffany Scatliffe-Esprit, Principal Crown Counsel

Issue:

Status of the matter

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

Directions

Result / Order:

Upon the court noting that the transcript of proceedings in this matter is not yet completed. The matter is delisted until the transcript is completed or on a date to be fixed by the Chief registrar.

Reason:

The Transcripts have not been submitted to court as of 18th November 2019 from Court Reporting unit. There is no indication as to when the transcript will be completed.

Case Name:

**Sport Financiera
v
Olympic Gold Holdings
[BVIHCMAP2014/0015]**

Date:

Monday, 2nd December 2019

Before:

Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant:

**Ms. Keisha Frett holding for Mr Johnathan Ado
(Harneys)**

Respondent:

No appearance

Issue:

Status of the matter

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

Directions

Result / Order:

- 1. The matter is adjourned to the next status hearing of the court in the Virgin Islands scheduled for 16th March, 2020, unless a Notice of Discontinuance is sooner filed.**
- 2. The Registrar of the High Court shall serve a copy of this order on the respondent and shall provide proof of service thereafter.**

Reasons:

Counsel for the appellant informs that a notice of discontinuance will be prepared and filed shortly.

Case Name:

**Loretta Frett
(as executrix of the estate of Jeuel Simeon
Frett, deceased)**

[BVIHCVAP2017/0004]

Date: Monday, 2nd December 2019

Before: Mrs. Michelle John-Theobalds, Chief Registrar

Appearances:

Appellant: Mr. Andrae Silburn holding for Mr. Jamal Smith

Respondent: No appearance

Issue: Status of the matter

Type of Oral Result / Order Delivered: Adjournment

Result / Order: The matter is adjourned to the next Status Hearing of the court in the Virgin Islands during the week commencing 16th March, 2020.

Reasons: The court noted that the directions for filing submissions given on 8th July 2019 were not complied with. Counsel who is holding papers does not have any instructions as to the non-compliance. His only instructions were to request an adjournment.

Case Name:

David Friedland
v
[1] Xena Investments Ltd
[2] William Tacon
[3] David Griffin
[4] Spectrum Galaxy Fund Ltd.

[BVIHCVAP2011/0024]

Date:	Monday, 2nd December 2019
Before:	Mrs. Michelle John-Theobalds, Chief Registrar
Appearances:	
Appellant:	No appearance
Respondents:	No appearance
Issue:	Status of the matter
Type of Oral Result / Order Delivered:	Directions
Result / Order:	1. Upon the court noting that there is no appearance of the parties, the matter is adjourned to the next Status Hearing of the court scheduled for the 16th March, 2020, for the appellant to indicate whether he is still interested in pursuing his appeal, failing which the matter shall be dismissed for want of prosecution. 2. The Registrar of the High Court shall publish a copy of this order in 2 consecutive publications of a local newspaper and the gazette.
Reasons:	There is an affidavit of service dated 17th October, 2019 showing service on Spectrum Galaxy. The appellant cannot be located for service. This matter has come up on a number of occasions and the appellant has not appeared.

Case Name:

**Glanville Penn
v
The Attorney General
[BVIHCMAP2017/0009]**

Date: **Monday, 2nd December 2019**

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

Appearances:

Appellants: **Mr. Gerard Clarke**

Respondents: **Ms. Kaidia Edwards-Allister**

Issue: **Status of the matter**

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

Result / Order: **The matter is adjourned to the next Status Hearing of the court in the Virgin Islands during the week commencing 16th March, 2020.**

Reason: **The record of appeal has been filed. Written submissions with authorities were filed by the appellant on 14th November, 2019, however the time for the filing of the submissions by the respondent has not expired.**

Case Name:

**Troy Huggins
v
Starcy Wiksons-Huggins
[BVIMCVAP2016/0001]**

Date:	Monday, 2nd December 2019
Before:	Mrs. Michelle John-Theobalds, Chief Registrar
Appearances:	
Appellant:	No appearance
Respondent:	No appearance
Issue:	Status of the matter
Type of Oral Result / Order Delivered:	Oral Decision
Result / Order:	Upon the court noting that the appellant has failed to take the necessary steps to advance his appeal since filing an application for a stay of execution of the order of the senior magistrate on 4th May, 2016, which was refused by Michel JA on 24th May, 2016, nor any steps which show an interest in ascertaining the status of his appeal, the appeal is hereby struck out.
Reasons:	The appellant is said to be residing out of the jurisdiction as had been away for 2 years. On the occasion before the last his counsel appeared but on the last occasion counsel did not and neither did the appellant. It is the same on this occasion. There is an affidavit of service on record from Ms. Dianah George, officer of the High Court filed on 21 November, 2019, stating that on 17th October 2019 she called the appellant by telephone, identified herself, and after he identified himself she informed that she had an order in this matter to serve him and requested an address for service. Upon hearing that Ms. George was calling about this matter the appellant became upset and indicated that he was not in Tortola and hung up the phone. Ms. George immediately called again, but the phone rang out.

The court notes that the appellant has done nothing further to prosecute his appeal.