

COURT OF APPEAL SITTING
SAINT VINCENT AND THE GRENADINES
8th to 12th May 2017

		<u>JUDGMENTS</u>
Case Name:		Delta Petroleum (Caribbean) Limited v British Virgin Islands Electricity Corporation [BVIHCVAP2016/0003]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Samuel Commissiong
	Respondent:	Ms. Samantha Robertson
Issue:		Judgment - Civil appeal - Contract - Whether appellant breached contract - Whether principle of waiver by election arose on facts of case - Whether enforcement of clause became enforcement of penalty - Whether judge erred in awarding liquidated damages
Result & Reason:		The appellant, Delta Petroleum (Caribbean) Limited, a company incorporated in the BVI engaged in the business of selling petroleum and petroleum products, entered

		into a contract with the respondent, British Virgin Islands Electricity Corporation, a statutory corporation which is the sole provider of electricity in the BVI. The contract terms dictated that the appellant would sell to the respondent diesel fuel and premium gasoline (hereafter referred to as “the agreed products”) for use principally in the generation of electricity for the BVI. Clause 3(7) of the contract provided that the appellant shall pay to the respondent damages per day for each day that the storage level falls below the stipulated storage fuel levels. By letter dated 1st December 2014, the appellant was notified by its supplier in St. Croix that the Hovensa storage facility (from which it accessed its fuel supply), will be closed on 1st March 2015. On 12th December 2014, the appellant informed the respondent of the possible closure of Hovensa. The appellant continued to supply the agreed products to the respondent using an alternative facility in Antigua. On 27th January 2015, the appellant provided the respondent with formal notice of closure of Hovensa. Subsequently, the appellant tried to negotiate a price increase with the respondent to make up for the added costs of shipment from Antigua instead of St. Croix. On 28th May 2015, the respondent informed the appellant that they were not prepared to pay an increased price for the agreed products and on 1st June 2015, the appellant sought to invoke clause 10(2) of the agreement to terminate the contract on the basis of the closure of the Hovensa storage facility. A dispute arose between the parties, resulting in the respondent instituting proceedings against the appellant seeking a declaration that the appellant had breached the contract and an order for specific performance of the contract by the
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		appellant. The respondent also claimed damages and costs against the appellant. The appellant filed a defence and counterclaim to the respondent's suit, alleging that it was the respondent which had breached the contract, and seeking a dismissal of the respondent's claim, a declaration that the respondent had breached the contract, and damages and costs against the respondent. On the appellant's claim, the learned judge found in favor of the respondent. She held inter alia that the appellant breached the contract; she granted specific performance and ordered that the sum of \$794,000.00 be paid by the appellant to the respondent as liquidated damages and that costs be paid to the respondent on a prescribed costs basis on the sum awarded as liquidated damages. On the counterclaim, the learned judge found that there had been no breach by the respondent of the contract for failing to accept the performance relief of the appellant and dismissed the entire counterclaim. The appellant appealed on a number of grounds including that the learned judge erred in (1) holding that the principle of waiver by election was applicable on the facts of the case; (2) misconstruing clauses 10(2) and 10(4) of the contract; (3) awarding liquidated damages on the basis of clause 3(7) of the contract; and (4) finding that the appellant did not seek performance relief between 27th April and 3rd May 2015. Held: dismissing the appeal in part and awarding 90% of the costs on this appeal calculated on the basis of two-thirds of the costs in the court below, that: 1. Waiver by election arises when a state of affairs comes into existence in which one party to a contract becomes entitled,
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		either under the terms of the contract or by general law, to exercise a right and that party has to decide whether or not to do so; the party making the election has to choose between two alternative and inconsistent courses of action or remedies. Once he has made his election to pursue one course he is bound by it and cannot thereafter pursue the alternative course. For the doctrine to apply, the party electing must have knowledge of the facts giving rise to the choice and must have made a clear and unequivocal representation to the other party that he has made his election between the two alternative courses of action; an election is binding once a clear representation is made, and it does not depend on reliance on it by the other party. There was ample evidence on the basis of which the trial judge could have found that the circumstances giving rise to the application of the principle of waiver were present on the facts of this case and that the principle did therefore apply. There being no question of misdirection of herself by the trial judge, and there being no indication that the judgment of the trial judge on the issue was plainly unsound, there is no basis for interference by the appellate court with the factual finding of the trial judge. Motor Oil Hellas (Corinth) Refineries SA v Shipping Corporation of India, The Kanchenjunga [1990] 1 Lloyd's Rep 391 applied; Watt v Thomas [1947] AC 484 applied. 2. The closure of the Hovensa facility gave the appellant the right to terminate the contract, but not the obligation to do so. The appellant also had the right, notwithstanding the closure, to seek an alternative source of supply and to continue to sell the agreed products to
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		the respondent under the contract. The appellant clearly chose to exercise the right to seek an alternative source of supply and to continue to supply the respondent with the agreed products from its new source. The appellant also clearly and unequivocally communicated this to the respondent by its words and actions in referring consistently to its „new loading facility“ in Antigua and by actually supplying the respondent after the end of January 2015 from the „new loading port“ in Antigua. The appellant had therefore made its election well before 1st June 2015 and it was not therefore open to it on that date to resile from its election and terminate the contract on the basis of the Hovensla closure. 3. An amount will be held to be a penalty if the sum stipulated for is extravagant and unconscionable in amount in comparison with the greatest loss that could conceivably be proved to have followed from the breach. The amounts involved in the sale and purchase of the fuel and gasoline would alone belie any notion of extravagance, but add the fact that the fuel being sold and purchased is the exclusive source of electrical power generation of the BVI and the immense business and reputational loss which the respondent can suffer by the failure of its exclusive source of supply, makes the amounts stipulated for to be anything but extravagant and unconscionable. Further, it is beyond doubt that the consequences of the breach in issue were such as to make precise pre-estimation almost an impossibility and this is just the kind of situation when it is probable that pre-estimated damages was the true bargain between the parties. Dunlop Pneumatic Tyre Company,
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		Limited v New Garage and Motor Company, Limited [1915] AC 79 applied; Cavendish Square Holding BV v Talal El Makdessi [2015] UKSC 67 applied. 4. The trial judge, having made a finding that the appellant did apply for performance relief under the contract for the period between 27th April and 3rd May 2015, erred in holding that the appellant was liable to pay liquidated damages to the respondent on account of fuel shortages during that period. The trial judge misdirected herself and, accordingly, there is a basis for interference by the appellate court with the finding of the trial judge. Watt v Thomas [1947] AC 484 applied.
Case Name:		Millicom Tanzania, N.V. v Golden Globe International Services Limited Yusuf Manji [BVIHCVAP2016/0036]
Date:		Wednesday, 10th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal
Appearances:		
	Appellant:	Mr. David Welford, and with him, Mr. Simon Hall
	Respondent:	Ms. Tamika Davis, and with her, Mr. Samuel

		Commissioning
Issue:		Commercial appeal – Stay of proceedings – Forum non conveniens – Whether judge properly exercised his discretion in granting stay based on forum non conveniens – Real risk of injustice test – Whether appellant established real risk of injustice if it were to prosecute claim in natural forum – Cogency of evidence – Service of outside of jurisdiction – Whether criteria met for service out
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		The appellant, Millicom Tanzania N.V. (“Millicom Tanzania”) is a company incorporated in Curacao. Millicom Tanzania was the registered owner of shares in MIC Tanzania Limited (“MIC Tanzania”). MIC Tanzania is a limited liability company incorporated under the laws of Tanzania. The parent company of Millicom Tanzania is Millicom International Cellular SA (“Millicom International”). In Tanzania, the Millicom Group operates through MIC Tanzania. Millicom Tanzania owned all but one of the shares in MIC Tanzania which then consisted of 64,229 shares. Millicom International seems to own no shares in MIC Tanzania. The first respondent, Golden Globe International Services Ltd. (“Golden Globe”) is a company that is incorporated in the British Virgin Islands (the “BVI”). The second respondent, Mr. Yusuf Manji (“Mr. Manji”) is Golden Globe’s director. One Mr. Bell, a former employee of Millicom

		International, obtained a default judgment against Millicom International. No default judgment was obtained against Millicom Tanzania. In order to meet the default judgment, Millicom's Tanzania's shares became the subject of a proclamation of sale in which the property to be sold was described as belonging to Millicom International. Golden Globe was apparently the highest bidder and the District Registrar in Tanzania, allegedly and without notice to Millicom Tanzania, ordered that the shares be transferred to Golden Globe. Millicom Tanzania asserted that it was defrauded and cheated out of its shares and that its shares were sold at a significant under value to meet a debt for which it was not liable. On an ex parte application in the BVI, Millicom Tanzania obtained leave to serve the proceedings outside of the jurisdiction on Mr. Manji together with a worldwide freezing order against both Golden Globe and Mr. Manji. Subsequently, Golden Globe challenged the Court's jurisdiction and applied for a stay of the proceedings and to have the worldwide freezing order set aside. Importantly, Golden Globe sought the stay of the BVI proceedings on the basis that the BVI was forum non conveniens. Mr. Manji did not submit to the BVI Court's jurisdiction but argued that the judge ought not to have granted Millicom Tanzania leave to serve the claim outside of the jurisdiction since the prerequisites for such leave were not met. Millicom Tanzania urged the judge not to stay the claim but rather to allow the claim to proceed in the BVI on the basis that there was a real risk of injustice if it were to be
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		forced to prosecute the claim in Tanzania. The learned judge stayed the claim on the basis that the BVI was forum non conveniens and held that the permission that was granted to Millicom Tanzania to serve the claim out of the jurisdiction on Mr. Manji fell away on the basis that Millicom Tanzania had not successfully established that the BVI was the clearly or distinctly more appropriate forum for the determination of the claim and that importantly Millicom Tanzania had not satisfied the real risk of injustice test which would have enabled the Court to permit the claim to continue in the BVI. Millicom Tanzania, dissatisfied with the learned judge's decision appealed. Golden Globe and Mr. Manji counter appealed. It was common ground that Tanzania was the natural forum for the determination of the claim. Thus, the main issue for this Court was whether the judge exercised his discretion improperly in granting the stay on the basis that Millicom Tanzania had failed to provide cogent evidence of a real risk of injustice if it were to prosecute its claim in Tanzania. This Court also had to determine the corollary issue relating to service out of the jurisdiction. Held: dismissing the appeal, affirming the decision of the trial judge and awarding costs on the appeal to Golden Globe International Services Ltd. and Yusuf Manji fixed at two thirds of the assessed costs in the Court below unless costs are agreed by the parties within 21 days of this order, that: 1. The basic principle regarding the forum non conveniens enquiry is that a stay will
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		only be granted where the Court is satisfied that there is some available forum, having competent jurisdiction, which is the clearly or distinctly more appropriate forum for the trial of the claim. Such a forum must be a Court where the case may be tried more suitably for the interests of all the parties and the ends of justice. In determining whether the local forum is forum conveniens, the Court must undertake a three stage inquiry. The first is whether there is another available forum; second, whether that forum is more appropriate than the local Court; and third if so, whether there is a risk of injustice if the claim were to be prosecuted there. Spiliada Maritime Corporation v Consulex Limited [1987] AC 460 applied; IPOC International Growth Fund Ltd v L V Finance Group Limited et al, BVIHCVAP2003/0020 and BVIHCVAP2004/0001 (delivered 1st December 2006, unreported) followed; Nilon Ltd and another v Royal Westminster Investments SA and Others [2015] UKPC 2 applied; Altimo Holdings and Investments Ltd and others v Kyrgyz Mobil Tel Ltd and others [2011] UKPC 7 applied; SFC Swiss Forfaiting Company Limited v Swiss Forfaiting Limited BVIHCMAP2015/0012 (delivered 4th July 2016, unreported) followed. 2. Where the defendant, as in this case, is seeking a stay in the local forum, the claimant can resist the stay by establishing that there is a real risk of injustice if it were to be made to prosecute the claim in the natural forum. There must be cogent evidence of the risk of injustice in the specific case. It has long been settled that the threshold to establish a real risk of injustice is not a low one and it must be established based on cogent evidence. Consequently, the
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		claimant's failure to adduce cogent evidence establishing a real risk of injustice is fatal to its opposition to an application for a stay on the basis of forum non conveniens. Altimo Holdings and Investments Ltd and others v Kyrgyz Mobil Tel Ltd and others [2011] UKPC 7 applied; Standard Chartered Bank (Hong Kong) Ltd. v Independent Tanzania Ltd [2015] EWHC 1640 (Comm) applied. 3. In the case at bar, it is common ground that Tanzania is the natural forum for the trial of the claim and Millicom Tanzania held the burden of establishing, by way of cogent evidence that, there was a real risk of injustice if it were made to prosecute its claim in Tanzania. At its highest, the evidence presented by Millicom Tanzania pointed to corruption in the lower judiciary in Tanzania whereas Millicom Tanzania's claim would be tried in the higher echelons of the judiciary. Generalised reports of corruption and procedural difficulties in the lower judiciary in Tanzania, as adduced by Millicom Tanzania, do not amount to cogent evidence which shows that there is a real risk of injustice. Millicom Tanzania did not adduce any evidence of alleged corrupt acts in the higher Courts in which its claim would be determined. Accordingly, the matters that were brought to this Court's attention and which were placed before the learned judge fall short of meeting the threshold requirement of a real risk of injustice. Therefore, the learned judge properly exercised his discretion in granting the stay on the basis that there was no cogent evidence to show that there was a real risk of injustice being done to Millicom Tanzania if it were forced to prosecute its claim in Tanzania.
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		Standard Chartered Bank (Hong Kong) Ltd. v Independent Tanzania Ltd [2015] EWHC 1640 (Comm) applied; Deripaska v Cherney [2009] EWCA Civ 849 distinguished. 4. The same basic principles apply where the defendant is served within the jurisdiction as well as where the Court is deciding whether to grant leave for service out in order to assume jurisdiction. In both circumstances, the crux of the matter is to locate the trial in the forum that is clearly or distinctly appropriate for the trial of the dispute. The onus is on the claimant who seeks leave of the Court to establish that the case is a proper one for service out. The extraordinary nature of the jurisdiction can be outweighed if the applicant can satisfy the local Court that justice cannot be obtained in the foreign jurisdiction. In so far as it was common ground that Tanzania was the natural forum, it was not open to the learned judge to grant leave to Millicom Tanzania to serve the claim out of the jurisdiction on Mr. Manji. Additionally, since Millicom Tanzania had failed to adduce cogent evidence required to displace Tanzania which is the clearly or distinctly more appropriate forum, the learned judge ought not to have granted leave for service out of the jurisdiction. Nilon Ltd and another v Royal Westminster Investments SA and Others [2015] UKPC 2 applied. 5. In the present case, in granting the stay of the claim in the BVI, the learned judge exercised his discretion in accordance with the correct legal tests and in so doing took into account the relevant matters which he should have taken into
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		account and left out of account matters which were irrelevant. The learned judge's decision cannot be said to have been plainly wrong that it must be regarded as outside the generous ambit of the discretion which has been entrusted to the Court. Accordingly, there is no basis upon which this Court could interfere with the exercise of the judge's discretion. The Abidin Daver [1984] AC 398 applied; SFC Swiss Forfeiting Company Limited v Swiss Forfeiting Limited BVIHCMAP2015/0012 (delivered 4th July 2016, unreported) followed.
<u>HIGH COURT CRIMINAL APPEALS AGAINST CONVICTION</u>		
Case Name:		Sheldon Hooper Shelton Hooper Roland Hooper v The Queen [SVGHCRA2012/0030] [SVGHCRA2012/0031] [SVGHCRA2012/0032]
Date:		Monday, 8 th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Ms. Patina Knights for the 1st and 2nd Appellants Appellant Sheldon Hooper present

		Appellant Shelton Hooper present Mr. Ronald Marks for the 3 rd Appellant Appellant Roland Hooper present
	Respondent:	Mrs. Tamika McKenzie, Crown Counsel
Issue:		Criminal appeal - Attempted Murder - Oral application for an adjournment. - Oral application by 3rd Appellant to add an additional ground of appeal
Type of Oral Result / Order Delivered:		Oral Judgment or Decision/Directions
Result / Order:		[Oral Delivery] 1. The Court grants the application to add the additional ground that the learned trial judge misdirected the jury on the issue of joint enterprise lines 4-8 page 323 of the Record of Appeal. This is to be done within 7 days of today's date. Mr. Marks is to file and serve submissions in respect of this additional ground within 7 days. 2. The Respondent is to file and serve submissions and authorities in respect of all 3 appeals on or before the 30th day of June 2017. 3. The hearing of this matter is adjourned to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Reason:		The Respondent did not object to the oral application by the 3rd Appellant to add additional grounds of appeal.

		The Respondent did not object to the oral application for an adjournment.
		<u>APPLICATIONS</u>
Case Name:		David Roberts v The Queen [SVGHCRAP2008/0008]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Ms. Patina Knights
	Respondent:	Mrs. Tamika McKenzie, Crown Counsel holding for Mr. Colin Williams, Director of Public Prosecutions
Issue:		Criminal appeal - Application for leave to appeal to the Privy Council
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The application is dismissed.
Reason:		The Court does not have jurisdiction to hear the application given the age of the matter.

Case Name:		Dwayne Jacobs v The Commissioner of Police [SVGMCRAP2016/0012]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Ms. Ashelle Morgan Appellant present
	Respondent:	Mr. Colin Williams, Director of Public Prosecutions - absent
Issue:		Criminal appeal against conviction - Application for extension of time to appeal against conviction
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. An extension of time is granted to file Notice of Appeal against conviction.
Reason:		There were two (2) main grounds upon which the application was based. The reasons for the delay are set out at Paragraphs 8 & 9 of the Appellant's Affidavit. The matter was stood down so that the

		Court could hear the substantive appeal.
Case Name:		Mayon Spring v The Commissioner of Police [SVGMCRAP2016/0051]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Colin Williams, Director of Public Prosecutions
Issue:		Criminal appeal - Application for legal aid to be assigned
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The application for the assignment of legal aid is dismissed.
Reason:		The appellant did not depose his financial status and has not given the Court any particulars on which to determine whether legal aid should be assigned. In the absence of those particulars and considering that the appellant also indicated to the Court that he was prepared to pursue the appeal in person, the appellant's application ought to be dismissed.

Case Name:		Kishorn Jackson v The Commissioner of Police [SVGMCRAP2016/0044]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Colin Williams, Director of Public Prosecutions
Issue:		Criminal appeal - Application for legal aid to be assigned
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The application for legal aid is dismissed.
Reason:		The appellant failed to provide the Court with any information as to his means and there was no indication that the interests of justice required that he be assigned legal aid. The Court therefore found no proper basis on which to assign legal aid to the appellant.
Case Name:		Glenroy Providence v The Commissioner of Police

		[SVGMCRAP2016/0061]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Colin Williams, Director of Public Prosecutions
Issue:		Criminal appeal - Application for legal aid to be assigned
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The application for legal aid is dismissed.
Reason:		The appellant failed to provide the Court with any information as to his means and there was no indication that the interests of justice required that he be assigned legal aid The Court was not satisfied that the applicant should be granted legal aid.
Case Name:		Glenford Jacobs v The Queen

		[SVGHCRAP2016/0002]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Colin Williams, Director of Public Prosecutions
Issue:		Criminal appeal - Application for legal aid to be assigned
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The application for legal aid is dismissed.
Reason:		The Court considered the grounds of the application as well as the appellant's letter but the Court was not in a position to make a determination as to whether in the interests of justice, legal aid ought to be assigned. The Court was of the view that upon receipt of the record the issue could be revisited.
Case Name:		Yshangus McMillan v The Queen

		[SVGHCRAP2016/0004]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Colin Williams, Director of Public Prosecutions
Issue:		Criminal appeal - Application for legal aid to be assigned
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. It is ordered that the appellant be granted legal aid and counsel to be assigned in accordance with the Register kept by the Registrar of the High Court.
Reason:		The Court considered the serious nature of the offence of manslaughter and the age of the Appellant at the time the offence was committed and was minded therefore to grant legal aid.
Case Name:		Simon Hoyte v The Queen

		[SVGHCRAP2016/0008]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mrs. Tamika McKenzie, Crown Counsel
Issue:		Criminal appeal - Application for legal aid to be assigned
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The application for legal aid is dismissed.
Reason:		The Court did not find any basis for granting legal aid.
Case Name:		Osrick Young v The Queen [SVGHCRAP2017/0002]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of

		Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Colin Williams, Director of Public Prosecutions
Issue:		Criminal appeal - Application for legal aid to be assigned
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The application for legal aid is dismissed.
Reason:		The Court did not find any proper basis on which it could grant the application to assign legal aid.
Case Name:		Randy Gurley v The Queen [SVGHCRAP2016/0012]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of

		Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mrs. Tamika McKenzie, Crown Counsel
Issue:		Criminal appeal - Application for extension of time within which to appeal against sentence
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The application for an extension of time within which to appeal against sentence is dismissed.
Reason:		The Court noted that two (2) years have elapsed since the appellant was convicted and sentenced. His reason was that he was sick for three (3) months. The appellant must give good reasons why an application for an extension of time should be granted. The appellant had Counsel at the Good Year hearing and accepted a sentence of seventeen (17) years. The Court found no proper basis to extend the time to appeal.
		<u>APPLICATIONS AND APPEALS</u>
Case Name:		Brandon Lynch

		V Kenrick Ricardo Isaacs [SVGHCVAP2016/0030]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Jaundy Martin Appellant present
	Respondent:	Mr. Michael Wyllie Respondent present
Issue:		Civil appeal - Application to set aside or vary order of a single judge - Application for leave to appeal
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The application to vary the order of Webster JA is granted. 2. The appellant has leave to file a notice of appeal within 21 days of the date of this order. 3. There shall be no order as to costs.
Reason:		This is an appeal by the appellant to vary the order of Webster JA as a single judge made on 24th January 2017, in which the learned

		judge refused to grant the appellant leave to appeal the order of Master Glasgow in which he refused to set aside judgment in default. Webster JA refused the application on the basis that it was made out of time and that no extension of time was granted by the Court. The record of the Court of Appeal disclosed that Blenman JA granted an extension of time to seek leave to appeal the order of Master Glasgow on 20th December 2016. Therefore, the order of Webster JA was made on the wrong factual basis. For this reason, the Court varied the order of Webster JA. The Court then considered the application for leave to appeal. Counsel for the appellant submitted that the learned master refused to set aside the judgment in default on the ground that the reasons did not amount to a good explanation within the meaning of CPR 13.3. Learned counsel also submitted that the learned master ought to have set aside the judgment in default as there were exceptional circumstances, viz, the appellant has a good defence. The respondent submitted that there was no error on the part of the learned master. The Court reviewed the written submissions, considered the oral submissions, the decision of the learned master and the affidavit filed in support of the application. The Court was of the view that having regard to the test, the appellant met the required threshold in that the appeal has a realistic prospect of success.
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<u>MAGISTERIAL CRIMINAL APPEALS AGAINST SENTENCE</u>		
Case Name:		Dwayne Jacobs v The Commissioner of Police [SVGMCRAP2016/0012]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Ms. Ashelle Morgan Appellant present
	Respondent:	Mr. Colin Williams, Director of Public Prosecutions
Issue:		Criminal appeal - – Appeal against sentence Appeal against conviction - Trespassing with intention to commit theft
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against conviction is dismissed. 2. The appeal against sentence having been withdrawn is accordingly

		dismissed.
Reason:		The appellant has appealed against his conviction for the offence of burglary. He contended that the learned magistrate erred in law by failing to record the purported admission of guilt as nearly as possible in the appellant's words as mandated by section 126 of the Criminal Procedure Code, CAP 172. Section 126 of the Criminal Procedure Code, Cap. 172, Revised Laws of Saint Vincent and the Grenadines 2009 Edition outlines the procedure when an accused pleads guilty. Section 126 provides as follows: "If the accused admits the truth of the charge, his admission shall be recorded as nearly as possible in the words used by him, and the court shall convict him and pass sentence upon or make an order against him unless, after hearing anything which may be said by or on behalf of the accused, whether in mitigation or otherwise, there shall appear to the court to be sufficient cause to the contrary." The record indicates that the facts were given by the Prosecution as follows: "The Virtual Complainant is working at Corea's Distribution and Drinks Depot. Building is one storey concrete covered with galvanize. On November 23, 2015 about 6 p.m. the Virtual Complainant secured building leaving everything intact. On November 24, about 4:50 p.m. PC. Hoyte received a call stating someone was trying to break into Corea's. He immediately went to scene where he met Alphonso Dick, Security Guard on duty. They had a conversation and Mr. Dick told him something and showed him building. Building was surrounded. The Defendant was inside. PC. Hoyte went in search of the Defendant. He

		however managed to escape. PC Hoyte and party of men went in search of Defendant on Lower Bay Street and saw defendant who began to run. He was chased and caught at Rose Place. He was taken to C.I.D., cautioned and interviewed and made no statement. He was arrested and charged for burglary with intent.” The appellant contended that there was a failure to adhere to the strict provisions of section 126. The appellant filed an affidavit where he took issue with some of the facts. He stated specifically at paragraph 5 of his affidavit as follows: “I pleaded guilty and the facts were read over to me. The magistrate asked whether I agreed to the facts as read out. I told the magistrate that I did not agree to all of it. She asked me what I did not agree with. I told her that no one could have seen me in the building because I was not in the building on that day. She said to me “but the person said they saw you in the building”. I told her again that I was not in the building so the person who said they saw me was lying.” The appellant took issue with the facts as given by the prosecution and contended that the magistrate did not record what transpired. Counsel for the appellant submitted that a lack of compliance with section 126 renders the record defective and that the appeal ought to be allowed. The learned magistrate swore an affidavit on 4th January 2017 and deposed at paragraph 5 as follows: “The Appellant made a request to “read the charge again” to him; and I did so. He entered a plea of „guilty” to the charge. The facts were read to him; he accepted the facts following which he was
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		convicted based on his plea. I confirmed his antecedent record and then gave him an opportunity to speak on his behalf in mitigation. I imposed a three (3) year custodial sentence.” The Court was of the view that the appellant was contesting the accuracy of the facts given. The learned magistrate in response has reiterated what appeared at page 3 of the record of appeal, that is, that the appellant accepted the facts as given. The learned magistrate said the Defendant accepted the facts. This would be consistent to adhering as nearly as possible with the provisions of section 126 of the Criminal Procedure Code. It was not a matter of any complication. While the Court recognized that the appellant later took issue with what he said, the Court did not find any failure on the part of the learned magistrate to adhere to the provisions of section 126. The Court recognized that it is not difficult for an accused to come some time after the facts are given to resile and give affidavit evidence which contradicts the record. The learned magistrate has reiterated in her affidavit what transpired. The Court by majority was of the view that there was compliance with section 126 of the Criminal Procedure Code and accordingly dismissed the appeal against conviction. The appeal against sentence having been withdrawn was accordingly dismissed.
<u>HIGH COURT CRIMINAL APPEALS AGAINST CONVICTION</u>		
Case Name:		Symcy Williams

		V The Queen [SVGHCRAP2013/0023]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Criminal appeal – Appeal against conviction Appeal against sentence - Robbery
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against conviction having been withdrawn is accordingly dismissed. 2. The appeal against sentence is dismissed.
Reason:		The appellant withdrew his appeal against conviction. The Court did not find that there was any proper reason to disturb the sentence imposed of 12 years. The Court took note of the facts in the case and in particular the

		brutal nature of the attack on the virtual complainant. The Court discerned no error on the part of the learned judge to impose 3 years for assault and 12 years for robbery.
Case Name:		Mwata Henry Kenuth Bess v The Queen [SVGHCRA2013/0026] [SVGHCRA2013/0027]
Date:		Monday, 8th May 2017
Before:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Appellant, Mwata Henry in person Appellant, Kenuth Bess in person
	Respondent:	Ms. Jimesha Prince, Crown Counsel
Issue:		Criminal appeal – Appeal against conviction and sentence - Robbery and Wounding
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against conviction and sentence is allowed.

		2. Having regard to the time served, it would not be in the interest of justice to order a retrial.
Reason:		The Court was concerned about the way in which the trial judge directed the jury. The learned trial judge did not address the jury on the issue of self defence. The Court found that this was a material omission. Concerning the offence of robbery, the Court found that there were several shortcomings. In the statements given to the police, the robbery was denied, yet the judge did not alert the jury to the fact that the appellant denied the robbery. The trial judge should have advised the jury about that part of the defence. The failure of the trial judge to so advise the jury was a material omission. The witness indicated that the virtual complainant used his wallet to pay the bus. In the light of the fact that the appellant denied the robbery, the learned trial judge should have advised the Jury about this part of the defence as well. Accordingly, the Court would allow the appeals against sentence and conviction. The Court also considered the sentence imposed and the time already served by the appellants. It was noted that the appellants had almost (short of a few months) served their entire sentence.
		<u>STATUS HEARING</u>
Case Name:		Vynette Frederick v The Commissioner of Police

		[SVGMCRAP2014/0009]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Mr. Andrew Pilgrim, QC Ms. Maia Eustace Appellant present
	Respondent:	Mr. Colin Williams, Director of Public Prosecutions
Issue:		Criminal appeal - Whether the learned magistrate was correct to state that she had no authority to stay the appeal.
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The matter is stood down to ascertain when the next sitting is to be held in St. Lucia.
Reason:		The parties are not yet ready to proceed to have their substantive matter heard before the Court of Appeal in this jurisdiction. The date of the next sitting of Court of Appeal needed to be ascertained to enable the parties to have their matter dealt with.
Case Name:		Kenute Lynch

		v The Queen [SVGHCRAP2012/0006]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Mrs. Kay Bacchus-Baptiste
	Respondent:	Mr. Colin Williams, Director of Public Prosecutions
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order & Reason:		[Oral Delivery] 1. Matter erroneously listed and accordingly struck off the list.
Case Name:		Damion Bristol v The Queen [SVGHCRAP2010/0017]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		

	Appellant:	Appellant in person
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Appeal was already disposed of and the matter is hereby struck off the list.
Reason:		The appeal was already disposed of since the appellant has decided to serve his remaining sentence and only appeared as a courtesy to the Court.
Case Name:		Brennon Roberts v The Queen [SVGHCRA2015/0001]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Mrs. Kay Bacchus-Baptiste Appellant present
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter

Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. Matter adjourned to the next status hearing in St. Vincent and the Grenadines during the week commencing 15 th January 2018. 2. The Registrar of the High Court is directed to communicate with Counsel on record in relation to the alternative system for the preparation of the transcript.
Reason:		The transcript of the proceedings was not prepared.
Case Name:		Vynette Frederick v The Commissioner of Police [SVGMCRAP2014/0009]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Mr. Andrew Pilgrim, QC Ms. Maia Eustace Appellant present
	Respondent:	Mr. Karim Nelson, Crown Counsel holding for Mr. Colin Williams, Director of Public Prosecutions

Issue:		Criminal appeal - Whether the learned magistrate was correct in finding that she had no authority to stay the appeal.
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. Final leave is granted to the Crown to file and serve skeleton arguments together with authorities on or before 8th June 2017. 2. Leave is granted to appellant if necessary to file and serve submissions in response on or before 20th June 2017. 3. The hearing of this appeal is listed for the 27th June 2017 in St. Lucia. Time allocated for the hearing of this appeal is three (3) hours.
Reason:		The Court gave directions for the hearing of the appeal.
Case Name:		Jonathan Browne v The Queen [SVGHCRA2014/0007]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal

Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter adjourned to the next status hearing on 15th January 2018 in order for the Registrar of the High Court to advise the Court in relation to the transcript.
Reason:		The Court notes that the appellant has filed a Notice of Intention to proceed with his appeal.
Case Name:		Debert James v The Queen [SVGHCRAP2015/0002]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Karim Nelson, Crown Counsel

Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. The appeal is adjourned for further consideration at the next status hearing of the Court of Appeal in the state of St. Vincent and the Grenadines during the week that commences 15th January 2018 in order for the Registrar to advise on the status of preparation of the transcript.
Reason:		The transcript of proceedings was not ready.
Case Name:		Mwata Henry v The Queen [SVGHCRAP2013/0020]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter

Type of Oral Result / Order Delivered:		Oral Judgment or Decision.
Result / Order:		[Oral Delivery]
		1. The matter is struck off.
Reason:		The matter was erroneously listed since the appeal is listed to be heard during this week.
Case Name:		Maurice Francis v The Queen [SVGHCRAP2014/0003]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person and unrepresented
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. The status hearing will be addressed at the next sitting of the Court in St. Vincent and the Grenadines which commences on 15th January 2018.

Reason:		The Court notes that the appellant has indicated his intention to proceed with his appeal. The status hearing is adjourned in order for the Registrar to be able to report on the status of the preparation of the transcript.
Case Name:		Austin McDowall v The Queen [SVGHCRAP2014/0004]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person Mr. Jomo Thomas on record as Counsel and absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. The status hearing will be addressed at the next sitting of the Court in St. Vincent

		and the Grenadines which commences on the 15 th January 2018.
Reason:		The Court notes that the appellant has indicated his intention to proceed with his appeal. Status hearing is adjourned in order for the Registrar to be able to report on the status of the preparation of the transcript.
Case Name:		Jameison Black v The Queen [SVGHCRAP2014/0010]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. The Registrar of the High Court is directed to ensure that the transcript in relation to sentencing hearing is prepared and a copy is provided to appellant on or before September 2017.

		2. Appeal is listed for hearing during the sitting of the Court in St. Vincent and the Grenadines during the week which commences 15th January 2018. 3. Failing the preparation of the transcript the learned Director of Public Prosecutions and previous Counsel on Record shall get together and prepare an agreed note of the sentencing hearing which will serve as the Record of Appeal on or before 24th November 2017.
Case Name:		Lenny Baynes v The Commissioner of Police [SVGMCRAP2013/0011]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter taken off the list.

Reason:		The Court advised that the substantive appeal is listed for Thursday 11th May 2017.
Case Name:		Dennis Richardson v The Commissioner of Police [SVGMCRAP2014/0041]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. Matter is adjourned to the next status hearing sitting in St. Vincent and the Grenadines during the week which commences on 15th January 2018 in order for the Registrar of the High Court to advise on the status of preparation of the transcript.
Case Name:		Commissioner of Police v David Ames

		Samuel Commissiong
		[SVGMCRAP2016/0044]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Mr. Karim Nelson, Crown Counsel
	Respondent:	Mr. Samuel Commissiong, the appellant in person
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Leave to withdraw the appeal is granted and accordingly the appeal stands dismissed.
Case Name:		Cardinal Williams v The Queen [SVGHCRAP2015/0004]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	No appearance

	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter struck off the list. Appellant is deceased.
Reason:		The appellant is deceased.
Case Name:		Dwayne Stephens v The Queen [SVGHCRAP2015/0007]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision

Result / Order:		[Oral Delivery] 1. Matter is struck off.
Reason:		The appellant has completed his sentence since 11th January 2017.
Case Name:		Andre John v The Queen [SVGHCRAP2015/0008]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter is struck off.
Reason:		No appeal has been filed by the Appellant. Further, the appellant has completed his sentence since 11th January 2017.

Case Name:		Kimron Neverson v The Queen [SVGHCRAP2015/0009]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter struck off.
Reason:		No appeal has been filed by the appellant and the appellant has completed his sentence since 11th January 2017.
Case Name:		Davindra Singh v The Commissioner of Police [SVGMCRAP2013/0012]

Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery]
		1. Matter struck off list.
Reason:		The appellant was absent and further, the appellant's sentence was completed since 2nd February 2014.
Case Name:		Kevin McLennan v The Commissioner of Police [SVGMCRAP2013/0013]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent

	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. Status hearing adjourned to next sitting in St. Vincent and the Grenadines during the week which commences on the 15th January 2018.
Case Name:		Mohamed Aslam Kayum v The Commissioner of Police [SVGMCRAP2013/0014]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery]

		1. Matter struck off the list.
Reason:		No appeal has been filed; the appellant was absent and in any event, the appellant completed his sentence on 2nd February 2014.
Case Name:		Everton Tannis v The Commissioner of Police [SVGMCRAP2014/0012]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter taken off the list.
Reason:		The appellant indicated that he completed his sentence on 27th May 2015 and does not wish to pursue his appeal.
Case Name:		Sjada Daniel

		v The Commissioner of Police [SVGMCRAP2014/0013]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter struck off the list.
Reason:		The appellant has served his sentence and is absent. There was no Notice of Appeal filed. Further, the appellant completed his sentence on 15th March 2016 and is absent.
Case Name:		Ricardo Williams v The Commissioner of Police [SVGMCRAP2014/0019]
Date:		Monday, 8th May 2017

Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery]
		1. Matter struck off the list.
Reason:		No Notice of Appeal was filed by the appellant and the appellant is absent.
Case Name:		Franky Joseph v The Commissioner of Police [SVGMCRAP2014/0040]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel

Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery]
		1. Matter struck off the list.
Reason:		No Notice of Appeal was filed by the appellant and the appellant is absent. Further, the appellant completed his sentence on 24th December 2014.
Case Name:		Gregory Alexander v The Commissioner of Police [SVGMCRAP2013/0045]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision

Result / Order:		[Oral Delivery] 1. Matter struck off the list.
Reason:		No Notice of Appeal has been filed by the appellant and the appellant is absent.
Case Name:		Bryan Richards v The Commissioner of Police [SVGMCRAP2013/0054]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter struck off the list.
Reason:		No Notice of Appeal has been filed by the appellant. Further, the appellant completed his sentence on 12th December 2014.

Case Name:		Rasheed Watson v The Commissioner of Police [SVGMCRAP2015/0045]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter struck off the list.
Reason:		No Notice of Appeal has been filed and the appellant is absent. The appellant completed his sentence on 11th April 2017.
Case Name:		Romando Rodriguez v The Commissioner of Police [SVGMCRAP2015/0047]
Date:		Monday, 8th May 2017

Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter struck off the list.
Reason:		The Court notes that no Notice of Appeal has been filed. The appellant has completed his sentence since 25th March 2017.
Case Name:		Renall Mathurin v The Commissioner of Police [SVGMCRAP2015/0050]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel

Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter struck off the list.
Reason:		The Court notes that no Notice of Appeal has been filed and the appellant is absent.
Case Name:		Delson Browne v The Commissioner of Police [SVGMCRAP2012/0012]
Date:		Monday, 8th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery]

		1. Status hearing adjourned to the next sitting in St. Vincent and the Grenadines which commences on the 15 th January 2018.
Reason:		The appellant was not served with notice of the hearing of the appeal.
Case Name:		Charles Bobb v The Commissioner of Police [SVGMCRAP2016/0001]
Date:		Monday, 8 th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal
Appearances:		
	Appellant:	Appellant absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter struck off from the list.
Reason:		The Court notes that no Notice of Appeal has been filed. Accordingly, the matter is struck from the list.

Case Name:		Harlequin Property (SVG) Limited v Gabriella Klien as Representative Petitioner [SVGHCVAP2017/0008]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Ms. Jenell Gibson
	Respondent:	Ms. Vynette Frederick Mr. Joseph Delves
Issue:		Civil appeal - Without notice of motion for leave Oral application for adjournment
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The hearing of the appeal is adjourned to 29th June 2017 at the sitting of the Court of Appeal in St. Lucia.
Reason:		Counsel for the appellant made an oral application for an adjournment on the basis that Mr. Bota McNamara, lead counsel for the appellant, is ill.

<u>HIGH COURT CRIMINAL APPEALS AGAINST CONVICTION</u>		
Case Name:		Aubrey Wilson v The Queen [SVGHCRA2013/0018]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Ms. Patina Knights Mr. Aubrey Wilson present.
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Criminal appeal against conviction - Murder Oral application for adjournment
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The application for an adjournment is granted. 2. Appellant is to file and serve Skeleton Submissions and Authorities on or before 30th June 2017. 3. The Respondent is to file and serve Skeleton Submissions and Authorities

		on or before 31 st July 2017.
		4. Hearing of the appeal is traversed to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15 th January 2018.
Reason:		Counsel for the appellant made an oral application for an adjournment. Counsel for appellant requested time to fully prepare for the prosecution of the appeal. Counsel for the respondent did not object to the application for an adjournment.
Name:		Annel Young v The Queen [SVGHCRAP2012/0012]
Date:		Tuesday, 9 th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Ms. Patina Knights holding for Mr. Duane Daniel Mr. Annel Young present
	Respondent:	Mr. Carl Williams, Crown Counsel
Issue:		Criminal appeal - Attempted Murder-Aggravated Burglary

Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appellant is to file and serve skeleton submissions and authorities on or before 30th June 2017. 2. The respondent is to file and serve skeleton submissions and authorities on or before 15th August 2017. 3. The hearing of the appeal is adjourned to 15th January 2018 at the next sitting of the Court of Appeal in St. Vincent and the Grenadines.
Reason:		Counsel for the appellant made an oral application for an adjournment. The respondent did not object.
Case Name:		Kyle Bacchus v The Queen [SVGHCRAP2013/0021]
Date:		Tuesday, 9 th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Carl Williams, Crown Counsel

Issue:		Criminal appeal - Robbery
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Leave is granted to the Appellant to withdraw his appeal. 2. The appeal is accordingly dismissed.
Reason:		The appellant made an oral application to withdraw the appeal.
Case Name:		The Public Service Board of Appeal v Otto Sam [SVGHCVAP2016/0032]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	No appearance of Counsel
	Respondent:	No appearance of Counsel or the parties
Issue:		Civil appeal – Application for stay of

		execution
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The matter is struck out for want of prosecution.
Reason:		There was no appearance of Counsel for the appellant to prosecute the appeal. No explanation was provided to the Court.
Case Name:		Marlon Mills v Stacey McKie [SVGHCVAP2016/0001]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Roger Forde Q.C with Mr. Jomo Thomas
	Respondent:	Mr. Parnel R. Campbell Q.C with Ms. Mandella Campbell
Issue:		Civil appeal – Whether testator was the paper title owner of the disputed land - Whether appellant had acquired title to the disputed land by adverse possession

Type of Oral Result / Order Delivered:		N/A
Result / Order:		[Oral Delivery]
		1. The Court reserves judgment.
Case Name:		The Public Service Board of Appeal v Otto Sam [SVGHCVAP2016/0032]
Date:		Tuesday, 9 th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Richard Williams with Mr. J-Lany Williams
	Respondent:	Mr. Jomo Thomas
Issue:		Civil appeal - Application for a Stay of Execution Oral application by appellant to discharge the order to strike out the application.
Type of Oral Result / Order Delivered:		Oral Judgment or Decision

Result / Order:		[Oral Delivery] 1. The application to restore the application is granted. 2. The application for a stay of execution is refused. 3. Costs to the respondent in the sum of \$1,500.00
Reason:		This is an appeal for a stay of execution of the judgment of Henry J and the order contained in the judgment dated 20th October 2016 pending the determination of the Appeal. The grounds of the appeal state in part: 1. "That if the stay of execution is not granted the Appellant would be mandated to pay the Respondent his full salaries and gratuities from the year 2013 to present. In the event that the Appellant is successful these sums would be irrecoverable from the Respondent he not being a person of sufficient means to repay them. 2. Further that if the stay of execution is not granted the Appellant and the Respondent will incur substantial expenses in the prosecution and defence of an application for an assessment of damages and an application for assessment of costs as per the terms of the Order. 3. That without a stay being granted the Appeal will be worthless, a waste of the court's time and contrary to the overriding objective of the court to deal with cases fairly, justly and expeditiously.

		4. That the Appellant have [sic] a real prospect of success in the Appeal and should not face the burdens of the judgment during the pendency of the appeal. 5. That considering all the surrounding circumstances it would be a grave injustice on the part of the Appellant were the stay not to be granted. 6. That it is within the discretion of the court pursuant to parts 62.16(1) (b) and 62.19 of the OECS CPR 2000 to grant a Stay of Executions herein.” The Appellant filed an affidavit in support of the application, which was sworn by J-Lany Williams. It states in part: “That I am informed and do verily believe the same to be true, that without a stay being granted herein the appeal will be a waste of the court’s time and contrary to the overriding objective of the court to deal with cases fairly, justly ad expeditiously. That on the 20th day of October 2016, that Judgment was entered against the Appellant in the High Court of Saint Vincent and the Grenadines to which the Appellants are seeking redress at the Court of Appeal. A copy of the judgment is annexed and exhibited hereto and marked “J.W.1” That I am informed and do verily believe that the Appellant has a real prospect of success as is shown by the grounds set out in the Notice of Appeal filed on the 21st day of December, 2016. A true copy of the Notice of Appeal is annexed hereto and marked “J.W.2”
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		“That if the stay of execution is not granted the Appellant would be mandated to pay the Respondent his full salaries and gratuities from the year 2013 to present. In the event that the Appellant is successful these sums would be irrecoverable from the Respondent he not being a person of sufficient means to repay them. Further, that if the stay of execution is not granted the Appellant and the Respondent are to incur substantial expenses in the prosecution and defence of an application for an assessment of damages and for assessment of costs. That I am informed by Counsel for the Appellant and do verily believe the same to be true, that Counsel for the Respondent Mr. Jomo Thomas has no objections to this application being filed. That I am informed and do verily believe that it would be a grave injustice on the part of the Appellant were the stay not to be granted.” The law governing a stay of execution is quite clear and was crystallized in the judgment of Blenman JA in C Mobile Services Limited v Huawei Technologies Company Limited BVIHCMAP2014/0017. The five principles are as follows: “(i) The Court must take into account all the circumstances of the case. (ii) A stay is the exception rather than the general rule. (iii) A party seeking a stay should provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted. (iv) In exercising its discretion, the court
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		applies what is in effect a balance of harm test in which the likely prejudice to the successful party must be carefully considered. (v) The court should take into account the prospects of the appeal succeeding but only where strong grounds of appeal or a strong likelihood the appeal will succeed is shown (which will usually enable a stay to be granted). In applying these principles in this case it is necessary for the Court to use its discretion in light of the circumstances. The Court perused the application and is not satisfied that the evidential basis was sufficiently strong. The Court was not satisfied that cogent evidence was manifested. The affidavit contains bold assertions without any factual basis. The threshold for a stay of execution to be granted was not met.
Case Name:		George Samuel Saunders Goodluck v Vilma Goodluck [SVGHCVAP2016/0020]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Samuel Commissiong

	Respondent:	Ms. Vynette Frederick
Issue:		Civil appeal – Counter appeal – Possessory title – Whether learned judge erred in granting declaration of possessory title to the respondent – Whether discretion of learned judge properly exercised – Whether learned judge erred in imposing charge against respondent's title
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is dismissed. 2. Paragraphs 1, 2 and 4 of the order of the judge are affirmed. 3. The cross appeal is allowed. 4. Paragraph 3 of the order of the learned trial judge is set aside. 5. The respondent is entitled to costs in the court below of \$7,500.00 and to costs on the cross appeal in the sum of \$2,500.00.
Reason:		This is an appeal against certain orders of Henry J contained in a judgment dated 22nd June 2016. The appellant seeks an order to set aside the decision of the court below which granted a declaration of possessory title to Vilma Goodluck, the respondent. In the court below, the learned trial judge stated that the sole issue was whether Vilma Goodluck is entitled to a declaration of possessory title in the land in dispute.

		The learned trial judge ordered and declared as follows: <i>“(1) Vilma Goodluck’s application for a Declaration of Possessory Title of property situated at Adelphi Estate, Charlotte in the State of Saint Vincent and the Grenadines, is granted.</i> <i>(2) Vilma Goodluck is the true owner of all that piece or parcel of land situate at Adelphi Estate, in the State of Saint Vincent and the Grenadines, comprising approximately One Hundred and Thirty Thousand Four Hundred Square Feet (130,400 sq. ft.) with appurtenances thereon valued at approximately EC\$60,000.00; more particularly described and delineated in Survey Plan C1477 approved and lodged at the Lands and Survey Department on 16th January, 2008 by Chief Surveyor Adolphus Ollivierre, bounded as follows: On the North by a road, on the South by a road, on the East by lands in the possession of heirs of George Goodluck and on West by lands in the possession of Samuel Goodluck as shown on the plan drawn by Osbourne Browne Licensed Land Surveyor.”</i> The learned trial judge further declared that the issuance of a declaration of possessory title to the respondent is subject to a charge in favour of the estate of George Reynold Goodluck in respect of the outstanding balance on the purchase price and that the Registrar shall inscribe the declaration of possessory title with an endorsement to this effect. This order of the learned trial judge is the subject of a cross appeal by the respondent. The appellant filed several grounds of appeal against the judgment of the learned trial judge. The appellant also made oral
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		submissions. The gravamen of the appeal is that the decision of the learned trial judge to grant a declaration of possessory title was wrong in law. Counsel for the appellants, Mr. Samuel Commissiong indicated that he cannot understand the basis on which the learned trial judge made the orders contained in the judgment. Ms. Vynette Frederick, counsel for the respondent contended that the appeal essentially attacked the findings of fact made by the learned trial judge and that there was no basis to upset those factual findings. Counsel referred to various paragraphs of the judgment of the learned trial judge to support her contention that the orders made were correct and supported by proper findings of fact. Counsel referred to the well-known principles upon which the Court of Appeal is entitled to overturn findings of fact of a trial judge. At paragraph 6 of the judgment, the learned trial judge stated that: <i>“In order to satisfy the court that she is entitled to a declaration of possessory title, Ms. Goodluck must prove that she has been in exclusive and undisturbed possession of the disputed lands for a continuous period of twelve years with the intention to own them. She must establish on a balance of probabilities that she has enjoyed factual possession on the disputed lands for the requisite period and that in doing so her intention was to become the owner. I shall examine the evidence to determine whether she has made out her case.”</i>
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		The learned trial judge went on to examine the evidence which was presented in the matter. The learned trial judge made critical findings as to the credibility of Samuel Goodluck, the appellant. At paragraph 29, the learned trial judge stated: <i>“In this regard, Samuel Goodluck’s account is totally discredited even at times by his own witnesses. For example, he insisted that Ms. Goodluck did not go into possession of the land and she paid no more after the down payment. There is copious evidence to the contrary which I believe. Further, I am left with the distinct impression that Ms. Goodluck’s attempts to finalize the sale by contacting him were frustrated by him.”</i> An appellate court will not lightly interfere with a trial judge’s findings of fact based on credibility. The learned trial judge would have seen and heard the witnesses, an advantage that the Court of Appeal lacks. The Court therefore found that there was no basis to interfere with the learned trial judge’s findings on this issue. The learned trial judge went on to examine other aspects of evidence and concluded that <i>“I am satisfied that Vilma Goodluck has enjoyed exclusive and undisturbed possession of the subject lands between 1984 and 2012. She is accordingly entitled to a Declaration of Possessory Title of the subject lands. I cannot ignore the clear evidence that Ms. Goodluck did not compete payment to Mr. George Goodluck. His estate is entitled to recover the outstanding balance. There was insufficient evidence before the court regarding those details. Those are matters which I believe the executor(s) and Ms. Goodluck can resolve. The Declaration of Possessory Title will</i>
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		<i>accordingly be subject to a charge in respect of that sum.”</i> Again, the Court found that there was no basis to upset the findings of fact arrived at by the learned trial judge. The Court therefore saw no reason to set aside the orders made at paragraphs 1, 2 and 4 of the judgment. Accordingly, the appeal against the orders of the learned trial judge at paragraphs 1, 2 and 4 of the judgment was dismissed. In relation to the counter appeal of the respondent, it was noted that the respondent filed a separate appeal, which the Court treated as a counter appeal. The Court found that there was a proper basis for the counter appeal. The learned trial judge stated at paragraph 35 [3] that the <i>“Issuance of the Declaration of Possessory Title to Vilma Goodluck is subject to a charge in favour of the estate of George Reynold Goodluck in respect of the outstanding balance on the purchase price. The learned registrar shall inscribe the Declaration of Possessory Title with an endorsement to this effect.”</i> In her submissions, counsel for the respondent stated that the effect of a declaration of possessory title is to extinguish all rights of the paper owner, be they legal, equitable, contractual or otherwise. Counsel submitted that the court having found in favour of the respondent, could not then order the respondent’s title to be subject to a charge. On the grant of a declaration of possessory
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		title, neither the owner nor his estate can enjoy the privileges of land ownership by either collecting rent or concluding a sale. Counsel referred to section 25 of the Possessory Titles Act, Cap. 328 of the Revised Laws of Saint Vincent and the Grenadines, 2009 which provided that: <i>“The person named in an order containing a Declaration of Possessory Title entitled to an indefeasible title –</i> <i>(a) three months after the date of publishing particulars of the order pursuant to section 22 where there is no appeal;</i> <i>(b) upon the determination of the appeal where there is an appeal and the appeal is made within the time prescribed in section 24.”</i> The Court agreed with the submissions of the respondent and found that there was merit in the respondent’s challenge to this order. Accordingly, the Court allowed the counter appeal and set aside the charged imposed on the respondent’s title in paragraph 3 of the judgment. The Court awarded the respondent costs in the court below in the sum of \$7,500.00 and on the counter appeal in the sum of \$2,500.00.
<u>HIGH COURT CRIMINAL APPEAL AGAINST CONVICTION</u>		
Case Name:		Kyle Bacchus v The Queen

		[SVGHC RAP2014/0002]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Criminal appeal against conviction – Firearm possession – Robbery
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against conviction for robbery is dismissed. The sentence is affirmed. 2. The appeal against conviction for firearm possession is allowed. The sentence is quashed.
Reason:		The Crown conceded the appeal on the possession of firearm. The Crown advanced sufficient evidence on the charge of robbery. With regard to the sentence imposed by the learned trial judge, the Court discerned no error on the part of the learned judge. The Court took into account the aggravating

		factors and the antecedents of the Appellant. The Court found no mitigating factors.
<u>HIGH COURT CRIMINAL APPEAL AGAINST SENTENCE</u>		
Case Name:		Alwyn Jack Frederick v The Queen [SVGHCRA2013/0017]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mrs. Kay Bacchus-Baptiste Appellant present
	Respondent:	Mr. Carl Williams, Crown Counsel
Issue:		Criminal appeal against sentence - Grievous bodily harm with intent
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is allowed against sentence. 2. A sentence of 8 years imprisonment is substituted for 12 years imprisonment.

Reason:		This is an appeal against sentence of the trial judge in which a sentence of 12 years imprisonment was imposed. Taking into account all the facts and circumstances, the Court was of the view that the appropriate sentence was 8 years. The Court took into account also the aggravating and mitigating factors, the justice of the case and all the facts and circumstances.
<u>APPLICATIONS</u>		
Case Name:		Recardo Roberts v Gene Hamilton Javan McIntosh Nella Luke (By their Attorney-on-Record Leonard DeRoche) [SVGHCVAP2013/0011]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Sten Sargeant
	Respondent:	Mrs. Kay Bacchus-Baptiste
Issue:		Civil appeal – Application to admit fresh

		evidence
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The respondents are granted leave to file and serve skeleton submissions and authorities on or before 31st July 2017. 2. The appellant is granted leave to file and serve reply skeleton submissions and authorities on or before 30th September 2017. 3. The hearing of the appeal is traversed to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Reason:		Counsel for the respondents who was recently retained and required time to file submissions made an oral application for an adjournment. There was no objection by the appellant.
Case Name:		Edmund Smith v Carol Jardine [SVGHCVAP2017/0003]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of

		Appeal
		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Emery Robertson
	Respondent:	Mr. Duane Daniel
Issue:		Civil appeal – Stay of execution of judgment
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery]
		1. A stay of execution is granted.
Reason:		This is an application for a stay of execution of the judgment of Henry J until the determination of the appeal. The Court has read the submissions of learned counsel Mr. Robertson and learned counsel Mr. Daniel. The justice of the matter requires that a stay of execution be granted pending the hearing and determination of the appeal in the matter.
<u>STATUS HEARING</u>		
Case Name:		The Attorney General of the State of Saint Vincent and the Grenadines v Randolph Trueman Toussaint [SVGHCVAP2015/0011]
Date:		Tuesday, 9th May 2017

Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Richard Williams holding for Mr. Anthony Astaphan SC
	Respondent:	Ms. Shirlan Barnwell Mr. Ramesh Maharaj, SC Respondent present
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter stood down.
Reason:		Matter stood down to allow parties to consult with each other.
Case Name:		Junior Bacchus BDS Limited v Dr. Ralph Gonsalves [SVGHCVP2010/0012]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellants:	No appearance

	Respondent:	Mr. Graham Bollers
Issue:		Civil appeal – Oral application for extension of time
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter stood down.
Reason:		Counsel for the appellant was in the other court. Matter stood down to allow parties to attend.
Case Name:		Kensley Dougan v Cora Cambridge Samuel Byron Lillian Laidlow (Administratrix of the Estate of Miriam Laidlow, deceased) [SVGHCVAP2011/0002]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Carlyle Dougan, QC – absent Appellant deceased
	Respondent:	Ms. Paula David

Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter struck out for want of prosecution.
Reason:		The appeal has been filed since 3rd February 2011 and no further action has been taken by the appellant. The appellant is deceased and there is no representative appointed to represent the estate of the deceased.
Case Name:		Junior Bacchus BDS Limited v Dr. Ralph Gonsalves [SVGHCVAP2010/0012]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mrs. Kay Bacchus-Baptise Appellant present
	Respondent:	Mr. Graham Bollers
Issue:		Civil appeal – Oral application for the

		extension of time
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Extension of time is granted to the appellant to file and serve submissions with authorities on or before 16 th May 2017. 2. The respondent shall file and serve submissions in response on or before 6 th June 2017. 3. The hearing of the appeal is scheduled for the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15 th January 2018.
Reason:		The Appellant requested additional time and the Defendant consented to the extension of time.
Case Name:		First Caribbean International Bank (Barbados) Limited v Timothy St. John [SVGHCVAP2012/0002]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Ms. Anique Cummings

	Respondent:	Absent
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. Matter is adjourned for further status hearing at the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15 th January 2018.
Reason:		The record indicates that the appellant has filed application for substituted service which was never set for Chamber hearing in St. Lucia. The applicant's counsel is to act expeditiously to have matter served on respondent and accordingly heard by the court.
Case Name:		James Chance v Dawn Chance [SVGHCVAP2015/0017]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Bertram Commissiong, QC
	Respondent:	Ms. Samantha Robertson

		Respondent present
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal having been withdrawn is accordingly dismissed. 2. Costs to Respondent in the sum of \$750.00
Reason:		The appeal was erroneously lodged by the appellant who is now satisfied with the decision of the trial judge.
Case Name:		Clement Lawrence Cleopatra Ballantyne v First St. Vincent Bank of Kingstown [SVGHCVAP2014/0016]
Date:		Tuesday, 9 th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mrs. Kay Bacchus-Baptiste
	Respondent:	Mr. Stanley John Q.C Mr. Akin John Ms. Keisal Peters

Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter traversed to next sitting of the Court of Appeal in St. Vincent and the Grenadines during week commencing the 15th January 2018.
Reason:		The Court notes that the appeal has been filed and the court office is unable to advise on the progress of the transcript. Therefore the Court is unable to give directions as there is no available information that the Court can use to set directions on this matter.
Case Name:		Jemima Bacchus Kay Bacchus-Browne v RBTT Bank Caribbean Ltd [SVGHCVAP2015/0002]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Samuel Commissiong Appellant present
	Respondent:	Mr. Stanley John, QC

		Mr. Akin John Ms. Keisal Peters
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. Registrar of the High Court shall cause the transcript to be completed and upon competition inform the parties. 2. Appeal is adjourned for further status hearing at the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Reason:		Transcript of proceedings in the court below was not ready.
Case Name:		Issac Naaman Legiar v RBTT Bank Caribbean Ltd. [SVGHCVAP2015/0003]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Samuel Commissiong
	Respondent:	Mr. Stanley John, QC Mr. Akin John Ms. Keisal Peters

Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The Registrar of High Court shall cause the transcript of the proceedings to be prepared and upon completion notify parties. 2. The matter is adjourned for further status hearing to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15 th January 2018.
Reason:		The transcript of the proceedings below was not ready.
Case Name:		Browne's Construction Limited v First Caribbean International Bank Limited [SVGHCVAP2015/0008]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Ms. Keisal Peters holding Mr. Richard Williams Mr. Gideon Browne present

	Respondent:	Ms. Anique Cummings
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The Registrar of High Court shall cause the transcript of the proceedings to be prepared and upon completion notify parties. 2. The matter is adjourned for further status hearing to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15 th January 2018.
Reason:		The transcript of the proceedings below was not available.
Case Name:		The Attorney General of the State of Saint Vincent and the Grenadines v Randolph Trueman Toussaint [SVGHCVP2015/0011]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Richard Williams holding for Mr. Anthony Astaphan, SC

	Respondent:	Ms. Shirilan Barnwell Mr. Ramesh Maharaj, SC Respondent present
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. The parties agree by consent that the appeal to proceed as summary appeal. The appellant shall file legal issues to be determined by the Court by 30th June 2017. 2. The parties shall agree the documents to constitute the Record of Appeal and the appellant shall file and serve the Record of Appeal on or before 9th June 2017. 3. The appellant shall file and serve Written Submissions on or before 17th July 2017. 4. The respondent shall file and serve Written Submission in response on or before 30th September 2017. 5. Appellant has leave to file and serve Written Submissions in response on or before 30th November 2017. 6. Total time for the application is 3 hours, appellant is allowed 1½ hours, respondent is allowed 1 hour and ½ hour is allocated for responses. 7. The hearing of the appeal is set for Wednesday 17th January 2018.

Case Name:		Alicia Sardine Browne v RBTT Bank Caribbean Limited [SVGHCVAP2015/0018]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Richard Williams Ms. Alicia Sardine Browne present
	Respondent:	Mr. Stanley John, QC Mr. Akin John Ms. Keisal Peters
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The Registrar of High Court shall cause the transcript of the proceedings to be prepared and upon completion notify parties. 2. The matter is adjourned for further status hearing to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Reason:		The transcript is still outstanding.

Case Name:		Gemison Griffith v Senior Magistrate Donald Browne [SVGHCVAP2012/0004]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Ms. Samantha Robertson Appellant deceased
	Respondent:	Mr. Richard Williams
Issue:		Civil appeal - Oral application for withdrawal of appeal
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal having been withdrawn is accordingly dismissed. 2. No order as to costs.
Reason:		Counsel for the appellant made an oral application for appeal to be withdrawn and there being no objection by the respondent.
Case Name:		Garth Oliver v Beulah Phillips

		[SVGHCVAP2013/0008]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Ms. Samantha Robertson
	Respondent:	Ms. Patina Knights holding for Mr. Duane Daniel
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. Appellant to file and serve Record of Appeal by 21 st June 2017. 2. Appeal to proceed according to CPR 2000. 3. The appeal is adjourned to the next sitting of Court of Appeal in St. Vincent and the Grenadines during the week commencing 15 th January 2018.
Case Name:		Ricardo Watson v Claudia Guy [SVGHCVAP2015/0010]
Date:		Tuesday, 9th May 2017

Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mrs. Zhing Horne-Edwards
	Respondent:	Mr. Bertram Commissiong, QC
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The Registrar of High Court shall cause the transcript of the proceedings to be prepared and upon completion notify parties. 2. The matter is adjourned for further status hearing to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Reason:		The transcript of the proceedings is still outstanding.
Case Name:		Clayton Ollivierre (for himself and on behalf of the Officers and Members of the Rotary Club of Bequia) Sylvannus Peters v The Incorporated Trustees of the

		Lower Bay School
		[SVGHCVAP2014/0008]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Graham Bollers holding for Mr. Richard Williams
	Respondent:	Mr. P. R Campbell, QC Ms. Louise Mitchell Joseph Ms. Mandella Campbell
Issue:		Civil appeal – Oral application for leave to withdraw the appeal
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is adjourned for further status hearing at the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Reason:		The appellant intends to withdraw the appeal. However, no notice has been filed. Counsel for the appellant awaits further instructions from client. The respondent is prepared to wait for formal notice from the appellant.

Case Name:		Antonius Hoogstraten v Otmar Schaedle [SVGHCVAP2014/0015]
Date:		
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Absent
	Respondent:	Mr. P. R. Campbell Q.C Ms. Mandella Campbell
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Matter stood down.
Reason:		Counsel for the appellant is before another court.
Case Name:		Cynthia John v Reuben John Doris Wyllie [SVGHCVAP2014/0001]
Date:		Tuesday, 9th May 2017

Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Jaundy Martin
	Respondent:	Mr. Joseph Delves for Mr. Reuben John
Issue:		Civil appeal – Oral application for leave to withdraw appeal
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal having been withdrawn is accordingly dismissed. 2. No order as to costs.
Reason:		Counsel for the appellant made an oral application to withdraw the appeal.
Case Name:		Antonius Hoogstraten v Otmar Schaedle [SVGHCVAP2014/0015]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Samuel Commissiong

	Respondent:	Mr. P. R. Campbell, QC Ms. Mandella Campbell
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is struck out for want of prosecution. 2. No order as to costs.
Reason:		Counsel for the Appellant indicated that the Appellant was outside the jurisdiction and had not given any further instructions.
Case Name:		The State v Antonio Gellizeau [SVGHCVAP2014/0004]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Ms. Sejilla McDowall, Crown Counsel Mr. Colin Williams, Director of Public Prosecutions

	Respondent:	Appellant in person
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Appeal having been withdrawn is accordingly dismissed. 2. No order as to costs.
Reason:		The substantive matter that this appeal concerns has already been disposed of in other appeals involving the appellant and respondent before the court.
Case Name:		The Saint Vincent and the Grenadines Port Authority v Michelle Jones [SVGHCVP2011/0001]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Grahame Bollers for the Honourable Attorney General
	Respondent:	Mr. Emery Robertson Snr Ms. Samantha Robertson

Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Appeal having been withdrawn is accordingly dismissed. 2. No order as to costs.
Reason:		Counsel for the appellant made an oral application for leave to withdraw the appeal.
Case Name:		Ivan O'Neal v St. Vincent Electricity Services Limited [SVGHCVAP2015/0004]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Emery Robertson Snr.
	Respondent:	Ms. Paula David
Issue:		Status of the matter
Type of Oral Result /		Oral Judgment or Decision

Order Delivered:		
Result / Order:		[Oral Delivery] 1. By consent extension of time is granted to the appellant to file and serve Record of Appeal on or before 21 st June 2017. 2. Thereafter appeal to proceed in accordance with CPR 2000. 3. The appeal is adjourned to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15 th January 2018.
Reason:		Counsel for the appellant made an oral application for an extension of time. Counsel for the respondent did not object.
Case Name:		Jerrol Thompson v Hyacinth Thompson nee Byron-Cox [SVGHCVAP2014/0014]
Date:		Tuesday, 9 th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Grahame Bollers holding for Mr. Richard Williams
	Respondent:	Mrs. Zhing Horne Edwards
Issue:		Status of the matter
Type of Oral Result /		Oral Judgment or Decision

Order Delivered:		
Result / Order:		[Oral Delivery] 1. Notice of Discontinuance having been filed on 1 st February 2017, the appeal is accordingly dismissed. 2. No order as to costs.
Reason:		The appellant has already filed a Notice of Discontinuance.
Case Name:		Hermus Patrick v Lenore Cox [SVGHCVAP2014/0018]
Date:		Tuesday, 9 th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Bertram Commissiong, QC Counsel on record - absent
	Respondent:	Ms. Patina Knights
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery]

		1. Appeal is adjourned for further status hearing at the next sitting of the Court of Appeal in the state of St. Vincent and the Grenadines during the week commencing 15 th January 2018.
Reason:		The Notice of Intention was signed by the appellant personally and not yet served on the respondent. Further, the respondent has not yet served the appellant with the application to strike out the appeal.
Case Name:		Venus Davis nee Mascoll (Administratrix of the Estate of Linette Mascoll deceased) v Doris Phillips [SVGHCVAP2014/0005]
Date:		Tuesday, 9 th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Ms. Heidi Badenock Mr. Joseph Delves
	Respondent:	Mr. Andreas Coombs - absent
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions

Result / Order:		[Oral Delivery] 1. Appeal is adjourned for further status hearing at the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15 th January 2018.
Reason:		Counsel on record for the respondent, Mr. Olin Dennie, who is recently deceased accepted service on behalf of the respondent. There is no evidence that Mr. Andreas Coombs who has taken charge of Mr. Dennie's chambers acts on the behalf of the respondent.
Case Name:		Rhinoceros Company Limited v Moonhole Company Limited Osprey Limited [SVGHCVAP2015/0005]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Grahame Bollers
	Respondent:	Dr. Linton Lewis
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions

Result / Order:		[Oral Delivery] 1. The hearing of the appeal is adjourned for further status hearing at the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15 th January 2018.
Case Name:		Linton Lewis v RBTT Bank Caribbean Ltd [SVGHCVAP2015/0001]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. P.R. Campbell, QC holding for Mr. Samuel Commissiong
	Respondent:	Ms. Paula David
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The Registrar of the High Court shall cause the transcript of the proceedings to be prepared and upon completion to

		notify the parties. 2. Appeal is adjourned for further status hearing at the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Reason:		The transcript of the proceedings is unavailable.
Case Name:		CCYY Limited v Garfdon Adams Annette Stephens [SVGHCVAP2015/0009]
Date:		Tuesday, 9 th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Graham Bollers holding for Mr. Richard Williams
	Respondent:	Ms. Paula David, Amicus Curiae for the 1st respondent Garfdon Adams, deceased Ms. Samantha Robertson for Annette Stevens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		1. Appellant shall serve the Record of Appeal and Submission on the

		Respondent within 14 days of the date of this Order. 2. Thereafter the appeal shall proceed in accordance with CPR 2000. 3. Hearing of the appeal is scheduled for the next sitting of Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Case Name:		Augustine J. C. Miguel v Natalie Miguel née Sardine Jason Sardine Noel Sardine Magdaline Sardine [SVGHCVAP2015/0012]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Lyndon George
	Respondent:	No Appearances
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery]

		1. Matter is adjourned for further status hearing at the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15 th January 2018.
Reason:		The Notice of Appeal has not been served upon the respondents.
Case Name:		Milad Sassine v Lady Gloria Antrobus [SVGHCVAP2015/0014]
Date:		Tuesday, 9 th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Richard Williams
	Respondent:	Mr. Joseph Delves Ms. Heidi Badenock
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. The appellant shall file and serve Written Submissions on or before 30 th June 2017. 2. Respondent shall file and serve Written Submissions in response on or before

		16th September 2017. 3. Appellant shall file and serve Submissions in reply if necessary on or before 15th October 2017. 4. The hearing of appeal is scheduled for the next sitting of Court of Appeal in the state of St. Vincent and the Grenadines during the week commencing 15th January 2018.
Case Name:		CCYY Limited v Garfdon Adams Annette Stephens [SVGHCVAP2015/0009]
Date:		Tuesday, 9 th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Richard Williams
	Respondent:	Ms. Paula David appears amicus for the purpose of assisting the court for this status hearing - Respondent is deceased Ms. Samantha Roberts for Annette Stevens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery]

		1. The respondent is granted an extension of time to file and serve Written Submissions in response on or before 30th July 2017. 2. The appellant shall serve submissions in reply if necessary on or before 16th September 2017. 3. Hearing of the appeal is scheduled for the next sitting of Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Reason:		The matter was called to have the Mr. Richard Williams counsel on record for the appellant advise the court on certain matters. The court notes that the Record of Appeal and Submissions were served on the parties on 12th October 2016.
Case Name:		Fay-Ann Durham v Brian Davis [SVGHCVP2015/0015]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Andreas Coombs holding for Mrs. Ronnia Durham-Balcombe Appellant present
	Respondent:	Ms. Maia Eustace

		Mr. Brian Davis present
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. The hearing for the application to strike out the appeal is set down for the next sitting of the Court of Appeal in St. Vincent and the Grenadines commencing 15th January 2018.
Reason:		The Court notes that Mrs. Durham-Balcombe is on maternity leave.
Case Name:		Director of Public Prosecutions Adolphus Delplesche Fitzbourne Chambers Corporal 168 The Attorney General v Rudolpho Alexander [SVGHCVAP2015/0016]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Joseph Delves Ms. Heidi Badenock

	Respondent:	Mr. Richard Williams
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. By consent, leave is granted to Appellant to amend Notice of Appeal to include the heading interlocutory appeal under CPR 62(10). 2. Relief from sanctions is granted to Appellant for failure to file appeal bundle within the time set down under CPR 2000. 3. Appeal bundle filed on 21st April 2017 is deemed properly filed. 4. Appellant shall file and serve Submissions on or before 30th June 2017. 5. Respondent shall file and serve Submissions in response on or before 30th July 2017. 6. The hearing of appeal scheduled for the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Reason:		The Respondent consented to the application made by the Appellant.
Case Name:		Lamond Barker v

		Mary Almanda Donna O'Garro [SVGHCVAP2015/0021]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Andreas Coombs
	Respondent:	Ms. Paula David
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. The Registrar of the High Court shall cause the transcript of the proceedings to be prepared and upon completion notify parties. 2. The appeal is adjourned for further status hearing at the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Case Name:		Checklynton Wilson v Ena Carr George Carr

		[SVGHCVAP2015/0022]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Andreas Coombs
	Respondent:	Mr. Jomo Thomas
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Appeal having been withdrawn is accordingly dismissed. 2. By consent no order as to costs.
Reason:		The appellant no longer wishes to pursue the matter.
<u>MAGISTERIAL CIVIL APPEALS</u>		
Case Name:		Desmond Llewellyn v Rent and Drive Ltd. [SVGMCVAP2014/0016]
Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of

		Appeal
Appearances:		
	Appellant:	Mrs. Patricia Marks-Minors holding for Mr. Ronald Marks Appellant present
	Respondent:	Mr. Jaundy Martin
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. The Registrar of the High Court is directed to cause the Record of Appeal to be prepared and upon completion notify the parties. 2. The appeal is adjourned for further status hearing at the next sitting of Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Reason:		The transcript of the proceedings is still outstanding.
Case Name:		Brennetta Dublin v Rainnay Blake [SVGMCVAP2014/0005]

Date:		Tuesday, 9th May 2017
Before:		The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Appellant in person
	Respondent:	Mrs. Euchrista Bruce-Lyle
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. The Registrar of the High Court shall serve a copy of the Orders of the Court made on the 23rd September 2014 and 21st October, 2014 within 14 days on the applicant at Stoney Grounds. 2. The applicant is granted an extension of time to comply with the orders of the Court made on 23rd September, 2014 until the 15th June 2017. 3. The application for extension of time to appeal is to be heard in Chambers on a date to be fixed by the Chief Registrar. 4. The Appellant shall file and serve Submissions on or before 13th July 2017. 5. The respondent to file and serve Submissions in response on or before 30th July 2017.

MAGISTERIAL CRIMINAL APPEALS AGAINST SENTENCE

Case Name:		Noel Bynoe v The Commissioner of Police [SVGMCRAP2016/0045]
Date:		Wednesday, 10th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Ms. Sejilla McDowall, Crown Counsel
Issue:		Criminal appeal against sentence – Obtaining monies by deception
Type of Oral Result / Order Delivered:		Oral Decision or Judgment
Result / Order:		[Oral Delivery] 1. The appeal is dismissed. 2. The sentence is affirmed.
Reason:		The Appellant has more than 58 convictions for similar offences. The Court found no reason to disturb the

		sentence imposed when the Court considered the antecedent history of the appellant.
Case Name:		Dino Walker v The Commissioner of Police [SVGMCRAP2016/0046]
Date:		Wednesday, 10th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Mr. Carl Williams, Crown Counsel
Issue:		Criminal appeal against sentence – Unlawful assault
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against sentence is dismissed.
Reason:		The Appellant was sentenced to 6 months

		imprisonment for throwing urine and faeces at an officer. The Court saw no reason to disturb the sentence imposed.
Case Name:		Noel Harry v The Commissioner of Police [SVGMCRAP2016/0047]
Date:		Wednesday, 10th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Mr. Carl Williams, Crown Counsel
Issue:		Criminal appeal against conviction – Assault Willful disobedience
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Leave is granted to the appellant to withdraw the appeal. The appeal is accordingly dismissed. 2. The Appellant is granted an extension of time to 31st July, 2017 to pay the fine, in default, one (1) month imprisonment.

Reason:		The Appellant made an oral application to withdraw the appeal.
<u>HIGH COURT COMMERCIAL APPEAL</u>		
Case Name:		Valery Rogalskiy v JSC MCC Eurochem [BVIHCMAP2017/0007]
Date:		Wednesday, 10 th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Stephen Rubin, QC, and with him, Mr. Andrew Willins
	Respondent:	Mr. Justin Fenwick, QC, and with him, Mr. Dan Wise
Issue:		Interlocutory appeal – Whether BVI court has the power to order a foreigner who has not submitted to the jurisdiction to be subject to cross-examination
Type of Oral Result / Order Delivered:		N/A
Result / Order:		[Oral Delivery] 1. Judgment reserved.

Reason:		The Court reserved its judgment.
<u>HIGH COURT CIVIL APPEALS</u>		
Case Name:		East Caribbean Flour Mills Limited Caricom Rice Mills Limited v Peter Alexander Floyd Patterson Philip Atkinson Michael Boyce Davide Lisle Chase Colin Dathorne Joyce Dear Wayne Fields Geoffrey Gregory Marcus Hatch Stephen Jardine Douglas Newsam Lindel Nurse Grenville Phillips Kieron Pinard-Byrne Harold Tryhane [SVGHCVAP2015/0020]
Date:		Thursday, 11 th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellants:	Mr. Barry Gale, QC, with him, Ms. Laura Harvey Reid and Mr. L. A. Douglas Williams

	Respondent:	Mr. Christopher Hamel Smith, SC and Mr. Richard Williams – 1st Respondent Mr. Grahame Bollers – 2nd to 16th Respondents
Issue:		Civil appeal – Oral application for leave to withdraw the appeal with no order as to costs.
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against the order of the learned master is withdrawn with the consent of the parties. 2. No order as to costs.
Reason:		Counsel for the appellants informed the Court that the parties reached an agreement and that the matter was settled. He also informed the Court that the parties have agreed that there be no order as to costs.
<u>MAGISTERIAL CRIMINAL APPEALS AGAINST CONVICTION</u>		
Case Name:		Kamal Garraway v The Commissioner of Police [SVGMCRAP2016/0059]
Date:		Wednesday, 11th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal

		The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Roderick Jones Appellant present
	Respondent:	Mrs. Tamika McKenzie, Crown Counsel
Issue:		Criminal appeal - Possession of firearm and ammunition without licence - Driving motor vehicle without licence and insurance
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The application for an adjournment of the appeal is granted. 2. The appeal is traversed to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week which commences 15th January 2018, there being no objection by the Crown. 3. Leave is granted to the Appellant to file and serve additional grounds of appeal within two (2) weeks of the date of this Order. 4. Leave is granted to the Appellant to file and serve Written Submissions together with Authorities on or before 31st July, 2017.

		5. Leave is granted to the Respondent to file and serve Written Submissions together with Authorities on or before 31 st October 2017.
Reason:		Counsel for the Appellant made an oral application for an adjournment and an application to add additional grounds. There was no objection by the Respondent.
<u>MAGISTERIAL CRIMINAL APPEALS AGAINST SENTENCE</u>		
Case Name:		Shannon Richards Akeidor Matthews v The Commissioner of Police [SVGMCRAP2015/0022] [SVGMCRAP2015/0023]
Date:		Thursday, 11 th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Shannon Richards in person Mr. Akeidor Matthews in person
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Criminal appeals against sentence Possession of firearm and ammunition

		without licence
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against sentence of the second Appellant, Akeidor Matthews, is dismissed. 2. The sentence of four (4) years imprisonment imposed on the second Appellant, Akeidor Matthews, is affirmed. 3. The appeal against sentence of the first Appellant, Shannon Richards, is allowed to the extent that the sentence is varied to a term of three (3) years imprisonment instead of four (4) imprisonments.
Reason:		The appellants were pursuing an appeal against sentence. Both appellants were sentenced to a term of imprisonment for four (4) years for possession of firearm and ammunition without a licence. The Court noted the prevalence of firearm offences in St. Vincent and the Grenadines. The Court further noted that the second appellant, Akeidor Matthews, pleaded guilty to possession of two (2) firearms while the first Appellant pleaded guilty to possession of one (1) firearm. However, both Appellants were sentenced to a term of four (4) years imprisonment. The Court considered the reasons for the decision of the learned magistrate, the

		antecedent history of the appellants and the record of appeal. The Court was of the view that the learned magistrate in sentencing the Appellants should have approached the issue of sentencing separately in relation to each Appellant. The learned magistrate failed to do so. The second appellant, Akeidor Matthews, pleaded guilty to possession of two (2) firearms and the first appellant, Shannon Richards pleaded guilty to possession of one (1) firearm and they received the same sentence. Having reviewed the record of appeal, the Court determined that the sentence of the first appellant, Shannon Richards should be reduced and the sentence of the second Appellant, Akeidor Matthews, should be affirmed.
Case Name:		Lennie Baynes v The Commissioner of Police [SVGMCRAP2017/0007]
Date:		Thursday, 11 th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Ms. Jimesha Prince, Crown Counsel

Issue:		Criminal appeal against sentence – Trespass Theft
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against sentence in relation to the offence of burglary is dismissed. 2. The appeal against sentence in relation to the offence of theft is allowed to the extent that the sentence is varied to a term of 2 years imprisonment instead of 4 years imprisonment.
Reason:		This was an appeal against sentence. The appellant was sentenced as follows: • Burglary – 4 years imprisonment • Theft – 4 years imprisonment In relation to the offence of burglary, the Court found no basis to interfere with the sentence imposed. Concerning the offence of theft, the Court noted that the maximum sentence was 2 years imprisonment. However, the learned magistrate imposed a sentence of 4 years. The Court varied the sentence accordingly.
Case Name:		Romano Andrews Kelson Archibald v The Commissioner of Police [SVGMCRAP2017/0008]
Date:		Thursday, 11th May 2017

Before:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Romano Andrews in person Mr. Kelson Archibald in person
	Respondent:	Ms. Jimesha Prince, Crown Counsel
Issue:		Criminal appeal – Trespass - Theft
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal of the first Appellant, Mr. Romano Andrews, is dismissed. 2. The Court directed that the Registrar of the High Court is to communicate with Her Majesty's Prison to inform them that the Appellant was sentenced to a term of 12 months imprisonment. 3. The hearing of the appeal of the second Appellant, Kelson Archibald is adjourned to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018. 4. The second Appellant, Kelson Archibald is to file and serve Written Submissions with Authorities on or before 31st July 2017. 5. Leave is granted to the Respondent to

		file and serve Written Submissions with Authorities on or before 30th September 2017.
Reason:		On the hearing of this appeal the first Appellant; Romano Andrews requested that his matter proceed while the second Appellant, Kelson Archibald made an oral application for an adjournment. The first Appellant, Romano Andrews, however stated to the Court that what he was requesting was clarification as to whether his sentence was 18 months" imprisonment or 12 months"imprisonment. The Court confirmed that the Appellant, Romano Andrews, was sentenced to a term of 12 months"imprisonment. An oral application was made by the second Appellant, Kelson Archibald for an adjournment to enable him to retain Counsel. There was no objection by the Respondent.
Case Name:		Josiah Clarke v The Commissioner of Police [SVGMCRAP2017/0010]
Date:		Thursday, 11th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		

	Appellant:	Mr. Israel Bruce Appellant present
	Respondent:	Ms. Jimesha Prince, Crown Counsel
Issue:		Criminal appeal - Possession of offensive weapon – Oral application for an adjournment
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. At the request of the Appellant, the hearing of this appeal is adjourned to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018. 2. The Appellant is granted leave to file and serve Written Submissions with Authorities on or before 31st July 2017. 3. The Respondent is granted leave to file and serve further Written Submissions with Authorities, if necessary, on or before 30th September 2017.
Reason:		An oral application for an adjournment was made by Counsel for the Appellant. There was no objection by the Respondent.
Case Name:		Aldrick Providence v The Commissioner of Police

		[SVGMCRAP2017/0011]
Date:		Thursday, 11 th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Absent
	Respondent:	Ms. Jimesha Prince, Crown Counsel
Issue:		Criminal appeal – Intention to commit burglary
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is dismissed for want of prosecution.
Reason:		The Court noted that this was an appeal against sentence. The Appellant completed his term of imprisonment. His whereabouts are unknown.
Case Name:		Lennox Cupid v The Commissioner of Police [SVGMCRAP2017/0014]

Date:		Thursday, 11th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Absent
	Respondent:	Mr. Carl Williams, Crown Counsel
Issue:		Criminal appeal – Unlawful and malicious wounding
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is dismissed for want of prosecution.
Reason:		This was an appeal against sentence. The Appellant paid the fine on 12th August 2016. His whereabouts are unknown.
Case Name:		Kyle Small v The Commissioner of Police [SVGMCRAP2017/0015]
Date:		Thursday, 11th May 2017

Before:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	No appearance
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Criminal appeal against sentence Possession of a controlled drug
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is dismissed for want of prosecution.
Reason:		The appellant appealed against sentence. He completed serving his sentence on 30th April 2016. His whereabouts are unknown.
Case Name:		Quennel Martin v The Commissioner of Police [SVGMCRAP2017/0017]
Date:		Thursday, 11th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of

		Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Israel Bruce Appellant present
	Respondent:	Mr. Carl Williams, Crown Counsel
Issue:		Unlawful and malicious wounding
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. At the request of the Appellant, the hearing of this appeal is adjourned to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15 th January 2018. 2. The Appellant is granted leave to file and serve Written Submissions with Authorities on or before 30 th August 2017. 3. The Respondent is granted leave to file and serve Written Submissions with Authorities on or before 30 th September 2017.
Reason:		An oral application for an adjournment was made by Counsel for the appellant. The respondent did not object.

MAGISTERIAL CRIMINAL APPEALS AGAINST CONVICTION

Case Name:		Deshorn Dembar v The Commissioner of Police [SVGMCRAP2014/0023]
Date:		Thursday, 11th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Criminal appeal - Use of indecent language
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is dismissed for want of prosecution. 2. The fine of \$400.00 imposed by the Learned Magistrate is to be paid on or before 30th September 2017, in default, 4 weeks imprisonment. 3. A copy of the Order to be served personally on the appellant.

Reason:		The Court noted that the appellant was served personally on 22 nd April 2017. The appellant did not appear.
Case Name:		Shawn Phillips v The Commissioner of Police [SVGMCRAP2016/0041]
Date:		Thursday, 11 th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Mr. Carl Williams, Crown Counsel
Issue:		Criminal appeal - Driving an Uninsured Motor Vehicle
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Leave to discontinue and withdraw the appeal is granted. Accordingly, the appeal is dismissed.
Reason:		The appellant made an oral application to

		withdraw the appeal with no objection by the Respondent.
Case Name:		Curt John v The Commissioner of Police [SVGMCRAP2016/0060]
Date:		Thursday, 11 th May 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Mrs. Tamika McKenzie, Crown Counsel
Issue:		Criminal appeal - Possession of firearm and ammunition without license
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The hearing of this appeal is adjourned to 12th May 2017. 2. The Registrar of the High Court is required to make a copy of the

		appellant's Written Submissions immediately and to provide a copy of same to the Office of the Director of Public Prosecutions.
Reason:		The appellant stated that he filed Written Submissions. Neither the Court nor the Office of the Director of Public Prosecutions was in possession of the Written Submissions. The appellant referred the Court to a hand-written document in his Record of Appeal. The respondent did not have the benefit of reading the Appellant's Written Submissions. The Court adjourned the hearing of the appeal to the next day in order for the Respondent to have an opportunity to consider the Written Submissions of the Appellant.
		<u>MAGISTERIAL CRIMINAL APPEALS AGAINST SENTENCE</u>
Case Name:		Kezron Ashton v The Commissioner of Police [SVGMCRAP2017/0016]
Date:		Friday, 12 th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal

		The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Mr. Colin Williams, Director of Public Prosecutions
Issue:		Criminal appeal against sentence and conviction – Unlawful and malicious wounding
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against conviction and sentence is allowed. 2. The conviction and sentence are quashed.
Reason:		Counsel for the respondent disclosed to the Court that the Crown retained some concerns about the overall conduct of the matter. The Crown conceded the appeal. The Court found that there was a lurking doubt about the safety of the conviction. The Court was not satisfied that the matter was conducted fairly. The question as to whether in fact a wound was inflicted was inconclusive. The Court found that the evidence did not justify a conviction and that the learned magistrate erred in sentencing.

Case Name:		Curt John v The Commissioner of Police [SVGMCRAP2016/0060]
Date:		Friday, 12th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Mrs. Tamika McKenzie, Crown Counsel
Issue:		Possession of firearm and ammunition without licence
Type of Result/ Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against conviction is dismissed. 2. The appeal against sentence is allowed to the extent that the sentence imposed of 6 years imprisonment is varied to 4 years imprisonment.
Reason:		The appellant appealed against conviction and sentence.

		The appellant was convicted and sentenced as follows: • Possession of firearm without a licence – 6 years imprisonment. • Possession of ammunition without a licence – 6 months imprisonment. • Reckless driving – \$1,000.00 forthwith, in default, 6 months" imprisonment. Sentences to run concurrently. Concerning the appeal against conviction the police gave evidence that they saw the appellant throw the gun out of a car. The learned magistrate accepted this evidence. The learned magistrate listened to all the evidence and having heard the evidence, concluded that the prosecution evidence was more credible. The learned magistrate was present at the time to see and hear the witnesses. Given that the learned magistrate made conclusions as to credibility, it is very difficult for an appeal court to come to a contrary opinion. The Court found that the evidence of the prosecution witnesses was corroborated and was not challenged in relation to possession of the firearm. The Court below found that the version of events as put forward by the appellant – did not make any sense and that his behaviour was indicative of being in possession of a firearm and trying to avoid being searched. On the evidence before her, the Court found that the learned magistrate was entitled to make those findings. The Court noted that the role of the Court of Appeal is to determine whether or not the evidence supports the conclusions and whether or not there was any error on the part of the learned magistrate.
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		The Court found no error on the part of the learned magistrate and the evidence supported the conclusions reached by the learned magistrate. Concerning the appeal against sentence, the maximum sentence for possession of a firearm without a licence is 7 years. The learned magistrate imposed a sentence of 6 years. The Crown presented to the Court the antecedent history of the appellant in respect of convictions outside the jurisdiction. The Court enquired whether it was permissible at law or otherwise to take into account the antecedent history of convictions from outside St. Vincent and the Grenadines. The Court was of the view that unless there was legal authority that allowed extra-territorial convictions to be considered, the Court was minded to conclude that the sentence was excessive. The maximum being a term of imprisonment of 7 years and the appellant being sentenced to 6 years. The learned Director of Public Prosecutions later directed the Court to section 92 of the Criminal Procedure Code, Cap. 172, which the Court accepted as statutory authority.
<u>MAGISTERIAL CRIMINAL APPEALS AGAINST SENTENCE</u>		
Case Name:		Wilson Delpesche v The Commissioner of Police [SVGMCRAP2016/0057]
Date:		Friday, 12th May 2017

Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Absent
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Criminal appeal against sentence - Possession of a controlled drug
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against sentence is dismissed for want of prosecution.
Reason:		The Court was advised by the Crown that the appellant completed his sentence in November 2016.
Case Name:		Kenny Jackson v The Commissioner of Police [SVGMCRAP2016/0058]
Date:		Friday, 12th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice

		of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Mr. Karim Nelson, Crown Counsel
Issue:		Criminal appeal against sentence - Possession of a controlled drug
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The Appellant is granted leave to withdraw his appeal. 2. The appeal against sentence is accordingly dismissed.
Reason:		The appellant made an oral application to withdraw the appeal. There was no objection by the Crown.
Case Name:		Bradley McLean v The Commissioner of Police [SVGMCRAP2016/0049]
Date:		Friday, 12 th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice

		of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Ms. Jimesha Prince, Crown Counsel
Issue:		Criminal appeal against sentence Possession of a controlled drug
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against the sentences is dismissed. 2. The sentences are affirmed.
Reason:		This was an appeal against sentence. The appellant was convicted and sentenced as follows: • Possession of a controlled drug to wit 53,572 grammes of Cannabis with intent to supply to another – 3 years imprisonment • Possession of a controlled drug to wit 53,572 grammes of Cannabis for the purpose of drug trafficking – 4 years imprisonment. • Attempting to export a controlled drug to wit 53,572 grammes of Cannabis – 3 years imprisonment.

		• Entering the state by boat and disembarking without the consent of an Immigration Officer – 3 months imprisonment. The sentences imposed were to run concurrently. The appellant was granted leave to withdraw the first ground of appeal, namely that a fine be imposed instead of a custodial sentence. The appellant then indicated to the Court that he pleaded guilty at the first opportunity, did not waste the Court's time and that the sentence is excessive. The learned magistrate in sentencing the appellant took into account his age at the time of the offence was committed. He was 28 years old. The learned magistrate also noted the class and quantity of the drugs found in the possession of the appellant. The learned magistrate considered the seriousness of the offence and the prevalence of drug possession and drug trafficking offences. The learned magistrate, in mitigation, took into account the early guilty plea and the good character of the Appellant. The Court found no error in principle in the sentences imposed and found no proper basis to disturb the sentences.
Case Name:		Edwin Cain v The Commissioner of Police [SVGMCRAP2015/0056]
Date:		Friday, 12th May 2017

Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Mrs. Tamika McKenzie, Crown Counsel
Issue:		Criminal appeal against sentence - Trespass/theft
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against sentence is dismissed.
Reason:		This was an appeal against sentence. The appellant was sentenced to 12 months" imprisonment for attempted burglary to run consecutively with any other sentence. The appellant was at the time serving a 4-year sentence and requested that his sentence run concurrently. The Court found no reason to disturb the sentence of the learned magistrate. There was no error in sentencing.

Case Name:		Shammai Hazell v The Commissioner of Police [SVGMCRAP2016/0016]
Date:		Friday, 12 th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Mr. Carl Williams, Crown Counsel
Issue:		Criminal appeal against sentence - Theft
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Leave is granted to the Appellant to withdraw the appeal. 2. The appeal against sentence is withdrawn and accordingly dismissed.
Reason:		This was an appeal against sentence. The appellant made an oral application to withdraw the appeal. There was no objection by the respondent.

MAGISTERIAL CRIMINAL APPEALS AGAINST CONVICTION

Case Name:		Ken Wilson v The Commissioner of Police [SVGMCRAP2016/0056]
Date:		Friday, 12 th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Ms. Sejilla McDowall, Crown Counsel
Issue:		Criminal appeal against conviction and sentence - Trespassing/stealing
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against sentence is allowed to the extent that the sentence imposed of 4½ years imprisonment is varied to 4 years imprisonment.
Reason:		This was an appeal against conviction and sentence. The appellant made an oral application to withdraw the appeal against conviction.

		There was no objection by the Crown. The Court granted leave to withdraw the appeal against conviction. The Court then proceeded to hear the appeal against sentence. The appellant was sentenced to 4½ years imprisonment for trespass and theft. The appellant submitted that the sentence was excessive in all the circumstances and requested that his sentence be reduced. The Court noted that the co-accused pleaded guilty and would have been given credit. The learned magistrate noted that the appellant was a first time offender but also noted the serious nature of the offence. The Court noted that the maximum sentence is 7 years and was of the view that an appropriate sentence would be 4 years taking 3½ years as the notional sentence.
Case Name:		Denzil Sam v The Commissioner of Police [SVGMCRAP2016/0028]
Date:		Friday, 12th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		

	Appellant:	Absent
	Respondent:	Mrs. Tamika McKenzie, Crown Counsel
Issue:		Criminal appeal - Possession of firearm and ammunition without licence
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is dismissed for want of prosecution.
Reason:		Counsel for the respondent indicated to the Court that they received information from the Prison authorities that the appellant refused to leave his cell.
Case Name:		Adonjiah Lip I Adams v The Commissioner of Police [SVGMCRAP2016/0029]
Date:		Friday, 12th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Mrs. Tamika McKenzie, Crown Counsel

Issue:		Criminal appeal against conviction and sentence - Unlawful and malicious harm
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The Appellant is granted leave to withdraw the appeal against conviction and sentence. 2. The appeal is accordingly dismissed.
Reason:		This was an appeal against conviction and sentence. The appellant made an oral application to withdraw the appeal. There was no objection by the respondent.
Case Name:		Rodd Lewis v The Commissioner of Police [SVGMCRAP2017/0006]
Date:		Friday, 12th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Ms. Sejilla McDowall, Crown Counsel

Issue:		Criminal appeal against sentence - Burglary
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against sentence is dismissed. 2. The sentence is affirmed.
Reason:		This was an appeal against sentence. The appellant submitted that the sentence is excessive and that he pleaded guilty at the first opportunity. The appellant stated that he is 22 years old and is a farmer. The Court noted that he had gained 7 O" Levels. In mitigation of the sentence, the learned magistrate took into account that the appellant was very young, his guilty plea and that no violence was used in the commission of the offence. The learned magistrate noted that the appellant had a previous conviction for an offence of a similar nature, namely, burglary. The Court of Appeal stated that the Court must have a proper basis to interfere with the sentence imposed by a magistrate. The Court of Appeal must be convinced that the magistrate made an error in sentencing. In this case, the Court did not find that the learned magistrate erred and there was no reason to upset the sentence imposed.
Case Name:		Kimani Joe

		V The Commissioner of Police [SVGMCRAP2017/0013]
Date:		Friday, 12th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Absent
	Respondent:	Ms. Sejilla McDowall, Crown Counsel
Issue:		Criminal appeal - Assault with intent to commit wounding
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The hearing of the appeal is traversed to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Reason:		The appellant was not served with notice of today's proceedings.
<u>MAGISTERIAL CIVIL APPEALS</u>		
Case Name:		Steadroy Dean V

		Franklyn Ryan
		[SVGMCVAP2016/0001]
Date:		Friday, 12th May 2017
Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Absent
Issue:		Civil appeal – Oral application to withdraw appeal
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appellant is granted leave to withdraw the appeal. 2. The appeal is accordingly dismissed.
Reason:		The appellant made an oral application to withdraw the appeal.
Case Name:		Cyril Evans v Irvin Williams [SVGMCVAP2017/0001]
Date:		Friday, 12th May 2017

Before:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	No appearance
	Respondent:	In person
Issue:		Civil appeal
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The hearing of the appeal is traversed to the next sitting of the Court of Appeal in St. Vincent and the Grenadines during the week commencing 15th January 2018.
Reason:		The appellant was not served with notice of today's hearing.