

COURT OF APPEAL SITTING

**SAINT LUCIA
16th – 20th January 2017**

JUDGMENTS

Case Name: **Benedicte Montoute
v
[1] Vitus Frederick
[2] Felicia Frederick**

**[SLUHCVAP2014/0019]
(Saint Lucia)**

Date: **Monday, 16th January 2017**

Coram: **The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal**

Appearances:

Appellant: **Mr. Dexter Theodore, QC, with him, Mr. Thaddeus Antoine**

Respondents: **Mr. Oswald Wilkinson Larcher**

Issues: **Contract – Sale of land – Principle of merger of agreement and deed of sale – Articles 1411, 1412 and 1413 of the Civil Code of Saint Lucia – Whether sale of land was sale of ‘a certain determinate thing, without regard to its quantity by measurement, whether such quantity is mentioned or not’ within meaning of article 1413 of the Civil Code**

Result and Reason: **Held: allowing the appeal, setting aside the judgment and order of the learned trial judge, awarding prescribed costs to the appellant in the court below on the sum of \$149,380.00, and two-thirds of that amount on appeal, that:**

1. Where parties enter into an agreement for the sale of land, which agreement is intended to lead to the execution of a deed of sale between the parties, the agreement for sale is merged in the executed deed of sale and it is to the deed of sale and not the agreement for sale that one must turn to ascertain the terms of the contract between the parties. Accordingly, in the instant case, the document dated 6th June 2007 which was signed by the appellant, merged with the deed of sale executed on 5th October 2007 and it is the latter document which contained the terms of the contract between the parties.

Knight Sugar Company, Ltd. v The Alberta Railway & Irrigation Company [1938] 1 All ER 266 applied.

2. The sale of a parcel of land by a deed of sale in which the land is identified by its distinct parcel number, rather than by a precise measurement derived from a survey of the land, is a sale of a certain determinate thing without regard to its quantity by measurement, even if (as in the present case) the deed of sale refers to an approximate quantity of land noted on the land register. Therefore, article 1413 of the Civil Code does apply to the case at bar and the learned trial judge erred in holding otherwise.

Parrot v Thompson [1948] 1 R.C.S. 57 applied; articles 1411-1413 of the Civil Code Cap. 4.01, Revised Laws of Saint Lucia 2008 considered.

APPLICATIONS AND APPEALS

Case Name:

[1] Clico Investment Bank (In compulsory
Liquidation)
[2] Jeffrey Coyne
v
Claire Fraser

[SLUHCVAP2016/0023]

Date: Monday, 16th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellants: Mr. Deale Lee

Respondent: Mr. Colin Foster holding papers for Mr. Gerard Williams

Issues: Interim injunction – Whether learned judge erred in discharging appellants’ application in court below for interim injunction – Whether interim injunction should have been discharged on basis of procedural errors made by respondent – Whether judge erred in admitting evidence given by legal practitioner presenting without notice application – Whether judge erred in law and misdirected herself in failing to consider or recognise that respondent has no cause of action against appellant

Type of Oral Result/Order Delivered: N/A

Result / Order: The hearing of the appeal is adjourned to the next sitting of the Court scheduled for the week commencing Monday, 26th June 2017.

Reason: Counsel for the respondent, Mr. Gerard Williams, was ill. A medical certificate indicating same had been submitted to the Court prior to the hearing of the matter.

Case Name:

**Wauneen Louis-Harris
v
Lazarus Paul**

[SLUHCVAP2015/0032]

Date:

Monday, 16th June 2017

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal**

Appearances:

Appellant:

Ms. Wauneen Louis-Harris

Respondent:

Mr. Colin Foster holding papers for Mr. Gerard Williams

Issues:

Jurisdiction of lower court to try claim – Appellant’s application to strike out respondent’s claim dismissed by learned judge in court below – Whether judge erred in failing to declare that Court had no jurisdiction to try claim – Whether judge misdirected himself in concluding that issue of validity of warrant of arrest could be determined in private law action – Application for adjournment of matter to next sitting of Court of Appeal

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

N/A

Result / Order:

The hearing of the appeal is adjourned to the next sitting of the Court scheduled for the week commencing Monday, 26th June 2017.

Reason:

Counsel for the respondent, Mr. Gerard Williams, was ill. A medical certificate indicating same had been submitted to the Court prior to the hearing of the matter.

Case Name: Enrico Lewis
v
Public Service Board of Appeal
[SLUHCVAP2014/0003]

Date: Monday, 16th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant / Respondent:	Mr. Dexter Theodore, QC, with him, Ms. Isabella Shillingford
Respondent / Applicant:	Ms. Renée St. Rose

Issues: Appeal against dismissal of appellant's application for Judicial Review in court below – Application by respondent to strike out appeal

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

Result / Order & Reason:

1. There being no opposition by the appellant/respondent, the notice of appeal filed on 3rd February 2014 is hereby struck out.
2. Costs to the respondent/applicant in the sum of \$1,000.00 as agreed.

Case Name: Fannicia Gilbert
Administratrix of the Estate of Alex Nicky
Gilbert a.k.a. Nicky Gilbert
v

**[1] Johnny Frederick
[2] Joseph William
[3] Philomene Edward**

[SLUHCVAP2016/0009]

Date: Monday, 16th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant: Ms. Tesca Mathurin

Respondents: Ms. Esther Greene-Ernest for 1st and 3rd named respondents

Issues: Whether learned judge erred in finding that if no witness statement was filed on behalf of claimant/appellant, suit had no locus standi on which to build and accept evidence pertaining to road traffic accident which caused death of Alex Nicky Gilbert – Whether learned judge erred in striking out appellant's claim

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

Result / Order & Reason:

1. The interlocutory appeal filed by the appellant Fannicia Gilbert as administratrix of the estate of Alex Nicky Gilbert aka Nicky Gilbert is allowed there being no objection by the respondent in the appeal.
2. No order is made as to costs.

Case Name: Paul Hackshaw
v

Saint Lucia Air & Sea Ports Authority

[SLUHCVAP2016/0013]

Date: Monday, 16th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant: Mr. Leslie Prospere, with him, Mr. Vilan Edward

Respondent: Mr. Mark Maragh
(Ms. Tina Louison, Legal Officer / Corporate Secretary
of respondent also present)

Issues: Disclosure – Admissibility – Whether learned judge properly exercised her discretion in striking out document purported to be extract of police marine unit record in appellant’s Further Supplemental List of Documents – Whether judge erred in considering hypothetical application for amplification of appellant’s witness statement pursuant to rule 29.9 of Civil Procedure Rules 2000 (“CPR”) – Whether learned judge misapplied effect of provisions of CPR – Whether judge wrongly determined that appellant had failed to satisfy requirements of s. 51(2) of Evidence Act

Type of Oral Result / Order Delivered: N/A

Result / Order: Judgment is reserved, to be delivered at 2:00 p.m.

Case Name: Paul Hackshaw
v
Saint Lucia Air and Sea Ports Authority

[SLUHCVAP2016/0013]

Date: Monday, 16th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant: Mr. Leslie Prospere, with him, Mr. Vilan Edward

Respondent: Mr. Mark Maragh
(Ms. Tina Louison, Legal Officer / Corporate Secretary of respondent also present)

Issues: Disclosure – Admissibility – Whether learned judge properly exercised her discretion in striking out document purported to be extract of police marine unit record in appellant’s Further Supplemental List of Documents – Whether judge erred in considering hypothetical application for amplification of appellant’s witness statement pursuant to rule 29.9 of Civil Procedure Rules 2000 (“CPR”) – Whether learned judge misapplied effect of provisions of CPR – Whether judge wrongly determined that appellant had failed to satisfy requirements of s. 51(2) of Evidence Act

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

Result / Order:

1. The interlocutory appeal is allowed.
2. The decision of the learned judge in the court below dated 14th June 2016 is set aside.
3. Costs to the appellant in the sum of \$2,000.00.

Reason: This was an appeal against the learned judge’s order in which she ruled that a document disclosed by the appellant was not admissible at trial.

In 2008, the appellant filed a claim against the

respondent in which he sought damages for the destruction of his vessel. Pursuant to the case management order, the appellant made disclosure and filed his witness statements. On 9th April 2014, he filed a supplementary list pursuant to rule 28.12 of the Civil Procedure Rules 2000 (“CPR”) in which he disclosed a document which purported to be an extract of the Police Marine Unit record of vessels detained at the department (“the police marine unit record”) in relation to the vessel “Lilian Grace” which the appellant alleged had caused the damage to his vessel.

On 14th August 2014, counsel for the appellant communicated with counsel for the respondent in relation to the documents which were to be included in a core bundle. On 19th September 2014, counsel for the respondent indicated that the respondent intended to object to the police marine unit record. On the morning of the trial, counsel for the respondent submitted to the learned judge that the police marine unit record should not be admitted as an exhibit in the case. The judge, having heard the submissions on both sides, found that the appellant had satisfied the requirements of CPR 28.18 and section 54 of the Evidence Act (Cap. 4:15, Revised Laws of Saint Lucia 2013) but that he had not complied with section 51(2) of the Evidence Act. She considered, hypothetically, an application made by the appellant for amplification of his witness statement pursuant to CPR 29.9 and determined that, although amplification could be granted under CPR 29.9(a), the document ought not to be admitted into evidence, having regard to: the prejudice that would be suffered by the respondent; the fact that the appellant had not complied with section 51(2) of the Evidence Act; and, the fact that that based on the content of police marine unit record, the appellant would not be able to prove who was the receiver of the vessel.

Having considered the written and oral submissions of both sides, the Court noted, in relation to CPR 28.18 and section 54 of the Evidence Act, the finding of the judge at pages 25-26 of the transcript of the oral judgment, where she stated that: ‘as to ... Rule

28.18(2), it is without a doubt that The Authority failed to comply with the requirement and giving notice to prove the document within a stipulated time of 42 days. As to the *Evidence Act*, Section 54, Mr. Hackshaw did disclose the document in sufficient time and his intention to rely on the document at trial, and it is ... also without a doubt that The Authority failed: (a) to serve notice of the objection within 7 day [sic]; the objection was served 162 days after the document was served on The Authority; and (b) further there was not compliance with Section 54(1) which requires The Authority to set out the grounds of its objection. These ... provisions therefore, answer the Court's question set out in its order of [30th October 2014].'

The Court noted that there had been no appeal against that finding of the judge. Having regard to that finding, though, the Court held that the judge erred in principle in failing to consider the effect of CPR 28.18 and subsections (1) and (3) of section 54 of the Evidence Act on the question of admissibility of the documents. The Court also took the view that it was not open to the judge to consider and make a determination on a hypothetical application for amplification. The respondent could not properly complain of prejudice, having regard to the fact that the document was disclosed on 9th April 2014 which was approximately 6 months prior to the trial and no intimation was given by the respondent that it would object to the document until 3 weeks prior to the trial and when that was done, no basis was given for the objection. The Court was therefore of the view that the decision of the learned judge exceeded the generous ambit within which reasonable disagreement is possible and may therefore be said to be clearly wrong. Consequently the appeal was allowed with costs to the appellant.

On the issue of costs, the Court considered CPR 65.13(1) and 65.13(2). The Court stated that pursuant to the latter rule, it may, if the circumstances of the appeal or the justice of the case requires, depart from the normal rule and in the circumstances it awarded costs in the sum of \$2,000.00 to the appellant. The Court made clear however, that its ruling was not that

the document was admissible.

JUDGMENTS

Case Name:

**Sundry Workers
v
Antigua Commercial Bank Ltd.**

**[ANULTAP2015/0005]
(Antigua and Barbuda)**

Date:

Tuesday, 17th January 2017

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal**

Appearances:

Appellant:

Ms. Tesca Mathurin holding papers for Mr. Justin L. Simon, QC

Respondent:

Mr. Thaddeus M. Antoine holding papers for Ms. C. Kamilah Roberts

Issues:

Civil appeal – Contract – Plea of non est factum – Alteration in salary scales in collective agreement after agreement in principle signed –Whether union exercised reasonable care to ensure collective agreement was in a form satisfactory to them before signing it – Whether union bound by new scales in collective agreement

**Result and
Reason:**

Held: dismissing the appeal, that:

- 1. The burden of establishing a plea of non est factum, including the fact that the signer took care, is on the person who is asking the court to be released from the consequences of signing an important document. The appellants had to prove**

that there was a radical or fundamental difference between the document that was signed and the document that they thought they were signing. Apart from the changes to Appendix 1(c), the document that was signed by the Union is the document that the Union intended to sign and it was the Union's intention to sign the document. The fact that there were changes to Appendix 1(c) falls far short of the fundamental difference between the two forms of a document that is required to ground a plea of non est factum.

Saunders (Executrix of the Will of Rose Maud Gallie, deceased) v Anglia Building Society (on appeal from Gallie v Lee) [1971] AC 1004 applied.

2. The Industrial Court was correct in not finding that there were no discussions regarding the salary scales after the Agreement in Principle was signed. The proper inference from the evidence is that such discussions did take place.

Section 33 of the Eastern Caribbean Supreme Court Act Cap. 143, Revised Laws of Antigua and Barbuda 1992 applied.

3. The Industrial Court's rejection of the plea of non est factum was based on its findings of fact from the evidence and the proper application of the legal principles to those findings. There is no basis for this Court to interfere with the Industrial Court's decision.

APPLICATIONS AND APPEALS

Case Name:

Claudia Vida James

v

Cuthbert James

[SLUHCVP2016/0010]

Date: Tuesday, 17th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal

Appearances:

Appellant: Mr. Egan Modeste holding papers for Mr. Ramon Raveneau

Respondent: Ms. Renée St. Rose

Issues: Striking out for abuse of process – rule 26.3(1)(c) of Civil Procedure Rules 2000 – Whether learned judge erred in striking out appellant’s claim – Whether judge applied wrong test to application before the court – Whether judge misdirected herself by treating application brought under CPR 26.3(1)(c) as if it had been brought under CPR 26.3(1)(b)

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

Result / Order: It is hereby ordered by consent:

1. Vida James shall transfer the property registered at the Land Registry in Saint Lucia as Block No. 1828B Parcel No. 313 to Cuthbert James.
2. Cuthbert James shall pay Vida James the sum of \$3,500.00 representing the difference between the square footage provided on the Deed of Sale and in the Survey Plan, less the costs awarded by the Court to Mr. Cuthbert James.
3. The Registrar of Lands is hereby directed to effect a transfer of the aforesaid property from Vida James to Cuthbert James on confirmation from Vida James of receipt of the sum of \$3,500.00 from Cuthbert James.
4. All other costs awarded in both the High Court and Court of Appeal to either party during the course of these proceedings are hereby waived and foregone.
5. This order is in full and final settlement of all

issues and matters in these proceedings.

Reason: The parties had settled the matter by mediation. A draft mediation agreement was submitted to the Court as well as a draft order to confirm the terms thereof. The Court approved the draft consent order.

Case Name: Nagico (St. Lucia) Limited
v
[1] Simpson Finance Limited
[2] Bertie Charles
[SLUHCVAP2016/0012]

Date: Tuesday, 17th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal

Appearances:
Appellant: Ms. Vanessa William
Respondents: Ms. Reneé St. Rose

Issues: Section 55(2) of Motor Vehicles and Road Traffic Act (Cap. 8.01, Revised Laws of Saint Lucia 2013) – Whether coverage under policy of insurance depended on designation of vehicle or on reason it was being used at time of accident – Whether driver of vehicle with taxi designation must have tourism taxi permit to use vehicle for pleasure purposes – Whether driver of vehicle at time of accident was ‘authorised driver’ for purposes of insurance policy – Whether learned judge erred in finding that vehicle could not be considered as one for hire at time of accident – Whether judge erred in not considering that by virtue of vehicle’s designation it was at all material times one for hire – Whether judge erred in

applying literal rule of interpretation to s. 55 of Motor Vehicles and Road Traffic Act resulting in conclusion that vehicle and driver were separate for purposes of Act

Type of Oral
Result / Order
Delivered:

Oral Judgment or Decision

Result / Order:

1. The appeal is dismissed.
2. The second respondent was an authorised driver within the meaning of the policy at the time of collision.
3. Cost to the respondent in the amount of \$4,500.00.

Reason:

The first respondent was the owner of a motor vehicle which it used as a taxi ("the vehicle"). The vehicle was licensed by the appellant. The insurance policy authorised the vehicle to be used by '[a]ny Authorized Driver 25 yrs or older with a valid license for at least 2 yrs', and provided that the term 'valid license' means 'a license or other permit as required by the Licensing Department or by other laws and regulations, which is not suspended, revoked or expired'.

The vehicle was involved in an accident while being driven by one Ms. Peter, who was the holder of a valid driver's licence. It is not disputed that Ms. Peter was driving the vehicle for private purposes and not for hire. The vehicle was subsequently written off by the appellant. The matter was referred to arbitration and the arbitrator referred the following specific legal question to Court: was Ms. Peter an authorised driver for the purposes of the insurance policy at the time of the accident?

The respondents, in their written submissions argued that Ms. Peter did not need to have a taxi permit at the time of the accident as it was being used for pleasure purposes and that section 55(2) of the Motor Vehicles and Road Traffic Act (Cap. 8.01, Revised Laws of Saint Lucia 2013) did not impose a requirement for

such a permit if the taxi was not being used for hire.
Section 55(2) reads:

“(2) The tourism taxi permit authorises the operation, subject to the conditions contained in the tourism taxi permit, of the motor vehicle identified in the tourism taxi permit for hire as a tourism taxi.”

The respondents contended that coverage under the policy of insurance did not depend on the designation of the vehicle but on the reason it was being used at the time of the accident. All that was required was that the driver held a valid driver’s permit for her to have coverage under the insurance policy.

The Court agreed with the written submissions of the respondent in the matter. In the Court’s opinion, once the vehicle was not being used for hire, there was no requirement under the policy of insurance or under the Motor Vehicles and Road Traffic Act that the driver hold a tourism taxi permit. Accordingly, the driver of the vehicle, Ms. Peter, was covered under the policy. The driver’s licence that she had was sufficient because she was not using the vehicle for hire at the time of the accident.

The matter came to the court by way of case stated and it therefore answered the question raised by finding that Ms. Peter was using the vehicle for ‘Social, Domestic and Pleasure Purposes’ at the material time and was covered by the policy. The taxi permit would only be required if the person is using vehicle for hire.

STATUS HEARING

Case Name:

[1] Joan Marquis

[2] Brands Inc

v

**The Honourable Attorney-General of Saint
Lucia**

[SLUHCVAP2015/0006]

Date: Tuesday, 17th January 2017

Before: The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:

Appellants: Mr. Dexter Theodore, QC

Respondent: Ms. Jan Drysdale

Issue: Appeal against decision of Board of Assessment – Whether Board failed to consider or to adequately consider whether second appellant was entitled to compensation for loss of Digicel lease – Challenge to findings of fact made by Board – Whether Board erred in applying cost approach method of valuation – Status of matter

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

**Result / Order
& Reason:** This appeal is adjourned for case management hearing at the next sitting of the Court in Saint Lucia during the week commencing Monday, 26th June 2017, in order for a report to be given as to whether the transcript has been received.

Case Name:

**Cynthia Paul
v
[1] The New India Assurance Co. (Trinidad &
Tobago) Ltd.
[2] S&A Insurance Brokers Ltd.**

[SLUHCVAP2015/0007]

Date: Tuesday, 17th January 2017

Before: The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:

Appellant: Ms. Wauneen Louis-Harris

Respondents: Mr. Dexter Theodore, QC for 1st named respondent

Issue: Status of matter

Type of Oral Result/Order Delivered: Directions

Result / Order: The Registrar having indicated that the preparation of the transcript has commenced, the status hearing is adjourned for report on its completion at the next sitting of the Court in Saint Lucia during the week which commences 26th June 2017.

Case Name:

[1] Network Construction Maintenance & Rehabilitation Limited
[2] Gregory Laughan Fevrier
v
Cable & Wireless (St. Lucia) Limited

[SLUHCVAP2016/0001]

Date: Tuesday, 17th January 2017

Before: The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:

Appellants: Mr. Dexter Theodore, QC

Respondent: Mr. Deale Lee

Issue:	Status of matter
Type of Oral Result/Order Delivered:	N/A
Result / Order & Reason:	1. The Registrar having indicated that systems have been put in place in order to facilitate the preparation of the transcript and that the preparation of the transcript on this appeal has not commenced, the status hearing application is adjourned for further consideration at the next sitting of the Court in Saint Lucia during the week commencing on Monday, 26th June 2017. 2. The parties are encouraged to contact the Registrar of the High Court with a view to utilising the system that has been put in place in order to expedite the preparation of the transcript.

Case Name:	Keith Smith v [1] Gertrude Thomas [2] Gervan Thomas [SLUHCVAP2014/0020]
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Date:	Tuesday, 17th January 2017
Before:	The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:	
Appellant:	Mr. Dexter Theodore, QC
Respondents:	Ms. Veronica Barnard
Issues:	Status of matter

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

N/A

**Result / Order
& Reason:**

The transcript of proceedings not having been prepared and learned Queen's Counsel for the appellant having intimated to the Court his willingness to explore the possibility of having transcript prepared utilising the alternative system as indicated by the Registrar, the status hearing is adjourned for further consideration by the Court during its sitting in Saint Lucia during the week which commences on Monday, 26th June 2017.

Case Name:

**David Ferguson
v
Carol Gideon Clovis**

[SLUHCVAP2015/0001]

Date:

Tuesday, 17th January 2017

Before:

The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:

Appellant:

Mr. David Ferguson (in person)

Respondent:

Ms. Carol Gideon Clovis (in person)

Issues:

Status of matter

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

N/A

**Result / Order
& Reason:**

The Registrar having indicated that the notes of the learned master are being prepared, the status hearing is adjourned to the next sitting of the Court in Saint Lucia during the week which commences on Monday,

26th June 2017, in order to enable the Registrar of the High Court to report on the completion of the master's notes and decision.

Case name: Patrick Morille
V
Hermia Roseline Morille
[SLUHCVAP2010/0035]

Date: Tuesday, 17th January 2017

Before: The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:
Appellant: Mr. Horace Fraser
Respondent: Ms. Esther Greene-Ernest

Issues: Status of matter – Whether learned trial judge misdirected herself and therefore erred in law in ruling that High Court has no discretion or jurisdiction to extend time in which appeal can be lodged before it

Type of Oral Result/Order Delivered: Directions

Result / Order: The appeal shall be listed for hearing at a date to be determined by the Chief Registrar and upon notification to learned counsel for the appellant and respondent.

Reason: The record was completed and the matter was ready to proceed.

Case name:	Elizabeth Monroe Qua Executrix of the Estate of Dr. Vincent Monroe V [1] Cohen Williams sued as Cohem Williams [2] I & C Insurance Brokers Ltd. [SLUHCVAP2014/0004]
Date:	Tuesday, 17 th January 2017
Before:	The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:	
Appellant:	Mr. Colin Foster holding papers for Mr. Gerard Williams
Respondents:	Ms. Renée St. Rose
Issues:	Status of matter
Type of Oral Result/Order Delivered:	Directions
Result / Order:	1. The Court being cognizant of the fact that notice of availability of the transcript appears to have been served on 24th March 2015, the appellant is directed to take the necessary steps in accordance with CPR 2000, as revised. 2. The status hearing is adjourned for further consideration at the next sitting of the Court in Saint Lucia during the week which commences on Monday, 26th June 2017.
Reason:	The transcript in this matter had been prepared and was available for collection.

Case name:

**[1] Benjamin Drakes
[2] Gerald Francis (trading as Turnkey
Engineering Contractors)**

v

Plantation Beach St. Lucia Ltd.

[SLUHCVAP2015/0017]

Date:

Tuesday, 17th January 2017

Before:

The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:

Appellants:

Ms. Esther Greene-Ernest

Respondent:

No appearance

Issues:

Status of matter

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

N/A

**Result / Order
& Reason:**

- 1. The Registrar having indicated that the preparation of the transcript has commenced and will be completed shortly, the status hearing is adjourned for report by the Registrar on the completion of the transcript and the sending out of the notice of availability of transcript.**
- 2. The matter will receive further consideration at the next sitting of the Court in Saint Lucia during the week which commences on Monday, 26th June 2017.**

Case Name:

Jonathan David Lesfloris

v

Glenda Dale Lesfloris (nee Henry)

[SLUHCVAP2015/0018]

Date: Tuesday, 17th January 2017

Before: The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:

Appellant: Ms. Wauneen Louis-Harris

Respondent: Ms. Esther Greene Ernest holding papers for Mr. George Charlemagne

Issue: Divorce – Whether learned trial judge erred in awarding respondent 40% share in property – Whether separate property – Maintenance orders – Status of matter

Type of Oral Result/Order Delivered: Directions

Result / Order & Reason: The appellant, having received the notice of availability of transcript, is directed to take the necessary steps in order to comply with CPR 2000 in prosecuting his appeal.

Case Name: Michael Charles
v
Nancy Francis-Charles

[SLUHCVAP2015/0030]

Date: Tuesday, 17th January 2017

Before: The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:

Appellant: Mr. Horace Fraser

Respondent:	Mr. Vilan Edward
Issues:	Divorce – Whether learned judge erred in awarding respondent half-share in value of matrimonial home – Whether premised on wrong principle of law – Status of matter
Type of Oral Result/Order Delivered:	Directions
Result / Order & Reason:	The appellant, having received the transcript of proceedings, is directed to take the necessary steps as provided by CPR 2000 in order to prosecute the appeal.
Case Name:	Royal St. Lucia Police & Allied Services Co-operative Credit Union Ltd. v Albert James [SLUHCVAP2015/0015]
Date:	Tuesday, 17th January 2017
Before:	The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:	
Appellant:	Mr. Deale Lee holding papers for Mr. Ramon Raveneau
Respondent:	Mr. Horace Fraser
Issues:	Status of matter
Type of Oral Result / Order	Directions

Delivered:

Result / Order:

1. The Court having been advised that the appellant has received the notice of availability of transcript of proceedings and the appellant having indicated, through counsel, his intention to obtain the transcript of proceedings, the appellant is directed to take the necessary steps to prosecute the appeal.
2. The status hearing is adjourned for report at the next sitting of the Court in Saint Lucia during the week which commences on Monday, 26th June 2017.

Case Name:

The Bagshaws of St. Lucia Limited

V

Pavlin Limited

[SLUHCVAP2014/0023]

Date:

Tuesday, 17th January 2017

Before:

The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:

Appellant:

Ms. Renée St. Rose

Respondent:

Ms. Esther Greene-Ernest

Issues:

Status of matter

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

N/A

Result / Order:

The Registrar of the High Court having indicated that the preparation of the transcript is completed and that the notice of availability will be sent to the parties shortly, the matter is adjourned for further status hearing at the next sitting of the Court during the

week which commences on Monday, 26th June 2017, in order to enable the Registrar of the High Court to report in relation to the completion of the transcript.

Reason: The transcript was prepared.

Case Name: Evariste Ambrose
v
Antoine Baptiste
[SLUHCVAP2015/0029]

Date: Tuesday, 17th January 2017

Before: The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:
Appellant: Ms. Wauneen Louis-Harris
Respondent: Ms. Leandra Verneuil

Issues: Status of matter

Type of Oral Result/Order Delivered: N/A

Result / Order & Reason: The Registrar having advised that the transcript is being prepared, the status hearing is adjourned to the next sitting of the Court in Saint Lucia during the week which commences on Monday, 26th June 2017, in order to facilitate the Registrar's report in relation to the completion of the transcript.

Case Name: **Martin Christian Devaux**
v
Ann Delores Devaux
[SLUHCVAP2015/0027]

Date: **Tuesday, 17th January 2017**

Before: **The Hon. Mde. Louise E. Blenman, Justice of Appeal**

Appearances:
Appellant: **Mr. Colin Foster**
Respondent: **Ms. Esther Greene-Ernest**

Issues: **Divorce – Custody of children – Whether learned judge erred in relying on evidence of medical expert to make finding of fact that appellant unable to care for children – Whether judge erred in admitting into evidence allegations made by respondent – Whether judge erred in committing children to foster care and denying both parents custody of children – Status of matter**

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

Result / Order: **The appellant having indicated his receipt of the notice of availability of the transcript, it is hereby directed that the appellant take the necessary steps to obtain the transcript of proceedings and thereafter, to prosecute the appeal in accordance with the CPR 2000.**

Case Name: **Stewart Title Eastern Caribbean Ltd**
v
[1] Patricia Salatti
[2] Frank Salatti

[3] DCG Properties Limited

[SLUHCVAP2015/0010]

Date: Tuesday, 17th January 2017

Before: The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:

Appellant: No appearance

Respondents: No appearance

Issues: Status of matter

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

Result / Order & Reason: There being no appearance of the appellant, the appeal is struck out for want of prosecution.

Case Name:

Linus Felix
v
Hildree Edward

[SLUHCVAP2014/0006]

Date: Tuesday, 17th January 2017

Before: The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:

Appellant: Ms. Wauneen Louis-Harris

Respondent: Ms. Esther Greene-Ernest

Issues: Status of matter

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

N/A

**Result / Order
& Reason:**

1. The Registrar of the High Court having indicated that the preparation of the transcript has not commenced, and that there is an alternative system in place to facilitate the preparation of the transcript, the appellant has indicated a desire to explore the alternative system for the preparation of the transcript.
2. The status hearing is adjourned for further consideration at the next sitting of the Court in Saint Lucia during the week commencing on Monday, 26th June 2017.

Case Name:

**Lennox Mondesir
v
Diana Annius**

[SLUHCVAP2014/0005]

Date:

Tuesday, 17th January 2017

Before:

The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:

Appellant:

No appearance

Respondent:

Mr. Horace Fraser

Issues:

Status of matter

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

Oral Judgment or Decision

Result / Order

The appeal is struck out for want of prosecution.

& Reason:

Case Name: **Clico International Life Insurance Limited
(Under Judicial Management)**

v

Deldridge Flavius

[SLUHCVAP2014/0029]

Date: **Tuesday, 17th January 2017**

Before: **The Hon. Mde. Louise E. Blenman, Justice of Appeal**

Appearances:

Appellant: **Ms. Renée St. Rose**

Respondent: **Mr. Horace Fraser**

Issues: **Status of matter**

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

**Result / Order
& Reason:** **In view of the order of the Full Court in refusing an
extension of time to file the record of appeal, there
being no appeal extant, the matter is taken off the list.**

Case Name: **Michael Medar**

v

Marie Antoinette Medar (nee James)

[SLUHCVAP2014/0025]

Date: **Tuesday, 17th January 2017**

Before:	The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:	
Appellant:	Mr. Horace Fraser
Respondent:	Ms. Esther Greene-Ernest
Issues:	Status of matter
Type of Oral Result/Order Delivered:	N/A
Result / Order:	1. The Registrar having indicated that the preparation of the transcript has not commenced, and that there is an alternative mechanism in place for the preparation of the transcript, the appellant is encouraged to use the alternative mechanism to have the transcript prepared. 2. The status hearing is adjourned to the next sitting of the Court in Saint Lucia during the week which commences on Monday, 26th June 2017.
Reason:	To allow the appellant to make use of the alternative system in place for the preparation of the transcript.
Case Name:	The Castries Constituency Council v Lambert Nelson [SLUHCVP2014/0016]
Date:	Tuesday, 17th January 2017
Before:	The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:	
Appellant:	Ms. Renée St. Rose

Respondent: Ms. Esther Greene-Ernest holding papers for Ms. Lydia Faisal

Issues: Status of matter

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

Result / Order & Reason:

1. The matter is erroneously listed as there is no extant matter.
2. The matter is taken off the list.

Case Name:

[1] Ruth Dubois
[2] Elvis Naitram
[3] John Alexander
v
Francis Maurice

[SLUHCVAP2013/0007]

Date: Tuesday, 17th January 2017

Before: The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:

Appellant: Mr. Deale Lee

Respondent: Ms. Wauneen Louis-Harris holding papers for Mr. Alvin St. Clair

Issues: Status of matter

Type of Oral Result/Order Delivered: N/A

Result / Order & Reason:	The status hearing is adjourned for report at the next sitting of the Court in Saint Lucia during the week which commences on Monday, 26 th June 2017, in order to allow counsel for the respondent to advise himself of the way forward.
Case Name:	Tara Ermine Leevy v Rosanna St. Martin [SLUHCVAP2015/0005]
Date:	Tuesday, 17 th January 2017
Before:	The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:	
Appellant:	Ms. Esther Greene-Ernest
Respondents:	Ms. Andra Gokool-Foster
Issues:	Breach of contract – Whether learned judge erred in finding that appellant was liable to pay damages to respondent for repossession of motor vehicle which had been sold to respondent by appellant – Whether judge erred in law by failing to consider adequately or at all that respondent had no cause of action against appellant as regards her dispossession of vehicle – Whether learned judge erred in dismissing appellant’s no case submission – Whether judge erred in awarding respondent sum of \$70,639.02 in damages – Status of matter
Type of Oral Result/Order Delivered:	Directions
Result / Order & Reason:	The appellant having indicated that she has received the notice of availability of transcript, the appellant is

directed to obtain the transcript and thereafter, proceed to prosecute the appeal.

Case Name:

[1] Jenny Lindsay
[2] Jenny Lindsay & Associates
v
Thomas Edward Carty

[AXAHCVAP2015/0007]
(Anguilla)

Date: Tuesday, 17th January 2017

Before: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Applicants: Mr. Stephen A. Singh

Respondent: Ms. Yanique L. Stewart

Issues: Application to set aside or vary order of single judge of Court of Appeal

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

Result / Order:

1. The application is granted.
2. The decision of a single judge is set aside and substituted with the grant of an extension of time to file the notice of appeal.
3. The notice of appeal to be filed within 7 days of today's date, by Thursday, 26th January 2017.
4. The cost of the application for an extension of time shall be borne by the appellant, agreed in the sum of USD\$500.00 to be paid within 14 days from today.

Reason:

The Court heard counsel for the parties on an application to set aside or vary the order of a single judge of the Court of Appeal made on 24th September 2015, following the hearing of an application for an extension of time to file a notice of appeal from an assessment of damages award of Master Corbin-Lincoln made on 31st March 2015.

Notwithstanding that the applicants made applications to the court below for review and for extension of time within which to appeal, the time this Court considered relevant was the time limited by the Rules for appealing from the award to the Court of Appeal and thus the time application was made to this Court. The Court, in several authorities has set out the manner in which it would exercise its discretion when a party seeks the indulgence of the court for an extension of time to comply with a rule, direction or order of the court where no sanction applies. The factors which the court would consider are set out in such authorities as *Carleen Pemberton v Mark Brantley* (SKBHCVAP2011/0009 (delivered 14th October 2011, unreported)) and *John Cecil Rose v Anne Marie Uralis Rose* (SLUHCVP2003/0019 (delivered 22nd September 2003, unreported)). These factors include the nature and extent of the delay, the explanation that has been given for the delay, the prospect of success as well as the prejudice to the parties. The Court stated that it did not consider these as threshold factors. Rather, it was seeking to ensure, in the exercise of its discretion that it achieved the overriding objective of dealing with cases justly and that it arrived at a decision that was proportionate in relation to the nature and extent of the non-compliance by having regard to all the factors and assessing them in the round. The order of the single judge did not set out what was considered as threshold factors nor did it state the reasons for the conclusion. This Court was accordingly left to exercise its discretion afresh.

The Court stated that it was not impressed by the length of the delay in this matter; it was lengthy, but not inordinate. It was just over 9 weeks before the

proper application was made. It was noted, however, that the applicants had made an earlier application, albeit before the wrong court. The Court considered the prejudice to either party which appeared to be more or less evenly balanced, in the circumstances. The Court also had regard to the prospects of success and it is in respect of that aspect of the matter that the Court considered that the applicants had demonstrated that the appeal, which would be one as of right, had a realistic prospect of success. Therefore, although not excusing the delay in making the application before this Court but having regard to the overriding objective and exercising its discretion in the round, the Court was of the view that the applicants ought to be given an opportunity to bring their appeal before this Court.

APPLICATIONS AND APPEALS

Case Name:

Kim John

v

The Queen

[SLUHCRA2015/0008]

Francis Phillip

v

The Queen

[SLUHCRA2015/0007]

Date:

Wednesday, 18th January 2017

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal**

Appearances:

Appellants:

Mr. Tiyani Behanzin

Respondent: Mr. Daarsrean Greene, Director of Public Prosecutions [Ag.]

Issues: Appeal against sentence – Manslaughter – Appellants sentenced to life in prison

Type of Oral Result/Order Delivered: Directions

Result / Order:

1. The applicants are granted leave to appeal against sentence out of time.
2. The applicants are granted leave to file the notice of appeal within 21 days of this Order.
3. Both appellants are to receive representation in order to prosecute their appeal against sentence and that a lawyer from the list who is next in line as determined by the Registrar of the High Court is assigned to represent both appellants at the state's expense.
4. Learned Counsel Mr. Behanzin is at liberty to assist the appellants on a pro bono basis if he so wishes.

Reason: The Crown was unaware that submissions had been filed by the appellants, which submissions were handed to them on the morning of this hearing of the matter.

Case Name: Johnathan St. Rose
v
The Queen

[SLUHCRA2016/0004]

Lyden Blasse
v

The Queen

[SLUHCRAP2016/0006]

Marvyn Terry Nelson

v

The Queen

[SLUHCRAP2016/0005]

Date: Wednesday, 18th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: Mr. Shawn Innocent (representing Mr. Johnathan St. Rose)
Mr. Ferguson John (representing Mr. Marvyn Terry Nelson) and holding papers for Mr. Jeannot-Michel Walters (representing Mr. Lyden Blasse)

Respondent: Mr. Stephen Brette, Deputy Director of Public Prosecutions

Issues: Criminal appeal against sentence – Manslaughter – Calculation of prison release date for appellants – Whether learned sentencing judge erred in calculating date which appellants were to be released from prison – Whether judge erred in utilising benchmark of 20 years when established benchmark for offence of manslaughter was 15 years

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

Result / Order:

1. The appeal against sentence is allowed.
2. Sentence of twelve years is quashed and replaced with time served, bearing in mind that the appellants have been imprisoned since February 2009.

Reasons:

The Court heard and considered the submissions of Mr. Innocent (which submissions were adopted by Mr. Ferguson John), as well as those of the learned Deputy Director of Public Prosecutions Mr. Stephen Brette, in making a determination in the matter. The Court had regard, in particular, to the words of the learned sentencing judge in relation to the benchmark for the offence of manslaughter, at paragraphs 26-27 and 31 of the sentencing judgment. In these paragraphs, the judge stated:

“[26] The benchmark according to the authorities for manslaughter is fifteen (15) years. However, in certain cases, the circumstances of the case may warrant a departure from that benchmark.

“[27] The Court must be careful in arriving at a sentence that is just, and the benchmark is not set in granite. Depending on the factual circumstances of each case, the Court in its discretion may decide to increase or decrease the benchmark or accept it as appropriate given the circumstances.”

“[31] As a result, the Court thinks that a benchmark of twenty (20) years is appropriate in the circumstances.”

The Court held that the learned judge erred by “moving” the benchmark to 20 years, in circumstances where the Court of Appeal in the Eastern Caribbean has consistently indicated that the appropriate benchmark for the offence of manslaughter is 15 years. There was no basis for the learned trial judge to have departed from the established benchmark, as she did.

The Court further held that, the appellants having pleaded guilty, the learned judge was obliged to have taken this factor into account in deciding on the appropriate sentence. The jurisprudence indicates that the usual deduction or discount when an accused pleads guilty is 1/3. There was no indication

in the sentencing judgment that the judge adverted her mind to the fact that the appellants had pleaded guilty to the offence. This was a fatal omission.

The Court looked at the mitigating factors in the case, including the guilty plea and the fact that there were no previous convictions, and balanced these off against the aggravating factors. Having taken into account the general principles of sentencing which the trial judge referred to in her judgment, which included retribution, deterrence and punishment, and, having taken into account the circumstances of each offender and the circumstances of the offence, the Court was of the view that the appeal against sentence should be allowed, and the sentence of 12 years as imposed by the learned trial judge should be quashed and substituted with a sentence of time served, bearing in mind that each of the appellants had been in custody since February 2009.

Case Name:

Boniface Christophe

v

The Queen

[SLUHCRA2010/0002]

Date:

Wednesday, 18th January 2017

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal**

Appearances:

Appellant:

Mr. Colin Foster

Respondent:

Mr. Stephen Brette, Deputy Director of Public Prosecutions

Issues:

Appeal against sentence – Rape – Robbery – Whether sentence of 10 years imposed on appellant should run concurrently or consecutively with other

sentence(s) already being served by him

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

Oral Judgment or Decision

Result / Order:

The sentences imposed on the appellant in respect of the offences for which he is charged will run concurrently.

Reason:

The sentence imposed on the appellant was a prison term of 10 years to run consecutively with any other sentence which he was currently serving. The appellant appealed against that aspect of the sentencing and sought an order of the Court that the sentences run concurrently rather than consecutively. The Deputy Director of Public Prosecutions, Mr. Brette, conceded on this issue. The appeal having thus having been conceded the Court ordered that the sentence imposed on the appellant in respect of the offences for which he was charged, should run concurrently and not consecutively.

Case Name:

**James Doxilly
v
The Police**

[SLUMCRAP2006/0007]

Date:

Wednesday, 18th January 2017

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal**

Appearances:

Appellant: Mr. Leon Gokool

Respondent: Mr. Leon France

Issues: Appeal against conviction and sentence – Possession of firearm and ammunition without valid licence – Assault with deadly instrument (firearm) – Whether evidence supported finding of guilt – Whether conviction wrong in law – Whether sentence excessive

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

Result / Order:

1. Appeal for the fine to be reduced from \$15,000.00 to \$10,000.00 allowed.
2. The sentence is varied to a fine of \$10,000.00 payable within three months or in default 7 years imprisonment.
3. Appeal of \$1,000.00 to be paid within three months in default.

Reason: The appellant withdrew his grounds against conviction and proceeded with a ground against sentence only.

The appellant cited delay as a factor which should go towards a reduction of his sentence (i.e. the fine). He argued that delay would go towards reducing the fine only, and not the custodial sentence, since the latter was only imposed in default of payment of the former.

The respondent conceded on the issue, and in particular, that the fine of \$15,000.00 should be reduced to \$10,000.00.

Case Name: Evans Estaphane
v
The Police

[SLUMCRAP2014/0013]

Date: Wednesday, 18th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: In person

Respondent: Mr. Leon France

Issues: Appeal against conviction – Driving without due care and attention – Whether verdict of learned magistrate unsafe and unsatisfactory

Type of Oral Result/Order Delivered: Directions

Result / Order:

1. The appellant is granted leave if necessary, to file and serve skeleton arguments together with authorities in support of the appeal on or before 27th February, 2017.
2. The respondent is granted leave to file and serve if necessary, skeleton arguments in reply together with authorities on or before 27th March, 2017.
3. The hearing of this appeal is adjourned and traversed to the next sitting of the Court of Appeal in Saint Lucia during the week which commences 26th June. 2017.
4. This is the final adjournment in this matter.

STATUS HEARING

Case Name: Glenroy Shawn Victor
v
The Queen

[SLUHCRA2014/0001]

Date: Wednesday, 18th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: Mr. Alfred Alcide

Respondent: Mr. Leon France

Issues: Appeal against conviction and sentence – Murder –
Status of matter

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

Result / Order: The applicant is directed to file and serve a formal application supported by affidavit requesting that the Court of Appeal orders that the transcript be provided to the appellant free of cost due to his impecuniosity and indicating the nature of the offence of which he the appellant been convicted.

Reason: The appellant had not made a formal application to request that the transcript be provided free of charge.

Case Name: Eardly Deterville
v
The Queen

[SLUHCRA2014/0003]

Date: Wednesday, 18th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:
Appellant: In person
Respondent: Mr. Leon France

Issues: Appeal against conviction – Wounding – Status of matter

Type of Oral Result/Order Delivered: N/A

Result / Order: The matter is stood down.

Reason: In order to verify some things concerning the appeal.

Case Name: Wayne Anderson Edward
v
The Queen

[SLUHCRAP2014/0004]

Date: Wednesday, 18th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:
Appellant: In person
Respondent: Mr. Leon France

Issues: Appeal against sentence – Aggravated burglary – Damage to property – Appellant sentenced to 10 years and 5 years imprisonment with sentences to run concurrently – Status of matter

Type of Oral Result/Order Delivered: Directions

Result / Order:

1. The court having been advised by Mr. Wayne Edward that he is not in a financial position to obtain the transcript, orders that the transcript shall be provided to the appellant free of cost.
2. The copy of the transcript is to be provided to Mr. Edward at the institution at which he is housed within 14 days of this.
3. The appellant is granted leave thereafter to file and serve submissions, together with authorities on or before 3rd April, 2017.
4. The hearing of this appeal is adjourned and traversed to the next sitting of the Court of Appeal in Saint Lucia during the week which commences on 26th June, 2017.

Case Name: Eardly Deterville
v
The Queen

[SLUHCRA2014/0003]

Date: Wednesday, 18th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant:	In person
Respondent:	Mr. Leon France

Issues: Appeal against conviction – Wounding – Status of matter

Type of Oral Result/Order Delivered: Directions

Result / Order:

1. The Registrar of the High Court shall provide a copy of the transcript to the appellant free of cost within 14 days of this Order.
2. The appellant, Mr. Deterville is granted leave to file skeleton arguments together with authorities in support of the appeal on or before 27th February, 2017.
3. The respondent is granted leave to file and serve skeleton arguments together with authorities on or before 27th March, 2017.
4. The hearing of this appeal is adjourned and traversed to the next sitting of the Court of Appeal in Saint Lucia during the week which commences 26th June, 2017.

Reason: The appellant had already served his time but still wished to prosecute his appeal.

Case Name: Marvin William
v
The Queen

[SLUHCRA2014/0005]

Date: Wednesday, 18th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: In person
Respondent: Mr. Leon France

Issues: Appeal against sentence – Status of matter

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

Result / Order:

1. The Court directs that Mr. Marvin William is provided with the services of a lawyer to prosecute his appeal at the state's expense.
2. The Registrar of the High Court is directed to select the lawyer who appears next in line from the roster of lawyers to represent the appellant.
3. Leave is granted to the appellant to file and serve skeleton arguments together with authorities on or before 3rd March, 2017.
4. The respondent is granted leave to file and serve skeleton arguments together with authorities on or before 3rd April, 2017.
5. The hearing of this appeal shall come up for consideration at the next sitting of the Court of Appeal in Saint Lucia during the week which commences on 26th June, 2017.

Reason: The appellant did not have a lawyer but intended to hire one.

Case Name: Kenian Frederick
v
The Queen

[SLUHCRA2014/0006]

Date: Wednesday, 18th January 2017

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

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

Appearances:

Appellant: No appearance

Respondent: Mr. Daarsrean Greene, Director of Public Prosecutions [Ag.]

Issues:

Appeal against conviction and sentence – Causing death by dangerous driving – Appellant sentenced to 3 years imprisonment – Whether verdict of guilty perverse, unreasonable and unsupported by evidence led at trial – Whether learned trial judge erred in failing to properly and or adequately apply the law in relation to evidence led, in directing jury at trial – Whether sentence imposed excessive and based on wrong principles and or incorrect application of principles of sentencing – Status of matter

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

Directions

Result / Order:

- 1. The Registrar of the High Court shall cause a notice of adjournment to be served on attorney-at-law Mr. Shawn Innocent within 14 days of this Order.**
- 2. The Registrar of the High Court shall cause a notice of adjournment to be served personally on Mr. Kenian Frederick within 21 days of this Order.**
- 3. The status hearing application is adjourned for review at the next sitting of the Court of Appeal in Saint Lucia during the week which commences on 26th June, 2017.**

Case Name:

**Clement Tisson
v
The Queen**

[SLUHCRAP2015/0001]

Date: Wednesday, 18th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: In person

Respondents: Mr. Leon France

Issues: Appeal against sentence – Unlawful carnal knowledge
– Appellant sentenced to 12 years imprisonment –
Status of matter

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

Result / Order: The matter is stood down.

Reason: In order to verify some things concerning the appeal.

Case Name: Hanson James
v
The Queen

[SLUHCRAP2015/0002]

Date: Wednesday, 18th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: In person
Respondent: Mr. Leon France

Issues: Appeal against sentence – Burglary – Status of matter

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

Result / Order:

1. The Registrar of the High Court shall provide a copy of the transcript to the appellant free of cost within 14 days of this Order.
2. Mr. Hanson James is granted leave to file written submissions in support of his appeal on or before 27th February, 2017.
3. Leave is granted to the prosecution to file and serve written submissions together with authorities on or before 27th March, 2017.
4. The hearing of this appeal shall come up for consideration at the next sitting of the Court of Appeal in Saint Lucia during the week which commences on 26th June, 2017.

Case Name: Melvin Henry
v
The Queen

[SLUHCRA2015/0003]

Date: Wednesday, 18th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: In person

Respondent: Mr. Leon France

Issues: Appeal against sentence – Burglary – Status of matter

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

Result / Order:

1. The appellant having indicated his intention to pay for the transcript in view of the fact that he has been served with notice of availability of the transcript, leave is granted to the appellant to file and serve skeleton arguments together with authorities in support of the appeal on or before 3rd March, 2017.
2. The respondent is granted leave to file and serve skeleton arguments together with authorities on or before 4th April, 2017.
3. The appeal shall be fixed for hearing during the sitting of the Court of Appeal in Saint Lucia during the week which commences on 26th June, 2017.

Case Name: Curlan Joseph
v
The Queen

[SLUHCRA2015/0004]

Clinton Gilbert
v
The Queen

[SLUHCRA2015/0005]

Date: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal

The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant:

**Mr. David Moyston (for Curlan Joseph)
Mr. Wayne Harrow (for Clinton Gilbert)**

Respondent:

**Mr. Daarsrean Greene, Director of Public
Prosecutions [Ag.]**

Issues:

**Appeal against conviction and sentence – Murder –
Status of matter**

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

Directions

Result / Order:

- 1. The Registrar of the High Court is directed to provide a copy of the transcript to Mr. Curlan Joseph free of cost within 7 days of this Order.**
- 2. Mr. David Moyston is hereby assigned by this Court as a court assignment to represent Mr. Curlan Joseph in the prosecution of his appeal.**
- 3. The Registrar of the High Court is directed to provide a copy of the transcript to Mr. Clinton Gilbert free of cost within 7 days of this Order.**
- 4. Leave is granted to each of the appellants namely Curlan Joseph and Clinton Gilbert to file and serve skeleton arguments together with authorities on or before 3rd April 2017.**
- 5. Leave is granted to the Crown to file and serve skeleton arguments together with authorities on or before 4th May 2017.**
- 6. The hearing of both appeals shall be considered at the next sitting of the Court of Appeal in Saint Lucia during the week which commences on 26th June 2017.**
- 7. Criminal appeal numbers SLUHCRA2015/0005 and SLUHCRA2015/0004 are hereby consolidated.**

Case Name:

**Lance Wilson
v
The Queen**

[SLUHCRA2015/0006]

Date:

Wednesday, 18th January 2017

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal**

Appearances:

Appellant: Mr. David Moyston

Respondent: Mr. Leon France

Issues:

**Appeal against conviction and sentence – Murder –
Status of matter**

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

Directions

Result / Order:

- 1. The Registrar of the High Court shall endeavor to ensure that the transcript is prepared on or before 3rd April, 2017.**
- 2. The status hearing is adjourned for further consideration at the next sitting of the Court of Appeal in Saint Lucia during the week which commences on 26th June, 2017.**

Reason:

The transcript of proceedings was not ready.

Case Name:

**Clement Tisson
v
The Queen**

Date: Wednesday, 18th January 2017

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: In person

Respondent: Mr. Daarsrean Greene, Director of Public of Prosecutions [Ag.]

Issues: Appeal against sentence – Unlawful carnal knowledge
– Appellant sentenced to 12 years imprisonment –
Status of matter

Type of Oral Result/Order Delivered: Directions

Result / Order:

1. The hearing of this appeal is adjourned and traversed to the next sitting of the Court of Appeal in Saint Lucia during the week which commences on 26th June, 2017.
2. The Registrar of the High Court and the Learned Director of Public Prosecutions shall each utilize their best efforts to make available to this Court the record of proceedings in the High Court.
3. The appellant is granted leave to retain the services of a lawyer to represent him in the prosecution of this appeal.

Reason: The court file for this matter had to be reconstituted. Additionally, the appellant indicated his intention to retain the services of a lawyer to prosecute his appeal.

Case Name: **IN THE MATTER of the Registered Land Act,
Revised Statutes of Anguilla, Chapter R30,
section 147**

AND

**IN THE MATTER of an Appeal by Collins
Richardson, Carolyn Richardson
(Administrator of the Estate of John Samuel
Richardson); Boswell Richardson; Calvin
Richardson; Leslie Richardson as
Administrator of the Estate of Alma
Richardson; Margie Hughes as Administrator
of the Estate of Evangeline Hughes; Estell
Hughes as Administrator of the Estate of
Samuel Benjamin Richardson; Calvin
Richardson as Administrator of the Estate of
Victor Richardson; Robert Austin Richardson
as Administrator of the Estate of Eneria
Richardson; Royston Richardson as
Administrator of the Estate of James
Richardson; Oliver MacDonna as
Administrator of the Estate of Jane Rebecca
Richardson and Sybil Rhymer as the
Administrator of the Estate of Florence
Richardson against a decision of the
Registrar of Lands dated 28th September 2010
and 7th July 2011.**

**[AXAHCVAP2016/0002]
(Anguilla)**

Date: **Thursday, 19th January 2017**

Coram: **The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal**

Appearances:
Appellants / **Mr. Clyde Williams, with him, Ms. Lauri Smikle**
Applicants: **instructed by Alex Richardson and Associates**

Respondents: Mr. Kerith Kentish (for the 1st to 5th respondents)
Mr. John Wigley (for the 7th respondent)

Issues: Application to dismiss appeal – Application to discharge or revoke order of Michel JA as single judge

Type of Oral Result/Order Delivered: Directions

Result / Order:

1. The hearing of this matter is adjourned for oral hearing at the sitting of the Court in Anguilla fixed for the week commencing on Monday, 24th April 2017, with a time estimate of 30 minutes for the appellant, 30 minutes for the 1st to 5th respondents and 15 minutes for the 7th respondent. Any reply by the appellant to be no more than 15 minutes.
2. The appellant shall file and serve a written analysis of the authorities and the order of the learned single judge under review, namely, the order dated 27th May 2016, on or before Tuesday, 31st January 2017.
3. The respondents shall file and serve a response to the appellant's written analysis as directed in paragraph 2, on or before Monday, 13th February 2017.
4. The hearing of this matter is adjourned to the sitting of the Court in Anguilla due to the technical difficulties that the Court has encountered in hearing the parties by video/teleconference.

Reason: The adjournment was necessary in the circumstances, the Court having encountered technical difficulties in trying to conduct the hearing by video/teleconference. It was very difficult to hear the parties clearly.

Case Name:

**Benjamin Exeter
v
[1] Winston Gaymes
[2] Kathleen Jeffers
[3] Sir Louis Straker
[4] Sylvia Findlay-Scrubb
[5] The Attorney General of SVG

[SVGHCVAP2016/0021]**

**Lauren Baptiste
v
[1] Vil Davis
[2] Veronica John
[3] Montgomery Daniel
[4] Sylvia Findlay-Scrubb
[5] The Attorney-General of SVG**

**[SVGHCVAP2016/0022]
(Saint Vincent and The Grenadines)**

Date:

Thursday, 19th January 2017

Before:

**The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal**

Appearances:

Appellant:

Mr. Stanley John, QC, with him, Ms. Kay Bacchus-Baptiste, Ms. Zita Barnwell, Ms. Maia Eustace

Respondent:

**Mr. Richard Williams holding papers for Mr. Anthony Astaphan, SC (for the 1st, 2nd, 4th and 5th respondents in both appeals)
Mr. G. Grahame Bollers (for the 3rd respondent in both appeals)**

Issue:

Case management of appeals – Application for interim prohibitory injunction

Type of Oral

Directions

**Result/Order
Delivered:**

Result / Order:

1. The appeals numbers SVGHCVAP2016/0021 and SVGHCVAP2016/0022 be consolidated and be treated as a consolidated appeal.
2. The third named respondents shall file and serve a note of their positions in respect of the appeals by Friday, 20th January 2017.
3. The hearing of the appeal is fixed for Tuesday, 7th March 2017 in the State of Saint Lucia with an estimated hearing time of six hours.