

COURT OF APPEAL SITTING

SAINT LUCIA

Tuesday, 17th May 2016 to Friday, 20th May 2016

		<u>STATUS HEARING</u>
Case Name:		David Ferguson v Carol Gideon Clovis [SLUHCVAP2015/0001]
Date:		Tuesday, 17th May 2016
Before:		The Hon. Mde. 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:		
	Appellant:	Mr. Daarsrean Greene, appearing amicus curiae
	Respondent:	In person
Issue:		Status of the matter
Type of Oral Result / Order delivered:		Directions
Result / Order:		[Oral delivery] 1. The appellant shall in writing request from the Registrar of the High Court a copy of the judgment, decision or order of the master which is hereby appealed on or before Monday, 23rd May 2016. 2. The appellant shall in writing request from the Registrar of the High Court a copy of the transcript of the proceedings before the master on or before Monday, 23rd May 2016. 3. Upon receipt of the judgment, decision or order and

		the transcript of the proceedings, the appellant shall file with the Chief Registrar no less than 3 copies of the said documents within 14 days of the date of receipt. 4. The appellant is to serve copies of the said documents on the respondent. 5. The matter is to be fixed for further case management by the Chief Registrar.
Reason:		The appellant appeared in person and was given directions from the Court as to how to proceed in the matter.
Case Name:		Denver Melville v Keizer John [SLUMCRAP2009/0000]
Date:		Tuesday, 17 th May 2016
Before:		The Hon. Mde. 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:		
	Appellant:	No appearance
	Respondent:	Mr. Stephen Brett
Issue:		Status of the matter
Type of Oral Result / Order delivered:		Oral Judgment or Decision
Result / Order:		[Oral delivery] Upon noting that the appellant has been absent on all occasions that the appeal has come up for status hearing,

		the notice of appeal is struck out for want of prosecution.
Reason:		The Court noted that the appeal was filed sometime in 2009 and has not progressed. The Court also noted that on all occasions there has been no appearance by the appellant.
Case Name:		Ricky Mercedes v Cornelius Jn Baptiste PC 572 [SLUMCRAP2000/0000]
Date:		Tuesday, 17th May 2016
Before:		The Hon. Mde. 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:		
	Appellant:	Mr. Andie George
	Respondent:	Mr. Stephen Brett
Issue:		Status of the matter
Type of Oral Result / Order delivered:		Directions
Result / Order:		[Oral delivery] The notice of appeal is struck out.
Reason:		This appeal is an old matter having been filed in 2000 and the records and notes of evidence cannot be located.

Case Name:		Marcus Armstrong Judy Beverly Mc Cully Armstrong v Louise Peter (by her attorney Paula Gibson) [SLUMCVAP2011/0002]
Date:		Tuesday, 17th May 2016
Before:		The Hon. Mde. 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:		
	Appellants:	No appearance
	Respondent:	No appearance
Issue:		Status of the matter
Type of Oral Result / Order delivered:		Oral Judgment or Decision
Result / Order:		[Oral delivery] The notice of appeal is struck out want of prosecution.
Reason:		The Court noted the fact that the appellant and/or respondent have not made any appearance at any time in this matter and stated that it is incumbent on the appellant to prosecute and take interest in his appeal.
		<u>APPLICATIONS AND APPEALS</u>

Case Name:		Concrete and Aggregates Limited v Nationwide Mobile Concrete Supplies Limited [SLUHCVAP2015/0012]
Date:		Tuesday, 17th May 2016
Coram:		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:		
	Appellant:	Ms. Shan Greer
	Respondent:	Ms. Eugenia Dickson
Issues:		Application for leave to appeal – Oral application for an adjournment – Mediation to resolve issues – Settlement – Consent order – Notice of discontinuance
Type of Oral Result / Order delivered:		Directions
Result / Order:		[Oral delivery] By consent, the hearing of this application is adjourned to Thursday, 19th May 2016 at 9:00 a.m. before the Court sitting at Nyerah Court so as to facilitate settlement discussions between the parties.
Reason:		Parties have entered into mediation and are close to resolving issues. Parties asked for an adjournment so that issues can be finalised and a consent order may be filed.
Case Name:		Bryan James

		v The Attorney General [SLUHCVAP2013/0023] James Enterprises Limited v The Attorney General [SLUHCVAP2013/0024] Fast Kaz Auto Supplies et al v The Attorney General [SLUHCVAP2014/0021]
Date:		Tuesday, 17th May 2016
Coram:		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:		
	Applicant/ Appellant:	Mrs. Brender Portland-Reynolds, Solicitor General
	Respondent:	Mr. Horace Fraser
Issues:		Application for conditional leave to appeal to Her Majesty in Council – Section 108 of the Constitution of Saint Lucia – Application for leave to appeal as of right – Whether decision is a interlocutory or final
Type of Oral Result / Order delivered:		Oral Judgment or Decision
Result / Order & Reason:		[Oral delivery] The application made by way of petition to appeal the

		decision of the Court made on 10 th February 2016 pursuant to section 108(1)(a) of the Constitution of Saint Lucia, Cap. 1.01 of the Revised Laws of Saint Lucia is dismissed having failed to satisfy the prerequisite conditions therein.
Case Name:		Re: Bryan Stephen [SLUHCVAP2011/0041]
Date:		Tuesday, 17th May 2016
Coram:		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:		
	Appellant:	Mr. Gerald Williams holding papers for Mr. Huggins Nicholas
	Respondent:	Mrs. Brender Portland-Reynolds appearing amicus curiae on behalf of the Hon. Attorney General
Issue:		Application for final leave to appeal to Her Majesty in Council
Type of Oral Result / Order delivered:		N/A
Result / Order:		[Oral delivery] Matter stood down until 10:30 a.m.
Reason:		Counsel for the appellant was not present.

Case Name:		Interisland Dredging Co. Ltd v C.O. Williams Construction (St. Lucia) Ltd [SLUHCVAP2016/0002]
Date:		Tuesday, 17th May 2016
Coram:		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:		
	Appellant:	Mrs. Antonia Auguste-Charlemagne
	Respondent:	Ms. Shan Greer
Issues:		Application for leave to appeal – Application that hearing of application be treated as substantive appeal
Type of Oral Result / Order delivered:		Oral Judgment or Decision
Result / Order & Reason:		[Oral delivery] 1. The threshold for the grant of leave to appeal having been met, leave to appeal is granted. 2. The appellant shall file and serve the notice of appeal in accordance with CPR 2000. 3. The respondent shall be at liberty to file and serve a counter notice in accordance with CPR 2000. 4. The appellant and respondent shall be at liberty to amend the notice of appeal and the counter notice of appeal, respectively, within 14 days of the receipt of the transcript of the proceedings containing the oral decision of the learned judge.
Case Name:		Terentia Nigel Toussaint

		and the Heirs of Thelma Toussaint v [1] The Attorney General [2] The Hon. Stanley Felix, The Minister responsible for the administration of the Land Registration Act in respect of Land Registration Act Section 35 [3] Gemyma Norville, Registrar of Lands [SLUHCVAP2015/0028]
Date:		Tuesday, 17th May 2016
Coram:		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:		
	Appellant:	No appearance (appellant in person)
	Respondents:	Mrs. Brender Portland-Reynolds
Issue:		Application for leave to appeal
Type of Oral Result / Order delivered:		Directions
Result / Order:		[Oral delivery] 1. At the request of the applicant conveyed to the Court via email dated 17th May 2016 and there being no objection by the respondent, the hearing of the application for leave to appeal is adjourned to the next sitting of the Court in the State of Saint Lucia during the week commencing Monday, 19th September 2016. 2. This adjournment shall be the final adjournment of this application. 3. The respondent shall file and serve skeleton arguments by Friday, 29th July 2016.

Reason:		The appellant appears in person and the respondent accordingly had no objection to application for adjournment.
Case Name:		Wauneen Louis-Harris v Lazarus Paul [SLUHCVAP2015/0032]
Date:		Tuesday, 17 th May 2016
Coram:		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:		
	Applicant/ Appellant:	In person
	Respondent:	Mr. Gerard Williams
Issues:		Application for leave to appeal – Application for adjournment
Type of Oral Result / Order delivered:		Directions
Result / Order:		[Oral delivery] 1. The application for leave to appeal is adjourned to the next sitting of the Court of Appeal to in St. Lucia during the week commencing 19th September 2016 to allow the appellant to retain counsel in the matter. 2. If the matter is resolved before the next sitting of the Court then, the requisite documents should be filed with the Court. 3. This adjournment shall be the final adjournment on this application.

		4. There is no order as to costs.
Reason:		The Court noted the nature of the matter and its guidance offered to Ms. Louis-Harris when this matter came up for hearing during the previous sitting of the Court in St. Lucia and again urged Ms. Louis-Harris that it would be more prudent for her to obtain independent counsel.
Case Name:		Re: Bryan Stephen [SLUHCVAP2011/0041]
Date:		Tuesday, 17th May 2016
Coram:		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:		
	Appellant:	Mr. Gerald Williams holding papers for Mr. Huggins Nicholas
	Respondent:	Mrs. Brender Portland-Reynolds, appearing amicus curiae on behalf of the Hon. Attorney General
Issue:		Application for final leave to appeal to Her Majesty in Council
Type of Oral Result / Order delivered:		N/A
Result / Order:		[Oral delivery] The matter is stood down for further hearing until 2:30 pm this afternoon.
Reason:		Counsel with conduct of the matter indicated through Mr.

		Williams that he had vehicle issues and was unable to be present in Court at this time.
Case Name:		[1] Gertha Belmar [2] Mary Laypette Belmar-Smith [3] Veronique Belmar as representatives of the Estate of George Belmar v [1] The Cabinet of Saint Lucia [2] The Chief Surveyor [3] The Attorney General [SLUHCVAP2008/0030]
Date:		Tuesday, 17 th May 2016
Coram:		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:		
	Appellants:	Mr. Daniel Francis
	Respondents:	Mrs. Brender Portland-Reynolds
Issues:		Civil appeal – Appeal against the decision of the board of assessment in award for compulsory acquisition of appellant's land – Whether board of assessment utilised the correct methodology in the determination of the award – Appropriateness of residual value methodology – Whether the board of assessment ought to have conducted a comparative value evaluation or at the very least a spot evaluation – What sum of compensation ought to have been awarded to the appellants effective 12 th August 2001 – Whether the board of assessment ought to have disclosed the assessed value of the property and the reasons for such assessment – Whether the award of the board of assessment ought to have included mesne profits for loss

		suffered as a consequence of the acquisition – Whether the appellants are entitled to costs pursuant to the CPR 2000 – Whether the decision of the board of assessment was unsubstantiated and exceeded the ambit within which reasonable disagreement is possible - Member of board of assessment witness in proceedings, gave evidence, cross-examined
Type of Oral Result / Order delivered:		Oral Judgment or Decision
Result/Order and Reason:		[Oral delivery] 1. The appeal is allowed. 2. The matter is remitted for assessment by a new board pursuant to section 12 of the Land Acquisition Act, Cap. 5.04, Laws of Saint Lucia. The board is to be appointed forthwith. 3. The order of Michel JA dated 30th October 2015 suspending the accrual of interest from 30th April 2013, ceases to be of effect from today's date. 4. Costs of the appeal to be paid by the respondent to the appellant fixed in the sum of \$7500.00 by 31st July 2016.
Reasons:		This is an appeal against the decision of a board of assessment appointed pursuant to section 14 of the Land Acquisition Act following upon a compulsory acquisition of the lands of the appellant by a declaration in 2002 and following upon an order of the court to that effect directing that a board of assessment be appointed. The Court considered all the arguments put forward by counsel for the parties. The Court came to the conclusion that the decision of the board of assessment cannot stand for many reasons: 1. It is unclear from the decision the method of evaluation adopted by the board of assessment in its arrival of the assessment; 2. The board of assessment's decision does not disclose the evaluation arrived at by the individual board members so as to discern the chairman's reason for having stated that the members disagreed on the award to be paid and as to what valuations were taken as the mean for the purpose of section 72

		of the Land Acquisition Act. 3. Most egregious of the errors is the fact that a member of the board of assessment, namely Mr. Herman Phillip was also a witness in the proceedings and a person who had valued the subject lands. Mr. Phillip being both arbiter and cross-examined witness in the proceedings offended the basic principle of not being judge and jury and witness in one's own cause. This vitiated the board of assessment's entire proceedings and left the Court without any evidence from which the proper valuation method, which would be the comparative sales method in the first instance can be applied in seeking to resolve this matter. The evidence which Mr. Phillip led as an expert would have undoubtedly assisted the Court in arriving at the proper valuation method and because of this serious error that evidence could not be considered. The Court took note of the fact that the appellant had to have recourse to the institution of legal proceedings in order to appoint the board of assessment although this ought not to have been necessary given the obligation of the crown on the compulsory acquisition of a subject's property to duly pay compensation as a right guaranteed under the Constitution coupled with the fact that the Land Acquisition Act itself makes provisions for the appointment of a board in the absence of any agreement. The Court also expressed its concern as to the delay that has attended this matter since the land was compulsorily acquired, with the process ongoing since 2002. However, notwithstanding this inordinate delay, the Court was constrained to allow this appeal and regrettably saw alternative recourse other than to make the orders as stated above.
Case Name:		Re: Bryan Stephen [SLUHCVAP2011/0041]
Date:		Tuesday, 17th May 2016

Coram:		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:		
	Appellant:	In person
	Respondent:	Mrs. Brender Portland-Reynolds, appearing amicus curiae on behalf of the Hon. Attorney General
Issue:		Final leave to appeal to Her Majesty in Council
Type of Oral Result / Order delivered:		Oral Judgment or Decision
Result / Order:		[Oral delivery] 1. The applicant having failed to comply with the conditions for the grant of conditional leave to appeal to her Majesty in Council, the order granting conditional leave to appeal is set aside. 2. The stay of execution dated 21st December 2010 granted against the order of Wilkinson J made on 17th November 2010 is hereby lifted.
Reason:		This is an application by Bryan Stephen seeking final leave to appeal to Her Majesty in Council against a judgment of the Court of Appeal delivered on the 27th of June 2012. The order granting conditional leave to appeal to Her Majesty in Council was made on 10th December 2012. One of the conditions of the order was that the applicant within 90 days takes the necessary steps for the purposes of procuring, settling and certifying the record. The applicant also had the benefit of the stay of the judgment of the Court of Appeal affirming the decision of the court below in which the learned trial judge ruled that the applicant's name not be entered on the roll of attorneys and that he not be allowed to practice law in St. Lucia. More than 3 years have elapsed since the Court granted the applicant conditional leave to appeal to Her Majesty in Council and no diligent steps have been taken to comply with the Court's order. The Court stated that it is

		reasonable to infer that the applicant only sought to remedy his default when the Attorney General applied for the dismissal of his appeal on 12th February 2016 and setting aside of the order granting conditional leave for the failure to prosecute the appeal. The Court on that day granted the applicant an indulgence by extending time for compliance to on or before 7th March 2016. The order also provided that the applicant makes his application for final leave to appeal on even date. The applicant filed the application on 4th March 2016 and in his affidavit deposed that he has satisfied all the conditions in the order granting conditional leave and granting extension of time. The Court stated that notwithstanding his statement, it is clear that this statement of full compliance is untrue. The Court expressed its dissatisfaction with the various explanations proffered by the applicant and deemed them to be conflicting and contradictory, not only in respect of his affidavit, but also documentary evidence. The Court noted that even up to the time of the hearing, the applicant had not complied with the orders granting conditional leave and extension of time. The explanations offered by the applicant led the Court to the conclusion that the applicant has simply failed to have due regard to the orders of the Court while taking advantage of the comfort of being granted a stay. The Court was of the opinion that no reasonable explanation has been put forward by the applicant for the grant of any further indulgences. The Court had regard to the applicant's lack of frankness in respect of this state of affairs and concluded that the applicant is the author of his own defaults.
Case Name:		Lawrence Elford v Herman Sidonie [SLUMCVAP2015/0002]
Date:		Tuesday, 17th May 2016

Coram:		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:		
	Appellant:	No appearance
	Respondent:	Mr. Jeannot Michel-Walters
Issues:		Civil appeal
Type of Oral Result / Order delivered:		Directions
Result / Order:		[Oral delivery] 1. The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in Saint Lucia during the week commencing Monday, 19th September 2016. 2. It is directed that the Registrar of the High Court continue all efforts to effect service of a notice on the appellant of the said hearing date.
Reason:		The appellant does not appear to have been served with a notice of the hearing date.
Case Name:		Lazarus Paul v Raquel Willie-Trotman [SLUHCVP2015/0031]
Date:		Wednesday, 18th May 2016
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. Gerard Williams
	Respondent:	Ms. Wauneen Louis-Harris
Issues:		Civil appeal – Consent order on substantive appeal – Costs award
Type of Oral Result / Order delivered:		Oral Judgment or Decision
Result / Order:		[Oral delivery] 1. The appeal is allowed by consent of the parties. 2. Costs awarded to the appellant in the sum of \$750.00 in the court below and two-thirds of that amount for this appeal.
Reason:		The parties have agreed that the appeal be allowed in light of the decision in the appeal Lazarus Paul v Raquel Willie-Trotman et al (SLUMCVAP2013/0028) that was decided on 8th February 2016 which touched and concerned similar issues.
Case Name:		Pedro Ramon Narvaez Rodriguez v The Attorney General [SLUHCVAP2015/0002]
Date:		Thursday, 19th May 2016
Coram:		The Hon. Dame Janice M. Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:		
	Appellant:	In person
	Respondent/Applicant:	Mrs. Brender Portland-Reynolds, Solicitor General and with her Ms. Karen Bernard, Crown Counsel, representing the Attorney General
Issues:		Criminal appeal against conviction – Application to dismiss appeal for want of prosecution
Type of Oral Result / Order delivered:		Directions
Result / Order:		[Oral delivery] 1. These proceedings are adjourned pending the filing of a notice of acting on behalf of the appellant/respondent by a new attorney-at-law. 2. On receipt by the Court of the notice of acting, the Court will fix a date which will be notified to the appellant/respondent, counsel for the appellant /respondent and the Attorney General when this matter will be heard. 3. The proceedings are adjourned to a date to be fixed.
Reason:		Counsel for the respondent is subject to an order of the Court made on Tuesday, 17th May 2016 in unrelated proceedings and was unable to appear in these proceedings. The respondent therefore asked for an opportunity to obtain counsel who can represent him. The respondent asked the Court for at least one (1) month to obtain new counsel.
Case Name:		Concrete and Aggregates Limited v Nationwide Mobile Concrete Supplies Limited

		[SLUHCVP2015/0012]
Date:		Thursday, 19th May 2016
Coram:		The Hon. Dame Janice M. Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Shan Greer
	Respondent:	Ms. Eugenia Dickson
Issue:		Application for leave to appeal
Type of Oral Result / Order delivered:		Oral Judgment or Decision
Result / Order:		[Oral delivery] By consent the application for leave to appeal is dismissed with no order as to costs, the parties having settled the matter.
Reason:		Parties have arrived at an agreement and have discontinued the matter with no order as to costs.
Case Name:		Boniface Christophe v The Queen [SLUHCVP2010/0002]
Date:		Thursday, 19th May 2016
Coram:		The Hon. Dame Janice M. Pereira, DBE, Chief Justice

		The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Sean Innocent holding for Mr. Colin Foster
	Respondent:	Mr. Leon France, Crown Counsel
Issues:		Criminal appeal against conviction – Rape and robbery – Application by appellant for an adjournment
Type of Oral Result / Order delivered:		Directions
Result / Order:		[Oral delivery] 1. The hearing of the appeal is adjourned at the request of counsel for the appellant to the next sitting of the Court in the State of Saint Lucia during the week commencing 19th September 2016. 2. The appellant shall file and serve skeleton arguments in support of the appeal on or before Friday, 24th June 2016. 3. The respondent shall be at liberty to file and serve skeleton arguments in reply on or before 22nd July 2016.
Reason:		Counsel for the appellant, Mr. Foster is experiencing health crises with his family and only received the presentence report earlier in the month. In the circumstances, the Court was constrained to adjourn the matter to the next sitting of the Court of Appeal in Saint Lucia.
Case Name:		Urban St. Brice v The Attorney General

		[SLUHCVAP2012/0027]
Date:		Thursday, 19th May 2016
Coram:		The Hon. Dame Janice M. Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Martinus Francois
	Respondent:	Mr. Dwight Lay, Crown Counsel
Issues:		Civil appeal – Constitutional motion – Section 8(1) of Constitution of Saint Lucia – Fairness – Reasonable time – Whether learned judge erred in finding the constitutional motion to be an abuse of the process of the court
Type of Oral Result / Order delivered:		Oral Judgment with Written Reasons to Follow
Result / Order:		[Oral delivery] 1. This appeal is dismissed. 2. Written reasons for the dismissal will be provided at a later date.
Reason:		Written reasons to follow.
Case Name:		Marcel Demille v The Police [SLUMCRAP2015/0003]
Date:		Thursday, 19th May 2016

Coram:		The Hon. Dame Janice M. Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Isa Cyril
	Respondent:	Ms. Tamara Foster
Issue:		Appeal against sentence – Stealing – 16 years old at time of proceedings – Whether incarceration for 5 months could be held to be time served - Granted bail but could not post bail for first 5 months – Custodial sentence imposed on first time offender – Whether such sentence was unduly harsh
Type of Oral Result / Order delivered:		Oral Judgment or Decision
Result / Order:		[Oral delivery] 1. The appeal against sentence is allowed. 2. The sentence is varied to time served.
Reason:		The respondent had no opposition to the appeal. Further, the Court was of the view that custodial sentences are not usually handed down to first time offenders for offences of such a nature.
Case Name:		Cagina Foster v The Police Danny Flavius PC 364 [SLUMCRAP2013/0034]

Date:		Thursday, 19th May 2016
Coram:		The Hon. Dame Janice M. Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Daarsrean Greene
	Respondent:	Mr. Leon France
Issues:		Appeal against conviction and sentence – Driving without insurance – Driving without due care and attention – Section 6(1) of the Motor Vehicles Third Parties Risk Act
Type of Oral Result / Order delivered:		Oral Judgment or Decision
Result / Order:		[Oral delivery] 1. The appeal is allowed. 2. The conviction and sentence are set aside.
Reasons:		This is appeal against the conviction of the appellant in respect of a motor vehicle accident which occurred on Friday, 27th July 2012 as a result of which the appellant was found guilty of the offences of driving without due care and attention and driving a motor vehicle while not in possession of the requisite insurance policy. The appeal with respect to the offence of driving without a policy of insurance was conceded by the respondent and so Court did not delve further into that issue. With respect to the conviction of the appellant for the offence of driving without due care and attention, the Court was treated to quite a combatting level of advocacy of counsel on both sides sufficient to divide the Court. The Court came to the conclusion by a majority that the learned magistrate erred insofar as he based his decision largely on a regulation which at this time is disputed as to its continued validity. The Court was of the view that even if

		the regulation is valid the definition of overtaking contained therein does not support the conclusion arrived at by the learned magistrate in respect of the appellant's conduct on the road on that day. The Court referred to section 10 of Motor Vehicles and Road Traffic (Driving Code) Regulations which states that "a person shall not drive a motor vehicle or trailer so as to overtake other traffic without a clear or unobstructed view of the road ahead and of any intersecting roads or overtaking other traffic ahead when the road ahead is not clear for a sufficient distance to enable the person to overtake and get back to his or her proper side before meeting any traffic coming from the opposite direction and without causing the motor vehicle or trailer which is being overtaken to alter its speed." The Court was of the opinion that the evidence is clear that the appellant was at all material times on her proper side and did not have to do anything to get back to her proper side upon passing the vehicle. In the view of the Court, the conduct of the appellant on that day did not amount to overtaking of the vehicle, which appeared to be the basis upon which the learned magistrate made his decision. The Court found that the learned magistrate erred on the primary basis on which he arrived at the decision.
Case Name:		Stephen Daniel v PC 738 Dennie Antoine [SLUMCRAP2014/0004] [SLUMCRAP2014/0006] [SLUMCRAP2014/0007]
Date:		Thursday, 19th May 2016
Coram:		The Hon. Dame Janice M. Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:		
	Appellant:	Mr. Sean Innocent
	Respondent:	Ms. Khadya N. Florius
Issue:		Criminal appeal – Oral application to add further grounds of appeal
Type of Oral Result / Order delivered:		Directions
Result / Order:		[Oral delivery] 1. Leave is hereby granted to the appellant to rely on the additional grounds of appeal filed with the Court on 12th May 2016, there being no objection by the respondent. 2. The respondent shall file and serve written submissions together with copies of authorities relied on addressing the additional grounds of appeal on or before Friday, 24th June 2016. 3. The appellant shall be at liberty to file submissions in reply on or before Friday, 22nd July 2016. 4. The records of appeal in SLUMCRAP2014/0004 and SLUMCRAP2014/0006 & SLUMCRAP2014/0007 shall be consolidated and for the purposes of the appeal, the record shall be treated as the record of appeal in SLUMCRAP2014/0004 for all reference purposes. 5. The hearing of this appeal is adjourned to the sitting of the Court during the week commencing 19th September 2016.
Reason:		The matter was adjourned in order to allow the respondent to file additional skeleton arguments in response to the appeal.
Case Name:		Alius Charlemagne v

		PC 695 Kendel Bicar
		[SLUMCRAP2012/0009]
Date:		Thursday, 19th May 2016
Coram:		The Hon. Dame Janice M. Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Huggins Nicholas
	Respondent:	Ms. Tamara Foster
Issues:		Application for extension of time to file a notice of appeal against a decision of a single judge – Application to strike out appeal
Type of Oral Result / Order delivered:		Directions
Result / Order:		[Oral delivery] It is hereby ordered that: 1. The appellant shall respond to the application by filing and serving submissions in response on or before Friday, 24th June 2016. 2. The respondent/applicant is at liberty to file and serve submissions in response on or before 15th July 2016. 3. The matter is adjourned to the next sitting of the Court during the week commencing 19th September 2016.
Reasons:		The applicant was short-served the application to strike out the notice of appeal as it was served late at 3:03 pm on 18th May 2016. Furthermore, the appellant did not physically receive notice to strike as he did not have access to the office which was his address for service. In the circumstances the Court adjourned the matter in order to

		give the appellant an opportunity to respond.
Case Name:		Jason Alcee v Earven Frederick PC 721 [SLUMCRAP2015/0004]
Date:		Friday, 20 th May 2016
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. Huggins Nicholas
	Respondent:	Ms. Jenine Samuel-Kisna
Issues:		Criminal appeal against sentence – Possession of a controlled drug
Type of Oral Result / Order delivered:		Oral Judgment or Decision
Result / Order:		[Oral delivery] 1. The appeal is allowed. 2. The sentence of the learned magistrate is set aside and substituted with a fine of \$1000.00 to be paid in 3 months, in default 3 months imprisonment.
Reason:		Having perused the submissions of and having heard both learned counsel, the Court accepted the submissions of both sides that the learned magistrate erred in her sentencing, in that she failed to be guided by the principles

		of sentencing set out in the St. Lucia Criminal Code and the seminal decision of Baptiste v R. The Court also considered similar cases from this jurisdiction submitted by the respondent in coming to its decision to set aside the sentence of the learned magistrate. The Court found it unnecessary to accept respondent's submission that it await a presentence report and found the facts before it sufficient to make a determination.
Case Name:		Elvis Andrew King v PC 666 Chester Simeon [SLUMCRAP2013/0011] Brad Stephen v PC 666 Chester Simeon [SLUMCRAP2013/0012] Shawn Duncan v PC 666 Chester Simeon [SLUMCRAP2013/0013]
Date:		Friday, 20th May 2016
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:	No appearance
	Respondent:	Ms. Jenine Samuel-Kisna

Issues:		Criminal appeal against conviction – Possession of a controlled drug
Type of Oral Result / Order delivered:		Oral Judgment or Decision
Result / Order:		[Oral delivery] The appeals numbered 11, 12, 13 of 2013 are struck out for want of prosecution.
Reason:		The appellants failed to take the steps necessary to prosecute their appeals.
Case Name:		Evans Estaphane v PC 556 Patrice Francis [SLUMCRAP2014/0013]
Date:		Friday, 20th May 2016
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:	In person
	Respondent:	Ms. Tamara Foster
Issues:		Criminal appeal against conviction – Driving without due care and attention

Type of Oral Result / Order delivered:		Directions
Result / Order:		[Oral delivery] On the application of the appellant the hearing of the appeal is adjourned to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 16 th January 2017.
Reason:		The appellant requested time to seek new counsel. He indicated to the Court that he would be out of the jurisdiction during the next sitting of the Court in September and in the circumstances the Court granted him an adjournment to January's sitting.
Case Name:		James Doxilly v The Police Corp. 476 Sean Alexander [SLUMCRAP2006/0007]
Date:		Friday, 20th May 2016
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:	No appearance
	Respondent:	Mr. Leon France
Issue:		Criminal appeal against conviction – Possession of unlicensed firearm and ammunition – Application for adjournment

Type of Oral Result / Order delivered:		N/A
Result / Order:		Matter stood down.
Reason:		The appellant is on remand and was not brought for Court.
Case Name:		Benedict Montoute v [1] Vitus Frederick [2] Felicia Frederick
Date:		Friday, 20th May 2016
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
	Respondents:	Mr. Oswald Wilkinson Larcher
Issues:		Civil appeal – Land purchased by respondent – Letter of intent – Whether learned trial judge erred by turning to the agreement in letter of intent rather than the deed of sale – Whether learned trial judge misdirected himself in an attempt construe the agreement between the parties by referring to a document which does not contain the contract between the parties and which was superseded by the deed of sale – Whether judgment was erroneous – Whether learned trial judge would have arrived at a different conclusion had he relied on the deed – Whether learned judge failed to have regard to the St. Lucia Civil Code

Type of Oral Result / Order delivered:		N/A
Result / Order:		The decision is reserved.
Case Name:		James Doxilly v The Police Corp. 476 Sean Alexander [SLUMCRAP2006/0007]
Date:		Friday, 20 th May 2016
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:	In person
	Respondent:	Mr. Leon France
Issue:		Criminal appeal against conviction – Possession of unlicensed firearm and ammunition – Application for adjournment
Type of Oral Result / Order delivered:		N/A
Result/Order & Reason:		[Oral delivery] Having considered the application and noting the submissions of the crown on the matter it is ordered at the request of the appellant that the matter is adjourned

		to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 19th September 2016.
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