

COURT OF APPEAL SITTING

**GRENADA
8th to 11th December 2014**

STATUS HEARING

Case Name:

**Victor McVean
v
The Queen**

[GDAHCRAP2009/0010]

Date:

Monday, 8th December 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant:

In person

Respondent:

Mr. Christopher Nelson, Director of Public Prosecutions

Issue:

Status of the matter

Result / Order:

[Oral delivery]

- 1. The appellant shall be released forthwith.**
- 2. The appeal is withdrawn and accordingly dismissed.**

Reason:

The appellant informed the court that he no longer wished to proceed with the appeal. The appellant was remanded from the 28th August 2008; the sentence of eight years was pronounced on 22nd October 2009, consequently the appellant would have completed his sentence.

Case Name:

Anderson Thomas

v

The Queen

[GDAHCRAP2009/0011]

Date:

Monday, 8th December 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant:

In person

Respondent:

Mr. Christopher Nelson, Director of Public Prosecutions

Issue:

Status of the matter

Result / Order:

[Oral delivery]

- 1. The Registrar shall cause the record of appeal to be served on the appellant and respondent on or before January 30th 2015.**
- 2. Thereafter, the appeal to take normal course.**
- 3. Hearing of the appeal is set down for the next sitting of the Court of Appeal in Grenada commencing Monday, 27th April 2015.**

Reason:

The record is in the final stages of preparation.

Case Name:

Kenny Morain Braveboy

v

The Queen

[GDAHCRAP2011/0003]

Date:

Monday, 8th December 2014

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

Appearances:

Appellant: No appearance

Respondent: Mr. Christopher Nelson, Director of Public Prosecutions

Issue: Status of the matter

Result / Order: [Oral delivery]

1. Further status hearing of this matter is set down for hearing during the next sitting of the Court of Appeal in Grenada commencing Monday, 27th April 2015.
2. The Registrar shall notify the appellant of the date fixed for hearing on or before 30th January 2015.

Reason: There was no evidence of notice of hearing served on the appellant.

Case Name: Tyrone Jeremiah
v
The Queen

[GDAHCRAP2011/0006]

Date: Monday, 8th December 2014

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

Appearances:

Appellant: Mr. Anselm B. Clouden appearing amicus curiae

Respondent: Mr. Christopher Nelson, Director of Public Prosecutions

Issue:	Status of the matter
Result / Order:	[Oral delivery] 1. The record of appeal to be prepared and same on the appellant and respondent. 2. The matter is adjourned for further status hearing at the next sitting of the Court of Appeal in the State of Grenada commencing on Monday, 27th April 2015.
Reason:	Counsel, Mr. Clouden, requested time to examine the record to determine whether to appeal against conviction in addition to sentence. Further, the record of appeal has been assigned to an officer from the Court Reporting Unit for preparation. The record should be ready for the next sitting of the Court of Appeal in Grenada.
Case Name:	[1] Waael Saad [2] Saed Saad (Trading as Schoojo) v [1] Multitex Import Export NV [GDAHCVAP2010/0016]
Date:	Monday, 8th December 2014
Before:	The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:	
Appellant:	Mr. Anselm B. Clouden
Respondent:	Ms. Skeeta Chitan
Issue:	Status of the matter

**Result / Order /
Reason:**

**[Oral delivery]
By consent the appeal is withdrawn and there is
no order as to costs.**

Case Name:

**[1] Eslee Carberry
v
[1] Chris Ann Wildman
[2] Philbert Bros & Company
[3] Law Firm of Raphael Baptiste
[3] The Magistrate of the Western
Division**

[GDAHCVAP2011/0004]

Date:

Monday, 8th December 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant: No appearance

Respondent: No appearance

Issue:

Status of the matter

Result / Order:

**[Oral delivery]
Status hearing of this matter is adjourned to the
next sitting of the Court of Appeal in the State
of Grenada commencing Monday, 27th April
2015.**

Reason:

There was no proof of service on the file.

Case Name:

Carrington Coppin

V
Jair Horsford (By his Guardian ad Litem
and mother Leba Horsford)

[GDAHCVAP2011/0016]

Date: Monday, 8th December 2014

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

Appearances:

Appellant: No appearance

Respondent: No appearance

Issue: Status of the matter

Result / Order:

[Oral delivery]

- 1. Appeal is withdrawn and accordingly dismissed.**
- 2. Status hearing of the counter notice of appeal is adjourned to the next sitting of the Court of Appeal in the State of Grenada commencing Monday, 27th April 2015.**

Reason:

A notice of withdrawal of appeal was filed 27th November 2014. However, there was no notice of withdrawal was filed for the counter notice of appeal.

Case Name:

Verna Bullen & Sons Limited

V

Hector Pierre

[GDAHCVAP2011/0018]

Date: Monday, 8th December 2014

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

Appearances:

Appellant: No appearance

Respondent: Mr. Anselm B. Clouden

Issue: Status of the matter

Result / Order:

[Oral delivery]

1. The Registrar shall cause the record of appeal to be prepared and served on the appellant and respondent.
2. Status hearing of the matter is adjourned to the next sitting of the Court of Appeal in the state of Grenada commencing Monday, 27th April 2015.

Reason:

Counsel, Mr. Clouden, requested that the matter be dismissed for want of prosecution. The Court was of the opinion that the best way forward was to deny that request due to the non-appearance of the appellant and adjourn to the matter to the next sitting of the Court.

Case Name:

**Velda Lewis
v
Grenada Ports Authority
[GDAHCVAP2011/0025]**

Date: Monday, 8th December 2014

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

Appearances:

Appellant: Ms. Kimber Guy-Renwick

Respondent: Ms. Anyika Johnson holding paper for Renwick

and Payne

Issue:

Status of the matter

Result / Order:

[Oral delivery]

- 1. Registrar shall cause the transcript of the proceedings to be prepared and served on the appellant.**
- 2. Status hearing of this matter is adjourned to the next sitting of the Court of Appeal in the State of Grenada commencing Monday, 27th April 2015.**

Reason:

The transcript was partly prepared and had to be referred to another officer in the Court Reporting Unit for completion.

Case Name:

**Jean McNeilly
v
Jacqueline Charles**

[GDAHCVAP2013/0013]

Date:

Monday, 8th December 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant:

Ms. Anyika Johnson

Respondent:

Mr. Ian Sandy

Issue:

Status of the matter

Result / Order:

[Oral delivery]

- 1. The Registrar of the Court shall cause the record of appeal to be prepared in**

consultation with counsel for the appellant and respondent.

2. Status hearing of this matter is adjourned to the next sitting of the Court of Appeal in the State of Grenada in the State of Grenada commencing Monday, 27th April 2015.

Reason:

The Court noted that the record was not yet ready as there was some difficulty in understanding the notes of the learned judge and the audio recording of the proceedings.

Case Name:

**[1] Herbert Preudhomme
[2] Geoffrey U. L. Preudhomme**

v

[1] Jacqueline Charles

[GDAHCVAP2012/0008]

Date:

Monday, 8th December 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant:

Ms. Anyika Johnson holding for Mr. Reynold Benjamin

Respondent:

Mr. Ian Sandy

Issue:

Status of the matter

Result / Order:

[Oral delivery]

1. The Registrar of the Court shall cause the record of appeal to be prepared in consultation with counsel for the appellant and respondent.
2. Status hearing of this matter is adjourned to the next sitting of the Court of Appeal in the

**State of Grenada in the State of Grenada
commencing Monday, 27th April 2015.**

Reason:

The Court noted that the record was not ready as there was some difficulty in understanding the notes of the learned judge and the audio recording of the proceedings.

Case Name:

[1] Damien Gangadeen

[2] Steve Gangadeen

V

[1] Sheldon Straker

[GDAHCVAP2014/0016]

Date:

Monday, 8th December 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant:

Mr. Benjamin Hood

Respondent:

Mr. Alban M. John

Issue:

Status of the matter

**Result / Order /
Reason:**

[Oral delivery]

- 1. By consent the appeal is allowed and defense restored.**
- 2. There is no order as to costs.**

Case Name:

Valerie Daniel

V

The Commissioner of Police

[Appeal Number Unknown]

Date: Monday, 8th December 2014

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

Appearances:

Appellant:	Mr. Deloni Edwards
Respondent:	Mr. Christopher Nelson, Director of Public Prosecution

Issue: Status of the matter

Result / Order: [Oral delivery]

1. The Registrar shall communicate with the former Magistrate, Mr. Henry Paryag, with a view to having the record of appeal prepared.
2. Further status hearing of this matter is adjourned to the next sitting of the Court of Appeal the State of Grenada commencing Monday, 27th April 2015.

Reason:

Mr. Edwards informed the Court that the appellant was ready to proceed with the appeal; however the record of appeal had not been served on the appellant.

The Deputy Registrar informed the Court that the record of appeal was not yet ready. The Court noted in addition that the Magistrate retired since August 2012.

Case Name:

Clarence Ferguson
V
The Commissioner of Police

[Appeal Number Unknown]

Date: Monday, 8th December 2014

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

Appearances:

Appellant:	In person
Respondent:	Mr. Christopher Nelson, Director of Public Prosecutions

Issue: Status of the matter

Result / Order: [Oral delivery]

1. Her Honour, Magistrate, Ms. Karen Noel, shall cause the record of appeal to be prepared and sent to the Registrar of the Court.
2. The Registrar upon receipt of the record of appeal shall serve same on the appellant and the respondent.
3. Further status hearing of this matter is adjourned to the next sitting of the Court of Appeal in the State of Grenada commencing Monday, 27th April 2015.
4. The Registrar shall serve a copy of the order on Her Honour, Magistrate, Ms. Karen Noel, on or before 15th January 2015.

Reason: The record of appeal was not yet ready and needed to be prepared.

Case Name: Paul Cadette
V
The Commissioner of Police

[Appeal Number Unknown]

Date: Monday, 8th December 2014

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

Appearances:

Appellant:	In person
Respondent:	Mr. Christopher Nelson, Director of Public Prosecutions

Issue: Status of the matter

Result / Order: [Oral delivery]
The appeal is withdrawn and accordingly dismissed.

Reason: The appellant was sentenced to 18 months imprisonment. Time having been served, the appellant did not wish to pursue the appeal any further.

Case Name:

Rickey Jones
v
The Commissioner of Police

[Appeal Number Unknown]

Date: Monday, 8th December 2014

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

Appearances:

Appellant:	No appearance
Respondent:	Mr. Christopher Nelson, Director of Public Prosecutions

Issue:	Status of the matter
Result / Order:	[Oral delivery] Status hearing of this matter is adjourned to the next sitting of the Court of Appeal in the State of Grenada commencing Monday, 27th April 2015.
Reason:	The Deputy Registrar informed the Court that the appellant was not served with notice of hearing as the appellant could not be found.
Case Name:	Winston Whiteman V The Commissioner of Police [Appeal Number Unknown]
Date:	Monday, 8th December 2014
Before:	The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:	
Appellant:	Mr. Anselm B. Clouden
Respondent:	Mr. Christopher Nelson, Director of Public Prosecutions
Issue:	Status of the matter
Result / Order:	[Oral delivery] 1. Her Honour, Magistrate Karen Noel, shall cause the record of appeal to be prepared and transmitted to the Registrar. 2. On receipt of the record of appeal the Registrar shall cause the record of appeal to

- be served on the appellant and respondent.
3. Further status hearing is set down to the next sitting of the Court of Appeal in the state of Grenada commencing Monday, 27th April 2015.

Reason: The record of appeal was not yet ready and needed to be prepared.

Case Name: Joseph Luke Hartford
V
The Commissioner of Police
[Appeal Number Unknown]

Date: Monday, 8th December 2014

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

Appearances:

Appellant:	No appearance
Respondent:	Mr. Christopher Nelson, Director of Public Prosecutions

Issue: Status of the matter

Result / Order: [Oral delivery]

1. Registrar to make another effort to serve notice of hearing on the appellant.
2. Status hearing is adjourned to next sitting of the Court of Appeal in the State of Grenada commencing Monday, 27th April 2014.

Reason: The Deputy Registrar informed the Court that efforts were made to serve the appellant with notice of hearing but the appellant could not be found.

Case Name: **Michael Scott**
V
The Commissioner of Police
[Appeal Number Unknown]

Date: **Monday, 8th December 2014**

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

Appearances:
Appellant: **No appearance**
Respondent: **Mr. Christopher Nelson, Director of Public Prosecutions**

Issue: **Status of the matter**

Result / Order: **[Oral delivery]**
1. Registrar to make another effort to serve notice on appellant.
2. Status hearing adjourned to the next sitting of the Court of Appeal in the State of Grenada commencing Monday, 27th April 2015.

Reason: **Deputy Registrar indicated that the appellant could not be found.**

Case Name: **Patrick Sayers**
V
The Commissioner of Police

[Appeal Number Unknown]

Date: Monday, 8th December 2014

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

Appearances:

Appellant: No appearance

Respondent: Mr. Christopher Nelson, Director of Public Prosecutions

Issue: Status of the matter

Result / Order: [Oral delivery]

1. Registrar to make another effort to serve notice on the appellant.
2. Status hearing adjourned to the next sitting of the Court of Appeal in the State of Grenada commencing Monday, 27th April 2015.

Reason: The appellant was not served and could not be located.

Case Name: Vincent Bascombe
V
The Commissioner of Police

[Appeal Number Unknown]

Date: Monday, 8th December 2014

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

Appearances:

Appellant: No appearance

Respondent: Mr. Christopher Nelson, Director of Public Prosecutions

Issue: Status of the matter

Result / Order: [Oral delivery]

1. Her Honour, Magistrate Ms. Karen Noel, shall cause to be prepared the record of appeal and transmit same to the Registrar of the Court.
2. The Registrar of the court shall on receipt of the record of appeal cause the record of appeal to be served on the appellant and the respondent.
3. Status hearing of this matter is adjourned to the next sitting of the Court of Appeal in the State of Grenada commencing 27th April 2015.
4. The Registrar shall serve a copy of this order on Her Honour, Magistrate Ms. Karen Noel on or before 15th January 2015.

Reason: The record of appeal was not yet ready and has to be prepared.

Case Name: John Thomas
v
The Commissioner of Police
[Appeal Number Unknown]

Date: Monday, 8th December 2014

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

Appearances:
Appellant: No appearance

Respondent: Mr. Christopher Nelson, Director of Public Prosecutions

Issue: Status of the matter

Result / Order: [Oral delivery]
1. Status hearing of this matter is adjourned to the next sitting of the Court of Appeal in the State of Grenada commencing Monday, 27th April 2015.
2. The Registrar shall cause a notice of hearing to be served on the appellant.

Reason: The Deputy Registrar informed the Court that notice was served on the Office of G.W. Prime on 2nd December 2014. The Court was of the opinion that the appellant was not personally served.

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

Date: Monday, 8th December 2014

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

Appearances:
Appellant: In person
Respondent: Mr. Christopher Nelson, Director of Public Prosecutions

Issue: Status of the matter

Result / Order:

[Oral delivery]

- 1. Bail is granted to the appellant in the sum of \$5,000 with one surety.**
- 2. The Registrar is to cause the record of appeal to be prepared and served on the appellant and the respondent.**
- 3. Further status hearing of this matter is adjourned to the next sitting of the Court of Appeal in the State of Grenada commencing Monday, 27th April 2015.**

Reason:

The Court noted that the appellant is due to be released on 2nd June 2015 and is likely to have served the sentence prior to the appeal being heard. Learned Director of Public Prosecutions indicated that he had no objection to bail being granted pending the hearing of the appeal.

The matter was adjourned due to the record of appeal being unavailable.

Case Name:

**Alister Stanislaus
v
The Commissioner of Police
[Appeal Number Unknown]**

Date:

Monday, 8th December 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant:

In person

Respondent:

Mr. Christopher Nelson, Director of Public Prosecutions

Issue:

Status of the matter

Result / Order:

[Oral delivery]

- 1. Registrar is to cause the record of appeal to be prepared and served on the appellant and the respondent.**
- 2. Further status hearing is set down for the next sitting of the Court of Appeal in the State of Grenada commencing Monday 27th April 2015.**

Reason:

The record of appeal was not yet ready and needed to be prepared.

Case Name:

[1] Eslee Carberry

V

[1] The Commissioner of Police

**[2] The Magistrate's Court, Eastern
Division**

[3] The Director of Public Prosecutions

[GDAMCVAP2011/0010]

Date:

Monday, 8th December 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant:

No appearance

Respondent:

No appearance

Issue:

Status of the matter

Result / Order:

[Oral delivery]

Status hearing of the matter is adjourned to the next sitting of the Court of Appeal in the State of Grenada commencing Monday, 27th April 2015.

Reason: The appellant was not present for the hearing of the matter.

Case Name: Virginia Theresa Alexander
V
Raymond Grant
[Appeal Number Unknown]

Date: Monday, 8th December 2014

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

Appearances:
Appellant: No appearance

Respondent: No appearance

Issue: Status of the matter

Result / Order: [Oral delivery]
Status hearing of this matter is adjourned to the next sitting of the Court of Appeal in the State of Grenada commencing 27th April 2015.

Reason: The appellant was not present for the hearing of the matter.

Case Name: Janice Carter Jones
V
St. Augustine's Medical Services
[Appeal Number Unknown]

Date: Monday, 8th December 2014

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

Appearances:

Appellant:	No appearance
Respondent:	Ms. Skeeta Chitan holding for Ms. Sabrita Khan Rhamdani

Issue: Status of the matter

Result / Order: [Oral delivery]
1. His Honour, Magistrate Jerry Seales, shall provide his reasons for decision and cause the record of proceedings to be prepared and transmitted to the Registrar of the Court.
2. Status hearing of this matter is adjourned to the next sitting of the Court of Appeal in the State of Grenada commencing Monday, 27th April 2015.

Reason: The record of appeal was not yet ready and needed to be prepared. Further, the Honorable Magistrate needed to provide reasons for his decision in the matter.

Case Name: Dannie Baksh
v
Angela Peters

[Appeal Number Unknown]

Date: Monday, 8th December 2014

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

Appearances:

Appellant: Ms. Skeeta Chitan

Respondent: No appearance

Issue: Status of the matter

Result / Order: [Oral delivery]
1. Her Honour, the Chief Magistrate Ms. Tamara Gill, shall cause the record of appeal to be transmitted to the Registrar of the High Court.
2. On receipt of record of appeal the Registrar shall cause same to be served on the appellant and respondent.
3. Status hearing is adjourned to the next sitting of the Court of Appeal in the state of Grenada on Monday, 27th April 2014.

Reason: The record of appeal was not yet ready and needed to be prepared.

Case Name: Crofton Hannibal
v
Gifford Bullen

[Appeal Number Unknown]

Date: Monday, 8th December 2014

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

Appearances:
Appellant: Mrs. Winnifred Duncan Phillip

Respondent: Ms. Anyika Johnson

Issue: Status of the matter

**Result / Order /
Reason:**

[Oral delivery]

- 1. Appeal is withdrawn and accordingly dismissed.**
- 2. No order as to costs.**

Case Name:

**Davis John
v
Leah Halley**

[Appeal Number Unknown]

Date:

Monday, 8th December 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant:

Ms. Cathisha Williams

Respondent:

Ms. Dennies Burris

Issue:

Status of the matter

**Result / Order /
Reason:**

[Oral delivery]

- 1. Appeal is withdrawn and accordingly dismissed.**
- 2. No order as to costs.**

Case Name:

**Patrick Antoine
v
Kim Neckles**

[Appeal Number Unknown]

Date:

Monday, 8th December 2014

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

Appearances:

Appellant: No appearance

Respondent: No appearance

Issue: Status of the matter

Result / Order: [Oral delivery]
Status hearing of this matter is adjourned to the next sitting of the Court of Appeal in the State of Grenada commencing Monday, 27th April 2015.

Reason: The record of appeal was not yet prepared.

Case Name:

**Alister Rush
v
Donna McIntosh**

[Appeal Number Unknown]

Date: Monday, 8th December 2014

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

Appearances:

Appellant: Mr. Anselm B. Clouden

Respondent: No appearance

Issue: Status of the matter

Result / Order / Reason: [Oral delivery]
The appeal is withdrawn and accordingly

dismissed.

APPLICATIONS AND APPEALS

Case Name: Liberty Club Limited (trading as
LaSource)
v
Grenada Technical and Allied Workers
Union
[GDAHCVAP2013/0010]

Date: Monday, 8th December 2014

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief
Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Sydney Bennett, Justice of Appeal
[Ag.]

Appearances:
Appellant: Ms. Skeeta Chitan
Respondent: Mr. Deloni Edwards

Issue: Application to review order of single judge

Result / Order / Reason: [Oral delivery]
The application for review of the order of a single judge is withdrawn with no order as to costs.

Case Name: [1] Venescia Francis-Banfield
[2] Francis-Banfield Chambers

V
[1] Grenada Co-operative Bank Limited

[GDAHCVAP2014/0031]

Date: Monday, 8th December 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Sydney Bennett, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mrs. Sabrita Khan Ramdhani

Respondent: Ms. Deborah St. Bernard

Issues: Application for stay of execution and all further proceedings – Contract – Breach of duty of care

Result / Order: [Oral delivery]
1. The appeal is dismissed.
2. Costs to the respondent to be assessed if not agreed within twenty one (21) days.

Reason: The application for the stay was withdrawn.
The substantive appeal was considered.

The Court found that an injunction must be brought in support of a right vested in the claimant.

It is agreed that the claimant has no inalienable right to maintain an account at a particular institution. There is also no entitlement on a customer to operate accounts indefinitely with the bank. The banking relationship can be terminated upon reasonable notice. It was not asserted that the notice given in this case was unreasonable. Further the bank does not need to justify termination of an account.

Case Name:

**Keith Mitchell
V
Grenada Today Limited
[GDAHCVAP2014/0019]**

Date:

Monday, 8th December 2014

Coram:

**The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Sydney Bennett, Justice of Appeal [Ag.]**

Appearances:

Appellant:

Mrs. Sabrita Khan Ramdhani

Respondent:

Mr. Sean Lewis

Issues:

Application for leave to appeal – Application for stay of execution – Application for extension of time to file submissions – Application to deem submissions validly filed

Result / Order / Reason:

[Oral delivery]

- 1. Leave is hereby granted to withdraw the applications for leave to appeal and a stay of execution.**
- 2. By consent costs to the respondent is agreed in the sum of \$1,500.00.**

Case Name:

**[1] Glenroy John
V
[1] The Attorney General
[2] Permanent Secretary in Ministry of**

Agriculture

[GDAHCVAP2014/037A]

Date: Monday, 8th December 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Sydney Bennett, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mr. James Bristol

Respondent: Mr. Dwight Horsford, Solicitor General with him
Ms. Francine Foster

Issues: Application for extension of time to apply for leave to appeal – Application for leave to appeal

Result / Order / Reason: [Oral delivery]
By consent:

1. The applicant is granted an extension of time within which to apply for leave to appeal the judgment of the learned trial judge Madam Justice Paula Gilford filed on 22nd October 2014.
2. The applicant is granted leave to appeal the said order.
3. The application for leave to appeal is treated as the appeal.
4. The order is set aside.
5. The hearing of the motion filed on the 22nd September 2014 is to proceed in accordance with the relevant procedural rules.
6. Each party shall bear its costs.

Case Name: **[1] McConnie Yammie and Company Limited**

V
[1] Richard Williams
[2] Lexart Inc.
[3] Olin J.B. Dennie

[SVGHCVAP2010/0003]
(Saint Vincent and the Grenadines)

Date: Monday, 8th December 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Sydney Bennett, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mr. Emery Robertson

Respondent: Mr. Graham Bollers for the 1st and 2nd respondents

Mr. Ruggles Ferguson holding for Ms. Kay Bacchus Browne for the 3rd respondent

Issue: Application for leave to appeal to Her Majesty in Council

Result / Order: [Oral delivery]
1. The application is dismissed.
2. Costs are awarded in the sum of \$2,000.00 to the 1st and 2nd respondents and the sum of \$750.00 to the 3rd respondent.

Reason: The Court was satisfied that there was no jurisdiction in the Court of Appeal to extend the time for appealing to the Privy Council. The time is granted by section 4 of the Order in Council.

The Court was further satisfied that its power to grant a stay of execution is exercisable only

where leave to appeal is granted.

Additionally, on the authority of E. Anthony Ross v Bank of Commerce (Saint Kitts Nevis) Trust and Savings Association Limited [2010] UKPC 28 the Judicial Committee (Appellate Jurisdiction) Rules 2009 of the Privy Council relate to the procedure for appeals in the Privy Council and do not enlarge or affect the jurisdiction of the Court of Appeal.

Case Name:	Blondell Donald v The Commissioner of Police [GDAMCRAP2014/0007]
Date:	Monday, 8 th December 2014
Coram:	The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Sydney Bennett, Justice of Appeal [Ag.]
Appearances:	
Appellant:	Mr. Ashley Bernardine appearing amicus curiae
Respondent:	Ms. Crisan Greenidge
Issues:	Criminal appeal against sentence – Housebreaking – Stealing
Result / Order:	[Oral delivery] The appeal against sentence is dismissed and the sentence is affirmed.
Reason:	The appellant made an application to withdraw

the appeal.

Case Name:

**Curtis Cyrus
v
The Queen**

[GDAHCRAP2010/0010]

Date:

Tuesday, 9th December 2014

Coram:

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

Appearances:

Appellant:

Mr. Ashley Bernardine

Respondent:

Mr. Christopher Nelson, Director of Public Prosecutions, with him Ms. Crisan Greenidge and Mr. Brendon La Touche

Issues:

Criminal appeal against sentence – Damage to property – Oral application for adjournment

**Result / Order /
Reason:**

**[Oral delivery]
The hearing of this appeal at the request of counsel for the appellant is adjourned to the next sitting of the Court in Grenada during the week commencing 27th April 2015.**

Case Name:

**John Thomas
v
The Queen**

[GDAHCRAP2011/0005]

Date: Tuesday, 9th December 2014

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant:	In person
Respondent:	Mr. Christopher Nelson, Director of Public Prosecutions, with him Ms. Crisan Greenidge and Mr. Brendon La Touche

Issues: Criminal appeal against sentence – Maiming

Result / Order: [Oral delivery]
1. The appeal is dismissed.
2. Credit is to be given to the appellant in relation to the computation of time spent on remand from the 4th May 2010 to the 27th October 2011.

Reason: The Court held that it is well established by this Court as well as the Caribbean Court of Justice that credit should be given for time spent on remand.

Case Name: John Charles
v
The Queen

[GDAHCRAP2011/0001]

Date: Tuesday, 9th December 2014

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant: Mr. Anselm Clouden

Respondent: Mr. Christopher Nelson, Director of Public Prosecutions, with him Ms. Crisan Greenidge and Mr. Brendon La Touche

Issues: Criminal appeal against conviction – Rape

Result / Order:

[Oral delivery]

1. The conviction is affirmed.
2. The grounds of appeal are dismissed and sentence is deferred pending the receipt of the Social Inquiry Report which is to be submitted to the Court at least two weeks before the next sitting of the Court in Grenada commencing the week of 27th April 2015.

Reason:

The Court was of the opinion that the grounds of appeal were not meritorious. With respect to ground 1 (Ground 1 – “the summing-up was defective in that the learned trial judge in her instructions to the jury at page 113 lines 9 to 15 gave instructions that had the effect of doing injury to the presumption of innocence and also the standard of proof the prosecution having to prove the case against the accused person beyond a reasonable doubt. An accused right to a fair trial is absolute...”), the Court was of the view that notwithstanding the misdirection given by the trial judge as to how to treat with inferences, the Court must consider whether the misdirection rendered the trial unfair or the verdict unsafe, i.e., whether there was a miscarriage of justice.

The Court did not consider that having regard

to the direct evidence given in this case, that had the proper direction been given to the jury, that the verdict of the jury would have been any different.

In relation to ground 2, (Ground 2 – “the trial judge ought to have given a direction with respect to the defence alibi, and not just indicating to the jury that the accused raised the defence that he didn’t do it...”) the defence did not directly nor inferentially raise the defence of alibi. The defence was that the appellant did not commit the act. The trial judge put the defence raised by the appellant to the jury. The Court was of the view that to have given a full direction to the jury as it related to alibi would have confused rather than assisted the jury.

On the issue of defences, the Court referred to the decision of *Roland Charles v The Queen* (Grenada, GDAHCRAP2003/0009) and adopted the pronouncements as per Gordon JA therein in relation to ground 2.

The Court considered that a social inquiry report, a component of which must be a psychiatric assessment would have assisted the trial judge in his consideration of an appropriate sentence. As such, the Court felt constrained to not determine the issue of an appropriate sentence at this stage and ordered that a social inquiry report be submitted to the Court and that a component of such report be a psychiatric assessment.

Case Name:

Margaret Blackburn

v

James Bristol

[GDAHCVAP2012/0019]

Date: Wednesday, 10th December 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Sydney Bennett, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mr. Gregory Delzin with him Mrs. Michelle Emmanuel Steele and Ms. Cherrelle Bain

Respondent: Mr. Leslie Haynes, QC with him Mr. Alban John

Issues: Civil appeal – Running down action – Contributory negligence

Result / Order: Judgment reserved.

Case Name: Sigma Marina & Resorts Limited
v
Alban Redhead
[GDAHCVAP2011/0024]

Date: Wednesday, 10th December 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Sydney Bennett, Justice of Appeal
[Ag.]

Appearances:

Appellant: Sir Richard Cheltenham, QC with him Mr. Dickon Mitchell and Ms. Skeeta Chitan

Respondent: Dr. Francis Alexis, QC with him Mr. Ian Sandy

Issues: Civil appeal – Possession of Crown lands –
Whether lands vested in the Governor General –
Trespass

Result / Order: Judgment reserved.

Case Name: [1] David Holukoff
[2] Nazim Burke
[3] The Attorney General
v
[1] Capital Bank International Limited
[GDAHCVAP2014/0002]

Date: Thursday, 11th December 2014

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief
Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:
Appellant: Mrs. Venescia Francis Banfield for the 2nd and
3rd appellants
Ms. Kim George watching the interest of the
Liquidator
Respondent: Mr. Raymond Anthony

Issues: Civil appeal – Interlocutory appeal

Result / Order: [Oral delivery]
The matter will be placed on the Interlocutory
Appeals list to be dealt with in accordance with
CPR 2000 as amended.

Reason: The Court determined that the matter can be disposed of as an interlocutory appeal unless there is an absolute necessity for an oral hearing.

Case Name: Cuffie Peters
V
The Commissioner of Police
[GDAMCRAP2013/0003]

Date: Thursday, 11th December 2014

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:
Appellant: Mr. Anselm B. Clouden
Respondent: Ms. Crisan Greenidge with her Mr. Brendon La Touche

Issues: Criminal appeal against conviction – Stealing

Result / Order / Reason: [Oral delivery]
With the leave of the Court, the appeal herein is withdrawn.

Case Name: Kevon Paul
V
The Commissioner of Police
[GDAMCRAP2014/0002]

Date: Thursday, 11th December 2014

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant: In person

Respondent: Ms. Crisan Greenidge with her Mr. Brendon La Touche

Issues: Criminal appeal against conviction – Stealing

Result / Order: [Oral delivery]
The appeal is dismissed and the sentences are affirmed.

Reason: The Court was of the view that the learned magistrate exercised her discretion correctly based on the facts and circumstances of the case. The fact that the appellant pleaded guilty may have been neutralized by the aggravating circumstances. The learned magistrate had good reasons in the circumstances for imposing consecutive sentences having regard to the circumstances of the case.

Case Name: Travis Roberts
V
The Commissioner of Police
[GDAMCRAP2014/0003]

Date: Thursday, 11th December 2014

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief

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

Appearances:

Appellant: Mr. Anselm B. Clouden

Respondent: Ms. Crisan Greenidge with her Mr. Brendon La Touche

Issues: Criminal appeal against conviction –
Possession of a controlled drug

Result / Order / Reason: [Oral delivery]
The appeal herein is withdrawn with the leave of the Court.

Case Name: Nathaniel John
v
The Commissioner of Police
[GDAMCRAP2014/0005]

Date: Thursday, 11th December 2014

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant: Dr. Francis Alexis, QC with him Mr. Anselm B. Clouden

Respondent: Ms. Crisan Greenidge with her Mr. Brendon La Touche

Issues: Criminal appeal against conviction –
Possession of a controlled drug

Result / Order:

[Oral delivery]

- 1. The appeal is allowed.**
- 2. The matter is remitted to the Magistrate's Court for retrial before a different magistrate.**

Reason:

Having regard to the chronology of events in the matter and the manner in which the magistrate proceeded, the Court was of the view that the appellant was not given an opportunity to have his trial conducted in a fair manner.

Case Name:

**Valdon Charles
v
The Commissioner of Police
[GDAMCRAP2014/0001]**

Date:

Monday, 8th December 2014

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Sydney Bennett, Justice of Appeal
[Ag.]**

Appearances:

Appellant:	Ms. Herricia Willis
Respondent:	Ms. Crisan Greenidge

Issues:

**Criminal appeal against conviction –
International and unlawful harm**

**Result / Order /
Reason:**

[Oral delivery]

The appellant having discontinued his appeal and having filed a notice of discontinuance, the

appeal is accordingly dismissed.

Case Name: [1] Michelle Julien
V
[1] George Jones
[2] Lorna Samuel
[GDAMCVAP2014/0004]

Date: Thursday, 11th December 2014

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:
Appellant: Mrs. Brenda Wardally Beaumont
Respondent: Mr. Francis Paul

Issues: Civil appeal – Possession of land – Jurisdiction of magistrate

Result / Order / Reason: [Oral delivery]
1. The appeal is allowed for the reason that pursuant to section 31 of the Magistrates Act, Cap. 177, the learned magistrate lacked jurisdiction to deal with the claim as it raised an issue as to title to the property.
2. Costs to the appellant agreed in the sum of \$1,000.00.

Case Name: Leighton Taylor
V

Thomas Roberts

[GDAMCVAP2013/0001]

Date: Thursday, 11th December 2014

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant: Mr. Ruggles Ferguson

Respondent: Mr. Benjamin Hood

Issues: Civil appeal – Damages – Whether decision against weight of evidence – Trespass – Classification as dangerous specie

Result / Order: [Oral delivery]
1. The appeal is allowed.
2. Costs are agreed in the sum of \$1,500.00.

Reason: The Court was of the view that in the circumstances and based on the evidence led in the claim, it was insufficient to establish the causation link between the death of the goats and the dogs.

Case Name: Michael Fletcher
V
Glenna Joseph

[GDAMCVAP2013/0002]

Date: Thursday, 11th December 2014

Coram:	The Hon. Dame Janice M. Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:	
Appellant:	Mr. Ruggles Ferguson
Respondent:	Mr. Ashley Bernardine
Issues:	Civil appeal – Damages for negligence – Whether decision against weight of evidence – Whether costs awarded were excessive – Award of special and general damages
Result / Order:	[Oral delivery] 1. The appeal is dismissed. 2. The award of general damages in the sum of \$500.00 and costs in the sum of \$750.00 are to be deducted from the total award of damages. 3. The damages claimed are confirmed as varied. 4. Costs to the respondent in the sum of \$1,000.00 but to be reduced by 25% to reflect the variation.
Reason:	The Court was of the view that having regard to the evidence led the magistrate could have, on the facts before him, found the appellant liable. On the issue of damages awarded by the learned magistrate, having regard to the principle of restitutio in integrum there was no basis explained by the magistrate for the award of \$500.00 general damages. There was no evidence given to establish the basis for the award. Further, costs are normally awarded by way of compensating a litigant for legal costs incurred for representation by counsel.

Case Name: Terrance Marryshow
V
Lennox Archibald
[GDAMCVAP2013/0003]

Date: Thursday, 11th December 2014

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:
Appellant: Mr. Ashley Bernardine
Respondent: Ms. Skeeta Chitan

Issues: Landlord and Tenant – Rent Restriction Act, Cap. 286 – Non-compliance with Act – Whether decision against weight of evidence

Result / Order: [Oral delivery]
1. The appeal is withdrawn.
2. The parties shall bear their own costs in the appeal and in the court below.

Reason: The Magistrate could not have given a judgment unless provided with a certificate from the Rent Restriction Board. However, there is no Board as required to be established under section 8 of the Rent Restriction Act, Cap. 286. Further, the matter has for all practical purposes resolved itself.

In the circumstances of the case, given that the relevant provisions of the Rent Restriction Act could not have been complied with, due to no fault of either party, the Court was of the

opinion that each party should bear their own costs.

Case Name: Yasim Kibawi (also known as Keith Aird)
V
Cassion Felix
[GDAMCVAP2014/0001]

Date: Thursday, 11th December 2014

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:
Appellant: Mr. Henry Paryag
Respondent: Mr. Ashley Bernardine

Issues: Civil appeal – Whether monies due and owing –
Whether judgment against rules of natural
justice – Whether judgment against weight of
evidence

Result / Order / Reason: [Oral delivery]
By consent:
1. The appeal is allowed.
2. The matter is remitted to be tried before a
different magistrate.
3. There is no order as to costs on this appeal.

Case Name: Hector Pierre
V

Royianson DeFreitas

[GDAMCVAP2014/0005]

Date: Thursday, 11th December 2014

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant: Mr. Anselm B. Clouden

Respondent: Ms. Kim George

Issues: Civil appeal – Whether monies due and owing –
Application to withdraw appeal

Result / Order / Reason: [Oral delivery]
The appeal is withdrawn by leave of the Court with no order as to costs.