

COURT OF APPEAL SITTING
SAINT VINCENT AND THE GRENADINES
[13TH OCTOBER TO 14TH OCTOBER 2014]

APPLICATIONS AND APPEALS

Case Name: Jacintha Williams-Thomas
v
Glenroy Abbey
[SVGMCVAP2013/0006]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant:	No appearance
Respondent:	No appearance

Issue: Civil appeal – For mention

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

Reason: The appellant and the respondent did not appear in court.

Case Name: Charmine Shallow
v
Kenmore Ellis

[SVGMCVAP2014/0001]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: No appearance

Respondent: No appearance

Issue: Civil appeal – For mention

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

Reason: The appellant and the respondent did not appear in court.

Case Name: Westmore Gaymes
v
Davina Shallow

[SVGMCVAP2014/0002]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Mr. Stephen Williams

Issue: Criminal appeal – For mention – Appeal against sentence

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

Reason: The Court could find no basis upon which to upset the decision of the magistrate.

Case Name: Geavern Trisha Peters
v
Martello Knights
[SVGMCVAP2014/0004]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:
Appellant: No appearance
Respondent: Ms. Patina Knights

Issue: Civil appeal – For mention

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

Reason: The appellant, who was served with a notice of hearing on 6th October 2014, did not appear in court.

Case Name:

Gary Richards

v

Vernon McFee

[SVGMCVAP2014/0008]

Date:

Monday, 13th October 2014

Coram:

**The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]**

Appearances:

Appellant: Mr. Richard Williams

Respondent: No appearance

Issue:

Civil appeal – For mention

Result / Order:

[Oral delivery]

- 1. The hearing of this appeal is adjourned to the next sitting of the Court of Appeal in this jurisdiction during the week of 9th February 2015.**
- 2. Counsel for the respondent to file and serve skeleton submissions in reply on or before 17th November 2014.**

Reason:

No appearance of the respondent and counsel for the respondent in court.

Case Name:

Grammar Horne

v

Jahnyiah Gumbs

[SVGMCVAP2014/0009]

Date:

Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:
Appellant: No appearance
Respondent: No appearance

Issue: Civil appeal – For mention

Result / Order: [Oral Delivery]
The hearing of this appeal is adjourned to the next sitting of the Court of Appeal in this jurisdiction during the week of 9th February 2015.

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

Case Name: Monica Haynes
v
Suedane Joseph

[SVGMCVAP2014/0010]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:
Appellant: In person
Respondent: In person

Issues: Civil appeal – For mention

Result / Order & Matter stood down to allow Mr. Jaundy Martin to pursue

Reason the appeal.

Case Name: Desmond Pavy
v
The Commissioner of Police

[SVGHCRAP2012/0018]

Terry Bannister
v
The Commissioner of Police

[SVGHCRAP2012/0017]

Jovel Espinoza
v
The Commissioner of Police

[SVGHCRAP2012/0016]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellants:	No appearance for first appellant Second and third appellants in person
Respondent:	Mr. Colin Williams, Director of Public Prosecutions, with him, Ms. Tamika McKenzie

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

Result / Order: [Oral delivery]
The application for grant of leave to appeal to the Privy Council is dismissed.

Reason: The time period for making this application before the Court had expired. The Court has no jurisdiction to grant an extension of time. The Court noted however that this application can be made to the Privy Council directly and the appellants were so informed.

Case Name: Monica Haynes
v
Suedane Joseph
[SVGMCVAP2014/0010]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant:	Mr. Jaundy Martin
Respondent:	In person

Issue: Civil appeal – For mention

Result / Order: [Oral delivery]
The hearing of this appeal is adjourned to the next sitting of the Court of Appeal in this jurisdiction during the week commencing 9th February 2015.

Reason: The respondent was only served with submissions on 13th October 2014, accordingly, counsel for the appellant requested time for the respondent to peruse the document in the interest of justice.

Case Name:

**Clive Crick
v
[1] Norris Lewis
[2] Joan Lewis**

[SVGHCVAP2014/0003]

Date:

Monday, 13th October 2014

Coram:

**The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]**

Appearances:

Appellant: Mr. Richard Williams

Respondent: Mr. Linton Lewis

Issue:

Civil appeal – Application for leave to appeal

Result / Order:

[Oral delivery]

The applicant is granted leave to appeal the order of Master V. Georges Taylor-Alexander dated 24th April 2012 dismissing the application to set aside the judgment in default of defence.

Reason:

The Court was of the opinion that the appellant met the requirements for the grant of leave. Further, the Court found that the application for leave was made in time pursuant to rule 62.2(1A) of the Civil Procedure Rules 2000.

Case Name:

Garnet Shallow

v
The Queen

[SVGHCRA2013/0015]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Mr. Colin Williams, Director of Public Prosecutions, with him, Ms. Tamika McKenzie

Issue: Criminal appeal – Application for bail pending appeal

Result / Order: [Oral delivery]
The application for bail pending appeal is dismissed.

Reason: The Court was of the view that the appellant had not satisfied the criteria for bail at this juncture, in that a significant portion of his sentence had not been served, him having only been sentenced on 19th July 2013 to a 10-year sentence. Hence, the application was premature.

Case Name: Lorenzo Lewis
v
The Queen

[SVGHCRA2012/0008]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Mr. Colin Williams, Director Public Prosecutions, with him, Ms. Tamika McKenzie

Issue: Criminal appeal – For mention

Result / Order & Reason: [Oral delivery]
The time the appellant has spent on remand for this offence shall be taken into account when calculating the appellant's sentence.

Case Name:

Noel Butler

v

The Queen

[SVGHCRAP2010/0018]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Mr. Colin Williams, Director of Public Prosecutions, with him, Ms. Tamika McKenzie

Issue: Criminal appeal – Application for leave to appeal to the Privy Council

Result / Order: [Oral delivery]

The application for leave to appeal to the Privy Council is dismissed.

Reason: The time for making this application before the Court had expired. The Court has no jurisdiction to grant an extension of time. The Court noted that the appellant can make this application directly to the Privy Council and the appellant was so informed.

Case Name: **Aubrey Wilson**
v
The Queen
[SVGHCRA2013/0018]

Date: **Monday, 13th October 2014**

Coram: **The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal**
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant:	In person
Respondent:	Mr. Colin Williams, Director of Public Prosecutions, with him, Ms. Tamika McKenzie

Issue: **Criminal appeal – Application for counsel to be assigned**

Result / Order: **[Oral delivery]**
The application by the appellant for the assignment of counsel is granted. The Court hereby appoints Ms. Patina Knights as counsel for the appellant.

Reason: **The Court considered the financial status of the appellant and the nature of the offence and in the circumstances, the Court granted the application for counsel to be assigned to the appellant.**

Case Name: **Lloyd Samuel**
v
The Commissioner of Police

[SVGMCRAP2014/0059]

Date: **Monday, 13th October 2014**

Coram: **The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal**
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant:	In person
Respondent:	Mr. Colin Williams, Director of Public Prosecutions, with him, Ms. Tamika McKenzie

Issue: **Criminal appeal – Application for leave to appeal sentence - Application for extension of time to appeal**

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

- 1. The application for leave to appeal is treated as the appeal.**
- 2. The appeal is allowed to the extent that the sentence imposed is varied. The appellant is granted six (6) months to pay a fine of \$2,000.00 in default three (3) months imprisonment.**

Reason: **The Court found that the sentence was excessive in the circumstances of the case.**

Case Name: **Austin McDowall**
v

The Commissioner of Police

[SVGHCRAP2014/0004]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Mr. Colin Williams, Director of Public Prosecutions, with him, Mr. Carl Williams

Issue: Criminal appeal – Application for addition of grounds of appeal

Result / Order: [Oral delivery]
The application by the appellant to adjourn the hearing of the application is granted. The hearing of the application is adjourned to the next sitting of the Court Of Appeal in this jurisdiction during the week commencing 9th February 2015.

Reason: The appellant requested an adjournment to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines.

Case Name: Kamara Richards
v
The Queen

[SVGMCRAP2009/0011]

Date: Monday, 13th October 2014

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

**The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]**

Appearances:

Appellant: In person

Respondent: Mr. Colin Williams, Director of Public Prosecutions, with him, Ms. Tamika McKenzie

Issue: Criminal appeal – For mention – Application for appeal against sentence

Result / Order: [Oral delivery]
1. The Court will treat the letter submitted by the appellant as the appeal.
2. The appeal against sentence is allowed to the extent that the one (1) year spent on remand shall be taken into account.

Reason: The appellant's time spent on remand was not taken into account when he was sentenced. He was arrested on 22nd May 2008 and sentenced on 19th May 2009. In the interest of justice and given the fact that the appellant was unrepresented, the court was so minded to take this time period into account.

Case Name: Eli Providence
v
The Queen

[SVGHCRA2014/0008]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Mr. Colin Williams, Director of Public Prosecutions, with him, Ms. Tamika McKenzie

Issue: Criminal appeal – Application for leave to appeal against sentence

Result / Order: [Oral delivery]

1. An extension of time to appeal the sentence is granted.
2. Three (3) months leave is granted to the applicant to file his notice of appeal in this matter.

Reason: The appellant being unrepresented and unaware as to the appeal procedure and the time period within which to do so, the Court was minded to grant an extension of time for the appellant to appeal.

Case Name: Dennis Richardson
v
The Queen

[SVGMCRAP2014/0041]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Mr. Colin Williams, Director of Public Prosecutions, with him, Ms. Tamika McKenzie

Issue: Criminal appeal – Application for extension of time to

appeal

Result / Order:

[Oral delivery]

1. The application for extension of time to file the notice of appeal is granted. The applicant shall file the notice of appeal on or before 10th December 2014.

Reason:

The Court was of the view that the appellant was unaware of the time period for filing the notice of appeal.

Case name:

Jolan Hepburn

v

The Queen

[SVGHCRA2012/0023]

Date:

Monday, 13th October 2014

Coram:

**The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]**

Appearances:

Appellant: Ms. Patricia Marks

Respondent: Mr. Colin Williams, Director of Public Prosecutions

Issue:

Criminal appeal – Aggravated Burglary – Rape – Wounding – Appeal against sentence of 18 years imprisonment.

Result / Order:

[Oral delivery]

The matter is struck from the list.

Reason:

In case management the matter was traversed to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week of 9th February 2015.

Case Name:

Calvert Rodney

v

The Queen

[SVGHCRA2013/0004]

[SVGHCRA2014/0036]

Date:

Monday, 13th October 2014

Coram:

**The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]**

Appearances:

Appellant: Ms. Nicole Sylvester, with her, Ms. Lakeisha John

**Respondent: Mr. Colin Williams, Director of Public Prosecutions, with
him, Mr. Kareem Nelson**

Issue:

**Criminal appeal – Possession of a controlled drug –
Attempted export of a controlled drug – Appeal against
conviction and sentence of two (2) terms of ten (10)
years imprisonment to run concurrently**

Result / Order:

[Oral delivery]

- 1. The appeal against sentence is allowed and the following sentence is substituted:
 - (a) The appropriate sentence in respect of the offence of possession with intent to supply shall be four (4) years imprisonment and a fine of \$30,000.00 payable in four (4) months, in default (1) year imprisonment.**
 - (b) The appropriate sentence in respect of the offence of attempted export of a controlled drug shall be four (4) years imprisonment and a fine of \$20,000.00 payable in four (4) months, in default one (1) year Imprisonment.****
- 2. The eighteen (18) months that the appellant has been**

in custody shall be taken into consideration.
3. All sentences to run concurrently.

Reason: The Court was of the opinion that the punishment was excessive in all of the circumstances of the case.

Case Name: Edwin Cain
v
The Commissioner of Police
[SVGMCRAP2013/0052]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:
Appellant: In person
Respondent: Mr. Colin Williams, Director of Public Prosecutions, with him, Mr. Carl Williams

Issue: Criminal appeal – Stealing – Appeal against sentence of two years imprisonment consecutive to sentence already being served

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

Reason: The court could find no reason to disturb the magistrate's decision.

Case Name: **Andy Ferdinand**
v
The Commissioner of Police
[SVGMCRAP2013/0053]

Date: **Monday, 13th October 2014**

Coram: **The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal**
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant:	No appearance
Respondent:	Mr. Colin Williams, Director of Public Prosecutions, with him, Ms. Tamika McKenzie

Issues: **Criminal appeal – Possession of a controlled drug with intent to supply - Appeal against sentence**

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

Reason: **The appellant has served his sentence and was discharged on 13th April 2014.**

Case Name: **Demoral Nash**
v
The Commissioner of Police
[SVGMCRAP2014/0047]

Date: **Monday, 13th October 2014**

Coram: **The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal**
The Hon. Mde. Louise Esther Blenman, Justice of Appeal

The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: Ms. Patricia Marks

Respondents: Mr. Colin Williams, Director of Public Prosecutions, with him, Ms. Tamika McKenzie

Issue: Criminal appeal – Possession of a controlled drug with intent to supply - Appeal against sentence of 9 months imprisonment

Result / Order: [Oral delivery]
The appeal against sentence is allowed to the extent that the sentence of nine (9) months is substituted with a fine of \$900.00 payable in four (4) weeks, in default the appellant shall serve two (2) months in prison.

Reason: The Court was of the opinion that the sentence was excessive in all the circumstances of the case.

Case Name: Takisha De Souza
v
The Commissioner of Police
[SVGMCRAP2014/0050]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Mr. Colin Williams, Director of Public Prosecutions, with

him, Mr. Kareem Nelson

Issue: Criminal appeal – Unlawful and malicious wounding – Appeal against one (1) year imprisonment

Result / Order: [Oral delivery]
The appeal having been withdrawn by the appellant is accordingly dismissed.

Reason: The appellant withdrew the appeal.

Case Name: Ricardo Samuel
v
The Commissioner of Police
[SVGMCRAP2014/0051]

Date: Monday, 13th October 2014.

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant:	In person
Respondent:	Mr. Colin Williams, Director of Public Prosecutions, with him, Mr. Carl Williams

Issue: Criminal appeal – Causing disturbance to religious worship – Appeal against fifteen (15) months imprisonment

Result / Order: [Oral delivery]
The appeal against sentence is allowed to the extent that

the sentence of fifteen (15) months is varied to a fine of \$1,000.00 payable in four (4) months; in default of which the appellant will serve two (2) months imprisonment.

Reason: The Court was of the opinion that the sentence was excessive in all the circumstances of the case.

Case Name: Preben Lyttle
v
The Commissioner of Police

[SVGMCRAP2014/0008]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant:	In person
Respondent:	Mr. Colin Williams, Director of Public Prosecutions, with him, Mr. Carl Williams

Issues: Criminal appeal – Assault – Appeal against sentence of two (2) years imprisonment

Result / Order: [Oral delivery]
The appeal against sentence is dismissed. The sentence is affirmed.

Reason: The Court could find no basis to disturb the sentence imposed by the magistrate.

Case Name:

**Steve Badenock
v
The Commissioner of Police**

[SVGMCRAP2014/0049]

Date: **Monday, 13th October 2014**

Coram: **The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]**

Appearances:

Appellant: **In person**

Respondent: **Mr. Colin Williams, Director of Public Prosecutions, with
him, Mr. Carl Williams**

Issues: **Criminal appeal – Causing actual bodily harm – Appeal
against sentence of one (1) year imprisonment.**

Result / Order: **[Oral delivery]
The appeal against sentence is dismissed.**

Reason: **The Court could find no basis on which to disturb the
sentence imposed by the magistrate.**

Case Name:

**Iso Lynch
v
The Commissioner of Police**

[SVGMCRAP2014/0058]

Date: **Monday, 13th October 2014**

Coram: **The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal**

The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Mr. Colin Williams, Director Public Prosecutions, with him Ms. Tamika McKenzie

Issues: Criminal appeal – Obtaining by deception – Appeal against sentence of three (3) months imprisonment

Result / Order: [Oral delivery]
The appeal having been withdrawn by the appellant is accordingly dismissed.

Reason: The appellant withdrew the appeal.

Case name:

**Maxwell Primus
v
The Commissioner of Police**

[SVGHCRAP2014/0002]

Date: Monday, 13th October 2014

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Mr. Colin Williams, Director of Public Prosecutions, with him, Ms. Tamika McKenzie

Issues: Criminal appeal – Possession of a firearm without a licence – Appeal against sentence of three (3) years

imprisonment

Result / Order: The appeal against sentence is dismissed.

Reason: The Court could find no basis to disturb the sentence imposed by the magistrate.

Case Name: Rickie Brackin
v
Beulah Phillips
[SVGMCVAP2014/0003]

Date: Tuesday, 14th October 2014

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

Appearances:
Appellant: Ms. Nicole Sylvester
Respondent: In person

Issues: Civil appeal – For mention– Breach of contract –
Contract formation – Cause of action – Limitation period

Result / Order: [Oral delivery]
The matter is stood down

Reason: The Court stood down the matter to allow counsel Mr. Israel Bruce to appear.

Case name:

Cosmos Hackshaw

v

The Queen

[SVGHCRAP2012/0025]

Date:

Tuesday, 14th October 2014

Coram:

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

Appearances:

Appellant: In person

Respondent: Ms. Sejilla McDowall

Issue:

**Criminal appeal – Intercourse with a girl under 13 -
Abduction – Appeal against conviction and sentence of
twelve (12) years imprisonment**

Result / Order:

[Oral delivery]

- 1. The appeal against conviction for the offence of intercourse with a girl under the age of thirteen (13) is allowed. The conviction and sentence is quashed.**
- 2. The appeal against conviction and sentence for the offence of abduction is dismissed. The conviction and sentence is affirmed.**

Reason:

In respect of the first count, the Court considered the nature of the charge and the fact that there was no independent evidence supportive of the complaint. The judge's misdirection on the issues of corroboration and recent complaint and his incomplete directions led to the sentence being quashed.

In respect of the second count, the Court found that the appellant was properly convicted for the offence of abduction. The learned trial judge gave adequate directions to the jury on this issue. Further, the Court did not discern any error in principle in respect to the sentence of two years.

Case Name:

Colly Lowman

v

The Queen

[SVGHCRAP2012/0028]

Date:

Tuesday, 14th October 2014

Coram:

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

Appearances:

Appellant: In person

**Respondent: Mr. Colin John, Assistant Director of Public
Prosecutions, with him, Mr. Carl Williams**

Issue:

**Criminal appeal – Robbery – Wounding – Appeal against
conviction and sentence of 15 years imprisonment.**

Result / Order:

[Oral delivery]

**The hearing of the appeal is adjourned to the next sitting
of the Court of Appeal in this jurisdiction during the
week of 9th February 2015.**

Reason:

**The appellant required time to retain and instruct
counsel.**

Case Name:

Rickie Brackin

v

Beulah Phillips

[SVGMCVAP2014/0003]

Date: Tuesday, 14th October 2014

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

Appearances:

Appellant: Ms. Nicole Sylvester

Respondent: Mr. Israel Bruce

Issues: Civil appeal – For mention – Breach of contract –
Contract formation – Cause of action – Limitation period

Result / Order: [Oral delivery]
The appeal is allowed and the matter shall be retried
before a different magistrate.

Reason:

The Court having looked at the notes of evidence and the magistrate’s decision found that the magistrate made certain definitive findings. In particular, that there was a contract between the parties; that there was a breach of contract; that the agreed parties should be compensated; and that a conflict of interest had arisen. However, the magistrate crucially failed to make a finding on the date of the breach of the contract.

There having been alternative positions taken by the two (2) parties, it was incumbent on the magistrate to have made the determination of the date of the breach of that contract in order to determine whether the claim was still alive at the time that the suit was instituted.

Case Name: Denzil Sam
v
The Commissioner of Police

[SVGMCRAP2013/0009]

Date: Tuesday, 14th October 2014

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

Appearances:

Appellant: No appearance

Respondent: Mr. Colin John, Assistant Director of Public Prosecutions, with him Mr. Kareem Nelson

Issues: Criminal appeal – Possession of money suspected to be stolen – Appeal against sentence of 6 months imprisonment

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

Reason: The appellant has served his sentence having been discharged on 24th June 2013.

Case Name: Adonna Charles
v
The Commissioner of Police
[SVGMCRAP2013/0034]

Date: Tuesday, 14th October 2014

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

Appearances:

Appellant: No appearance

Respondent: Mr. Colin John, Assistant Director of Public

Prosecutions, with him, Mr. Kareem Nelson

Issues: Criminal appeal – Committing a breach of discipline –
Appeal against sentence – Reprimanded and discharged

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

Reason: The appellant left the jurisdiction and now resides in Barbados as evidenced by information submitted to the Court by the Chief Immigration Officer and the Senior Bailiff.

Case Name: Jimmy Boyde
v
The Commissioner of Police
[SVGMCRAP2013/0059]

Date: Tuesday, 14th October 2014

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

Appearances:
Appellant: In person
Respondent: Ms. Tamika McKenzie

Issues: Criminal appeal – Entering as a trespasser and stealing –
Appeal against sentence of 1 year imprisonment.

Result / Order: [Oral delivery]
The appeal is allowed. The conviction is quashed and the sentence is set aside.

Reason: The Court found that the conviction was unsafe and could not be supported by the evidence adduced.

Case Name: Colin Hazell
v
The Commissioner of Police
[SVGMCRAP2014/0028]

Date: Tuesday, 14th October 2014

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

Appearances:

Appellant:	In person
Respondent:	Mr. Colin John, Assistant Director of Public Prosecutions, with him, Mr. Carl Williams

Issues: Criminal appeal – Playing games for money – Appeal against conviction and sentence of a fine of \$700.00 by 6th March 2013, in default 6 weeks imprisonment.

Result / Order: [Oral delivery]
1. The appeal against conviction is dismissed.
2. The appeal against sentence is allowed to the extent that the fine of \$700.00 payable in two (2) days is varied to being payable in two (2) months, in default four (4) weeks imprisonment.

Reason: The Court found that the appellant was properly convicted based on the evidence presented. However, in relation to his sentence, an extension of time was requested by the appellant to obtain further employment

to pay the fine.

Case Name: **Semorne McIntosh**
v
The Commissioner of Police
[SVGMCRAP2014/0029]

Date: **Tuesday, 14th October 2014**

Coram: **The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal**
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:
Appellant: **Appellant in person, with him, Mr. Jaundy Martin**
Respondent: **Mr. Colin John, Assistant Director of Public Prosecutions, with him, Mr. Carl Williams**

Issues: **Criminal appeal – Driving without due care and attention**
– Appeal against conviction

Result / Order: **[Oral delivery]**
The appeal against conviction is dismissed. Conviction affirmed.

Reason: **The magistrate made critical findings of fact and the Court could find no basis on which to upset the findings of the magistrate.**

Case Name: **Michelle Walker**
v
The Commissioner of Police

[SVGMCRAP2014/0030]

Date: Tuesday, 14th October 2014

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

Appearances:

Appellant: No appearance

Respondent: Mr. Colin John, Assistant Director of Public Prosecutions, with him, Mr. Kareem Nelson

Issues: Criminal appeal – Causing actual bodily harm – Appeal against confiscation order for the virtual complainant in the sum of \$800.00 to be paid by the 31st August 2013, default 4 weeks imprisonment; bonded for 6 months in the sum of \$1,500.00, breach sum paid forthwith, default 6 months imprisonment

Result / Order: [Oral delivery]
The hearing of the appeal is traversed to the next sitting of the Court of Appeal in this jurisdiction during the week of 9th of February 2015.

Reason: The Court noted that the appellant had not been served with the notice of hearing.

Case Name: Theron Phillips
v
The Commissioner of Police

[SVGMCRAP2014/0027]

Date: Tuesday, 14th October 2014

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

Appearances:

Appellant: In person

Respondent: Mr. Colin John, Assistant Director of Public Prosecutions, with him, Ms. Sejilla McDowall

Issues: Criminal appeal – Trespassing with intent to commit theft – Appeal against sentence of 3 months imprisonment

Result / Order & Reason: [Oral delivery]
The appeal having been withdrawn by the appellant is accordingly dismissed.

Case Name: Cameron Cadogan
v
The Commissioner of Police
[SVGMCRAP2014/0020]

Date: Tuesday, 14th October 2014.

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

Appearances:

Appellant: Appellant in person, with him, Mr. Jaundy Martin

Respondent: Mr. Colin John, Assistant Director of Public Prosecutions, with him, Mr. Kareem Nelson

Issues: Criminal appeal – Unlawful and malicious wounding – Appeal against conviction and sentence of a fine of \$5,000, \$2,500 to be paid forthwith and the remainder to

be paid in one month or in default 6 months imprisonment

Result / Order: [Oral delivery]
The appeal is allowed. The conviction is quashed and the sentence is set aside.

Reason: The respondent conceded on ground 2 of the appeal, that is, that the decision of the magistrate cannot be supported by the evidence presented in the case.

Case Name: Commissioner of Police
v
Benedict Revierre
[SVGMCRAP2014/0044]

Date: Tuesday, 14th October 2014

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

Appearances:

Appellant:	Mr. Colin John, Assistant Director of Public Prosecutions
Respondent:	Respondent in person, with him, Mr. Jaundy Martin

Issues: Criminal appeal – Possession of license stickers reasonably suspected to be stolen or unlawfully obtained – Prosecution appeals decision of the Magistrate to dismiss the case against the Respondent

Result / Order & Reason: [Oral delivery]
The appeal having been withdrawn by the appellant is accordingly dismissed.

Case Name: Conrad Richards
v
The Commissioner of Police
[SVGMCRAP2014/0046]

Date: Tuesday, 14th October 2014

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

Appearances:

Appellant: In person

Respondent: Mr. Colin John, Assistant Director of Public
Prosecutions, with him, Mr. Carl Williams

Issues: Criminal appeal – Stealing – Appeal against sentence of
two years imprisonment

**Result / Order &
Reason:** [Oral delivery]
The appeal having been withdrawn by the appellant is
accordingly dismissed.

Case Name: Jevon McKree
v
The Commissioner of Police
[SVGMCRAP2014/0043]

Date: Tuesday, 14th October 2014

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

Appearances:

Appellant: Mr. Emery Robertson Jr.

Respondent: Mr. Colin John, Assistant Director of Public Prosecutions, with him, Mr. Carl Williams

Issues: Criminal appeal – Stealing – Appeal against sentence of two 2-year sentences to run concurrently

Result / Order: [Oral delivery]
The appeal is accordingly allowed and a retrial is hereby ordered.

Reason: The respondent conceded on ground 2 of the appeal, that is, the appellant was prejudiced by not being allowed legal representation. The respondent proposed a retrial which was not objected to by the appellant.

Case Name: Eugene Noel
v
The Commissioner of Police
SVGMCRAP2014/0045]

Date: Tuesday, 14th October 2014

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

Appearances:

Appellant: In person

Respondent: Mr. Colin John, Assistant Director of Public

Prosecutions

Issues: Criminal appeal – False representation – Attempted abduction – Appeal against conviction and sentence of 9 months imprisonment

Result / Order: [Oral delivery]
The appeal is allowed. The conviction is quashed and the sentence is set aside.

Reason: The respondent conceded on ground 1 of the appeal, that is, that there is a lack of evidence to substantiate attempted abduction.

Case Name: Kelroy Mason
v
The Commissioner of Police
[SVGMCRAP2014/0054]

Date: Tuesday, 14th October 2014

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

Appearances:

Appellant:	Appellant in person, with him, Ms. Patricia Marks
Respondent:	Mr. Colin John, Assistant Director of Public Prosecutions, with him, Mr. Carl Williams

Issues: Assault – Threatening language – Appeal against sentences of 6 months imprisonment and 9 months imprisonment to run concurrently

Result / Order: [Oral delivery]

The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in Saint Vincent and the Grenadines during the week of 9th February 2015.

Reason: Counsel for the appellant requested an adjournment to allow the appellant to properly instruct and retain her.

Case Name: Christopher Browne
v
The Commissioner of Police

[SVGMCRAP2014/0056]

Date: Tuesday, 14th October 2014

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

Appearances:

Appellant:	No appearance
Respondent:	Mr. Colin John, Assistant Director of Public Prosecutions

Issues: Criminal appeal – Assault – Appeal against sentence of 6 months imprisonment

Result / Order: [Oral delivery]
The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in this jurisdiction during the week of 9th February 2015.

Reason: The Court noted that the appellant had not been served with the notice of hearing.

Case Name: **The Commissioner of Police**
v
[1] Edwin Butler
[2] Jeromie Jordan
[SVGMCRAP2014/0055]

Date: **Tuesday, 14th October 2014**

Coram: **The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal**
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:
Appellant: **Mr. Colin John, Assistant Director of Public Prosecutions**
Respondents: **No appearance**

Issues: **Criminal appeal – Upholding no case to answer – Prosecution appeals the decision of the magistrate in dismissing case against the respondents**

Result / Order: **[Oral delivery]**
The hearing of the appeal is traversed to the next sitting of the Court of Appeal in this jurisdiction during the week of 9th February 2015.

Reason: **The Court noted that the respondents had not been served with the notice of hearing.**

Case Name: **Kimani Joe**
v
The Commissioner of Police

[SVGMCRAP2014/0057]

Date: Tuesday, 14th October 2014

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

Appearances:

Appellant: In person

Respondent: Mr. Colin John, Assistant Director of Public Prosecutions, with him, Mr. Carl Williams

Issues: Criminal appeal – Unlawfully and maliciously wounding -
Appeal against sentence

Result / Order: [Oral delivery]
The hearing of the appeal is traversed to the next sitting of the Court of Appeal in this jurisdiction during the week of the 9th February 2015.

Reason: To allow the appellant time to retain counsel.