

# **COURT OF APPEAL SITTING**

## **GRENADA**

**Monday, 3<sup>rd</sup> April 2017 to Friday, 7<sup>th</sup> April 2017**

## **JUDGMENTS**

**Case Name:**

**Jay Marie Chin**

**v**

**The Queen**

**[ANUCRAP2012/0005]  
(Antigua and Barbuda)**

**Date:**

**Wednesday, 5<sup>th</sup> April 2017**

**Coram:**

**The Hon. Mde. Louise Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal  
The Hon. Mr. Paul Webster, Justice of Appeal**

**Appearances:**

**Appellant:**

**Mr. James Bristol holding for Mr. Dane Hamilton,  
Q.C.**

**Respondent:**

**Mr. Howard Pinnock holding for the Respondent**

**Issues:**

**Criminal appeal – Murder – Good character direction-  
Failure of trial judge to give good character direction  
– Lucas direction – Whether trial judge failed to  
properly direct jury on lies – Circumstantial evidence  
– Motive – Whether trial judge failed to adequately  
direct jury on circumstantial evidence and comments  
made by prosecution on possible motive for killing –  
Whether conviction rendered unsafe as a result –  
Whether sentence of life imprisonment unduly  
severe**

**Result and  
Reason:**

**Held: dismissing the appeal and affirming the  
conviction; ordering that the sentence of life in**

prison be varied to a sentence of 25 years in prison; and that Jay Marie should serve a minimum of 20 years before her sentence can be reviewed by the Court, that:

1. On the issue of giving a good character direction, the first general rule is that a direction on the defendant's good character is to be given where the defendant has a good character and has testified or made pre-trial statements (credibility limb). The second general rule is that a direction as to the relevance of good character to the likelihood of a defendant having committed the offence charged is to be given whether or not he has testified or made pre-trial answers or statements (propensity limb). A defendant who has no previous convictions or cautions recorded against him or her is entitled to both the credibility and propensity limbs of the good character direction. Although Jay Marie was entitled to a good character direction and none was given by the judge, such a failure does not automatically render the verdict unsafe. In the case at bar, the circumstantial evidence that was led by the prosecution was very compelling, coherent and cogent and it all pointed to Jay Marie as the shooter. Accordingly, this ground of appeal fails.

R v Hunter [2016] 2 All ER 1021 applied; Gilbert v R [2006] UKPC 15 applied; Mark France and Rupert Vassell v The Queen [2012] UKPC 28 applied; Bally Sheng Balson v The State [2005] UKPC 2 applied.

2. In cases where the Crown relies on circumstantial evidence, there is no inflexible rule that requires a trial judge to give any formulaic direction on circumstantial evidence. In these cases, no duty rests on the judge, in addition to directing the jury that they could only convict if the prosecution has proved the case beyond a reasonable doubt. In the present case, the learned judge's summation was fair, careful and balanced. The judge brought home to the jury that they

must consider all of the circumstantial evidence and that they cannot find Jay Marie guilty unless they were satisfied of her guilt beyond a reasonable doubt. While it is accepted that there were different parts of the summation in which the judge could have or should have said things differently, the omissions were minor and not sufficient to undermine the safety of the conviction. It is therefore an unfair criticism to assert that the judge did not properly direct the jury how they should assess the circumstantial evidence.

Daniel (Marlon), Archibald (Curtis), Garcia (Anino) and Marshall (Curtis) v The State (2007) 70 WIR 267 applied; McGreevy v Director of Public Prosecutions (1973) 57 Cr App R 424 applied; Daniel Dick Trimmingham v The Queen [2009] UKPC 25 followed.

3. Notwithstanding that the trial judge, rather than giving a full Lucas direction, gave a modified one in that he omitted to tell the jury that if they are of the view that Jay Marie told lies and that they are proved to have been told through a consciousness of guilt the lies may support the prosecution's case against her, that omission on the judge's part could have only been favourable to Jay Marie. It could not have prejudiced her. In no way could or did the learned judge's failure to give the full Lucas direction render the conviction unsafe.

R v Lucas [1981] QB 720 cited; R v Burge and Pegg [1996] 1 Cr App R 163 cited.

4. The fairness of the trial was not impacted by the inappropriate comments of prosecuting counsel concerning the insurance policy since the trial judge dealt with these comments adequately. What an appellate court is required to do is not to second guess the trial judge but to examine all of the circumstances and seek to determine whether or not the judge's treatment of the evidence and the trial rendered the conviction unsafe.

In the case at bar, the learned trial judge quite properly and appropriately corrected the improper comments of the prosecution during cross-examination and also in the closing address and in so doing nullified any effect they may have had during the summation. Therefore, the judge cannot be justifiably criticised since there was nothing unfair in the trial as a consequence of his treatment of the prosecution's comments.

5. The learned trial judge received evidence in mitigation in favour of Jay Marie which clearly indicated that she was industrious and hard working in addition to having shared a close relationship with Raymond even post-divorce. In addition, she had no previous convictions and at the date of the sentence she had spent time in custody. In the circumstances, the sentence of life in prison was excessive; a term of 25 years in prison was an appropriate substitute for the sentence imposed by the learned trial judge, with a review of this sentence to be done on Jay Marie's completion of a period of 20 years.

**Case Name:**

**Antonio Gellizeau**

**v**

**The State**

**[SVGHCRAP2013/0058]**

**(St. Vincent and the Grenadines)**

**Date:**

**Wednesday, 5<sup>th</sup> April 2017**

**Coram:**

**The Hon. Mde. Louise Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal  
The Hon. Mr. Paul Webster, Justice of Appeal**

**Appearances:**

**Appellant:** Ms. Dennies Burris holding for Mr. Keith Scotland and Mr. Mikhail Charles

**Respondent:** Mr. Howard Pinnock holding for Mr. Gilbert Peterson, SC

**Issues:** Criminal Appeal – Appeal against conviction – Proceeds of Crime and Money Laundering (Prevention) Act 2001, CAP 181 – ss. 41(1)(a) and (b) – Whether the learned Chief Magistrate erred in holding that the monies were from a precise source of crime or predicate offence – Whether the Chief Magistrate erred in law when she failed to uphold the no case submission made on behalf of the appellant – Whether the learned Chief Magistrate erred in law by placing substantial weight on the testimony of a witness as a forensic accounting expert when he did not possess the requisite qualifications.

**Result and Reason:** Held: dismissing the appeal against conviction and affirming the conviction, that:

1. There is no bifurcation of the offences in the Proceeds of Crime and Money Laundering (Prevention) Act, 2001 merely because the definition of “criminal conduct” expressly refers to “drug trafficking” or “relevant offence”. Although the PCMLPA addresses both drug trafficking and non-drug trafficking offences, there is no dichotomy in St. Vincent and the Grenadines as obtains in the United Kingdom. If the legislature in St. Vincent and the Grenadines required a prosecutor to have established a particular provenance offence it would have so clearly stated. In any proceedings against a person for an offence under sections 41(1)(a) and 41(1)(b) of the PCMLPA, it shall be sufficient for the prosecution to aver that the property is, in whole or in part directly or indirectly the proceeds of a crime, without specifying any particular crime, and the court, having regard to all the of the circumstantial evidence, may reasonably infer that the proceeds were in

whole or in part directly or indirectly the proceeds of a crime. Neither was there any duty on the prosecution to prove any predicate or provenance offence under the PCMLA. Therefore, the learned Chief Magistrate did not err and correctly applied the law in holding that there is no need for the prosecution to show or to particularise the offence or offences that generated the proceeds of crime.

Proceeds of Crime and Money Laundering (Prevention) Act, No. 39 of 2001 as amended by Act No. 8 of 2005, sections 41(1)(a) and 41(1)(b) applied; Director of Public Prosecutions of Mauritius v Bholah [2011] UKPC 44 applied; R v Craig [2007] EWCA Crim 2913 applied; R v Anwoir [2008] EWCA Crim 1354; [2009] 1 WLR 980 applied; R v Assets Recovery Agency (Ex parte) Jamaica [2015] UKPC 1 applied; R v Montilla and Others [2004] UKHL 50 distinguished; UK Criminal Justice Act, 1988, s. 93C(1) distinguished; UK Drug Trafficking Act, 1994, s. 49(1) distinguished.

2. On a submission of no case to answer at the end of the evidence adduced by the prosecution, the judge should not withdraw the case if a reasonable jury properly directed could on that evidence find the charge in question proved beyond a reasonable doubt. In the present case, the prosecution had amassed an overwhelming amount of cogent and coherent circumstantial evidence including oral, documentary and digital evidence that clearly pointed to Mr. Gellizeau as being guilty of the money laundering offences with which he was charged, and in the circumstances a jury properly directed could have found beyond a reasonable doubt that *he* had committed the money laundering offences.

The Chief Magistrate as the trier of fact and law demonstrated knowledge of the principles

applicable to circumstantial evidence, took great care in applying them to the factual circumstances, and in so doing did not err in her conclusion that Mr. Gellizeau had a case to answer. Having carefully and closely examined the circumstantial evidence, the Chief Magistrate was therefore entitled to overrule the no case submission as the circumstantial evidence could have led a jury that was properly directed to an irresistible inference that the property in question was his proceeds from crime.

Archbold: Criminal Pleading, Evidence & Practice (63<sup>rd</sup> edn., 2015), 10-48 applied; R v Galbraith [1981] 2 All ER 1060 applied; DPP v Selena Varlack [2008] UKPC 56 followed.

3. The time to challenge the competence of an expert is during the trial. Furthermore, the competence of an expert is to be adjudged by the presiding officer on the basis of whether or not the witness is qualified or has the experience to give an opinion or belief on the subject. In the present case, it is not open to Mr. Gellizeau to have allowed the evidence to be led on the basis that it is coming from an expert without objection, and then on appeal to seek to assail the expertise of the witness and by extension the discretion of the Chief Magistrate to admit the evidence on the basis that it emanates from that expert witness. The Chief Magistrate carefully assessed the evidence of the several witnesses and attached appropriate weight to their evidence in coming to her decision. There is no evidence that the learned chief Magistrate attached undue weight to the evidence of Mr. Da Silva in arriving at the conclusion of the guilt of Mr. Gellizeau. The learned Chief Magistrate therefore did not err and acted within her discretion when she deemed Mr. Kirk Da Silva an expert forensic accountant based on a combination of his expertise and certification.

State of Trinidad and Tobago v Boyce [2006]  
UKPC 1 applied; R v Bonython (1984) 38 SASR  
45 applied; R v Silverlock [1894] 2 QB 766  
applied.

**Case Name:**

**Anjay Charles**

**v**

**The Queen**

**[SVHCRAP2013/0016]  
(St. Vincent and the Grenadines)**

**Date:**

**Thursday, 6<sup>th</sup> April 2017**

**Coram:**

**Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
Hon. Mde. Gertel Thom, Justice of Appeal  
Hon. Mr. Paul Webster, Justice of Appeal**

**Appearances:**

**Appellant:**

**Mr. James Bristol holding for Mrs. Kay Bacchus-Browne**

**Respondent:**

**Mr. Howard Pinnock**

**Issues:**

**Criminal appeal – Murder – Joint enterprise – Sole defendant – Eye witness evidence – Mental element in joint enterprise – Trial judge's directions to the jury – Section 21 of the Criminal Code – Whether verdict unsafe and unsatisfactory on the evidence – Non-disclosure of witness statements by prosecution**

**Result and Reason:**

**Held: dismissing the appeal and affirming the conviction and sentence, that:**

- 1. When two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offence is committed of such a nature that its commission was a probable consequence of**



the prosecution of such purpose, each is deemed to have committed the offence. There need not be reference as to how he or she participated in the unlawful activity. The case against the appellant was that he participated in the commission of the agreed unlawful purpose; he is therefore deemed to have committed the offence of murder. The Crown did not have to prove that he shot any of the three men. Proof that he was present at the scene of the crime with the requisite knowledge was sufficient to secure his conviction for murder. Further, the directions by the trial judge on the mens rea for murder combined with the direction on the actus reus for a person involved in the joint enterprise, would have been sufficient to alert the jurors that in order to find the appellant guilty of the offence of murder, they had to be sure that he participated in the shooting of three deceased men and that he did so with the intention that death or serious bodily harm would have been inflicted by those participating in the killings.

Section 21 of the Criminal Code, Cap. 171, Revised Laws of Saint Vincent and the Grenadines 2009 applied; *Teiko David Jamel Furbert et al v The Queen* [2000] UKPC 12 applied.

2. The prosecution can proceed against one of several co-principals or an accessory without joining the principal. If two persons commit a crime as a part of a joint enterprise and the police apprehend only one of them, the prosecution can proceed against that person if they have evidence to show that he was involved in the joint enterprise with the person who remains at large. The essence of the case against the appellant was that he went to the scene of the crime with two other men, shots were fired and three men were killed and he was seen leaving the scene running with a gun in his hand, followed by another man who also had a gun in his hand. The Crown's case was not based on a theory that the appellant shot

any of the men. He was charged and proceeded against as being involved in an unlawful joint enterprise with other persons that resulted in murder and it does not matter whether he participated as principal or as an accessory.

Hui Chi Ming v The Queen [1992] 1 AC 34 applied.

3. The evidence of the acquittal of the two men of the murders of the same victims is irrelevant to whether the prosecution can proceed against the appellant. The verdict reached by a different jury (whether on the same or different evidence) in the earlier trial is irrelevant and amounts to no more than evidence of the opinion of that jury.

Hui Chi Ming v The Queen [1992] 1 AC 34 applied.

4. The law as to the duty of disclosure requires the Crown to disclose to the defence any material of which it is aware that would tend either to materially weaken the Crown's case or materially strengthen the case for the defence. Non-disclosure by itself does not automatically lead to the conclusion that trial is unfair. The significance and consequences of the non-disclosure must be assessed. If the undisclosed statement is substantially the same as the evidence given by the witness in court it is unlikely that the fairness of the trial of the defendant would have been impacted. However, if the undisclosed statement is substantially at variance with the evidence given by the witness in the trial, the reviewing court may treat the non-disclosure as being unfair to the defendant and the quash the conviction. In the instant appeal, counsel for the prosecution advised the Court that no statements were being withheld by the prosecution and that in any event there was no evidence withheld that was exculpatory. The prosecution was therefore not obliged to

disclose any additional statements to the defence. Moreover, it was open to the defence, having requested statements before the trial, to apply to the judge for a disclosure order. Such an application was not made and this Court cannot speculate on the contents of the statements that are said to have been withheld. In the circumstances this ground of appeal fails.

Maureen Peters v The Queen BVIHCRA2009/0005 (delivered 1<sup>st</sup> October 2010, unreported) followed; McInnes v Her Majesty's Advocate (Rev 1) (Scotland) [2010] UKSC 7 applied; R v Foxford [1974] NI 181 applied; Berry (Linton) v R (1992) 41 WIR 244 applied; Young v The State [2008] UKPC 27 applied.

5. The appellant was convicted of the murder of three persons who were killed by firearms in what appears to be a premeditated and violent attack on the men. There is nothing in the record or in counsel's written and oral submissions to suggest that the learned trial judge erred in any way in imposing the various sentences for which the appellant was found guilty, or that the sentences were excessive or unreasonable. This ground of appeal therefore fails.

Case Name:

Ultramarine (Antigua) Ltd.

v

Sunsail (Antigua) Ltd.

[ANUHC2016/0004]  
(Antigua)

Date:

Friday, 7<sup>th</sup> April 2017

Coram:

Hon. Mde. Louise Blenman, Justice of Appeal

**Hon. Mr. Mario Michel, Justice of Appeal**  
**Hon. Mde. Gertel Thom, Justice of Appeal**

**Appearances:**

**Appellant:** Ms. Mellissa Modeste Singh of Henry, Henry and Bristol holding papers for Dr. David Dorsett

**Respondent:** Mr. Alban John holding papers for Mr. Septimus Rhudd

**Issues:**

Civil appeal – Application for security for costs pursuant to section 548 of Companies Act of Antigua and Barbuda and rules 24.2(1) and 24.3(g) of the Civil Procedure Rules 2000 – Whether learned judge erred in exercise of her discretion in granting security for costs – Delay in making application for security for costs – Applicable costs regime – Whether sum of \$350,000.00 ordered for security was just in the circumstances.

**Result and Reason:**

**Held:** dismissing the appeal in part, setting aside the award of \$350,000.00 as security for costs; replacing it with the sum of \$73,125.00 and awarding costs to Sunsail in the amount of EC \$1,000.00 that:

1. It is necessary for the party resisting an application for security for costs to show that an order for security for costs would, not merely create a difficulty, but would probably stifle its claim. This burden remained on Ultramarine and it was required so as to satisfy the court not to a standard of certainty, but at least to a standard of probability, that the claim would be stifled if security was ordered. It was not sufficient for Ultramarine to show that there did not exist third parties who could reasonably be expected to put up the security for Sunsail's costs. Ultramarine had not discharged its burden of placing before the learned judge any material on which she could reasonably conclude that ordering security for costs against it would probably stifle its claim. Thus, there was no error in the approach adopted by the learned judge.

**Keary Developments Ltd. v Tarmac Construction Ltd. and another [1964] 3 All ER 933 applied; Al –Koronky and another v Time-Life Entertainment Group and another [2006] EWCA Civ 1123 applied; Brimko Holdings Ltd v. Eastman Kodak Company [2004] EWHC 1343 (Ch) applied.**

- 2. As a general principle, the amount of security ordered on an application for security for costs is fixed by reference to the probable costs of the action, which calculation is dependent on the applicable costs regime. The applicable costs regime is the specific regime that applies to the case at the date of the application and not any of the alternative regimes that might have otherwise applied had an application been made to apply any one of them. In awarding security for costs, a judge must exercise his or her discretion within the parameters of the applicable costs regime. In this case, at the time of the security for costs application, the applicable costs regime (at least for the substantive claim) was undoubtedly the prescribed costs regime as stipulated by CPR 65.5(1) and the learned judge was so bound by that costs regime. There was no basis for the learned judge to have awarded an amount of \$EC350,000.00 as security for costs and in so doing the learned judge committed an error of principle. In order to justify an award of \$EC350,000.00 under prescribed costs the claim required a valuation of EC\$44,750,000.00 There was no material before the court that could have justified such a valuation.**

**Next Level Engineering Services Ltd. v The Attorney General et al ANUHCVP2007/0017 (delivered 24<sup>th</sup> July 2007, unreported) applied.**

- 3. Applications for security of costs should be made promptly. The requirement for promptness does not exist in a vacuum. The reasons for requiring applications to be brought in a timely manner is to prevent a**

claimant from being lulled into a belief that it would be permitted to proceed to trial without being asked to give security. This is to prevent a claimant from proceeding at possible considerable expense to himself down to trial and then find himself faced with an order for security with which he is unable to comply. However, a mere delay in and of itself should not be the determining factor. Consideration should also be given to whether there exists any evidence from the claimant demonstrating that the delay in making the application has somehow caused prejudice to the claimant. The materiality of the delay comes into play where the delay has led the claimant to act to his detriment. In the case at bar, the reasons advanced for the delay of almost three years were unconvincing but the effect of the delay should not be for the application to be denied. Additionally, Ultramarine advanced no evidence of any actual prejudice that it suffered, of any costs that it incurred during the period of delay that might be thrown away (if security was ordered and Ultramarine could not raise it), which could be pinned specifically to the lateness of Sunsail's application. There was no evidence that any such costs were incurred by Ultramarine due to it being deceptively lulled into a false sense of security.

Wall v Wells [1926] 4 D.L.R 799 applied. Ontario Ltd. et al v Bank of Montreal (H.C.J.), 1988 CanLII 4678 (ON SC) applied; Stepps Investments Ltd et al v Security Capital Corporation Ltd. 1973 Can LII 631 (ON SC) applied.

4. The application for security for costs was premised on section 548 of the Companies Act and CPR 24.2(1) and 24.3(g). Under section 548 of the Companies Act, the sole test is the impecuniosity of Ultramarine. The non-residency of the company is not an issue. Accordingly, the court below had jurisdiction to entertain the application relying solely on

section 548 of the Companies Act.

Surfside Trading v Landsome Group Inc et al  
AXAHCV2005/0016 (delivered 20<sup>th</sup> January  
2006, unreported) cited.

**Case Name:**

**B.B. Inc.  
v  
Lewis Hamilton**

**[GDAHCVAP2015/0025]  
(Grenada)**

**Date:**

**Friday, 7<sup>th</sup> April 2017**

**Coram:**

**Hon. Mde. Louise Blenman, Justice of Appeal  
Hon. Mr. Mario Michel, Justice of Appeal  
Hon. Mde. Gertel Thom, Justice of Appeal**

**Appearances:**

**Appellant:**

**Mr. Alban John**

**Respondent:**

**Mrs. Linda Dolland and with her, Ms. Melissa  
Garraway**

**Issues:**

**Civil Appeal – Contract for sale of land – Formalities  
pursuant to section 4 of Real and Personal Property  
(Special Provisions) Act of Grenada CAP 273 –  
Agreement or memorandum or note required to be in  
writing and signed by person to be charged –  
Whether email correspondence capable of satisfying  
requirements of section 4 – Applicability of  
Electronic Transactions Act of Grenada – Agreement  
on certain essential terms – Whether agreement  
valid and binding**

**Result and  
Reason:**

**Held: dismissing the appeal and awarding 75% of 2/3  
of the costs in the court below to the respondent,  
that:**

- 1. Section 4 of the Real and Personal Property (Special Provisions) Act of Grenada CAP. 153 (“the Act”) contains two requirements which must be satisfied in order to maintain an action in relation to the sale of land or an interest in land. These are: (i) the agreement must be in writing, or there must be some memorandum or note of the agreement in writing; and (ii) the written document must be signed by the party against whom the action is brought. Thus, contracts for sale of land are unenforceable unless there is some written evidence of a contract which is signed by the person against whom enforcement is sought.**
- 2. Section 4 of the Electronic Transactions Act of Grenada expressly excludes from its application any law which requires writing, signatures or original documents for among other things, the conveyance or transfer of an interest in real or personal property. The effect of this provision is not that electronic documents cannot satisfy the requirements of section 4 of the Act as it does not prohibit electronic documents and signatures from being a ‘writing’ or “signature” within the meaning of section 4. Therefore, in relation to conveyancing and transfer of any interest in real or personal property, the well-established rules of statutory interpretation would continue to apply in interpreting those provisions.**
- 3. Section 4 of the Act has its genesis in section 4 of the UK Statute of Frauds (1677). The purpose of section 4 is essentially to protect persons from fraud by requiring a written record of transactions involving the transfer of land and interests in land rather than mere oral evidence. Section 2 of the Interpretation Act of Grenada defines “writing” in very wide terms to include printing lithography, typewriting, word processing, photography and all other modes of representing or reproducing words in visible form. This definition is wide enough to include electronic**



documents such as emails. Accordingly, email correspondence would not be contrary to the purpose of section 4. The learned master therefore erred when she adopted a very restricted approach and gave a literal interpretation to the meaning of the word “signed”.

Joseph Mathew and Another v Singh Chiranjeev and Another [2009] SGCA 51 applied; Aquis Estates Ltd v Minton and another [1975] 3 All ER 1043 applied; Harriet Caton v R. R. Caton and T. B Caton (1867) L.R. 2 H.L. 127.

4. Although section 4 requires a memorandum or note in writing, it is not necessary that every term agreed by the parties be included in the note or memorandum. It is imperative however that all the essential terms of the agreement except terms implied by law be included. The contents of the memorandum or note must show that a binding contract was concluded. Where essential terms agreed are omitted from the memorandum or note, the requirement of section 4 would not have been satisfied as the contract evidenced by the memorandum or note would not be the contract the parties entered into. The case at bar involved the sale of a plot of land and the construction of a villa within a communal property which placed additional obligations (such as conclusion of agreements with third parties) and restrictions on property owners. In those circumstances, the minimum terms of parties, property and price, as drawn from the emails, would not be sufficient to establish a binding contract. The language of both parties shows that they were still in negotiation. There were still several matters to be agreed and these matters cannot be classified as merely some minor details to be worked out. Therefore, the emails on which the appellant relied do not satisfy the requirement of section 4. It was open to the learned master to grant summary judgment on this basis.

**Beckett v Nurse [1948] 1 KB 535 applied; Tweddell v Henderson [1975] 1 WLR 1496 applied; Megarry & Wade: The Law of Real Property 5th edn., Sweet & Maxwell 1984, p. 580 cited.**

- 5. The summary judgment procedure and strike out procedure are two distinctly different procedures. The learned master having determined the application on the summary judgment procedure cannot be criticised for not also determining the strike out application. Even if the claim was not one which should have been struck out because it was not plainly bad in law, there was nothing to prevent the learned master from entering summary judgment on the ground that while it may not have been plainly bad in law, there was no reasonable prospect of success.**

**Dr. Martin Didier et al v Royal Caribbean Cruise Ltd SLUHCVP2014/0024 (delivered 6<sup>th</sup> June 2016, unreported) followed.**

**Case Name:**

**George Finton De Bourg**

**v**

**[1] Chief Magistrate Tamara Gill**

**[2] Director of Public Prosecutions**

**[GDAHCVAP2012/0017]**

**(Grenada)**

**Date:**

**Friday, 7<sup>th</sup> April 2017**

**Coram:**

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

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

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

**Appearances:**

**Appellant:**

**Mr. George Prime**

**Respondent:** Mr. Dwight Horsford and with him, Ms. Maurissa Johnson

**Issues:** Civil Appeal – Preliminary issue – Judicial review – West Indies Associated States Supreme Court (Grenada) Act – Section 33(2)(a) – No appeal shall lie under s. 33 from any order made in a criminal cause or matter – Application to strike out notice of appeal – No realistic prospect of success as appeal arises out of a criminal cause or matter – Whether notice of appeal purports to be a civil appeal from order made in a criminal cause or matter from which no appeal shall lie by virtue of section 33(2)(a) of the West Indies Associated States Supreme Court (Grenada) Act

**Result and Reason:** Held: allowing the preliminary objection taken by the respondents and dismissing the appeal that:

1. There appear to be three pre-conditions to an order being in a criminal cause or matter. The first pre-condition is that, at the time of the filing or hearing of the application on which the order was made, a charge of crime punishable by a fine, imprisonment or otherwise had been or was about to be preferred against the applicant or some other person. The second pre-condition is that the application involved consideration of that charge of crime. The third pre-condition is that the direct outcome or result of the application was or might have been the applicant's or other person's trial and possible conviction and punishment by a court or tribunal having or claiming jurisdiction to try, convict and punish for that crime.

West Indies Associated States Supreme Court (Grenada) Act, section 33(2)(a) applied; Attorney General of Antigua and Barbuda v Lewis (1995) 51 WIR 89 followed; Glasford v Commissioner of Police (1995) 48 WIR 117 followed.

2. In the present case, the judgment of the

learned judge dismissing the application for judicial review satisfied the three aforementioned pre-conditions, in that: (1) at the time of the hearing of the application for judicial review, criminal charges were preferred against the appellant; (2) the application had to have involved some consideration of the criminal charges for which the appellant was committed and indicted; and (3) the direct outcome or result of the dismissal of the application for judicial review was the possible trial and conviction of the appellant for the offences. Consequently, the application for judicial review and the grant or refusal thereof were integral parts of criminal proceedings and, in the circumstances, the judgment dismissing the application for judicial review must be held to be an order made in a criminal cause or matter and is therefore not appealable in accordance with section 33(2)(a) of the West Indies Associated States Supreme Court (Grenada) Act.

West Indies Associated States Supreme Court (Grenada) Act, section 33(2)(a) applied; Attorney General of Antigua and Barbuda v Lewis (1995) 51 WIR 89 followed; Glasford v Commissioner of Police (1995) 48 WIR 117 followed.

## **STATUS HEARING**

Case Name:

**Grenada Rice Mills Limited  
v  
Grenada Marketing and National Importing  
Board**

**[GDAHCVAP2015/0002]**

**Date:** Monday, 3<sup>rd</sup> April 2017

**Before:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Anselm B. Clouden

**Respondent:** Ms. Lisa Taylor

**Issue:** Status of the matter

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

**Result / Order & Reason:** [Oral delivery]

1. The Registrar of the High Court is to continue to take steps to ensure the preparation of the transcript.
2. The parties are granted leave to make private arrangements for the preparation of the transcript in the alternative.
3. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Case Name:**

**Karlene Frederick Walcott**  
**v**  
**Winston Earl Frederick Jr.**

**[GDAHCVAP2013/0029]**

**Date:** Monday, 3<sup>rd</sup> April 2017

**Before:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Anselm Clouden with him Mr. Sasha Courtney

**Respondent:** No appearance

**Issue:** Status of the matter

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

**Result/Order  
& Reason:** [Oral delivery]  
The transcript being now available the matter is to  
proceed in accordance with CPR 2000.

**Case Name:** Gordon Smith  
v  
Brenda Baldeo

[GDAHCVAP2012/0013]

**Date:** Monday, 3<sup>rd</sup> April 2017

**Before:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant:** Mrs. Nichole St. Bernard holding papers for Ms.  
Denise Campbell

**Respondent:** Mr. Anselm B. Clouden with him, Mr. Sasha Courtney

**Issue:** Status of the matter

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

**Result/ Order:** [Oral delivery]  
1. Leave is granted to the appellant to withdraw the

appeal.

2. The appeal is withdrawn with costs to the respondent agreed in the sum of \$2,500.00.

**Reason:** The appellant no longer wishes to proceed with the appeal.

**Case Name:** Godwin Bibby  
v  
Public Workers Union  
[GDAHCVAP2015/0011]

**Date:** Monday, 3<sup>rd</sup> April 2017

**Before:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant:** In person  
**Respondent:** Mrs. Ria Marshall-Ghust

**Issue:** Status of the matter

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

**Result/ Order:** [Oral delivery]  
The matter is adjourned to the next status hearing during the week commencing 2<sup>nd</sup> October 2017.

**Reason:** The transcript has not yet been prepared.

**Case Name:**

**Nicol T. Williams**

**v**

**[1] Raphael Sylvester**

**[2] Raphael Etienne**

**[GDAHCVAP2015/0018]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Before:**

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

**Appearances:**

**Appellant:**

**No appearance**

**Respondent:**

**No appearance**

**Issue:**

**Status of the matter**

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

**Directions**

**Result/ Order:**

**[Oral delivery]**

- 1. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.**
- 2. The parties are to be served.**

**Reason:**

**There was no appearance by the parties or counsel.**

**Case Name:**

**Ennis Ann Thomas**

**v**

**Rhoden Gordon**

**[GDAHCVAP2014/0035]**



**Date:** Monday, 3<sup>rd</sup> April 2017

**Before:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Alban John

**Respondent:** Mr. Deloni Edwards

**Issue:** Status of the matter

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

**Result / Order & Reason:** [Oral delivery]

1. The Registrar of the High Court is to take steps to ensure the preparation of the transcript.
2. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Case Name:**

[1] Samuel Charles  
 [2] Denise Campbell  
 [3] Wendy Charles  
 v  
 Bernadette Sampson

[GDAHCVAP2014/0017]

**Date:** Monday, 3<sup>rd</sup> April 2017

**Before:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

**Appellant:** Mrs. Nichole St. Bernard holding papers for Ms. Denise Campbell

**Respondent:** Mr. Deloni Edwards

**Issue:** Status of the matter

**Type of Oral  
Result / Order  
Delivered:** Oral Judgment or Decision

**Result / Order  
& Reason:** [Oral delivery]  
1. Leave is granted to the appellant to withdraw the notice of appeal filed on 10<sup>th</sup> April 2014.  
2. The appeal is accordingly dismissed.  
3. Costs to the respondent in the sum of \$2,500.00.

**Case Name:** Catherine Joseph (also known as  
Faith Regis)  
v  
Maude Campbell

[GDAHCVAP2014/0029]

**Date:** Monday, 3<sup>rd</sup> April 2017

**Before:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant:** Mr. Anselm B. Clouden with him, Mr. Sasha Courtney  
**Respondent:** Mr. Deloni Edwards

**Issue:** Status of the matter

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

**Result/Order  
& Reason:**

**[Oral delivery]**

1. The Registrar is to take steps to ensure the preparation of the transcript.
2. In the alternative the parties are to explore other private means for the preparation of the transcript.
3. The matter is adjourned to the next status hearing in Grenada during the week of 2<sup>nd</sup> October 2017.

**Case Name:**

**Nelson Louison**

**v**

**Margaret Stewart**

**[GDAHCVAP2015/0032]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Before:**

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

**Appearances:**

**Appellant:**

**Mr. Benjamin Hood**

**Respondent:**

**Ms. Deborah St. Bernard (Lewis and Renwick)**

**Issue:**

**Status of the matter**

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

**Directions**

**Result / Order  
& Reason:**

**[Oral delivery]**

1. The Registrar is to continue to take steps to ensure the completion of the transcript.
2. Alternatively, the parties are given leave to explore other private avenues for the completion of the transcript.
3. The matter is adjourned to the next status hearing

in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Case Name:**

**Dickon Mitchell  
V  
Rita Joseph-Olivetti**

**[GDAHCVAP2014/0026]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Before:**

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

**Appearances:**

**Appellant:**

**Mr. Alban M. John**

**Respondent:**

**Mr. Deloni Edwards, holding for Mr. John Carrington,  
QC**

**Issue:**

**Status of the matter**

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

**Directions**

**Result/ Order:**

**[Oral delivery]**

- 1. The Registrar is to take steps to ensure the preparation of the transcript.**
- 2. The matter is adjourned to the next status hearing in Grenada during the week 2<sup>nd</sup> October 2017.**

**Reason:**

**The transcript has not been prepared. Notwithstanding a letter to the Registrar dated 26<sup>th</sup> November 2016 and a response from the Registrar dated 2<sup>nd</sup> December 2016.**

**Case Name:**

**Denzil Gilbert  
v  
Grenada Distillers Limited  
[GDAHCVAP2014/0015]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Before:**

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

**Appearances:**

**Appellant:**

**Ms. Cathisha Williams**

**Respondent:**

**Mr. Alban M. John holding for Mr. Dickon Mitchell**

**Issue:**

**Status of the matter**

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

**Directions**

**Result / Order  
& Reason:**

**[Oral delivery]**

- 1. The Registrar is to take steps to ensure the preparation of the transcript.**
- 2. The matter is adjourned to the next status hearing in Grenada during the week of 2<sup>nd</sup> October 2017.**

**Case Name:**

**[1] Roosevelt Phillip  
[2] Rudolph Phillip  
[3] Godwin Phillip  
[4] Margaret Lee nee Phillip  
[5] Veralyn James nee Phillip  
v  
Festus Alexander**

**[GDAHCVAP2014/0040]**

**Date:** Monday, 3<sup>rd</sup> April 2017

**Before:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

**Appellant:** Mrs. Sabrita Khan Ramdhani with her Mr. Darshan Ramdhani and Mrs. Afi Ventour de Vega

**Respondent:** Mr. Deloni Edwards

**Issue:** Status of the matter

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

**Result/ Order:** [Oral delivery]  
The matter is adjourned to the next status hearing of the Court of Appeal in Grenada during the week of 2<sup>nd</sup> October 2017.

**Reason:** All documents have been filed. However, this requires verification.

**Case Name:**

**Joseph Bartholomew**  
**v**  
**Claudette Paula Bartholomew**

**[GDAHCVAP2014/0025]**

**Date:** Monday, 3<sup>rd</sup> April 2017

**Before:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

|                                               |                                                                                                                                                                                                                                            |
|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Appearances:</b>                           |                                                                                                                                                                                                                                            |
| <b>Appellant:</b>                             | <b>Mr. Ruggles Ferguson</b>                                                                                                                                                                                                                |
| <b>Respondent:</b>                            | <b>Ms. Karen Samuel (respondent present)</b>                                                                                                                                                                                               |
| <b>Issue:</b>                                 | <b>Status of the matter</b>                                                                                                                                                                                                                |
| <b>Type of Oral Result / Order Delivered:</b> | <b>Directions</b>                                                                                                                                                                                                                          |
| <b>Result/Order &amp; Reason:</b>             | <b>[Oral delivery]</b><br><b>1. The Registrar is to take steps to ensure the preparation of the transcript.</b><br><b>2. The matter is adjourned to the next status hearing in Grenada during the week of 2<sup>nd</sup> October 2017.</b> |

|                   |                                                                                                          |
|-------------------|----------------------------------------------------------------------------------------------------------|
| <b>Case Name:</b> | <b>Kenroy Samuel</b><br><b>v</b><br><b>The Grenada Bar Association</b><br><br><b>[GDAHCVAP2014/0034]</b> |
|-------------------|----------------------------------------------------------------------------------------------------------|

|                     |                                                                                   |
|---------------------|-----------------------------------------------------------------------------------|
| <b>Date:</b>        | <b>Monday, 3<sup>rd</sup> April 2017</b>                                          |
| <b>Before:</b>      | <b>The Hon. Mr. Davidson K. Baptiste, Justice of Appeal</b>                       |
| <b>Appearances:</b> |                                                                                   |
| <b>Appellant:</b>   | <b>Mr. Anselm B. Clouden with him Mr. Sasha Courtney and Mr. Darshan Ramdhani</b> |
| <b>Respondent:</b>  | <b>Mr. Rohan Phillip holding papers for Henry, Henry &amp; Bristol</b>            |
| <b>Issue:</b>       | <b>Status of the matter</b>                                                       |

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

**Directions**

**Result/ Order:**

**[Oral delivery]**

1. The applicant is to make a formal application with submissions to withdraw the notice of discontinuance filed herein on 14<sup>th</sup> March 2017.
2. The application will be transferred to Chamber Hearing in Saint Lucia.

**Reason:**

Mr. Anselm Clouden, having not heard from the appellant, filed discontinuance in the matter. He subsequently received instructions from the appellant to proceed with the appeal. An oral application was made to withdraw the discontinuance. A proper application is to be made for the withdrawal and such application is to be heard in Chambers in St. Lucia.

**Case Name:**

**Sheldon Monah**

**v**

**[1] Kenny Smart**

**[2] Commissioner of Police**

**[3] The Attorney General**

**[GDAHCVAP2015/0030]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Before:**

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

**Appearances:**

**Appellant:**

**Mr. Anselm B. Clouden with him, Mr. Sasha Courtney**

**Respondent:**

**Mrs. Dionne Lawrence Pivotte**

**Issue:**

**Status of the matter**



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

**Directions**

**Result/ Order:**

**[Oral delivery]**

- 1. By consent, the parties have agreed to dispense with the transcript.**
- 2. The appellant is to file and serve skeletal submissions and authorities on or before 2<sup>nd</sup> June 2017.**
- 3. The respondent is to file and serve skeletal submissions and authorities on or before the 3<sup>rd</sup> September 2017.**
- 4. The hearing of the appeal is set for the week commencing 2<sup>nd</sup> October 2017 in Grenada.**

**Reason:**

**The transcript has not been prepared. Letters were sent to Registrar on 16<sup>th</sup> November 2016. No response to date. It was agreed between the parties to dispense with the transcript.**

**Case Name:**

**Everod Gay  
v  
Garnet Joseph**

**[GDAHCVAP2015/0033]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Before:**

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

**Appearances:**

**Appellant:**

**Mr. Anselm Clouden with him Mr. Sasha Courtney**

**Respondent:**

**Mr. Rohan Phillip**

|                                               |                                                                                                                                                                                                                                                 |
|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Issues:</b>                                | <b>Status of the matter</b>                                                                                                                                                                                                                     |
| <b>Type of Oral Result / Order Delivered:</b> | <b>Oral Judgment or Decision</b>                                                                                                                                                                                                                |
| <b>Result / Order</b>                         | <b>[Oral delivery]</b><br>1. By consent of the parties the appeal is withdrawn and accordingly dismissed.<br>2. There is no order as to costs.                                                                                                  |
| <b>Reason:</b>                                | The respondent submitted that the appeal should be an interlocutory appeal requiring leave from the Court. The notice of appeal was filed out of time. An application ought to have been made for an extension of time and for leave to appeal. |
| <b>Case Name:</b>                             | <p style="text-align: center;"> <b>Magdalene Lendore</b><br/> <b>v</b><br/> <b>[1] Winsford Frank</b><br/> <b>[2] Viola Frank</b> </p> <p style="text-align: center;"><b>[GDAHCVAP2014/0001]</b></p>                                            |
| <b>Date:</b>                                  | <b>Monday, 3<sup>rd</sup> April 2017</b>                                                                                                                                                                                                        |
| <b>Before:</b>                                | <b>The Hon. Mr. Davidson K. Baptiste, Justice of Appeal</b>                                                                                                                                                                                     |
| <b>Appearances:</b>                           |                                                                                                                                                                                                                                                 |
| <b>Appellant:</b>                             | <b>Mr. Ruggles Ferguson</b>                                                                                                                                                                                                                     |
| <b>Respondent:</b>                            | <b>No appearance</b>                                                                                                                                                                                                                            |
| <b>Issue:</b>                                 | <b>Status of matter</b>                                                                                                                                                                                                                         |
| <b>Type of Oral</b>                           | <b>Directions</b>                                                                                                                                                                                                                               |

**Result / Order  
Delivered:**

**Result / Order  
& Reason:**

**[Oral delivery]**

- 1. The Registrar is to take steps to ensure the preparation of the transcript.**
- 2. The matter is adjourned to the next status hearing during the week 2<sup>nd</sup> October 2017 in Grenada.**

**Case Name:**

**Isaac Peters  
v  
Caribbean Agro Industries Limited  
[GDAHCVAP2015/0015]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Before:**

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

**Appearances:**

**Appellant:**

**Mr. Anselm B. Clouden**

**Respondent:**

**Ms. Sheriba Lewis**

**Issue:**

**Status of the matter**

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

**Directions**

**Result / Order  
& Reason:**

**[Oral delivery]**

- 1. The Registrar is to continue to take steps to ensure the preparation of the transcript.**
- 2. In the alternative the parties are given leave to make private arrangements for the preparation of transcript.**
- 3. The matter is adjourned to the next status hearing in Grenada during the week of 2<sup>nd</sup>**

**October 2017.**

**Case Name:** Hassan Brothers Ltd.  
v  
Heida Rahim  
(As agent for the estate of Ruth Rahim)

**[GDAHCVAP2015/0024]**

**Date:** Monday, 3<sup>rd</sup> April 2017

**Before:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant:** Mr. Benjamin Hood  
**Respondent:** Ms. Lisa Taylor

**Issue:** Status of the matter

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

**Result/ Order:** [Oral Delivery]  
1. The Registrar is to continue to take steps to procure the transcript.  
2. In the alternative parties are given leave to make other arrangements privately for the procuring of the transcript.  
3. The matter is adjourned to the next status hearing in Grenada during the week of 2<sup>nd</sup> October 2017.

**Case Name:** [1] Darwin Smith  
[2] Island Security Limited  
v  
[1] Francis Laviscount nee Franklyn  
[2] Brian Grimes

**[GDAHCVAP2015/0005]**

**Date:** Monday, 3<sup>rd</sup> April 2017

**Before:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

|                    |                      |
|--------------------|----------------------|
| <b>Appellant:</b>  | Mr. Ruggles Ferguson |
| <b>Respondent:</b> | Mr. Deloni Edwards   |

**Issue:** Status of the matter

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

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

1. The Registrar is to take steps to ensure the preparation of the transcript.
2. The matter is adjourned to the next status hearing during the week commencing 2<sup>nd</sup> October in Grenada.

**Case Name:** Wendy Ann Farray  
v  
Junior Farray  
**[GDAHCVAP2014/0009]**

**Date:** Monday, 3<sup>rd</sup> April 2017

**Before:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Alban John

**Respondent:** Mr. Deloni Edwards

**Issue:** Status of the matter

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

**Result / Order  
& Reason:**

[Oral delivery]

1. The Registrar of the High Court is to continue to take steps to ensure the preparation of the transcript.
2. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Case Name:**

**Roy Jack  
v  
Michael Richards**

**[GDAHCVAP2014/0013]**

**Date:** Monday, 3<sup>rd</sup> April 2017

**Before:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

**Appellant:** No appearance

**Respondent:** No appearance

|                                               |                                                                                                                                      |
|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| <b>Issue:</b>                                 | <b>Status of the matter</b>                                                                                                          |
| <b>Type of Oral Result / Order Delivered:</b> | <b>Oral Judgment or Decision</b>                                                                                                     |
| <b>Result / Order and Reason:</b>             | <b>[Oral delivery]<br/>Pursuant to the notice of discontinuance filed on 13<sup>th</sup> March 2017 the appeal stands dismissed.</b> |
| <b>Case Name:</b>                             | <b>Roger Lewis<br/>v<br/>The Queen<br/><br/>[GDAHCVAP2014/0014]</b>                                                                  |
| <b>Date:</b>                                  | <b>Monday, 3<sup>rd</sup> April 2017</b>                                                                                             |
| <b>Coram:</b>                                 | <b>The Hon. Mr. Davidson K. Baptiste, Justice of Appeal</b>                                                                          |
| <b>Appearances:</b>                           |                                                                                                                                      |
| <b>Appellant:</b>                             | <b>No appearance</b>                                                                                                                 |
| <b>Respondent:</b>                            | <b>Mr. Howard Pinnock</b>                                                                                                            |
| <b>Issue:</b>                                 | <b>Status Hearing</b>                                                                                                                |
| <b>Type of Oral Result / Order Delivered:</b> | <b>Directions</b>                                                                                                                    |
| <b>Result/ Order:</b>                         | <b>[Oral delivery]<br/>The matter is adjourned to Thursday, 6<sup>th</sup> April 2017.</b>                                           |
| <b>Reason:</b>                                | <b>No appearance by the appellant or his counsel.</b>                                                                                |

**Case Name:** **Heron's Flight Inc.**  
**V**  
**Westerhall Point Residents Association**  
**Limited**  
**[GDAMCVAP2014/0003]**

**Date:** **Monday, 3<sup>rd</sup> April 2017**

**Coram:** **The Hon. Mr. Davidson K. Baptiste, Justice of Appeal**

**Appearances:**  
**Appellant:** **Mr. Anselm B. Clouden with him, Mr. Sasha Courtney**  
**Respondent:** **Mr. Alban M. John**

**Issue:** **Status Hearing**

**Type of Oral Result / Order Delivered:** **Oral Judgment or Decision**

**Result/ Order:** **[Oral delivery]**  
**The appeal is struck out with costs to the respondent agreed on in the sum of \$750.00.**

**Reason:** **The appeal was filed approximately 3 years and 3 weeks out of time. The respondent filed an application to strike out the appeal on 13<sup>th</sup> March 2017. Judgment in the matter was given on the 10<sup>th</sup> January 2014 and leave to file appeal was granted on 27<sup>th</sup> Februar, 2014. The appellant was prepared to concede to the respondent's application with reasonable costs.**



|                                                       |                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Case Name:</b>                                     | <b>Sheldon Bain<br/>v<br/>The Queen</b>                                                                                                                                                                                                                                                                                                                                              |
|                                                       | <b>[ GDAHCRAP2016/0007]</b>                                                                                                                                                                                                                                                                                                                                                          |
| <b>Date:</b>                                          | <b>Monday, 3<sup>rd</sup> April 2017</b>                                                                                                                                                                                                                                                                                                                                             |
| <b>Coram:</b>                                         | <b>The Hon. Mr. Davidson K. Baptiste, Justice of Appeal</b>                                                                                                                                                                                                                                                                                                                          |
| <b>Appearances:</b>                                   |                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Appellant:</b>                                     | <b>Mr. Anselm B. Clouden with him, Mr. Sasha Courtney<br/>(appellant present)</b>                                                                                                                                                                                                                                                                                                    |
| <b>Respondent:</b>                                    | <b>Mr. Howard Pinnock</b>                                                                                                                                                                                                                                                                                                                                                            |
| <b>Issue:</b>                                         | <b>Status Hearing</b>                                                                                                                                                                                                                                                                                                                                                                |
| <b>Type of Oral<br/>Result / Order<br/>Delivered:</b> | <b>Directions</b>                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Result/ Order:</b>                                 | <b>[Oral delivery]</b><br><b>1. Leave is granted to the appellant to amend the<br/>notice of appeal if necessary by the inclusion of a<br/>ground of appeal against conviction in respect of<br/>the judge's treatment of the no case submission.</b><br><b>2. The matter is adjourned to the next status hearing<br/>in Grenada during the week of 2<sup>nd</sup> October 2017.</b> |
| <b>Reason:</b>                                        | <b>The appellant indicated that in the record of<br/>proceedings recently obtained there were certain<br/>omissions in the record having perused same. For<br/>example, the pronouncement made by Justice<br/>Benjamin on a no case submission.</b>                                                                                                                                  |

**Case Name:** Kenthon St. Bernard  
v  
The Queen  
GDAHCRAP2015/0002

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant:** No appearance  
**Respondent:** Mr. Howard Pinnock

**Issues:** Status Hearing

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

**Result/ Order:** [Oral delivery]  
1. That the Registrar take steps to ensure the preparation of the transcript.  
2. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Case Name:** Richardson Mapp  
v  
The Queen  
GDAHCRAP2015/0001

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

|                                               |                                                                                                          |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------|
| <b>Appearances:</b>                           |                                                                                                          |
|                                               | <b>Appellant: Mr. Darshan Ramdhani</b>                                                                   |
|                                               | <b>Respondent: Mr. Howard Pinnock</b>                                                                    |
| <b>Issues:</b>                                | <b>Status Hearing</b>                                                                                    |
| <b>Type of Oral Result / Order Delivered:</b> | <b>Directions</b>                                                                                        |
| <b>Result/ Order:</b>                         | <b>[Oral delivery]<br/>Matter adjourned to Thursday, 6<sup>th</sup> April 2017 at 9 a.m. for report.</b> |
| <b>Reason:</b>                                | <b>Counsel for the appellant has not yet seen the record of appeal.</b>                                  |
| <b>Case Name:</b>                             | <b>Tevin Dominique<br/>v<br/>The Queen<br/><br/>GDAHCRAP2015/0004</b>                                    |
| <b>Date:</b>                                  | <b>Monday, 3<sup>rd</sup> April 2017</b>                                                                 |
| <b>Coram:</b>                                 | <b>The Hon. Mr. Davidson K. Baptiste, Justice of Appeal</b>                                              |
| <b>Appearances:</b>                           |                                                                                                          |
|                                               | <b>Appellant: Mr. Darshan Ramdhani</b>                                                                   |
|                                               | <b>Respondent: Mr. Howard Pinnock</b>                                                                    |
| <b>Issues:</b>                                | <b>Status Hearing</b>                                                                                    |
| <b>Type of Oral</b>                           | <b>Directions</b>                                                                                        |

**Result / Order  
Delivered:**

**Result/ Order:**

**[Oral delivery]**

- 1. The Registrar to ensure the preparation of the transcript.**
- 2. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.**

**Case Name:**

**Sherwin Shane Buckmire**

**V**

**The Queen**

**GDAHCRAP2015/0005**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Coram:**

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

**Appearances:**

**Appellant:**

**Ms. Cathisha Williams**

**Respondent:**

**Mr. Howard Pinnock**

**Issue:**

**Status Hearing**

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

**Oral Judgment or Decision**

**Result/ Order:**

**[Oral delivery]**

- 1. The appeal against sentence is allowed.**
- 2. The sentence of 15 years is varied to time served.**

**Reason:**

**The respondent has indicated that the appeal against sentence is not being opposed. The appellant was**

sentenced to the maximum of 15 years for manslaughter on a plea of guilt with other mitigating factors. The appellant spent 4 years on remand, has been in custody since 2011 and was 20 years old at the time.

**Case Name:**

**John Redhead**

**v**

**The Queen**

**[GDAHCRAP2015/0006]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Coram:**

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

**Appearances:**

**Appellant:**

**Ms. Anyika Johnson (appellant present)**

**Respondent:**

**Mr. Howard Pinnock**

**Issues:**

**Status Hearing**

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

**Directions**

**Result / Order  
& Reason:**

**[Oral delivery]**

- 1. The Registrar of the High Court is to take steps to ensure the preparation of the transcript.**
- 2. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.**

**Case Name:** Isaac Gilbert  
v  
The Queen

**GDAHCRAP2015/0007**

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant:** In person

**Respondent:** Mr. Howard Pinnock

**Issues:** Status Hearing

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

**Result / Order  
& Reason:** [Oral delivery]  
1. The Registrar is to ensure the preparation of the transcript.  
2. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Case Name:** McDonald Thomas  
v  
The Queen

**[GDAHCRAP2015/0009]**

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant:** In person  
**Respondent:** Mr. Howard Pinnock

**Issues:** Status Hearing

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

**Result/ Order:** [Oral delivery]  
1. The Registrar is to ensure the preparation of the transcript.  
2. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Case Name:** Roystand Stafford  
v  
The Queen  
GDAHCRAP2015/0010

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant:** In person  
**Respondent:** Mr. Howard Pinnock

**Issues:** Status Hearing

**Type of Oral Result / Order** Directions

**Delivered:**

**Result/ Order:**

**[Oral Delivery]**

The matter is adjourned to Thursday, 6<sup>th</sup> April 2017.

**Reason:**

The matter was adjourned in order to verify the information from counsel for the respondent that this matter came up for appeal in 2009 where judgment was reserved.

**Case Name:**

**Shaquain Horsford**

**v**

**The Queen**

**GDAHCRAP2015/0012**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Coram:**

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

**Appearances:**

**Appellant:**

**Mr. George Prime**

**Respondent:**

**Mr. Howard Pinnock**

**Issues:**

**Status Hearing**

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

**Directions**



**Result/ Order:**

**[Oral delivery]**

1. Leave is accordingly granted to the appellant to re-instate his appeal against conviction and sentence.
2. The Registrar is to ensure the preparation of transcript.
3. The matter is adjourned to the next status hearing in Grenada during the week commencing the 2<sup>nd</sup> October 2017.

**Reason:**

The matter coming up for consideration earlier in the day, and upon the appellant indicating that he no longer wanted to continue with the appeal, an order was made stating that leave is granted to the appellant to discontinue appeal. The appeal is dismissed.

The matter was recalled at the request of Mr. Prime who now appears for the appellant. The appellant now indicating that he wants to proceed with the appeal.

**Case Name:**

**Elvis Lewis**

**v**

**The Queen**

**[GDAHCRAP2015/0015]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Coram:**

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

**Appearances:**

**Appellant:**

**Mr. Darshan Ramdhani (appellant present)**

**Respondent:**

**Mr. Howard Pinnock**

**Issues:**

**Status Hearing**

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

**Directions**

**Result / Order  
& Reason:**

**[Oral delivery]**

- 1. The Registrar is to ensure the preparation of the transcript.**
- 2. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.**

**Case Name:**

**Joel Horsford  
v  
The Queen**

**[GDAHCRAP2015/0014]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Coram:**

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

**Appearances:**

**Appellant:**

**Mr. Anselm Clouden with him, Mr. Sasha Courtney  
(appellant present)**

**Respondent:**

**Mr. Howard Pinnock**

**Issues:**

**Status Hearing**

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

**Directions**

**Result/ Order:**

**[Oral delivery]**

- 1. The Registrar is to take steps to ensure the preparation of the transcript in particular the oral judgment on sentencing delivered by Justice Gilford in the matter, The Queen v. Joel Horsford**

- who was sentenced on the 21<sup>st</sup> October 2015.
2. The matter is adjourned to the next status hearing in Grenada during the week of 2<sup>nd</sup> October 2017.

**Case Name:**

**Victor Creedland**

**v**

**The Queen**

**[GDAHCRAP2015/0013]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Coram:**

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

**Appearances:**

**Appellant:**

**Mr. Anselm B. Clouden with him, Mr. Sasha Courtney  
(appellant present)**

**Respondent:**

**Mr. Howard Pinnock**

**Issue:**

**Status Hearing**

**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 is accordingly dismissed.

**Reason:**

**The sentence of the appellant is almost complete.**

|                                               |                                                                                                                                                                                           |
|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Case Name:</b>                             | <b>Kim Ambrose</b><br><b>v</b><br><b>The Queen</b><br><br><b>[GDAHCRAP2015/0016]</b>                                                                                                      |
| <b>Date:</b>                                  | <b>Monday, 3<sup>rd</sup> April 2017</b>                                                                                                                                                  |
| <b>Coram:</b>                                 | <b>The Hon. Mr. Davidson K. Baptiste, Justice of Appeal</b>                                                                                                                               |
| <b>Appearances:</b>                           |                                                                                                                                                                                           |
| <b>Appellant:</b>                             | <b>Mr. Anselm B. Clouden with him, Mr. Sasha Courtney (appellant absent)</b>                                                                                                              |
| <b>Respondent:</b>                            | <b>Mr. Howard Pinnock</b>                                                                                                                                                                 |
| <b>Issue:</b>                                 | <b>Status Hearing</b>                                                                                                                                                                     |
| <b>Type of Oral Result / Order Delivered:</b> | <b>Oral Judgment or Decision</b>                                                                                                                                                          |
| <b>Result / Order &amp; Reason:</b>           | <b>[Oral delivery]</b><br><b>1. Leave is granted to the appellant to withdraw the appeal.</b><br><b>2. The appellant having served his sentence, the appeal is accordingly dismissed.</b> |

|                   |                                                                                           |
|-------------------|-------------------------------------------------------------------------------------------|
| <b>Case Name:</b> | <b>Desmond Fletcher</b><br><b>v</b><br><b>The Queen</b><br><br><b>[GDAHCRAP2015/0011]</b> |
| <b>Date:</b>      | <b>Monday, 3<sup>rd</sup> April 2017</b>                                                  |
| <b>Coram:</b>     | <b>The Hon. Mr. Davidson K. Baptiste, Justice of Appeal</b>                               |

**Appearances:**  
**Appellant:** Mr. Anselm B. Clouden with him, Mr. Sasha Courtney (appellant present)

**Respondent:** Mr. Howard Pinnock

**Issue:** Status Hearing

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

**Result / Order & Reason:** [Oral delivery]  
1. The Registrar is to ensure the preparation of the transcript.  
2. In the alternative the parties are granted leave to make other arrangements for the preparation of the transcript.  
3. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Case Name:** Alexander Clack  
v  
The Queen

[GDAHCRAP2016/0004]

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant:** Mr. Anselm B. Clouden with him, Mr. Sasha Courtney (appellant present)

**Respondent:** Mr. Howard Pinnock

|                                               |                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Issue:</b>                                 | <b>Status Hearing</b>                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Type of Oral Result / Order Delivered:</b> | <b>Directions</b>                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Result/ Order:</b>                         | <p><b>[Oral delivery]</b></p> <ol style="list-style-type: none"> <li><b>1. The Registrar is to ensure the preparation of the transcript.</b></li> <li><b>2. The parties are granted leave to make other arrangements for the preparation of the transcript.</b></li> <li><b>3. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.</b></li> </ol> |
| <b>Case Name:</b>                             | <p style="text-align: center;"><b>John Baptiste</b><br/> <b>v</b><br/> <b>The Queen</b></p> <p style="text-align: center;"><b>[GDAHCRAP2014/0003]</b></p>                                                                                                                                                                                                                                                           |
| <b>Date:</b>                                  | <b>Monday, 3<sup>rd</sup> April 2017</b>                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Coram:</b>                                 | <b>The Hon. Mr. Davidson K. Baptiste, Justice of Appeal</b>                                                                                                                                                                                                                                                                                                                                                         |
| <b>Appearances:</b>                           |                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Appellant:</b>                             | <b>No appearance</b>                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Respondent:</b>                            | <b>Mr. Howard Pinnock</b>                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Issue:</b>                                 | <b>Status Hearing</b>                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Type of Oral Result / Order Delivered:</b> | <b>Oral Judgment or Decision</b>                                                                                                                                                                                                                                                                                                                                                                                    |

**Result / Order  
& Reason:**

**[Oral delivery]**

- 1. The appeal against sentence is struck out for want of prosecution.**
- 2. It is also noted that the appellant has served his time.**

**Case Name:**

**Kevin Joseph**

**v**

**The Queen**

**[GDAHCRAP2014/0001]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Coram:**

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

**Appearances:**

**Appellant:**

**No appearance**

**Respondent:**

**Mr. Howard Pinnock**

**Issue:**

**Status Hearing**

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

**Oral Judgment or Decision**

**Result/ Order:**

**[Oral delivery]**

- 1. The appeal against sentence is struck out for want of prosecution.**
- 2. It is noted that the appellant has served his time.**

**Reason:**

**The appellant was not served and the appellant has served his time.**

**Case Name:**

**Akim Monah**

**v**

**The Queen**

**[GDAHCRAP2014/0002]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Coram:**

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

**Appearances:**

**Appellant:**

**Mr. Anselm B. Clouden with him, Mr. Sasha Courtney  
(appellant present)**

**Respondent:**

**Mr. Howard Pinnock**

**Issue:**

**Status Hearing**

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

**Directions**

**Result / Order  
& Reason:**

**[Oral delivery]**

- 1. The Registrar is to ensure the preparation of the transcript.**
- 2. Leave is granted to the parties to make other arrangements in the alternative for the preparation of the transcript.**
- 3. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.**



**Case Name:** Michael Aberdeen  
v  
The Queen  
[GDAHCRAP2014/0005]

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

|                    |                    |
|--------------------|--------------------|
| <b>Appellant:</b>  | In person          |
| <b>Respondent:</b> | Mr. Howard Pinnock |

**Issue:** Status Hearing

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

**Result/ Order:** [Oral delivery]  
1. The Registrar is to ensure the preparation of the transcript.  
2. The hearing of the matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Case Name:** Dwayne Francis  
v  
The Queen  
[GDAHCRAP2014/0007]

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant:** In person  
**Respondent:** Mr. Howard Pinnock

**Issue:** Status Hearing

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

**Result/ Order:** [Oral delivery]  
1. The Registrar is to ensure the preparation of the transcript.  
2. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Case Name:** Willan Nedd  
v  
The Queen

[GDAHCRAP2014/0011]

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant:** Mr. George Prime (appellant present)  
**Respondent:** Mr. Howard Pinnock

**Issue:** Status Hearing

**Type of Oral** Oral Judgment or Decision

**Result/Order  
Delivered:**

**Result/Order:**

**[Oral delivery]**

**1.** The appeal against conviction having been withdrawn is hereby dismissed.

**1.2.** **Leave is granted to amend the appeal to include an appeal against sentence.**

**2.3.** The appeal against sentence is allowed and the sentence is varied to time served.

**Reason:**

The Court notes that the appellant appealed his conviction on the 10<sup>th</sup> November 2014. He was convicted on the 19<sup>th</sup> March 2014 and sentenced to 5 years' imprisonment for the offence of rape. The Court further notes that his 5-year prison sentence will expire in July 2017, that is four (4) months from now.

Through no fault of his, the appellant has been unable to prosecute his appeal due to the unavailability of the transcript. It is recognized that if the appellant were to apply for bail he would most probably be successful. The Court is of the view that in the circumstances of this case the just solution would be to sentence the appellant to the time already served.

**Case Name:**

**Stephen Smith**

**v**

**The Queen**

**[GDAHCRAP2014/0016]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Coram:**

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

**Appearances:**

**Appellant:**

**Mr. Sasha Courtney**

**Respondent:** Mr. Howard Pinnock

**Issue:** Status Hearing

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

**Result / Order  
& Reason:** [Oral delivery]  
1. The Registrar is to ensure the preparation of the transcript.  
2. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Case Name:** Derol Charles  
v  
The Queen

[GDAHCRAP2014/0017]

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant** No appearance

**Respondent:** Mr. Howard Pinnock

**Issue:** Status Hearing

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

|                                              |                                                                                                                                                  |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Result /Order</b>                         | <b>[Oral delivery]</b><br>The matter is adjourned to the next status hearing in Grenada during the week commencing 2 <sup>nd</sup> October 2017. |
| <b>Reason:</b>                               | The appellant was absent and was not served.                                                                                                     |
| <b>Case Name:</b>                            | <b>Tyrone Bernard</b><br><b>v</b><br><b>The Queen</b><br><b>[GDAHCRAP2014/0018]</b>                                                              |
| <b>Date:</b>                                 | Monday, 3 <sup>rd</sup> April 2017                                                                                                               |
| <b>Coram:</b>                                | The Hon. Mr. Davidson K. Baptiste, Justice of Appeal                                                                                             |
| <b>Appearances:</b>                          |                                                                                                                                                  |
| Appellant                                    | Mr. Darshan Ramdhani                                                                                                                             |
| Respondent:                                  | Mr. Howard Pinnock                                                                                                                               |
| <b>Issue:</b>                                | Status Hearing                                                                                                                                   |
| <b>Type of Oral Result/ Order Delivered:</b> | N/A                                                                                                                                              |
| <b>Result /Order</b>                         | <b>[Oral delivery]</b><br>Matter adjourned to Thursday, 6 <sup>th</sup> April 2017 at 9 a.m.                                                     |
| <b>Reason:</b>                               | The matter was adjourned in order to ascertain the status of sentence of the appellant.                                                          |

**Case Name:**

**Albert Griffith**

**v**

**The Queen**

**[GDAHCRAP2014/0020]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Coram:**

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

**Appearances:**

**Appellant:**

**In person**

**Respondent:**

**Mr. Howard Pinnock**

**Issue:**

**Status Hearing**

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

**Oral Judgment or Decision**

**Result /Order:**

**[Oral delivery]**

- 1. The appellant is granted leave to withdraw his appeal against sentence.**
- 2. The appeal is accordingly withdrawn.**

**Reason:**

**The appellant no longer wished to proceed with the appeal.**

**Case Name:**

**Andy John**

**v**

**The Queen**

**[GDAHCRAP2014/0008]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

**Appellant:** In person

**Respondent:** Mr. Howard Pinnock

**Issue:** Status Hearing

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

**Result/Order  
& Reason:**

[Oral delivery]

1. The Registrar is to ensure the preparation of the transcript in this matter.
2. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Case Name:**

**The DPP  
v  
Sheldon Payne**

**[GDAHCRAP2014/0006]**

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Howard Pinnock

**Respondent:** Ms. Cathisha Williams (respondent present)

**Issue:** Status Hearing

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

**Directions**

**Result/Order  
& Reason:**

**[Oral Delivery]**

1. The Registrar is to ensure the preparation of the transcript with expedition.
2. The matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Case Name:**

**Ashley Augustine**

**v**

**The Queen**

**[GDAHCRAP2014/0014]**

**Date:**

**Monday, 3<sup>rd</sup> April 2017**

**Coram:**

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

**Appearances:**

**Appellant:**

**In person**

**Respondent:**

**Mr. Howard Pinnock**

**Issue:**

**Status Hearing**

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

**Oral Judgment or Decision**

**Result /Order:**

**[Oral Delivery]**

1. The appellant is granted leave to withdraw his appeal time having been served.
2. The appeal is accordingly dismissed.



**Reason:** The appellant already served his time.

**Case Name:** Dixon Lewis  
v  
The Commissioner of Police  
[Appeal Number Unknown]

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant:** In person  
**Respondent:** Mr. Howard Pinnock

**Issue:** Status Hearing

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

**Result /Order:** [Oral delivery]  
Further hearing of the matter is adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.

**Reason:** The transcript has not been prepared.

**Case Name:** Nicholas McMillan  
v  
The Commissioner of Police

**[GDAMCRAP2014/0002]**

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Anselm B. Clouden with him, Mr. Sasha Courtney

**Respondent:** Mr. Howard Pinnock

**Issue:** Status Hearing

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

**Result /Order:** [Oral delivery]  
The matter is adjourned to Tuesday, 4<sup>th</sup> April 2017 at 2pm.

**Reason:** The matter was adjourned for report.

**Case Name:** Sheldon Neckles  
v  
The Commissioner of Police

**[GDAMCRAP2014/0001]**

**Date:** Monday, 3<sup>rd</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Anselm B. Clouden with him Mr. Sasha Courtney

**Respondent:** Mr. Howard Pinnock

**Issue:** Status Hearing

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

**Result /Order:** [Oral delivery]  
The matter is adjourned to Tuesday, 4<sup>th</sup> April 2017 at  
2 p.m.

**Reason:** The matter was adjourned for report.

**Case Name:** Nicholas Mc Millan  
v  
The Commissioner of Police  
[GDAMCRAP2014/0002]

**Date:** Tuesday, 4<sup>th</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**  
**Appellant** Mr. Anselm B. Clouden with him Mr. Sasha Courtney  
**Respondent:** Mr. Howard Pinnock

**Issue:** Status Hearing

**Type of Oral  
Result/Order  
Delivered:** Oral Judgment or Decision

**Result/Order  
& Reason:**

**[Oral delivery]**

1. The appeal against sentence is allowed in that the Magistrate did not conduct an appropriate sentencing exercise.
2. The appellant was visited with the maximum penalty on a guilty plea.
3. The sentence is accordingly varied to time served.

**Case Name:**

**Sheldon Neckles  
v  
The Commissioner of Police  
[GDAMCRAP2014/0001]**

**Date:**

**Tuesday, 4<sup>th</sup> April 2017**

**Coram:**

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

**Appearances:**

**Appellant**

**Mr. Anselm B. Clouden with him Mr. Sasha Courtney**

**Respondent:**

**Mr. Howard Pinnock**

**Issue:**

**Status Hearing**

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

**Oral Judgment or Decision**

**Result /Order  
& Reason:**

**[Oral delivery]**

1. The appeal against sentence is allowed in that the Magistrate did not conduct an appropriate sentencing exercise.
2. The appellant was visited with the maximum penalty on a guilty plea.
3. The sentence is accordingly varied to time

served.

**Case Name:**

**Tyrone Bernard**

**v**

**The Queen**

**[GDAHCRAP2014/0018]**

**Date:**

**Thursday, 6<sup>th</sup> April 2017**

**Coram:**

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

**Appearances:**

**Appellant**

**Mr. Darshan Ramdhani, Appellant present**

**Respondent:**

**Mr. Howard Pinnock**

**Issue:**

**Status Hearing**

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

**Directions**

**Result /Order:**

**[Oral Delivery]**

1. The appellant is admitted to bail of \$5000.00 of his own recognizance.
2. The appellant is to report to the Grenville Police Station on Mondays and Thursdays.
3. The appeal is adjourned to the sitting of the Court of Appeal in Grenada during the week of 2<sup>nd</sup> October 2017.
4. The Registrar is to ensure the preparation of the transcript in time for the sitting of the Court of Appeal in Grenada during the week of the 2<sup>nd</sup> October 2017.

**Reason:**

**The appellant was convicted in 2014 and sentenced to four (4) years imprisonment which term expires in August 2017. The appellant has appealed the**

outcome of his sentence and the transcript has not yet been prepared.

**Case Name:** **Richardson Mapp**  
**v**  
**The Queen**  
**[GDAHCRAP2015/0001]**

**Date:** **Thursday, 6<sup>th</sup> April 2017**

**Coram:** **The Hon. Mr. Davidson K. Baptiste, Justice of Appeal**

**Appearances:**  
**Appellant:** **Mr. Darshan Ramdhani**  
**Respondent:** **Mr. Howard Pinnock**

**Issue:** **Status Hearing**

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

**Result / Order**  
**& Reason:** **[Oral delivery]**  
**1. The Registrar is to ensure the preparation of the transcript.**  
**2. The matter is adjourned to the next status hearing in Grenada the week commencing 2<sup>nd</sup> October 2017.**

**Case Name:** **Roystand Stafford**  
**v**  
**The Queen**

**[GDAHCRAP2015/0010]**

**Date:** Thursday, 6<sup>th</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

**Appellant:** In person

**Respondent:** Mr. Howard Pinnock

**Issue:** Status Hearing

**Type of Oral Result / Order Delivered:** Oral Judgment or Decision

**Result / Order & Reason:** [Oral Delivery]  
The matter is struck off the list having already been disposed of by the Court of Appeal judgment delivered on the 21<sup>st</sup> April 2009 in Criminal Appeal No. 4 of 2007.

**Case Name:** Roger Lewis  
v  
The Queen

**[GDAHCVAP2014/0014]**

**Date:** Thursday, 6<sup>th</sup> April 2017

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

**Appearances:**

**Appellant:** No appearance

**Respondent:** Mr. Howard Pinnock

|                                               |                                                                                                                                               |
|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Issue:</b>                                 | <b>Status Hearing</b>                                                                                                                         |
| <b>Type of Oral Result / Order Delivered:</b> | <b>Directions</b>                                                                                                                             |
| <b>Result/ Order:</b>                         | <b>[Oral delivery]<br/>The matter adjourned to the next status hearing in Grenada during the week commencing 2<sup>nd</sup> October 2017.</b> |
| <b>Reason:</b>                                | <b>No appearance for the appellant or Counsel for the appellant.</b>                                                                          |

## **APPLICATIONS AND APPEALS**

|                     |                                                                                                                                                          |
|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Case Name:</b>   | <b>Hassan Hadeed<br/>v<br/>Nahla Hadeed<br/><br/>[GDAHCVAP2014/0012]</b>                                                                                 |
| <b>Date:</b>        | <b>Monday, 3<sup>rd</sup> April 2017</b>                                                                                                                 |
| <b>Coram:</b>       | <b>The Hon. Mde. Louise Blenman, Justice of Appeal<br/>The Hon. Mr. Mario Michel, Justice of Appeal<br/>The Hon. Mde. Gertel Thom, Justice of Appeal</b> |
| <b>Appearances:</b> |                                                                                                                                                          |
| <b>Appellant:</b>   | <b>Dr. Francis Alexis, Q. C. with him Mrs. Afi Ventour De Vega and Ms. Olabisi Clouden</b>                                                               |
| <b>Respondent:</b>  | <b>Mrs. Celia Edwards, Q.C. with her Mr. Deloni Edwards, Ms. Rosanna John, Ms. Celene Edwards and Mr. Delon Charles</b>                                  |



|                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| <b>Issues:</b>                                                | <b>Application for leave to appeal to Her Majesty in Council – Divorce – Postnuptial agreement – Whether postnuptial agreement which concerns matrimonial property can be enforced in the civil jurisdiction of the High Court</b>                                                                                                                                                                                                                                                                              |
| <b>Type of Oral Result / Order Delivered (if applicable):</b> | <b>Oral Judgment or Decision</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Result /Order:</b>                                         | <b>[Oral delivery]</b><br><b>1. The application for conditional leave to apply to the Privy Council is refused.</b><br><b>2. There is no order as to costs.</b>                                                                                                                                                                                                                                                                                                                                                 |
| <b>Reason:</b>                                                | <p><b>The Court considered the principles upon which leave would be granted in an interlocutory appeal. Having considered the issue before the High Court and the Court of Appeal it was decided that the application did not meet the requirements of section 104(2) of the Constitution that it is a matter of great general public importance or otherwise.</b></p> <p><b>Martinus Francois v AG SLUHCVAP2001/0069 and Pacific Electric Wire v Texan Management Ltd et al SLUHCVAP2006/0019 applied.</b></p> |
| <b>Case Name:</b>                                             | <p style="text-align: center;"><b>Godwin Bibby</b></p> <p style="text-align: center;"><b>v</b></p> <p><b>[1] Jacqueline Rosemary Polling</b><br/> <b>[2] Republic Bank (Grenada) Limited</b></p> <p style="text-align: center;"><b>[GDAHCVAP2016/0023]</b></p>                                                                                                                                                                                                                                                  |
| <b>Date:</b>                                                  | <b>Monday, 3<sup>rd</sup> April 2017</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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|---------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Coram:</b>                                                 | <b>The Hon. Mde. Louise Blenman, President<br/>The Hon. Mr. Mario Michel, Justice of Appeal<br/>The Hon. Mde. Gertel Thom, Justice of Appeal</b>         |
| <b>Appearances:</b>                                           |                                                                                                                                                          |
| <b>Applicant/Appellant:</b>                                   | <b>Absent</b>                                                                                                                                            |
| <b>Respondent:</b>                                            | <b>Mrs. Amy Bullock-Jawahir, on behalf of the second named respondent</b>                                                                                |
| <b>Issue:</b>                                                 | <b>Application for leave to appeal</b>                                                                                                                   |
| <b>Type of Oral Result / Order Delivered (if applicable):</b> | <b>N/A</b>                                                                                                                                               |
| <b>Result /Order:</b>                                         | <b>The matter is stood down.</b>                                                                                                                         |
| <b>Reason:</b>                                                | <b>The matter was stood down because the appellant was not present.</b>                                                                                  |
| <b>Case Name:</b>                                             | <b>Finton De Bourg<br/>v<br/>The Queen<br/><br/>[GDAHCRAP2016/0027]</b>                                                                                  |
| <b>Date:</b>                                                  | <b>Monday, 3<sup>rd</sup> April 2017</b>                                                                                                                 |
| <b>Coram:</b>                                                 | <b>The Hon. Mde. Louise Blenman, Justice of Appeal<br/>The Hon. Mr. Mario Michel, Justice of Appeal<br/>The Hon. Mde. Gertel Thom, Justice of Appeal</b> |
| <b>Appearances:</b>                                           |                                                                                                                                                          |
| <b>Appellant:</b>                                             | <b>Mr. George Prime with him Mr. Henry Paryag</b>                                                                                                        |
| <b>Respondent:</b>                                            | <b>Mr. Christopher Nelson, Q.C., Director of Public Prosecutions with him, Ms. Crisan Greenidge</b>                                                      |

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| <b>Issues:</b>                                                | Application for bail pending hearing and determination of appeal – Whether special circumstances existed to justify grant of bail – Appeal against conviction and sentence – Fraudulent appropriation of property – Falsification of minutes – False entry into an account |
| <b>Type of Oral Result / Order Delivered (if applicable):</b> | N/A                                                                                                                                                                                                                                                                        |
| <b>Result /Order:</b>                                         | The matter is stood down.                                                                                                                                                                                                                                                  |
| <b>Reason:</b>                                                | The matter was stood down to give Counsel for the appellant an opportunity to confer with his client.                                                                                                                                                                      |
| <b>Case Name:</b>                                             | <p style="text-align: center;"><b>Godwin Bibby</b><br/> <b>v</b><br/> <b>[1] Jacqueline Rosemary Polling</b><br/> <b>[2] Republic Bank (Grenada) Limited</b></p> <p style="text-align: center;"><b>[GDAHCVAP2016/0023]</b></p>                                             |
| <b>Date:</b>                                                  | Monday, 3 <sup>rd</sup> April 2017                                                                                                                                                                                                                                         |
| <b>Coram:</b>                                                 | The Hon. Mde. Louise Blenman, Justice of Appeal<br>The Hon. Mr. Mario Michel, Justice of Appeal<br>The Hon. Mde. Gertel Thom, Justice of Appeal                                                                                                                            |
| <b>Appearances:</b>                                           |                                                                                                                                                                                                                                                                            |
| Applicant/Appellant:                                          | Present in person                                                                                                                                                                                                                                                          |
| Respondent:                                                   | Mrs. Amy Bullock-Jawahir, on behalf of the second named respondent                                                                                                                                                                                                         |

|                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Issues:</b>                                                | <b>Application for leave to appeal</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Type of Oral Result / Order Delivered (if applicable):</b> | <b>Judgment or Oral Decision</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Result /Order:</b>                                         | <p><b>[Oral delivery]</b><br/> <b>The applicant is granted leave to file a notice of application within twenty-one (21) days of today's date and thereafter the appeal proceeds in accordance with the Civil Procedure 2000.</b></p>                                                                                                                                                                                                                                                                   |
| <b>Reason:</b>                                                | <b>The applicant established a realistic prospect of success in the matter.</b>                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Case Name:</b>                                             | <p style="text-align: center;"><b>The Grenadian Hotel Limited<br/> (doing business as<br/> the Grenadian by Rex Resorts)</b></p> <p style="text-align: center;"><b>v</b></p> <p><b>[1] Beryl Isaac, The Secretary to the Cabinet<br/> [2] Her Excellency Dame Cecile La Grenade,<br/> The Governor General of Grenada<br/> [3] The Attorney General of Grenada<br/> [4] Eric Brathwaite, Manager of the<br/> Government Printery</b></p> <p style="text-align: center;"><b>[GDAHCVAP2017/0002]</b></p> |
| <b>Date:</b>                                                  | <b>Monday, 3<sup>rd</sup> April 2017</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Coram:</b>                                                 | <b>The Hon. Mde. Louise Blenman, Justice of Appeal<br/> The Hon. Mr. Mario Michel, Justice of Appeal<br/> The Hon. Mde. Gertel Thom, Justice of Appeal</b>                                                                                                                                                                                                                                                                                                                                             |
| <b>Appearances:</b>                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Applicants/</b>                                            | <b>Mr. Thomas Astaphan, Q.C. with him Mr. Dwight</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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|---------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Respondents:</b>                                                       | <b>Horsford and Ms. Maurissa Johnson</b>                                                                                                                             |
| <b>Respondent/<br/>Appellant:</b>                                         | <b>Mr. John Carrington, Q.C. with him Mr. Dickon Mitchell and Ms. Skeeta Chitan</b>                                                                                  |
| <b>Issues:</b>                                                            | <b>Appeal to set aside the decision of a single judge – Land Acquisition Act – Whether interim conservatory order pending the appeal was properly granted</b>        |
| <b>Type of Oral<br/>Result / Order<br/>Delivered<br/>(if applicable):</b> | <b>Directions</b>                                                                                                                                                    |
| <b>Result /Order:</b>                                                     | <b>[Oral Delivery]</b><br><b>1. The decision is reserved.</b><br><b>2. The conservatory order continues until the determination of the matter.</b>                   |
| <b>Case Name:</b>                                                         | <p style="text-align: center;"><b>Finton De Bourg</b><br/> <b>v</b><br/> <b>The Queen</b></p> <p style="text-align: center;"><b>[GDAHCRAP2016/0027]</b></p>          |
| <b>Date:</b>                                                              | <b>Monday, 3<sup>rd</sup> April 2017</b>                                                                                                                             |
| <b>Coram:</b>                                                             | <b>The Hon. Mde. Louise Blenman, Justice of Appeal</b><br><b>The Hon. Mr. Mario Michel, Justice of Appeal</b><br><b>The Hon. Mde. Gertel Thom, Justice of Appeal</b> |
| <b>Appearances:</b>                                                       |                                                                                                                                                                      |
| <b>Appellant:</b>                                                         | <b>Mr. George Prime with him Mr. Henry Paryag</b>                                                                                                                    |
| <b>Respondent:</b>                                                        | <b>Mr. Christopher Nelson, Q.C., Director of Public Prosecutions with Ms. Crisan Greenidge</b>                                                                       |
| <b>Issues:</b>                                                            | <b>Application for bail pending hearing and determination of appeal – Whether special</b>                                                                            |

circumstances existed to justify grant of bail –  
Appeal against conviction and sentence –  
Fraudulent appropriation of property – Falsification  
of minutes – false entry into an account

Type of Oral  
Result / Order  
Delivered  
(if applicable):

Oral Judgment or Decision

Result /Order:

[Oral Delivery]  
The application is dismissed.

Reason:

This is an application made by the appellant Finton De Bourg to be granted bail pending the hearing of an appeal. The appeal filed by the appellant is against his conviction and sentence for various offences under the Proceeds of Crime Act to which he has been sentenced to a total of 23 years in prison.

The appellant seeks bail pending appeal and appears to rely on special circumstances that include: 1. That his sentence of 23 years may be served in full before the appeal is heard 2. That his conviction is plainly wrong and his sentence excessive.

This Court finds nothing special about any of these circumstances to justify the unusual order of bail being granted pending appeal in respect of a person convicted of the offences which the appellant has in fact been convicted.

The law on this matter is very clear and in the circumstances having regard to the application, the evidence put before the Court and the submissions made by the appellant we find no basis upon which this Court can grant bail to the appellant pending the determination of the appeal.

**Case Name:**

**Alister Stanislaus**

**v**

**The Queen**

**[GDAHCRAP2015/0003]**

**Date:**

**Tuesday, 4<sup>th</sup> April 2017**

**Coram:**

**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**

**Appearances:**

**Appellant:**

**Mr. Darshan Ramdhani**

**Respondent:**

**Mr. Howard Pinnock, Senior Crown Counsel**

**Issues:**

**Appeal against sentence – Robbery, stealing,  
possession of a firearm – Goodyear hearing – Guilty  
plea – Consecutive sentence**

**Type of Oral  
Result / Order  
Delivered  
(if applicable):**

**Oral Judgment or Decision**

**Result / Order  
& Reason:**

**[Oral Delivery]**

- 1. By consent the appeal against sentence is allowed to the extent that the sentence imposed is varied in that all sentences are to run concurrently so that the appellant is to serve a sentence of 12 years.**
- 2. Leave is granted to the applicant to withdraw the application for an extension of time within which to file an appeal against conviction.**
- 3. All time spent on remand is to be taken into consideration in computing the term to be served.**

**Case Name:**

**Jerry Seales  
v  
The Director of Public Prosecutions**

**[GDAHCVAP2013/0023]**

**Date:** Tuesday, 4<sup>th</sup> April 2017

**Coram:** 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

**Appearances:**

**Appellant:** Dr. Francis Alexis, QC.

**Respondent:** Mr. Christopher Nelson, QC, Director of Public Prosecutions

**Issues:** Decision of a Learned Magistrate to discharge charge of rape – Whether the decision was unreasonable, irrational and illegal in the circumstance – Preliminary jurisdiction point

**Type of Oral  
Result / Order  
Delivered  
(if applicable):**

**Oral Judgment or Decision**

**Result /Order:**

**[Oral Delivery]**

1. The objection raised by the learned Director of Public Prosecutions is upheld.
2. The Notice of Appeal is struck out.

**Reason:**

The appellant, His Worship, Jerry Seales, appealed against the judgment of Justice Mohammed in a Claim for Judicial Review of the appellant's decision to discharge one Curtis Baptiste at a Preliminary Inquiry into the charge of rape. The respondent Director of Public Prosecutions has taken the preliminary objection that the appeal cannot be sustained by virtue of the provisions of section 33(2) (a) of the Supreme Court Act which essentially states that no appeal shall lie on an order made in a



criminal cause or matter.

It is not disputed that an order was made in a criminal cause or matter. In the case of *Glasford v The Commissioner of Police* (1995) 48 WIR 117, Chief Justice Sir Vincent Flossaic set out the three criteria which govern the question of whether an order was made in a criminal cause or matter. In his judgment, he also set out an exception to the principle and this concerned whether the matter in issue touched and concerned the Constitution.

Learned Counsel Dr. Alexis, QC did not take any issue with the law as ventilated in *Glasford v The Police Commissioner* or the exception therein created. He posits however that there is another exception and that would relate to whether an error in jurisdiction can be permitted. Dr. Alexis argued that the judge acted unreasonably in holding that the magistrate ought to have committed the accused when the virtual complainant in her own language admitted that there had been no intercourse. This he submitted, was the bone of his contention. In fact, Dr. Alexis was asked by JA Webster what the nature of the error was in this case and he replied in the terms indicated. We do not discern from the requirements given that what was advanced constitutes an exception to the criteria indicated in the case of *Glasford v Police Commissioner*.

This case clearly sets out the three criteria with respect to a criminal cause or matter and the exception created. We are of the view that what has been advanced does not create any additional exception to the principles set out in *Glasford*. We accordingly uphold the objection by the respondents that no appeal lies on an order made in a criminal cause or action and that no exception has been advanced in this case to detract from the general principle. We therefore uphold the objection by the Director of Public Prosecutions.

**Case Name:** **Prickly Bay Waterside Limited**  
**v**  
**British American Insurance Company**  
**Limited**

**[GDAHCVAP2015/0026]**

**Date:** **Tuesday, 4<sup>th</sup> April 2017**

**Coram:** **The Hon. Mr. Davidson Baptiste, Justice of Appeal**  
**The Hon. Mde. Gertel Thom, Justice of Appeal**  
**The Hon. Mr. Paul Webster, Justice of Appeal**

**Appearances:**

|                                  |                                                     |
|----------------------------------|-----------------------------------------------------|
| <b>Appellant/<br/>Applicant:</b> | <b>Ms. Claudette Joseph with her, Mr. Ian Sandy</b> |
| <b>Respondent:</b>               | <b>Mr. James Bristol</b>                            |

**Issue:** **Application for security for costs pending the outcome of the appeal**

**Type of Oral  
Result / Order  
Delivered  
(if applicable):** **Oral Judgment or Decision**

**Result /Order:** **[Oral Delivery]**  
**Counsel for the appellant giving an undertaking to forthwith inform the respondent of the terms of this order and that, pending payment into Court as ordered, the funds held by the respondent are not be depleted so as to be reduced below the sum of US \$2.475 Million Dollars.**  
**1. The application is granted.**  
**2. The respondent is ordered to pay the sum of US \$2.475 Million Dollars into Court within 14 days of the date of this order.**  
**3. Costs of this application be costs in the appeal.**

**Reason:** **Pursuant to a consent order in the court below Prickly Bay was required to pay US\$2.25 million to**

Mr. Derick Steele as the balance of the purchase money on the purchase of property. Payment of the balance of the purchase money was secured by a guarantee issued by British American Insurance Co. In order to obtain the guarantee, the Directors of Prickly Bay purchased an annuity from British American for US\$2.475M. British American was placed under Judicial Management and it now holds US\$150M for distribution in judicial management.

Prickly Bay demanded payment under the guarantee. Payment was resisted by British American on the ground that the annuity funds became a part of British American Funds and must be paid out in accordance with the plan under the Judicial Management. Prickly Bay asserted that the funds were held on trust by British American and those funds do not form a part of British American's assets. There was a trial based on this issue and the judge found that the funds are not held on trust and form a part of British American general assets. Prickly Bay appealed against this order and applied for an order that the funds be paid into Court.

The application was made under part 17(1) (f) of the Civil Procedure Rules 2000 which reads:

"The court may grant interim remedies including an order for a specified sum to be paid into court or otherwise secured where there is a dispute over a party's right to the fund."

British American opposed the application on the ground that the fund is not a specified fund even if the monies were paid in for a specific purpose they became comingled with British American's assets and no specified fund exists within the meaning of Part 17(1) CPR. Prickly Bay submitted that the money was paid in for a specific purpose and could be demanded at any time to meet that purpose.

Counsel for British American relied on the case of *Meyers v Design Inc.* (2003) 1 All ER 1168 to guide the Court in what is the proper test to be applied. At paragraph 10 of the judgment of Mr. Justice Lightman the test is set out in the following terms: There are three criteria to be met, the first is that the person against whom the order is to be made has

legal title to or is in possession or control of an identifiable fund. Colloquially the fund must be in his hands. The evidence in support of the application is that the Judicial Manager now has in his possession approximately US\$150M for distribution in the Judicial Management and we find that this constitutes a fund within the meaning of Part 17. Legal title is with British American. It is in possession and control of the fund and it is colloquially in their hands so the first limb of the test is satisfied.

The second limb is that there is a dispute as to the party's proprietary entitlement to or interest in the fund that is subject of the proceedings in the High Court and the appeal which is now before this Court. There is a dispute over the proprietary entitlement for the US \$2.475M.

The third element is that funds should be secured by payment into Court or some other way. Once the Court finds that the first two limbs are satisfied then Prickly Bay should be secured by the money being paid into Court. In all the circumstances, we find that this is an interim application and there are serious issues to be tried and without doubt the balance of convenience favours Prickly Bay.

**Case Name:**

**Rohan Dorsett  
v  
The Commissioner of Police  
[GDAMCRAP2016/0015]**

**Date:**

**Wednesday, 5<sup>th</sup> April 2017**

**Coram:**

**The Hon. Mde. Louise Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal  
The Hon. Mr. Paul Webster, Justice of Appeal**

**Appearances:**

**Appellant:**

**In person**

**Respondent:** Mr. Howard Pinnock, Senior Crown Counsel

**Issues:** Appeal against sentence – Trafficking in a controlled drug – Guilty plea – Whether the sentence of the learned magistrate 4 years imprisonment, time spent on remand, was too harsh in the circumstance where the maximum penalty was 7 years

**Type of Oral Result / Order Delivered (if applicable):** Oral Judgment or Decision

**Result /Order:** [Oral Delivery]  
1. The appeal is dismissed.  
2. The judgment of the learned magistrate is affirmed.

**Reason:** This is an appeal against sentence imposed by the learned magistrate in which she sentenced the appellant to 4 years in prison for the offence of possession of cocaine. There is no basis to interfere with the magistrate's exercise of discretion since in Court's view the magistrate did not commit an error of principle in her sentencing of the appellant.

**Case Name:** Judd Williams  
v  
The Commissioner of Police

[GDAMCRAP2016/0016]

**Date:** Wednesday, 5<sup>th</sup> April 2017

**Coram:** The Hon. Mde. Louise Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal  
The Hon. Mr. Paul Webster, Justice of Appeal

**Appearances:**  
**Appellant:** No appearance

|                                                               |                                                                                                                                                                                                                                                    |
|---------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Respondent:</b>                                            | <b>Mr. Howard Pinnock, Senior Crown Counsel</b>                                                                                                                                                                                                    |
| <b>Issues:</b>                                                | <b>Appeal against sentence - Wounding – Guilty plea – Whether the sentence imposed by the learned magistrate of 2 years’ imprisonment to run consecutively to 3-year sentence being served by the appellant was excessive in the circumstances</b> |
| <b>Type of Oral Result / Order Delivered (if applicable):</b> | <b>N/A</b>                                                                                                                                                                                                                                         |
| <b>Result /Order:</b>                                         | <b>Matter stood down.</b>                                                                                                                                                                                                                          |
| <b>Reason:</b>                                                | <b>Appellant was not present.</b>                                                                                                                                                                                                                  |
| <b>Case Name:</b>                                             | <b>[1] Dr. Keith C. Mitchell (Minister of Finance in the Government of Grenada)</b><br><b>[2] The Attorney General of Grenada</b><br><b>v</b><br><b>Capital Bank International Limited</b><br><br><b>[GDAHCVAP2015/0034]</b>                       |
| <b>Date:</b>                                                  | <b>Wednesday, 5<sup>th</sup> April 2017</b>                                                                                                                                                                                                        |
| <b>Coram:</b>                                                 | <b>The Hon. Mde. Louise Blenman, Justice of Appeal</b><br><b>The Hon. Mr. Mario Michel, Justice of Appeal</b><br><b>The Hon. Mr. Paul Webster, Justice of Appeal</b>                                                                               |
| <b>Appearances:</b>                                           |                                                                                                                                                                                                                                                    |
| <b>Appellants:</b>                                            | <b>Mr. Thomas Astaphan, Q.C with him, Mr. Dwight Horsford, Solicitor General and Ms. Maurissa Johnson</b>                                                                                                                                          |

|                                                               |                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Respondent:</b>                                            | <b>Mr. George Prime with him Mr. Henry Paryag</b>                                                                                                                                                                                                 |
| <b>Issues:</b>                                                | <b>Interlocutory Appeal against paragraph 1 of the order of the master – Damages to be assessed for breach of statutory duty and common law duty – Whether the learned master erred in law</b>                                                    |
| <b>Type of Oral Result / Order Delivered (if applicable):</b> | <b>N/A</b>                                                                                                                                                                                                                                        |
| <b>Result/Order:</b>                                          | <b>Decision reserved.</b>                                                                                                                                                                                                                         |
| <b>Case Name:</b>                                             | <p style="text-align: center;"><b>Judd Williams</b><br/> <b>v</b><br/> <b>The Commissioner of Police</b><br/> <b>[GDAMCRAP2016/0016]</b></p>                                                                                                      |
| <b>Date:</b>                                                  | <b>Wednesday, 5<sup>th</sup> April 2017</b>                                                                                                                                                                                                       |
| <b>Coram:</b>                                                 | <b>The Hon. Mde. Louise Blenman, Justice of Appeal</b><br><b>The Hon. Mr. Mario Michel, Justice of Appeal</b><br><b>The Hon. Mr. Paul Webster, Justice of Appeal</b>                                                                              |
| <b>Appearances:</b>                                           |                                                                                                                                                                                                                                                   |
| <b>Appellant:</b>                                             | <b>Present in person</b>                                                                                                                                                                                                                          |
| <b>Respondent:</b>                                            | <b>Mr. Howard Pinnock, Senior Crown Counsel</b>                                                                                                                                                                                                   |
| <b>Issues:</b>                                                | <b>Appeal against sentence - Wounding – guilty plea – whether the sentence imposed by the learned magistrate of 2 years’ imprisonment to run consecutively to 3-year sentence being served by the appellant was excessive in the circumstance</b> |
| <b>Type of Oral</b>                                           | <b>Oral Judgment or Decision</b>                                                                                                                                                                                                                  |

**Result / Order  
Delivered  
(if applicable):**

**Result /Order:**

**[Oral Delivery]**

- 1. The appeal is dismissed.**
- 2. The two (2) year sentence imposed by the magistrate that is to run consecutively with the sentence that was being served at the time is confirmed.**

**Reason:**

**This is an appeal against sentence by Judd Williams who was convicted on his plea of guilty on the 13<sup>th</sup> October 2016 for the offence of unlawfully wounding Leron Jones who was an inmate in the prison at the time together with the appellant. The appellant was sentenced to two years' imprisonment in respect of the offence, the maximum sentence for which is 4 years. At the time of the offence the appellant had 4 previous convictions for a range of offences manslaughter, wounding, causing harm and was in fact serving a sentence for one or more of these offences.**

**The magistrate having imposed a two-year term of imprisonment also ordered that the sentence run consecutively to a sentence that was already being served. The Magistrate was clearly entitled so to do. This was not a situation where the Magistrate was sentencing for a range of offences committed at the same time. These were offences committed at completely different times and the magistrate had every basis in law to impose the sentence that she did and to have that sentence run consecutively with the sentence being served. Nothing presented by the appellant in any way indicated to the Court that the magistrate was wrong in law to make the determination that she did.**

**Case Name:**

**The Permanent Secretary of the Ministry of  
Finance**



**V**  
**Financial Investment Consultancy Service**

**[GDAHCVAP2016/0001]**

**Date:** **Wednesday, April 5<sup>th</sup> 2017**

**Coram:** **The Hon. Mde. Louise Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal  
The Hon. Mr. Paul Webster, Justice of Appeal**

**Appearances:**

**Appellant:** **Mr. Thomas Astaphan, Q.C. with him, Mr. Dwight Horsford, Solicitor General and Ms. Maurissa Johnson**

**Respondent:** **Mr. James Bristol**

**Issues:** **Interlocutory Appeal – Whether a mandamus lies to compel the Permanent Secretary to make immediate satisfaction of judgment debt – Section 21 of the Crown Proceedings Act, Cap 262 B – Whether the learned judge erred in law in applying section 41 of the Public Finance Management Act**

**Type of Oral Result / Order Delivered (if applicable):** **N/A**

**Result /Order:** **Decision reserved.**

**Case Name:** **[1] The Attorney General  
[2] The Registrar of the Supreme Court**

**V**  
**Theodore D. King nee Caesar**

**[GDAHCAP2015/0006]**

**Date:** Thursday, 6<sup>th</sup> April 2017

**Coram:** 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

**Appearances:**

**Appellant:** Mr. Dwight Horsford, Solicitor General with him, Ms. Maurissa Johnson

**Respondent:** Mr. Alban John

**Issues:** Adverse possession – Whether the learned trial judge erred in finding that the respondent is entitled absolutely to the subject land – The proper construction of sections 4 and 27 of the Limitation of Actions Act Cap 173

**Type of Oral Result / Order Delivered (if applicable):** Oral Judgment or Decision

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

1. It is hereby ordered by consent that the appeal herein is hereby withdrawn and dismissed.
2. There shall be no order as to costs.

**Case Name:**

**The Attorney General**  
**v**  
**Financial Investment Consultancy Services Ltd**

**[ GDAHCVAP2016/0038]**

**Date:** Thursday, 6<sup>th</sup> April 2017

**Coram:** 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

**Appearances:**  
**Appellant:** Mr. Thomas Astaphan QC with him, Mr. Dwight Horsford, Solicitor General and Ms. Maurissa Johnson

**Respondent:** Mr. James Bristol

**Issues:** Whether the learned trial judge erred in law by granting the provisional Garnishee Order – Mandamus – CPR 59.7 and 50.23 – Section 21(4) Crown Proceedings Act – Whether the CPR and the Crown Proceedings Act ousts the jurisdiction of the Court to grant a garnishee order against the Crown

**Type of Oral Result / Order Delivered (if applicable):** N/A

**Result /Order:** Decision reserved.

**Case Name:** Walter Joseph  
v  
Josephine Stephanie Lawrence

[GDAHCVAP2013/0015]

**Date:** Thursday, 6<sup>th</sup> April 2017

**Coram:** 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

**Appearances:**  
**Appellant:** Mr. Rohan Phillip

**Respondents:** Mr. Nigel Stewart

**Issue:** Setting aside of Judgment in default of acknowledgment of service

**Type of Oral Result / Order Delivered (if applicable):** Oral Judgment or Decision

**Result /Order & Reason:** [Oral Delivery]  
1. By consent the appeal is allowed.  
2. The order of the learned judge dated 5<sup>th</sup> April 2011 is set aside.  
3. The default judgment dated 16<sup>th</sup> December 2009 is set aside pursuant to CPR 13.2(1)(a).  
4. That the appellant is to file a defence within 28 days of this order.  
5. There is no order as to costs.

**Case Name:** Linton Thomas  
v  
The Commissioner of Police  
[GDAMCRAP 2016/0011]

**Date:** Thursday, 6<sup>th</sup> April 2017

**Coram:** 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

**Appearances:**  
**Appellant:** Not present  
**Respondent:** Mr. Howard Pinnock, Senior Crown Counsel

**Issues:** Appeal against sentence – Praedial larceny – Whether sentence was excessive

**Type of Oral** Oral Judgment or Decision

**Result / Order  
Delivered  
(if applicable):**

**Result /Order:** [Oral Delivery]  
The appeal is struck out for want of prosecution.

**Reason:** Numerous attempts have been made to locate the appellant. The appellant cannot be found.

**Case Name:** Dwayne Mapson  
v  
The Commissioner of Police  
[GDAMCRAP2016/0004]

**Date:** Thursday, 6<sup>th</sup> April 2017

**Coram:** The Hon. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mde. Gertel Thom, Justice of Appeal  
The Hon. Paul Webster, Justice of Appeal [Ag.]

**Appearances:**  
**Appellant:** In person  
**Respondent:** Mr. Howard Pinnock, Senior Crown Counsel

**Issues:** Appeal against sentence - Housebreaking – Stealing  
– Guilty plea – 4 years imprisonment for stealing and  
4 years imprisonment for housebreaking to run  
concurrently – Whether sentence of the learned  
magistrate was too harsh in all the circumstances

**Type of Oral  
Result / Order  
Delivered  
(if applicable):** Oral Judgment or Decision

|                                                                                                            |                                                                                                                                                                                                                      |
|------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Result /Order:</b>                                                                                      | <p><b>[Oral Delivery]</b></p> <ol style="list-style-type: none"> <li>1. The appeal against sentence is dismissed.</li> <li>2. Sentence of 4 years imposed on each charge to run concurrently is affirmed.</li> </ol> |
| <b>Reason:</b>                                                                                             | <p>The appellant had a number of similar previous offences. The Court found no reason to disturb the sentence imposed by the learned magistrate.</p>                                                                 |
| <b>Case Name:</b>                                                                                          | <p style="text-align: center;"> <b>Andy John</b><br/> <b>v</b><br/> <b>The Commissioner of Police</b><br/> <b>[GDAMCRAP2016/0013]</b> </p>                                                                           |
| <b>Date:</b>                                                                                               | <p>Thursday, 6<sup>th</sup> April 2017</p>                                                                                                                                                                           |
| <b>Coram:</b>                                                                                              | <p> The Hon. Mr. Davidson K. Baptiste, Justice of Appeal<br/> The Hon. Mde. Gertel Thom, Justice of Appeal<br/> The Hon. Mr. Paul Webster, Justice of Appeal </p>                                                    |
| <b>Appearances:</b>                                                                                        |                                                                                                                                                                                                                      |
| <p style="padding-left: 40px;"><b>Appellant:</b></p> <p style="padding-left: 40px;"><b>Respondent:</b></p> | <p>In person</p> <p>Mr. Howard Pinnock, Senior Crown Counsel</p>                                                                                                                                                     |
| <b>Issues:</b>                                                                                             | <p>Appeal against sentence - Trafficking in a controlled drug – Whether fine imposed of \$50,000 EC in default two years imprisonment was too harsh in all the circumstances.</p>                                    |
| <b>Type of Oral Result / Order Delivered (if applicable):</b>                                              | <p>N/A</p>                                                                                                                                                                                                           |
| <b>Result /Order:</b>                                                                                      | <p><b>[Oral Delivery]</b></p> <p>The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in Grenada during the</p>                                                                         |

week commencing 2<sup>nd</sup> October 2017.

**Reason:** The adjournment was given at the request of the appellant to instruct Counsel to prosecute the appeal.

**Case Name:** **Rajiv Gunness**  
**V**  
**[1] Saint George's University Limited**  
**[2] Dr. C. V. Rao (in his capacity as**  
**Dean of Students)**

**[GDAHCVAP2016/0040]**

**Date:** Friday, 7<sup>th</sup> April 2017

**Coram:** The Hon. Mde. Louise Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal  
The Hon. Mde. Gertel Thom, Justice of Appeal

**Appearances:**  
**Appellant:** Dr. Francis Alexis, Q.C. with him Ms. Olabisi Clouden  
**Respondent:** Mr. Dickon Mitchell with him Ms. Skeeta Chitan

**Issues:** Interlocutory Appeal – Article 2 of the Second Schedule of the St. George's University Limited Act Chapter 294A of 2010 revised Laws of Grenada – Whether the Government of Grenada is considered a visitor to the University – Whether the term 'Visitation Rights' used in the Charter confers on the University full visitation rights or referred solely to a landlord and tenant relationship

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

**(if applicable):**

**Result/Order**

**Decision reserved.**

**Case Name:**

**Capital Bank International Limited  
v  
[1] David Holukoff  
[2] Nazim Burke  
[3] The Attorney General of Grenada  
  
[GDAHCVAP2016/0037]**

**Date:**

**Friday, 7<sup>th</sup> April 2017**

**Coram:**

**The Hon. Mde Louise Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal  
The Hon. Mde. Gertel Thom, Justice of Appeal**

**Appearances:**

**Appellant:**

**Mr. Henry Paryag and with him, Mr. George Prime**

**Respondent:**

**Ms. Kim George for the 1<sup>st</sup> respondent  
Mr. Thomas Astaphan QC with him, Mr. Dwight  
Horsford and Ms. Maurissa Johnson for the 2<sup>nd</sup> and  
3<sup>rd</sup> respondents**

**Issues:**

**Interlocutory Appeal – Whether the learned trial  
judge erred in refusing to grant the interim relief  
sought**

**Type of Oral  
Result / Order  
Delivered  
(if applicable):**

**Directions**

**Result /Order:**

**[Oral Delivery]**

**1. The hearing of the appeal is adjourned to the next  
sitting of the Court in the State of Grenada during  
the week commencing 2<sup>nd</sup> October 2017.**



2. The appellant has leave to file written submissions on or before 8<sup>th</sup> May 2017.
3. The respondents have leave to file and serve written submissions with authorities on or before 8<sup>th</sup> June 2017.
4. The appellant shall pay costs to the 1<sup>st</sup> respondent in the sum of \$1,500 and to the 2<sup>nd</sup> and 3<sup>rd</sup> respondents in the sum of \$3,000.

**Reason:** Counsel for the appellant sought an adjournment and the adjournment was granted.

**Case Name:** Winston Whiteman  
V  
Commissioner of Police  
[GDAMCRAP 2016/0019]

**Date:** Friday, April 7<sup>th</sup> 2017

**Coram:** The Hon. Mde. Louise Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal  
The Hon. Mde. Gertel Thom, Justice of Appeal

**Appearances:**  
**Appellant:** Mr. George Prime  
**Respondent:** Mr. Howard Pinnock, Senior Crown Counsel

**Issues:** Appeal against sentence – Possession of a controlled drug - \$70,000 to be paid in 12 months – Delay in production of record of appeal

**Type of Oral Result / Order Delivered (if applicable):** Oral Judgment or Decision

**Result /Order:**

**[Oral Delivery]**

- 1. The appeal against sentence is allowed.**
- 2. The sentence of reprimand and discharge is substituted for the sentence that was imposed by the Magistrate which is the sentence of \$70,000 to be paid within 12 months or in default 3 years' imprisonment.**

**Reason:**

**In view of the circumstances of the delay occasioned by the failure of the learned magistrate to provide the reasons for the decision and based on the fact that the appellant had filed his appeal against his conviction since 20<sup>th</sup> March 2009, the Court is of the view that ordinarily the appropriate sentence would have been in the range of 6 to 12 months in prison. However, given the inordinate delay that has been occasioned in this matter through no fault of the appellant the Court is of the view that the appellant's appeal is allowed.**

**Case Name:**

**John Thomas  
v  
Commissioner of Police  
[GDAMCRAP2016/0018]**

**Date:**

**Friday, April 7<sup>th</sup> 2017**

**Coram:**

**The Hon. Mde. Louise Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal  
The Hon. Mde. Gertel Thom, Justice of Appeal**

**Appearances:**

**Appellant:**

**Mr. George Prime**

**Respondent:**

**Mr. Howard Pinnock, Senior Crown Counsel**

**Issues:**

**Appeal against conviction – Damage to property –  
Missing record of appeal**

**Type of Oral  
Result / Order  
Delivered  
(if applicable):**

**Oral Judgment or Decision**

**Result /Order:**

**[Oral Delivery]**

- 1. The appeal is allowed.**
- 2. The conviction is set aside.**

**Reason:**

**This is an appeal against conviction based on the inordinate delay that has been occasioned by the Learned Magistrate in the failure to provide reasons for her decisions. The Court is of the view that the appellant should not be prejudiced in the prosecution of the appeal and therefore the justice of the case demands that the appeal be allowed and the conviction be set aside.**

**Case Name:**

**Wendell Thomas  
v  
The Commissioner of Police  
[GDAMCRAP2016/0017]**

**Date:**

**Friday, April 7<sup>th</sup> 2017**

**Coram:**

**The Hon. Mde. Louise Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal  
The Hon. Mde. Gertel Thom, Justice of Appeal**

**Appearances:**

**Appellant:**

**No appearance**

**Respondent:**

**Mr. Howard Pinnock, Senior Crown Counsel**

**Issues:**

**Appeal against conviction – Causing harm –  
threatening language – Whether sentence excessive  
– Guilty plea**

|                                                                           |                                                                                                                                                                           |
|---------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Type of Oral<br/>Result / Order<br/>Delivered<br/>(if applicable):</b> | <b>Oral Judgment or Decision</b>                                                                                                                                          |
| <b>Result /Order:</b>                                                     | <b>[Oral Delivery]<br/>The appeal is struck out for want of prosecution.</b>                                                                                              |
| <b>Reason:</b>                                                            | <b>The appellant was served on the 23<sup>rd</sup> March 2017<br/>with the notice of the hearing of the appeal and was<br/>not present for the hearing of the appeal.</b> |
| <b>Case Name:</b>                                                         | <b>Michael Francois<br/>V<br/>Ryan Richards<br/><br/>[GDAHCVAP2013/0033]</b>                                                                                              |
| <b>Date:</b>                                                              | <b>Friday, April 7<sup>th</sup> 2017</b>                                                                                                                                  |
| <b>Coram:</b>                                                             | <b>The Hon. Mde. Louise Blenman, Justice of Appeal<br/>The Hon. Mr. Mario Michel, Justice of Appeal<br/>The Hon. Mde. Gertel Thom, Justice of Appeal</b>                  |
| <b>Appearances:</b>                                                       |                                                                                                                                                                           |
| <b>Appellant:</b>                                                         | <b>Mr. Alban John</b>                                                                                                                                                     |
| <b>Respondent:</b>                                                        | <b>Ms. Cathisha Williams and with her Ms. Hazel Hopkin</b>                                                                                                                |
| <b>Issues:</b>                                                            | <b>Motor vehicular accident – Negligence –<br/>Contributory negligence – Whether the learned trial<br/>judges’ apportionment of liability should be reversed</b>          |
| <b>Type of Oral<br/>Result / Order<br/>Delivered<br/>(if applicable):</b> | <b>N/A</b>                                                                                                                                                                |

**Result /Order:**

**Decision reserved.**