

COURT OF APPEAL SITTING
SAINT VINCENT AND THE GRENADINES
[26th to 30th September 2016]

STATUS HEARING

Case Name:

**David Roberts
v
The Queen**

[SVGHCRA2008/0008]

Date:

Monday, 26th September 2016

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant:

In person

Respondent:

Mr. Colin Williams, Director of Public Prosecutions

Issue:

Status of the matter

**Type of Oral Result /
Order Delivered**

Directions

Result / Order:

[Oral delivery]

- 1. The Court assigned learned counsel, Ms. Patina Knights, to represent the appellant, David Roberts, on his application for leave to the Privy Council.**
- 2. Registrar shall serve a copy of the letter dated 7th April 2016 on the learned Director of Public Prosecutions within 7 days of the date of this order.**
- 3. Registrar shall cause the record of the proceedings in Court of Appeal to be prepared and served on the appellant and the learned Director of the Public Prosecutions.**
- 4. Hearing of the application is set down for the next sitting of the Court of Appeal in the State of Saint Vincent and the Grenadines during the week commencing 8th May 2017.**

Case Name:

Kyle Bacchus

v

The Queen

[SVGHCRA2013/0021]

[SVGHCRA2014/0002]

Date:

Monday, 26th September 2016

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant: In person

Respondent: Mr. Carl Williams, Crown Counsel

Issue:

Status of the matter

**Type of Oral Result /
Order Delivered**

Oral Judgment or Decision / Directions

Result / Order:

[Oral delivery]

- 1. The application for bail is refused.**
- 2. The registrar shall serve a copy of the notice of appeal on the learned Director of Prosecutions within 7 days of the date of this order.**
- 3. The registrar shall cause the record of appeal to be prepared and served on the appellant and learned Director of Public Prosecutions on or before 30th November 2016.**
- 4. The appellant shall file written submissions on or before 31st January 2017.**
- 5. The Registrar of the High Court shall serve such submissions on the learned Director of Public Prosecutions within 7 days.**
- 6. The Director of Public Prosecutions shall file and serve written submissions on or before 28th February 2017.**
- 7. Hearing of the appeal is set down for the next sitting of Court of Appeal in the State of Saint Vincent and the Grenadines during the week commencing 8th May 2017.**

Reason:

In relation to SVGHCRA2013/0021, the Court noted that the appellant was served with a copy of the record and the matter is ready to be heard. The Court noted further that the record of appeal has been served on both sides.

In the relation SVGHCRA2014/0002 the Court was of the view that bail pending the appeal should be refused. The sentences imposed on the appellant were 10 years and 15 years. The appellant did not show any specific circumstances which would result in injustice if bail is not granted. The Court noted further that the hearing of the appeal is fixed for the week of 8th May 2017 and by that time the appellant would not have served a substantial portion of the sentence. The appellant also did not show that he has a reasonable prospect of success.

Case Name:

East Caribbean Flour Mills Limited et al

v

[1] Peter Alexander

[2] Floyd Patterson
 [3] Philip Atkinson
 [4] Michael Boyce
 [5] Davide Lisle Chase
 [6] Colin Dathorne
 [7] Joyce Dear
 [8] Wayne Fields
 [9] Geoffrey Gregory
 [10] Marcus Hatch
 [11] Stephen Jardine
 [12] Douglas Newsam
 [13] Lindel Nurse
 [14] Grenville Phillips
 [15] Kieron Pinard-Bryne
 [16] Harold Tryhane

[SVGHCVAP2015/0020]

Date: Monday, 26th September 2016

Before: The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellants: Mr. L. A. Douglas Williams, with him, Mr. Barry Gale QC
 and Mrs. Laura Harvey Reed

Respondents: Mr. Richard Williams for the First Respondent
 Mr. Graham Bollers for the Second to Sixteenth
 Respondents

Issue: Status of the matter

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

Result / Order: [Oral delivery]
 1. The application for extension of time is granted.
 2. The written submissions and bundle of documents
 filed on 26th July 2016 and 2nd August 2016 are deemed
 as being properly filed.
 3. Appellant has leave to file submissions in reply on or

before 7th November 2016.

4. The application by the first respondent for extension of time to file and serve written submissions is granted.
5. The first respondent shall file and serve written submissions on or before 10th October 2016.
6. The application by the appellant to file a supplemental bundle to include the pleadings in the court below is granted.
7. The appellant to file supplementary bundle on or before 10th October 2016.
8. Hearing of the appeal is set down for the next sitting of the Court of Appeal in the State of Saint Vincent and the Grenadines during the week commencing 8th May 2017.

Reasons:

1. The first respondent did not object to the application.
2. The second to sixteenth respondents informed the Court that the application was only served on 23rd September 2016 and they needed time to determine whether to oppose the application.
3. The Court noted that the submissions and bundle of documents were filed and served on 26th July 2016 and 2nd August 2016 respectively.
4. The Court further noted the reasons for the late filing of documents and determined that no injustice would be suffered by the respondents if the application is granted.

Case Name:

**CCYY Limited
v
Garfdon Adams
Elmoth Grantley Adams
Annette Stephens**

[SVGHCVAP2015/0009]

Date:

Monday, 26th September 2016

Coram:

The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant: Mr. Richard Williams, with him, Ms. Dannielle France

Respondents: Ms. Paula David

Issue: Status of the matter

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

Result / Order: [Oral delivery]
The appellant has leave to file and serve written submissions and the record of appeal within 14 days of this order. Thereafter the appeal shall proceed in accordance with CPR 2000.

Reason: The appellant has not complied with any previous orders of the Court or with CPR 2000.

APPLICATIONS AND APPEALS

Case Name: Antonio Gellizeau
v
The Commissioner of Police

[SVGHCRAP2013/0058]

Date: Monday, 26th September 2016

Coram: The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Keith Scotland, with him, Mr. Mikhail Charles

Respondent: Mr. Gilbert Peterson, QC, with him, Ms. Sejilla McDowall,
Crown Counsel

Issue: Magisterial criminal appeal against conviction – Money
laundering

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

**Result / Order &
Reason:** [Oral delivery]
Decision reserved.

Case Name: Recardo Roberts
v
[1] Gene Hamilton
[2] Javan McIntosh
[3] Nellie Roberts
[4] Nella Luke

[SVGHCVAP2013/0011]

Date: Tuesday, 27th September 2016

Coram: The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Sten Sargeant

Respondents: No appearance

Issue Application to admit fresh evidence

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

**Result / Order &
Reason:**

[Oral delivery]

- 1. The Court having noted that the respondents were absent at the case management hearing and the Court further observing that the respondents did not appear at today's hearing and being advised by the registrar that respondents were not notified of today's hearing, the hearing of this appeal is adjourned and traversed to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week commencing 8th May 2017.**
- 2. The appellant is to serve notice of hearing on the respondents within 2 months of today's date.**
- 3. The appellant is to file and serve an affidavit of service.**

Case Name:

**Olin Dennie
V
Mc Connie Yammie & Company Limited
[SVGHCVAP2016/0011]**

Date:

Tuesday, 27th September 2016

Coram:

**The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant: Ms. René Baptiste holding papers for Ms. Kay Bacchus-Brown

Respondent: Mr. Emery Robertson

Issues:

Application to discharge order of a single judge – Oral application for an adjournment.

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

N/A

Result / Order: The hearing of the Application is adjourned to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week commencing 8th May 2017.

Reason: [Oral delivery]
The Court granted the adjournment due to the passing of the applicant earlier in the month and also the passing of the father of Counsel for the applicant. There was no objection by Counsel for the respondent.

Case Name: Harlequin Properties (SVG) Limited
v
Gabriella Klein as representative
[SVGHCVAP2016/0017]

Date: Tuesday, 27th September 2016

Coram: The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant:	Mr. Walter McNamara, with him, Ms. René Baptiste
Respondent:	Mr. Joseph Delves, with him, Ms. Heidi Badenock

Issues: Application for leave to appeal

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

Result / Order: [Oral delivery]
1. The application for leave to appeal is dismissed.
2. The hearing of the petition shall proceed in the High Court expeditiously.

3. Costs of the application is costs in the petition.

Reasons:

This is an appeal against the petitioner under the section 4 of the *Bankruptcy and Insolvency Act*, Cap 136, Revised Laws of Saint Vincent and the Grenadines 2009 (“the Act”) for the making of a receiving order.

Section 4(1) of the Act provides that:

“(1) Subject to this section, one or more creditors may file in court a petition for a receiving order against a debtor where it is alleged in the petition that –

- (a) the debt owing to the petitioning creditor amounts to not less than five thousand dollars; and**
- (b) the debtor has committed an act of bankruptcy within six months immediately preceding the filing of the petition.”**

Section 4(13) provides that:

“(13) On a receiving order being made, the Court shall appoint a licensed trustee of the property of the bankrupt, having regard, as far as the Court deems just, to the wishes of the Creditors.”

Subsequent to the filing of the petition, the appellant (“the Company”) applied to strike out the petition on the ground that the petition sought the appointment of a trustee in bankruptcy and that is not what the section provides for. The Company submitted that this created confusion and the respondents to the petition in the court below were not sure what was being requested by the petitioner.

The learned judge heard the application to strike out the petition and subsequently dismissed it. Paragraphs 14 and 15 of the judgment of Cottle J state:

“(14) Counsel for the Respondents accept that they are in receipt of correspondence that make it clear that the Petitioner seek the appointment of a Trustee in

Bankruptcy.”

“(15) It would be inappropriate to penalize a Petitioner who follows the statutory requirements and forms when presenting a petition by striking out the petition or insisting on an amendment in circumstances when the Respondent is fully aware of the nature of the relief sought by the Petitioner.”

The Court examined the petition that was filed in this matter. The Court agreed with the learned trial judge that the petition complied with the Act and the Regulations. The Court did not find the petition to be flawed. The petition sought a receiving order over the Company and its assets. The Court was not satisfied that any significant confusion was caused. The petition complied with the Act and the Regulations and followed the prescribed form.

The Court held that the Company did not meet the threshold to establish that it has good prospects of success.

Case Name:

Devon Hurdle

v

The Queen

[SVGHCRAP2013/0025]

Date:

Tuesday, 27th September 2016

Coram:

**The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant: In person

Respondent: Mr. Karim Nelson, Crown Counsel

Issues: Application for extension of time to appeal – Appeal against sentence

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

Result / Order: [Oral delivery]
1. Application for extension of time to appeal against sentence is granted.
2. The Court shall proceed to hear the appeal immediately.
3. The appeal against sentence is dismissed.
4. The sentence imposed by the learned trial judge is affirmed.

Reasons: In relation to the application for an extension of time, the appellant was unrepresented and the reasons proffered for not filing the notice of appeal within the prescribed time were accepted by the Court. The appellant stated that he was unaware of the procedure for appealing against his sentence, until advised by fellow inmates.

Concerning the appeal against sentence, the Court noted that the Appellant was sentenced to 8 years imprisonment for possession of a controlled drug with intent to supply, 8 years for attempted export of a controlled drug, 9 years for drug trafficking and 9 years for conspiracy to traffic drugs.

The Court considered that the quantity of drugs was significant; the matter constituted a serious offence; and the guilty plea of the appellant was entered at a late stage. The Court did not find the sentences to be excessive in circumstances where the maximum sentence is 25 years for possession with intent, 25 years for attempted export, life imprisonment for drug trafficking and life imprisonment for conspiracy to traffic drugs.

Case Name:

Raphael John

v

The Queen

[SVGHCRAP2015/0005]

Date:

Tuesday, 27th September 2016

Coram:

**The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant: In person

Respondent: Mr. Karim Nelson, Crown Counsel

Issues:

Application for legal aid to be assigned – Appeal against sentence of 6 ½ years imprisonment

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

Oral Judgment or Decision

Result / Order:

[Oral delivery]

- 1. The application for legal aid is dismissed.**
- 2. The sentence of 6 ½ years imprisonment imposed on the appellant by the trial judge is affirmed, which sentence is to run from the 23rd day of December 2012 when the appellant was placed on remand in connection with the offence for which he was convicted and sentenced on 15th December 2014.**

Reason:

The Court found that the appellant received a lenient sentence taking into account the fact that the maximum sentence is life imprisonment. The Court found no reason to disturb the sentence imposed by the learned trial judge. The Court noted that the trial judge did not give a discount for time spent on remand and accordingly varied the sentence. The Court observed that the law is well

established that where an accused is convicted, the time spent on remand in relation to the offence for which he was convicted, ought to be taken into account.

Case Name:

Clive Crick

V

Norris Lewis

Joan Lewis

[SVGHCVAP2014/0013]

Date:

Wednesday, 28th September 2016

Coram:

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

The Hon. Mde. Gertel Thom, Justice of Appeal

The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Richard Williams

Respondent: Dr. Linton Lewis

Issue:

Interlocutory Appeal - Application to set aside order of master refusing to set aside default judgment

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

Oral Judgment or Decision

Result / Order:

[Oral delivery]

- 1. The appeal is allowed.**
- 2. The application to set aside the order of the learned master in which she refused to set aside the default judgment granted on 15th February 2012, is granted.**
- 3. The matter is referred to the lower court to follow the procedure of the Civil Procedure Rules 2000.**
- 4. No order as to costs.**

Reason:

Pursuant to rule 13.3 of the Civil Procedure Rules 2000

(“CPR”), the Court may set aside a Default Judgment entered under Part 12 of CPR only if the defendant:

- (a) Applies to the Court as soon as reasonably practicable after finding out that judgment had been entered.**
- (b) Gives a good explanation for the failure to file an acknowledgment of service or defence; and**
- (c) Has a real prospect of successfully defending the claim.**

The learned master in the exercise of her discretion did not take into account all the relevant factors. The defendant pleaded the defence of limitation, which the Court viewed as a strong defence. The learned master ought to have taken this factor into account in determining whether or not to set aside the default judgment. In all the circumstances, the learned master did not properly exercise her discretion.

Case Name:

Eliyet Guy

v

The Commissioner of Police

[SVGMCRAP2014/0052]

Date:

Wednesday, 28th September 2016

Coram:

**The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant: Mr. Andreas Coombs holding papers for Mr. Israel Bruce

Respondent: Mr. Colin Williams, Director of Public Prosecutions

Issues:

Magisterial criminal appeal against conviction - Damage to property – Resisting arrest

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

N/A

Result/Order:

**[Oral delivery]
Matter stood down.**

Case Name:

**Garnet Shallow
v
The Queen**

[SVGHCRAP2013/0015]

Date:

Wednesday, 28th September 2016

Coram:

**The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal**

Appearances:

Appellant: Mr. Andreas Coombs

Respondent: Mr. Karim Nelson, Crown Counsel

Issues:

**High Court criminal appeal against conviction and
sentence – Wounding with intent**

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

Oral Judgment or Decision

Result / Order:

**[Oral delivery]
1. The appeal against conviction and sentence is allowed
and the sentence is quashed.
2. Leave is granted to the Learned Director of Public
Prosecutions to retry the appellant for wounding with
intent.**

Reasons:

Based on the concession of the learned prosecutor in which it was accepted that the learned trial judge failed to address the matter of the appellant's honest belief in circumstances where the appellant relied on self defence and the Crown having conceded that this was fatal as stated in the decision of *Danny Benjamin v The Queen* BVIHCRAP2013/0001, the appeal against conviction and sentence was allowed and the sentence was quashed.

On the issue of whether or not the Court should order a retrial, the Court was of the view that the well known principles as distilled in *Andre Bennett et al v The Queen* GDAHCRAP1998/0002 and 0003, *Sherfield Bowen v The Queen* ANUHCRA2005/0004 and recently applied in *Danny Benjamin*, were applicable. In this matter, what is significant is the interest of Justice. The appellant was convicted of a very serious offence and was sentenced to 10 years imprisonment. Taking into account the prevalence of these types of offences; the interest of justice; the interest of the community; the interest of the victim; and the countervailing interest of the appellant, combined with the strength of the prosecution's case and the recency of the trial, the Court had no doubt that justice required that leave be granted to the learned Director of Public Prosecutions to retry the Appellant for wounding with intent.

Case Name:

Eli Providence

v

The Queen

[SVGHCRAP2013/0022]

Date:

Wednesday, 28th April 2016

Coram:

**The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant: Mr. Duane Daniel

Respondent: Mr. Karim Nelson, Crown Counsel

Issues: High Court Criminal appeal against sentence – Unlawful sexual intercourse – Sentence of 12 years imprisonment

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

Result / Order: [Oral delivery]
1. The appeal is allowed to the extent that a sentence of 10 years imprisonment is substituted for 12 years imprisonment.
2. Time spent on remand to be taken into account in computing the sentence.

Reasons: The appellant was convicted of the offence of unlawful sexual intercourse with a girl under the age of 13 years and indecent assault. He was sentenced to 12 years imprisonment for unlawful sexual intercourse and 4 years imprisonment for indecent assault. He appealed the sentence of 12 years for unlawful sexual intercourse on the ground that the sentence was excessive.

The Crown conceded that the sentence of twelve 12 years was excessive in the circumstances of the. Learned counsel for the Crown referred the Court to the principles enunciated in *Winston Joseph v The Queen* SLUHCRA2000/0004.

The Court was of the view that the principles of sentencing were not properly applied by the learned trial judge. The trial judge did not take into account the appellant's early plea. The learned trial judge failed to consider the mitigating factors and he erroneously took into account convictions in 1993 which were spent. The Court therefore agreed that there was some deficiency in the sentencing of the Appellant.

The Court looked at the benchmark of 10 years, the early guilty plea of the Appellant and that the Appellant had no previous convictions. The Court considered the age of the appellant at the time of the offence. The appellant was

a 37 year old neighbor. He was not a person in trust but the Court noted that the victim was a child only 8 years old at the time. Taking into account the sentencing principles, the aggravating and the mitigating factors, the Court held that a sentence of 10 years would meet the justice of this case.

Case Name:

**Eliyet Guy
v
The Commissioner of Police
[SVGMCRAP2014/0052]**

Date:

Friday, 30th September 2016

Coram:

**The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant:

Mr. Israel Bruce

Respondent:

Mr. Colin Williams, Director of Public Prosecutions

Issues:

Magisterial Criminal Appeal against conviction – Damage to property – Resisting arrest – Whether learned magistrate erred in failing to grant the appellant an adjournment to prepare his defence

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

Oral judgment or Decision

Result / Order:

**[Oral delivery]
1. The appeal is allowed.
2. The conviction is unsafe.
3. A retrial is ordered.**

Reason:

The learned magistrate erred in not granting an

adjournment. The documents required by the appellant to prepare his defence were only submitted 48 hours before the trial. The Court was of the view that this was not sufficient time to allow the appellant to prepare his defence. In the circumstances of the case, the Court found that the trial was unfair.

Case Name: **Garvin Providence**
V
The Commissioner of Police
[SVGMCRAP2016/0005]

Date: **Friday, 30th September 2016**

Coram: **The Hon. Mde. Louise Esther Blenman, Justice of Appeal**
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant:	Ms. Heidi Badenock holding papers for Mr. Joseph Delves
Respondent:	Mr. Karim Nelson, Crown Counsel

Issues: **Magisterial Criminal appeal against conviction – Possession of firearm and ammunition without licence – Oral application to withdraw appeal**

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

Result / Order: **[Oral delivery]**
1. Leave to withdraw the appeal is granted. Accordingly, the appeal stands dismissed.

Reason: **The appellant sought leave to withdraw his appeal and there was no objection by the respondent.**

Case Name:

**Alwyn Jack Frederick
v
The Queen**

[SVGHCRA2015/0037]

Date:

Friday, 30th September 2016

Coram:

**The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant: In person

Respondent: Mr. Carl Williams, Crown Counsel

Issues:

**High Court Criminal appeal against sentence – Grievous
bodily harm with intent**

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

Directions

Result / Order:

[Oral delivery]

- 1. The appellant is granted leave until 30th November 2016 to file and serve skeleton submissions together with authorities.**
- 2. The respondent is granted leave until 30th January 2017, if necessary, to file and serve skeleton submissions with authorities.**
- 3. The hearing of this appeal is adjourned and traversed to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week which commences 8th May 2017.**

Case Name:

**Dwayne Jacobs
v
The Commissioner of Police
[SVGMCRAP2016/0012]**

Date:

Friday, 30th September 2016

Coram:

**The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Applicant: Ms. Ashelle Morgan

Respondent: Mr. Colin Williams, Director of Public Prosecutions

Issues:

Application for extension of time to appeal against conviction

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

Directions

Result / Order:

[Oral delivery]

- 1. Leave is granted to the Crown to file and serve further affidavits in opposition to the application on or before 31st October 2016.**
- 2. Leave is granted to the applicant, if the need arises, to file and serve affidavits in answer on or before 30th November 2016.**
- 3. The applicant is granted leave to file and serve further submissions if necessary on or before 31st January 2017.**
- 4. The respondent is granted leave if necessary to file and serve further submissions on or before 28th February 2017.**
- 5. The hearing of this application together with the appeal is adjourned and traversed to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week which commences 8th May 2017.**

Reason: The Court was of the view that the applicant had met the requirements for a grant of an extension of time. Further, the Court found that given the nature of the allegations made by the appellant, namely, that his guilty plea was equivocal, it was necessary for the Court to have all the relevant facts before it.

Case Name: Carl Pope
v
The Queen
[SVGHCRAP2013/0022]

Date: Friday, 30th September 2016

Coram: The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Jomo Thomas

Respondent: Ms. Sejilla McDowall, Crown Counsel

Issues: High Court Criminal appeal against conviction and sentence – Unlawful sexual intercourse – Sentence of 12 years imprisonment

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

Result / Order: [Oral delivery]
1. The appeal against conviction is dismissed.
2. The appeal against sentence is dismissed.

Reason: The appellant was charged with unlawful sexual intercourse with a girl under the age of 13. He pleaded

not guilty to the offence. He was tried and the jury found him guilty. He was sentenced to 12 years imprisonment.

The appellant appealed on several grounds but at the hearing of the appeal, he abandoned some of the grounds and the appeal was prosecuted on the following grounds:

- (a) The learned trial judge did not give a proper direction on the good character of the appellant.
- (b) The verdict was unsafe and unsatisfactory.

The Court considered the directions given by the learned trial judge and found that the directions were not proper. The Court noted however that if the evidence against an accused is overwhelming, a conviction can be upheld despite a deficiency in the directions given by the trial judge as was the case in *Danny Benjamin v The Queen* BVIHCRA2013/0001. Counsel for the appellant conceded that the evidence of the virtual complainant was cogent. The Appeal on the first ground was therefore dismissed.

Counsel for the Appellant conceded that the first ground having failed, the second ground could not succeed. Additionally, counsel for the appellant did not pursue the appeal against sentence.

Case Name:

Annel Young
v
The Queen

[SVGHCRAP2012/0027]

Date:

Friday, 30th September 2016

Coram:

The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Duane Daniel

Respondent: Mr. Carl Williams, Crown Counsel

Issues: High Court criminal appeal against conviction – Attempted murder – Aggravated burglary

Type of Oral Result / Order Delivered: Directions

Result / Order: [Oral delivery]

1. The appellant has leave to file and serve written submissions with authorities on or before 30th November 2016.
2. The respondent has leave to file and serve submissions in response together with authorities on or before 31st January 2017.
3. Leave is granted to the appellant to file and serve submissions in response, if necessary, on or before 28th February 2017.
4. The hearing of this appeal is adjourned and traversed to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week commencing 8th May 2017.

Reasons: The Court decided to give directions for the hearing of the Appeal as it required Submissions on several matters, namely:

- (a) The treatment of the offence of attempted murder.
- (b) The issue of recognition.
- (c) The defence of the appellant, and specifically, the defence of alibi.

Case Name: Sylvia Richards nee Francois
v
Hamilton Richards
Jeff Wayne Simon

[SVGHCVAP2016/0003]

Date: Friday, 30th September 2016

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

Appearances:

Appellant: Ms. Paula David

Respondent: Mr. Cecil Blazer Williams

Issue: Section 47 of Matrimonial Causes Act – Whether trial erred in holding that he had no power to set aside a disposition made more than 3 years before the application to set aside

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

Result / Order: [Oral delivery]
1. The appeal is allowed.
2. The issue of whether the disposition should be set aside is to be determined by a different judge of the High Court.

Reason: This is an appeal against a judgment of the learned trial judge where the trial judge dismissed an application by the appellant for the avoidance of a disposition made by the respondent, which disposition the appellant contended was made to defeat an application for financial relief on the break down of the marriage.

The learned trial judge at paragraph 6 of his judgment stated as follows:

“In the present case the financial resources of the parties are negligible. The matrimonial home is no longer a family asset as it has been alienated. The power in this court to review the disposition alienating the property is to be found at section 47 of the Act. Significantly, subsection (5) of that section restricts the court to consider only dispositions made less than

three years before the application. The present application was made in 2015. Indeed, the petition for divorce was filed on 9th July 2014. The Deed of Gift to Jeff Wayne is dated 20th June 2011. This is more than three years before. I have been directed to no authority permitting me to make an order setting aside a disposition made more than three years before the application.”

The learned trial judge accordingly held that he had no power to set aside the disposition of the respondent because 3 years had elapsed between the disposition and the making of the application.

Section 47(5) of the *Matrimonial Causes Act* Cap 239, Revised Laws of Saint Vincent and the Grenadines 2009 says specifically:

“Where an application is made under this section with respect to a disposition which took place less than three years before the date of the application or with respect to a disposition or other dealing with property which is about to take place and the Court is satisfied –

(a) in a case falling within subsection (2)(a) or (b), that the disposition or other dealing would (apart from this section) have the consequence; or

(b) in a case falling within subsection (2)(c), that the disposition has had the consequence of defeating the applicant’s claim for financial relief,

it shall be presumed, unless the contrary is shown, that the person who disposed of, or is about to dispose of or deal with, the property did so or, as the case may be, is about to do so, with the intention of defeating the applicant’s claim for financial relief.”

Section 47 of the *Matrimonial Causes Act*, however, has no restriction on the time limit within which a person may apply to set aside a disposition. Section 47 creates a presumption in favour of the applying party if an application is made less than 3 years of the impugned disposition. The purpose of Section 47 is to make it easier to set aside a disposition.

If the application is made outside of 3 years, the onus of proof shifts to the applicant to prove that the disposition was made to defeat the application for financial relief. In the circumstances, the learned trial judge erred in his interpretation of Section 47(5) of the *Matrimonial Cause Act* and his order to the effect that the Court was disabled from entertaining the application to set aside the disposition was accordingly erroneous.

In the circumstances, the Court found that it should fall to another judge in the court below to determine if the disposition should be set aside.

Case Name:

Marie Lewis
(Attorney on record for Enid Santaris Henville aka
Sentaria Henville nee Lewis, deceased; Administratrix of
the Estate of Isabelle Henville nee Lewis aka Esabella
Lewis)
Zoe Anna Lewis
Marie Lewis
Teresa Morgan nee Lewis
Phillip Lewis
Herbert Lewis
v
Sylvester Simmons

[SVGHCVAP2012/0006]

Date:

Friday, 30th September 2016

Coram:

The Hon. Mde. Louise Esther 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: **Ms. Paula David holding papers for Mrs. Zhing Horne-Edwards**

Issue:	Application for an adjournment				
Type of Oral Result / Order Delivered:	N/A				
Result/Order:	[Oral delivery] The hearing of this appeal is adjourned and traversed to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week which commences 8th May 2017.				
Reason:	The Court received communication that the father of learned counsel, Mrs. Kay Bacchus-Baptiste had passed away and as a result learned counsel sought an adjournment of the hearing of the appeal. There was no objection by counsel for the respondent.				
Case Name:	Cornelius Brent Hackshaw v The Commissioner of Police [SVGMCRAP2016/0027]				
Date:	Friday, 30th September 2016				
Coram:	The Hon. Mde. Louise Esther Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal				
Appearances:	<table border="0" style="width: 100%;"> <tr> <td style="width: 20%;">Appellant:</td> <td>In person</td> </tr> <tr> <td>Respondent:</td> <td>Ms. Sejilla McDowall, Crown Counsel</td> </tr> </table>	Appellant:	In person	Respondent:	Ms. Sejilla McDowall, Crown Counsel
Appellant:	In person				
Respondent:	Ms. Sejilla McDowall, Crown Counsel				
Issues:	Magisterial criminal appeal against sentence – Possession of a controlled drug with intent to supply –				

Sentence of 1 year imprisonment

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

Oral Judgment or Decision

Result/Order:

[Oral delivery]

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

Reason:

The appellant was convicted of possession of a controlled drug, being cannabis, with intent to supply to another. The cannabis amounted to 2867 grams.

The appellant was sentenced to 1 year imprisonment to run consecutively with another sentence he was serving for an unrelated offence. The appellant appealed his sentence on the following grounds:

- 1. That the learned magistrate erred in determining that the sentence of 1 year imprisonment should run consecutively with another sentence.**
- 2. The sentence was excessive.**

The Court reviewed the record and took into account the reasons given by the learned magistrate. The Court found that the learned magistrate did not err in imposing a custodial sentence of 1 year imprisonment, the maximum sentence being 7 years imprisonment.

Noting the significant quantity of drugs, the Court held that the sentence was appropriate in the circumstances of the case and met the justice of the case. The consecutive sentence was also found to be fair as the sentences were for unrelated offences.

Case Name:

**Garvy Solomon
v
The Commissioner of Police**

[SVGMCRAP2015/0035]

Date: Friday, 30th September 2016

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

Appearances:

Appellant: In person

Respondent: Mr. Karim Nelson, Crown Counsel

Issues: Magisterial criminal appeal against sentence – Possession of firearm and possession of ammunition without licence – Possession of cannabis with intent to supply – Sentence of 3 years imprisonment for possession of firearm without a licence; 9 months imprisonment for possession of ammunition without a licence and 6 months imprisonment for possession of cannabis with intent to supply

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

Result / Order: [Oral delivery]

1. The appeal against sentence is allowed to the extent of substituting a sentence 2 years imprisonment instead of 3 years for possession of firearm without a licence; 6 months for possession of ammunition without a licence instead of 9 months and 4 months instead of 6 months for possession of 880 grams of cannabis with intent to supply. The sentence of 1 month remains for the possession of 144 grams of cannabis with intent to Supply.
2. All sentences to run concurrently.
3. The sentence is reviewed and is reduced to time served.

Reasons: The appellant, Garvy Solomon, pleaded guilty to 4 offences in the Magistrate's Court as follows:

1. Possession of firearm without a license.
2. Possession of ammunition with a license.

3. Possession of 880 grams of cannabis with intent to supply.
4. Possession of 144 grams of cannabis with intent to supply.

He was sentenced as follows:

1. Possession of firearm - 3 years imprisonment
2. Possession of ammunition - 9 months imprisonment
3. Possession of 880 grams of cannabis with intent to supply - 6 months imprisonment
4. Possession of 144 grams of cannabis with intent to supply - 1 month imprisonment

He appealed against his sentences on the ground that the sentences were excessive in all circumstances. The Court considered the circumstances of this case and the Crown conceded that the learned magistrate did not give sufficient weight to the mitigating factors in arriving at an appropriate sentence. The appellant voluntarily surrendered to the police and informed the police that he was guilty of the offences rather than the persons charged. The Court noted that the appellant did this in circumstances where at the material time he was not at the premises where the firearm, ammunition and cannabis were found.

The learned magistrate took into account the early plea and the fact that the Appellant had no previous convictions. When the Court looked at the maximum sentences and weighed those against the sentences imposed, the Court concluded that the learned Magistrate did not give sufficient weight to the actions of the appellant as outlined above.

Case Name:

Deshorn Dembar

v

The Commissioner of Police

[SVGMCRAP2014/0023]

Date:

Friday, 30th September 2016

Coram: The Hon. Mde. Louise Esther 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. Karim Nelson, Crown Counsel

Issues: Magisterial criminal appeal – Use of indecent language

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

Result / Order: [Oral delivery]
1. The Registrar of the High Court is directed to serve a notice of adjourned hearing on the appellant on or before 29th November 2016.
2. The registrar is further directed to file and serve proof of service.
3. The hearing of this appeal is adjourned and traversed to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week which commences 8th May 2017.

Reason: The appellant was not served with a notice of hearing of the appeal.

Case Name: Meshach John
V
The Commissioner of Police
[SVGMCRAP2015/0013]

Date: Friday, 30th September 2016

Coram: The Hon. Mde. Louise Esther 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: Ms. Sejilla McDowall, Crown Counsel

Issues: Magisterial criminal appeal against conviction – Unlawful and malicious wounding

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

Result /Order: [Oral delivery]
The appeal is dismissed for want of prosecution.

Reason: The Court received notification from Bailiff Elroy Samuel that on 23rd September 2016, the appellant was served with a notice of hearing of the appeal. The Court took into account that despite service, the appellant did not appear neither did he send any explanation to the Court for his absence.

Case Name: Cleferin Wyllie
v
The Commissioner of Police
[SVGMCRAP2016/0019]

Date: Friday, 30th September 2016

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

Appearances:

Appellant: In person

Respondent: Mr. Carl Williams, Crown Counsel

Issues: Magisterial criminal appeal against conviction – Driving without due care and attention

Type of Oral Result / Order Delivered: Oral

Result / Order: [Oral delivery]
1. The appeal is dismissed.
2. The conviction and sentence are affirmed.

Reason: The appellant was charged and convicted for the offence of driving without due care and attention. He was sentenced to pay a fine of \$1,500.00. The appellant appealed on the ground that the evidence adduced at his trial did not support the conviction.

The Court, having reviewed the record, found that based on the evidence before the learned magistrate, it was open to the magistrate to arrive at the decision. The Court found no reason to disturb the findings of the learned magistrate.

Case Name: Noel Dickson
v
The Commissioner of Police
[SVGMCRAP2016/0013]

Date: Friday, 30th September 2016

Coram: The Hon. Mde. Louise Esther 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: Ms. Sejilla McDowall, Crown Counsel

Issues: Magisterial criminal appeal against conviction – Driving without due care and attention

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

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

Reason: On 9th September 2016 the appellant was served by Bailiff Rodwell Alexander with a notice of hearing of the appeal. Despite service, the appellant did not appear, neither did he send any explanation to the Court for his absence.

Case Name: Andrew Harry
v
The Commissioner of Police
[SVGMCRAP2015/0036]

Date: Friday, 30th September 2016

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

Appearances:

Appellant: In person

Respondent: Mr. Carl Williams, Crown Counsel

Issues: Magisterial criminal appeal against conviction – Assault, Wounding

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

Result / Order: [Oral delivery]
1. The conviction is unsafe in so far as there was a miscarriage of justice.
2. The appeal is allowed.
3. The conviction and sentence are set aside.
4. The appellant to be retried before a different magistrate.

Reason: The Court took cognizance of the reasons given by the learned magistrate in the record which indicated that the appellant was found guilty based on the inconsistencies in his story and his failure to challenge the evidence of the virtual complainant and the prosecution witnesses. The Court was of the view that the magistrate, in so holding, reversed the burden of proof and improperly placed the burden of proof on the appellant whereas the law requires the State to prove its case beyond reasonable doubt.

In ordering a retrial, the Court noted the principles as established in *Sherfield Bowen v The Queen*, *Andre Bennett v The Queen* and *Danny Benjamin v The Queen*.

The Court concluded that the interest of justice required a retrial and noted the interest of the community, the interest of the Victim, the interest of the Appellant and the strength of the Prosecution's Case.

Case Name: Anton Butler
v
The Commissioner of Police

[SVGMCRAP2015/0015]

Date: Friday, 30th September 2016

Coram: The Hon. Mde. Louise Esther 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. Carl Williams, Crown Counsel

Issues: Magisterial criminal appeal against conviction – Assault

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

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

Reason: This appeal was filed on 12th December 2014 and has been set down for hearing on 3 previous sittings of the Court of Appeal. The appellant had never appeared before the Court.

Case Name: Rico Anderson
v
The Commissioner of Police
[SVGMCRAP2015/0005]

Date: Friday, 30th September 2016

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

Appearances:

Appellant: Appellant absent

Respondent: Mr. Carl Williams, Crown Counsel

Issues: Magisterial criminal appeal against sentence –
Trespassing – Stealing

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

Result / Order: [Oral delivery]
There being no appearance of the appellant, it is hereby
ordered that the appeal is struck out for want of
prosecution.

Reason: The appellant was served with a notice of hearing on 7th
April 2016. The appellant did not appear, neither did he
send any explanation to the Court for his absence.

Case Name: Quinton Ballantyne
V
The Commissioner of Police
[SVGMCRAP2016/0018]

Date: Friday, 30th September 2016

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

Appearances:

Appellant: In person

Respondent: Mr. Karim Nelson, Crown Counsel

Issues: Magisterial criminal appeal against sentence – Possession of a controlled drug with intent to supply

Type of Oral Result / Order Delivered: N/A

Result / Order: The matter is stood down.

Case Name: Cornelius Brent Hackshaw
V
The Commissioner of Police
[SVGMCRAP2016/0014]

Date: Friday, 30th September 2016

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

Appearances:

Appellant: In person

Respondent: Mr. Karim Nelson, Crown Counsel

Issues: Magisterial criminal appeal against conviction – Theft – Damage to property without lawful excuse

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

Result / Order: [Oral delivery]
1. The appeal is dismissed.
2. The conviction and sentence are affirmed.

Reason: The Court examined all the facts and circumstances of the case and found that there was adequate evidence for the magistrate to reach the conclusion that the appellant stole and damaged the property of Mr. John Rickards.

The appellant was sentenced to 6 months imprisonment for damage to property and 18 months imprisonment for theft. The Court concluded that there was no reason to disturb the conviction and sentence. The sentences imposed were not excessive.

Case Name: Kemo Antoine
v
The Commissioner of Police
[SVGMCRAP2016/0024]

Date: Friday, 30th September 2016

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

Appearances:

Appellant: In person

Respondent: Mr. Carl Williams, Crown Counsel

Issues: Magisterial criminal appeal against sentence – Assault

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

Result / Order: [Oral delivery]
The appeal is allowed to the extent that the sentence is varied from 8 months imprisonment to time served.

Reason: The Court took into account the youthfulness of the appellant, the early guilty plea, the fact that the appellant had no previous convictions and the circumstances of the offence.

Case Name: Clinton Cambridge
v
The Commissioner of Police
[SVGMCRAP2016/0025]

Date: Friday, 30th September 2016

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

Appearances:

Appellant: In person

Respondent: Mr. Karim Nelson, Crown Counsel

Issues: Magisterial criminal appeal against sentence – Possession of firearm and possession of ammunition without license – Possession of a controlled drug with intent to supply

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

Result/Order: [Oral delivery]
The appellant having sought leave to withdraw and discontinue the appeal, it is hereby ordered that the appeal stands dismissed.

Reason: The appellant sought and was granted leave to withdraw the appeal. There was no objection by the Crown.

Case Name:

**Quinton Ballantyne
v
The Commissioner of Police
[SVGMCRAP2016/0018]**

Date:

Friday, 30th September 2016

Coram:

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

Appearances:

Appellant:

In person

Respondent:

Mr. Karim Nelson, Crown Counsel

Issues:

**Magisterial criminal appeal against sentence –
Possession of a controlled drug with intent to supply**

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

Oral Judgment or Decision

Result / Order:

[Oral delivery]

The appeal is allowed in relation to both sentences to the extent that the sentences are varied to time served.

Reason:

The Appellant pleaded guilty to 2 counts of the offence of possession of a controlled drug with intent to supply to another.

The appellant was sentenced to pay a fine of \$15,000.00: \$8,000.00 forthwith or 9 months imprisonment in respect of possession of cannabis. The Appellant was further sentenced to pay a fine of \$1,500.00 forthwith or 6 months imprisonment in respect of possession of Cocaine.

The magistrate did not conduct a means test. The Court stated that the sentences were tantamount to a custodial sentence and the Court expressed strong disapproval of this approach to sentencing. The Court also took cognizance of the fact that the appellant had been imprisoned from July 2015 to January 2016.

Case Name: Edward Hazelwood
V
The Commissioner of Police
[SVGMCRAP2015/0024]

Date: Friday, 30th September 2016

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

Appearances:

Appellant: In person

Respondent: Mr. Karim Nelson, Crown Counsel

Issues: Magisterial criminal appeal against sentence –
Possession of firearm and possession of ammunition
without licence

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

Result / Order: 1. The appeal is dismissed.
2. The conviction and sentence are affirmed.

Reason: The appellant, Mr. Edward Hazelwood, pleaded guilty to
possession of a firearm without a licence and possession
of ammunition without a licence. He was sentenced to 3

years imprisonment for possession of firearm without a licence and 2 years imprisonment for possession of ammunition without a licence. The sentences to run concurrently. The Appellant appealed on the ground that the sentences were excessive.

The Court reviewed the Record of Appeal and all the reasons given by the learned magistrate, namely, the increase in gun related crimes in Saint Vincent and the Grenadines and the serious nature of the offences. The Court did not detect any error in the sentencing of the appellant and found that there was no basis to interfere with the sentences imposed by the learned magistrate.

Case Name: **Kevon Williams**
V
The Commissioner of Police

[SVGMCRAP2016/0015]

Date: **Friday, 30th September 2016**

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

Appearances:

Appellant: **In person**

Respondent: **Ms. Sejilla McDowall, Crown Counsel**

Issues: **Magisterial criminal appeal against sentence – Unlawful and malicious wounding**

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

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

1. The appeal is dismissed.
2. The sentence of the learned magistrate is affirmed.

Reason:

This was an appeal against a sentence of 12 months imprisonment imposed by the learned magistrate following a guilty plea by the appellant for the offence of unlawful and malicious wounding.

The facts revealed that a very serious offence was committed against the virtual complainant, David Bennett. The virtual complainant was stabbed in the neck with a knife and was hospitalized for 1 week.

The Court noted that the Appellant was 16 years old at the time the offence was committed and that he had previous convictions for similar offences. The Court found that the learned magistrate in only imposing a sentence of 12 months imprisonment when the maximum is 7 years, was very lenient, having regard to the age of the appellant at the material time.

The Court concluded that 1 year imprisonment was lenient and found no reason to disturb the sentence imposed by the learned magistrate.

Case Name:

Shannon Richards
v
The Commissioner of Police
[SVGMCRAP2015/0022]

Akeidor Matthews
v
The Commissioner of Police
[SVGMCRAP2015/0023]

Date:

Friday, 30th September 2016

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

Appearances:

Appellant: In person

Respondent: Mr. Karim Nelson, Crown Counsel

Issues: Magisterial criminal appeal against sentence –
Possession of firearm and ammunition without licence

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

Result / Order: [Oral delivery]
1. The appellants have leave to file written submissions on or before 30th November 2016.
2. The Registrar of the High Court shall serve the written submissions on the Office of the Director of Public Prosecutions within 7 days of receipt of the Submissions.
3. The respondent has leave to file and serve written Submissions in response on or before 28th February 2017.
4. The hearing of the appeal is adjourned and traversed to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week commencing 8th May 2017.

Case Name: Linda Charles Bobb
V
The Commissioner of Police
[SVGMCRAP2016/0040]

Date: Friday, 30th September 2016

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

Appearances:

Appellant: In person

Respondent: Ms. Jimesha Prince, Crown Counsel

Issues: Magisterial criminal appeal against conviction – Unlawful and malicious wounding

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

Result / Order: [Oral delivery]
1. The appeal is dismissed.
2. The sentence of 1 year imprisonment imposed by the learned magistrate is affirmed.

Reason: The facts disclosed serious criminal conduct on the part of the appellant. The virtual complainant was stabbed with a knife while he was walking away from the appellant. The knife was concealed in the appellant's handbag. In the circumstances, the Court did not find the sentence to be excessive and found no reason to disturb the sentence imposed by the learned magistrate.

Case Name: Shawn Phillips
v
The Commissioner of Police
[SVGMCRAP2016/0041]

Date: Friday, 30th September 2016

Coram: The Hon. Mde. Louise Esther 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. Carl Williams, Crown Counsel

Issues:

Magisterial criminal appeal against conviction – Driving an Uninsured Motor Vehicle

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

Directions

Result / Order:

[Oral delivery]

- 1. The matter is adjourned in order for service to be effected on the appellant.**
- 2. The Registrar of the High Court to take the necessary steps in order to ensure service on the appellant on or before 29th November 2016**
- 3. The Registrar of the High Court is to provide proof of service.**
- 4. The Appeal is adjourned and traversed to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week which commences 8th May 2017.**

Case Name:

**Kendra Adams
v
Carletho Lemo**

[SVGMCVAP2015/0003]

Date:

Friday, 30th September 2016

Coram:

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

Appearances:

Appellant: In person

Respondent: In person

Issues:

Magisterial civil appeal – Application against defamatory words

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

Oral Judgment or Decision

Result / Order:

[Oral delivery]

- 1. The appeal is allowed to the extent that the sum awarded is reduced from \$3,012.00 to a sum of \$2,000.00**
- 2. By consent, \$500.00 to be paid by 16th December 2016.**
- 3. The balance of \$1,500.00 to be paid by 30th June 2017.**

Reason:

The Respondent, Carletho Lemo, brought a claim in the Magistrate's Court in which she alleged that the appellant spoke defamatory words of her on 22nd October 2013.

The matter was heard by the learned magistrate who heard evidence from the respondent and her witnesses and the appellant and her witnesses. Having reviewed the evidence in a very detailed way, the magistrate found in favour of Ms. Lemo and awarded her the sum of \$3,012.00.

The Court reviewed the record of appeal and the reasons given by the learned magistrate. The Court found no reason to interfere with the decision of the learned magistrate. The Court was of the view that the learned magistrate applied the law correctly and the facts were open to be found by the learned magistrate. However, the Court found that the award of \$3,012.00 was high in the circumstances and that the damages awarded should be reduced to \$2,000.00.