

# **COURT OF APPEAL SITTING**

**GRENADA  
28<sup>th</sup> to 30<sup>th</sup> October 2013**

## **STATUS HEARING**

**Case Name:**

**[1] Raphael Edgar  
v  
[1] Shirley Richards  
[2] Ellen James  
[3] RDF Enterprises Ltd.  
  
[GDAHCVAP2011/0015]**

**Date:**

**Monday, 28<sup>th</sup> October 2013**

**Coram:**

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mr. Don Mitchell, Justice of Appeal  
[Ag.]**

**Appearances:**

**Appellant:**

**Dr. Francis Alexis, QC**

**Respondent:**

**Ms. Naeisha John holding for Mr. Dwight Horsford for the first and second respondents**

**Ms. Claudette Joseph for the third respondent**

**Issue:**

**Status of the matter**

**Result / Order:**

**[Oral delivery]**

**The matter is removed from the status hearing list as there is no doubt as to its status and it is to await such action as the appellant may decide to take.**

**Reason:**

**Court noted that the appeal was an interlocutory appeal which placed it under a special regime.**

**Case Name:** Phillip Andrew  
v  
James Andrew  
[GDAHCVAP2013/0006]

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mr. Don Mitchell, Justice of Appeal  
[Ag.]

**Appearances:**  
**Appellant:** Ms. Anyika Johnson  
**Respondent:** Mr. Francis-Paul holding for Ms. Denise Campbell

**Issue:** Status of the matter

**Result / Order:** [Oral delivery]  
The matter is removed from the status hearing list as there is no appeal currently before the Court of Appeal.

**Reason:** The Court was of the view that while the appellant received leave to appeal no appeal was filed and as such there was no existing appeal before the Court.

**Case Name:** Liberty Club Limited (Trading as La Source)  
v

**Grenada Technical and Allied Workers  
Union**

**[GDAHCVAP2013/0010]**

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

**Appearances:**

**Appellant:** Mr. Francis Paul holding for Mr. Dickon Mitchell

**Respondent:** Ms. Karina Johnson

**Issue:** Status of the matter

**Result / Order:** [Oral delivery]  
The matter is removed from the status hearing list since there is no doubt as to the status of the matter and there is nothing that is required to be done at the status hearing.

**Reason:** The Court noted that the appeal was an interlocutory appeal and can therefore be assigned to a single judge.

**APPLICATIONS AND APPEALS**

**Case Name:** Jean McNeilly  
v  
Jacqueline Charles  
(Administratrix of the Estate of Joshua Cecil Thorne)

**[GDAHCVAP2013/0013]**

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Dame Janice M. Pereira, Chief Justice  
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mde. Louise E. Blenman, Justice of Appeal

**Appearances:**

**Appellant:** No appearance

**Respondent:** Mr. Ruggles Ferguson, with him, Ms. Anyika Johnson

**Issue:** Application to discharge order of single judge

**Result / Order:** Matter stood down.

**Reason:** Counsel for the appellant, Ms. Claudette Joseph, was absent at that time.

**Case Name:** Diane Wilson  
v  
Albert Castle

**[GDAHCVAP2013/0005]**

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Dame Janice M. Pereira, Chief Justice  
The Hon. Mde. Louise E. Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Applicant / Intended Appellant:** Mr. Ruggles Ferguson, with him, Ms. Anyika Johnson

**Respondent:** Ms. Shireen Wilkinson, with her, Ms. Tanya Lambert

**Issue:** Application for leave to appeal

**Result / Order:** [Oral delivery]  
1. The application for leave to appeal is treated as the appeal.  
2. The appeal is allowed and the decision of the trial judge dated March 27<sup>th</sup> 2013 is set aside.  
3. The matter is to proceed to trial in accordance with the rules of the Court.  
4. Costs to the applicant/appellant agreed in the sum of \$2,500.00.

**Reason:** The Court found that the learned judge erred in the exercise of her discretion and took into account and was influenced by irrelevant considerations. The pleaded cases raised live issues of fact which could only be determine at a trial.

**Case Name:** [1] Anthony George  
v  
[1] The Commissioner of Police  
[2] The Director of Public Prosecutions  
[3] The Magistrate of the Southern District  
[4] Joseph Goddard  
[GDAMCRAP2013/0001]

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Dame Janice M. Pereira, Chief Justice

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

**Appearances:**

**Appellant:** No appearance

**Respondent:** Mrs. Kinna Marrast Victor for the first and third respondents

Mr. Christopher Nelson, with him, Ms. Crisan Greenidge for the second respondent

**Issue:** Case management of appeal

**Result / Order:** [Oral delivery]  
The Registrar is directed to serve notice of the hearing upon the appellant for appearance before the Court on Wednesday, 30<sup>th</sup> October at 9:00 am.

**Reason:** The Court noted that the appellant was a pro se litigant and that there was no evidence that he was made aware of the date fixed for hearing of the matter.

**Case Name:**

[1] Jester Emmons  
[2] Jerry Emmons  
[3] Godwin Emmons  
v  
[1] Incorporated Trustees of the Seventh Day Adventist Church

[GDAHCVAP2013/0012]

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Dame Janice M. Pereira, Chief Justice

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

**Appearances:**

**Appellant:** Mrs. Celia Edwards, QC, with her, Mr. Deloni Edwards

**Respondent:** Mr. James Bristol, with him, Ms. Dennies Burris

**Issue:** Application for leave to appeal

**Result / Order:** [Oral delivery]  
1. There is no need for leave to appeal having regard to section 33(2)(g)(ii) of the West Indies and Associated States Supreme Court (Grenada) Act, Cap. 336.  
2. There is no order as to costs.

**Reason:** Section 33 of the West Indies and Associated States Supreme Court Act, Cap. 336 exempt interlocutory orders granting injunctive relief from the requirement for leave to appeal. Based on this provision, no leave was required to appeal against the interlocutory injunction granted by the trial judge.

**Case Name:** [1] Janin Caribbean Construction Limited  
v  
[1] Cecily Wilkinson  
[2] Wilkinson, Wilkinson, Wilkinson  
[GDAHCVAP2010/0001]

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Dame Janice M. Pereira, Chief Justice  
The Hon. Mde. Louise E. Blenman, Justice of

**Appeal**  
**The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant:** Ms. Naeisha John holding for Mr. Dwight Horsford

**Respondent:** Mrs. Celia Edwards, QC, with her, Mr. Deloni Edwards

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

**Result / Order:** [Oral delivery]  
1. Application adjourned due to short service of the application.  
2. The application is adjourned to a date to be fixed by the Court.

**Reason:** Practice Direction 3 of 2008 and rule 3 of the Civil Procedure Rules 2000 was applicable to the listing and hearing of the application.

**Case Name:** Michael McIntyre  
v  
Margery Anne McIntyre  
[GDAHCVAP2013/0024]

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Dame Janice M. Pereira, Chief Justice  
The Hon. Mde. Louise E. Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**  
**Appellant:** Mr. James Bristol, with him, Ms. Dennies Burris



**Respondent:** Mrs. Celia Edwards, QC, with her, Mr. Deloni Edwards

**Issue:** Application for extension of time to file record of appeal and submissions

**Result / Order / Reason:** [Oral delivery]  
1. Application filed for extension of time is withdrawn as being unnecessary having regard to CPR 2.2, CPR 62. 9 and CPR 62. 12.  
2. No order as to costs.

**Case Name:** Selwyn Augustus Marshall  
v  
Curtis Marshall

[GDAHCVAP2013/0027]

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Dame Janice M. Pereira, Chief Justice  
The Hon. Mde. Louise E. Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal

**Appearances:**

**Appellant:** Mr. Dickon Mitchell

**Respondent:** Ms. Daniella Williams Mitchell, with her, Ms. Sheriba Lewis holding for Ms. Kim George

**Issue:** Application for stay of execution

**Result / Order:** [Oral delivery]  
The stay of execution of the order of the learned trial judge made on the 24<sup>th</sup> October 2013 granted by order of Justice of Appeal Mario Michel on 24<sup>th</sup> October 2013 shall continue

pending the hearing and determination of the application for the stay inter partes filed on 24<sup>th</sup> October 2013.

**Reason:**

Counsel for the respondent was served with the application on 28<sup>th</sup> October and required time to respond. The Court also noted that thereafter the application can be placed on a Chamber list for hearing before a single judge.

**Case Name:**

**Tisagh Chase**

**v**

**The Queen**

**[GDAHCRAP2012/0001]**

**Date:**

**Monday, 28<sup>th</sup> October 2013**

**Coram:**

**The Hon. Dame Janice M. Pereira, Chief Justice  
The Hon. Mde. Louise E. Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant:**

**Mr. Ruggles Ferguson, with him, Mr. Keith Scotland and Mr. Ian Benjamin**

**Respondent:**

**Mr. Christopher Nelson, Director of Public Prosecutions, with him, Ms. Crisan Greenidge**

**Issues:**

**Criminal appeal against conviction – Murder**

**Result / Order:**

**[Oral delivery]**

- 1. The appeal is allowed and the conviction is quashed.**
- 2. No retrial is ordered.**

**Reason:**

**The Court found that this was a case in which**

there was substantial evidence of self-defence. The Court held that although the learned trial judge referred to the defence of another as a defence which the appellant was relying on he failed to set out the ingredients of that defence and to highlight the evidence in relation to it. Further, the directions given by the learned trial in relation to good character were wholly lacking and ought to have been more substantial. Reference ought to have been made to the three character witnesses called by the defence.

The learned Director of Public Prosecutions did not oppose the appeal and noted that it was not a matter in which the proviso ought to be applied.

Finally, the Court, having regard to all the circumstances, did not consider that it would be in the interest of justice to order a retrial.

**Case Name:**

**Ricardo Edgar**

**v**

**The Queen**

**[GDAHCRAP2011/0002]**

**Date:**

**Monday, 28<sup>th</sup> October 2013**

**Coram:**

**The Hon. Dame Janice M. Pereira, Chief Justice  
The Hon. Mde. Louise E. Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant:**

**Mr. Derick F. Sylvester**

**Respondent:**

**Mr. Christopher Nelson, Director of Public Prosecutions, with him, Ms. Crisan Greenidge**

**Issues:** Criminal appeal against conviction – Murder – Whether conviction should be set aside and substituted with manslaughter

**Result / Order:** [Oral delivery]  
1. The appeal is allowed and the conviction for murder is hereby quashed and a conviction for manslaughter substituted therefor.  
2. The sentence of the appellant is accordingly varied, having regard to the circumstances of this case and the time already served amounting to 8 prison years, to time served.

**Reason:** The Court noted that this was a case in which there was strong evidence of provocation. The appellant was smashed on the head with a bottle causing several wounds. He went to the hospital and on the way back from the hospital, no doubt with the pain and injuries still dominating his mind, encountered the deceased and then proceeded to inflict a wound.

After full consideration, the Court was of the opinion that the learned trial judge's directions to the jury on the issue of provocation were defective. Specifically, the learned trial judge failed to direct the jury that the prosecution must disprove provocation beyond a reasonable doubt. The burden of proof was mentioned, however the learned trial judge failed to go further to direct the jury that it was for the prosecution to disprove that the appellant was provoked.

In light of this, the Court quashed the murder conviction and substituted it with a conviction for manslaughter.

Having reviewed the sentences given in Grenada for manslaughter the Court held that the 8 years prison term already served by the appellant was on the higher end of sentences given for similar offences; 3–5 years being the normal time period given in similar matters.

The Court also took into consideration the fact that the appellant had no prior convictions.

**Case Name:**

**Churchill Sokoo**

**V**

**The Queen**

**[GDAHCRAP2010/0009]**

**Date:**

**Monday, 28<sup>th</sup> October 2013**

**Coram:**

**The Hon. Dame Janice M. Pereira, Chief Justice  
The Hon. Mde. Louise E. Blenman, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant:**

**In person**

**Respondent:**

**Mr. Christopher Nelson, Director of Public Prosecutions, with him, Ms. Crisan Greenidge**

**Issues:**

**Criminal appeal against sentence – Robbery with violence – Causing harm**

**Result / Order:**

**[Oral delivery]**

**The sentence of 8 years on the count of robbery with violence and 3 years on the count of causing harm (to run concurrently) is confirmed but in computing the number of years credit is to be given the appellant for the 8 months spent on remand.**

**Reason:**

**The Court held that consideration was to be given to the fact that the appellant spent 8 months on remand. The time spent on remand should be deducted from the sentence given.**

**Case Name:**

**Jude Hakim**

**v**

**The Queen**

**[GDAHCRAP2008/0002]**

**Date:**

**Monday, 28<sup>th</sup> October 2013**

**Coram:**

**The Hon. Dame Janice M. Pereira, Chief Justice  
The Hon. Mde. Louise E. Blenman, Justice of  
Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal**

**Appearances:**

**Appellant:**

**Mr. Kenroy Samuel**

**Respondent:**

**Mr. Christopher Nelson, Director of Public  
Prosecutions, with him, Ms. Crisan Greenidge  
and Ms. Dionne Lawrence-Pivotte**

**Issues:**

**Criminal appeal against sentence – House  
breaking**

**Result / Order /  
Reason:**

**[Oral delivery]  
The appeal is withdrawn, time having been  
served.**

**Case Name:**

**Jean McNeilly**

**v**

**Jacqueline Charles  
(Administratrix of the Estate of Joshua  
Cecil Thorne)**

**[GDAHCVAP2013/0013]**

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Dame Janice M. Pereira, Chief Justice  
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mde. Louise E. Blenman, Justice of Appeal

**Appearances:**

**Appellant:** Ms Claudette Joseph, with her, Mr. Ian Benjamin

**Respondent:** Mr. Ruggles Ferguson, with him, Ms. Anyika Johnson

**Issue:** Application to discharge order of single judge

**Result / Order:** [Oral delivery]  
Matter adjourned until Tuesday, 24<sup>th</sup> October 2013 at 2:00 pm for attorneys to present a consent order.

**Reason:** The matter was one in which the parties could have arrived at a consent position.

**Case Name:** Javed Chetram  
V  
The Commissioner of Police  
[GDAMCRAP2013/0001]

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

**Appearances:**

**Appellant:** Mr. Peter David

**Respondent:** Ms. Dionne Lawrence Pivotte

**Issues:** Criminal appeal against sentence – Trafficking in a controlled drug

**Result / Order / Reason:** [Oral delivery]  
The appeal against sentence being withdrawn, it is accordingly dismissed.

**Case Name:** Anderson Dino Clement  
v  
The Commissioner of Police  
[GDAMCRAP2013/0002]

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mr. Don Mitchell, Justice of Appeal  
[Ag.]

**Appearances:**  
**Appellant:** In person  
**Respondent:** Ms. Dionne Lawrence Pivotte

**Issues:** Criminal appeal against sentence – Housebreaking

**Result / Order:** [Oral delivery]  
Appeal is dismissed and the sentence as imposed affirmed.

**Reason:** The Court found no merit in the appeal and found no plausible reason to disturb the



decision of the magistrate.

**Case Name:** **Gabriel Ranger**  
**v**  
**The Commissioner of Police**

**[GDAMCRAP2012/0002]**

**Date:** **Monday, 28<sup>th</sup> October 2013**

**Coram:** **The Hon. Mr. Davidson K. Baptiste, Justice of Appeal**  
**The Hon. Mr. Don Mitchell, Justice of Appeal**  
**[Ag.]**

**Appearances:**

**Appellant:** **In person**

**Respondent:** **Ms. Dionne Lawrence Pivotte**

**Issues:** **Criminal appeal against conviction and sentence – Failing to remain stationery – Taking on passengers**

**Result / Order:** **[Oral delivery]**  
**1. The appeal against conviction and sentence is allowed.**  
**2. Sentence is quashed.**

**Reason:** **The Court was of the view that the learned magistrate erred in not allowing the defendant an opportunity to call his witnesses. Therefore, the conviction could not be sustained.**

**Case Name:**

**Winston Smith  
v  
The Commissioner of Police**

**[GDAMCRAP2012/0004]**

**Date:**

**Monday, 28<sup>th</sup> October 2013**

**Coram:**

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mr. Don Mitchell, Justice of Appeal  
[Ag.]**

**Appearances:**

**Appellant: No appearance**

**Respondent: Ms. Dionne Lawrence Pivotte**

**Issues:**

**Criminal appeal against conviction –  
Possession of an offensive weapon**

**Result / Order:**

**[Oral delivery]**

- 1. The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in Grenada.**
- 2. The Registrar is to give notice to the appellant as to the time and date of the sitting.**

**Reason:**

**The appellant had not been served and therefore had no notice of the hearing of the matter.**

**Case Name:**

**Leighton Taylor  
v  
Thomas Roberts**

**[GDAMCVAP2013/0001]**

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mr. Don Mitchell, Justice of Appeal  
[Ag.]

**Appearances:**

**Appellant:** Ms. Anyika A. Johnson

**Respondent:** Mr. Kenroy Samuel

**Issues:** Civil appeal – Damages for conversion

**Result / Order:** [Oral delivery]  
The matter is not ready for hearing and is taken off the Court's list.

**Reason:** The Court indicated that the matter was not case managed. There were no submissions filed and as such the matter was not ready for hearing and ought not to be listed.

**Case Name:** Michael Fletcher  
V  
Glenna Joseph

**[GDAMCVAP2013/0002]**

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mr. Don Mitchell, Justice of Appeal  
[Ag.]

**Appearances:**

**Appellant:** Ms. Anyika A. Johnson

**Respondent:** In person

**Issues:** Civil appeal – Tort – Negligence

**Result / Order:** [Oral delivery]  
The matter is not ready for hearing and as such it is taken off the list.

**Reason:** The matter had not been case managed and was not ready for hearing. It therefore should not have been listed.

**Case Name:** Ian St. Bernard  
v  
Nardia Wellington  
[GDAMCVAP2012/0018]

**Date:** Monday, 28<sup>th</sup> October 2013

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mr. Don Mitchell, Justice of Appeal  
[Ag.]

**Appearances:**  
**Appellant:** Ms. Claudette Joseph  
**Respondent:** Ms. Sabrita Khan-Ramdhani

**Issues:** Civil appeal – Domestic violence – Injunctive relief – Order for maintenance – Protection order

**Result / Order:** [Oral delivery]  
Matter adjourned to Tuesday, October 29<sup>th</sup> 2013

before the panel in Court No. 1.

**Reason:** Attorneys advised the Court that the matter was set for October 29<sup>th</sup> 2013.

**Case Name:** John Charles  
v  
The Queen

[GDAHCRAP2011/0001]

**Date:** Tuesday, 29<sup>th</sup> October 2013

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal  
The Hon. Mr. Don Mitchell, Justice of Appeal  
[Ag.]

**Appearances:**

**Appellant:** Mr. Anslem Clouden

**Respondent:** Ms. Dionne Lawrence Pivotte

**Issues:** Criminal appeal against conviction – Rape –  
Directions – Fresh evidence

**Result / Order:** [Oral delivery]  
1. The appellant is granted leave to file and serve amended grounds of appeal on or before Monday, 2<sup>nd</sup> December 2013.  
2. The appellant is to file skeleton submissions and authorities on or before Monday, 2<sup>nd</sup> December 2013.  
3. The respondent is to file and serve skeleton submissions in response and authorities on or before the 13<sup>th</sup> of January 2014.  
4. The appellant is granted leave to file and serve an application to adduce fresh

evidence of Cindy Steel on or before the 23<sup>rd</sup> of November 2013.

5. The appellant is to file and serve skeleton submissions and authorities in support on or before Monday, 2<sup>nd</sup> December 2013.
6. The respondent is to file and serve skeleton submissions and authorities in reply on or before the 16<sup>th</sup> December 2013.
7. The hearing of the appeal and application is adjourned to the next sitting of the Court of Appeal in Grenada during the week 24<sup>th</sup> to 28<sup>th</sup> February 2014.

**Reason:**

Counsel for the appellant requested time to file additional grounds of appeal along with an application to adduce fresh evidence.

The Court agreed to allow the appellant time to file the said submissions and application and further gave the respondent time to respond.

**Case Name:**

**Durant Patrice**

**v**

**The Queen**

**[GDAHCRAP2009/0009]**

**Date:**

**Tuesday, 29<sup>th</sup> October 2013**

**Coram:**

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal**

**The Hon. Mr. Mario Michel, Justice of Appeal**

**The Hon. Mr. Don Mitchell, Justice of Appeal  
[Ag.]**

**Appearances:**

**Appellant:**

**Mr. Patrick David, appearing amicus**

**Respondent:**

**Ms. Dionne Lawrence-Pivotte**

**Issues:** Criminal appeal against conviction – Housebreaking – Stealing

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

**Reason:** The Court was satisfied that the appellant's defence was not adequately put before the jury. In addition the trial judge failed to adequately assist the jury with the appellant's defence which resulted in an unfair trial.

**Case Name:** Michael Stewart  
v  
The Queen

[GDAHCRAP2009/0013]

**Date:** Tuesday, 29<sup>th</sup> October 2013

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal  
The Hon. Mr. Don Mitchell, Justice of Appeal  
[Ag.]

**Appearances:**

**Appellant:** In person

**Respondent:** Ms. Dionne Lawrence-Pivotte, with her, Ms. Crisan Greenidge

**Issues:** Criminal appeal against conviction – Attempted house breaking – Arson – Possession of housebreaking implements

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

1. The hearing of this appeal is adjourned to the next sitting of the Court of Appeal in Grenada, the week commencing 24th February 2014.
2. Meanwhile the Deputy Registrar of the Court of Appeal (Registrar of the High Court) will work with the office of the Director of Public Prosecutions to ensure that the appeal files for the appellant (the one for 2009 and the one for 2010) are sorted out and the matters brought up for status hearing if necessary for any further directions to be given.

**Reason:**

The true status of the matter was uncertain as the record consisted of documents relating to two convictions, one in 2009 and the other in 2010.

**Case Name:**

**[1] Stressman Thomas**

**[2] Edzil Thomas**

**[3] Guy Alexander**

**v**

**[1] Clarence Ferguson**

**[GDAHCVAP2011/0031]**

**Date:**

**Tuesday, 29<sup>th</sup> October 2013**

**Coram:**

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal**

**The Hon. Mr. Mario Michel, Justice of Appeal**

**The Hon. Mr. Don Mitchell, Justice of Appeal  
[Ag.]**

**Appearances:**

**Appellant:**

**Mrs. Venescia Francis–Banfield, with her, Ms. Sabrita Khan–Ramdhani**

**Respondent:**

**Ms. Anyika A. Johnson**



|                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Issues:</b>         | <b>Civil appeal – Delay in delivery of judgment – Trespass to land – Boundary dispute – Adverse possession</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Result / Order:</b> | <p><b>[Oral delivery]</b></p> <ol style="list-style-type: none"> <li><b>1. Appeal is dismissed and the orders of the trial judge affirmed.</b></li> <li><b>2. Costs to the respondent in the amount of two thirds (2/3) of the costs in the Court below.</b></li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Reason:</b>         | <p><b>The learned trial judge heard the evidence as to what had happened, visited the site to have the area in dispute pointed out to him, and considered the various deeds and plans presented to him. The respondent's paper title was not disputed by the appellant. The learned trial judge found that the respondent had made out his case that the appellant had committed the acts of trespass to the land to which the respondent and his predecessors held title. Indeed, the appellant admitted that he had performed the clearing of the land and the placing of poles complained of by the respondent. The appellant could not establish from the transcript or from the judgment any finding or conclusion of the learned trial judge that could indicate that he made any error, particularly one which was attributable to this delay, thus rendering the judgment unsafe. Accordingly, the Court found no merit in this ground of appeal. Cobham v Frett [2001] 1 WLR 755 and Ramnarine v Ramnarine [2013] UKPC 27 applied.</b></p> <p><b>Further, the learned trial judge was not responsible for ensuring that a survey was ordered after viewing the locus in quo. In fact, it was the responsibility of the appellants to properly set out their case and to ensure, if needed, that a survey be ordered. Rules 8.7 and 10.5 of the Civil Procedure Rules 2000 applied.</b></p> |

**Case Name:**

**Jean McNeilly  
v  
Jacqueline Charles  
(Administratrix of the Estate of Joshua  
Cecil Thorne)**

**[GDAHCVAP2013/0013]**

**Date:**

**Tuesday, 29<sup>th</sup> October 2013**

**Coram:**

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

**Appearances:**

**Appellant:**

**Mr. Ruggles Ferguson, with him, Ms. Anyika  
Johnson**

**Respondent:**

**Ms. Claudette Joseph**

**Issue:**

**Application to discharge order of single judge**

**Result / Order /  
Reason:**

**[Oral delivery]**

**By consent:**

- 1. The order dated the 20<sup>th</sup> day of June 2013 be  
and is hereby set aside.**
- 2. There be no order as to costs of this  
application.**

**Case Name:**

**Ian St. Bernard  
v  
Nardia Wellington**

**Date:** Tuesday, 29<sup>th</sup> October 2013

**Coram:** The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mr. Mario Michel, Justice of Appeal  
The Hon. Mr. Don Mitchell, Justice of Appeal  
[Ag.]

**Appearances:**

**Appellant:** Ms. Claudette Joseph

**Respondent:** Ms. Sabrita Khan-Ramdhani, with her, Ms. Karen Samuel

**Issues:** Civil appeal – Domestic violence – Injunctive relief – Order for maintenance – Protection order

**Result / Order / Reason:** [Oral delivery]  
By consent it is ordered that:

1. The appellant will pay the respondent a lump sum figure of \$5,000.00 for relocation and accommodation expenses to be paid to the respondent within seven (7) days.
2. The appellant will pay the respondent the monthly sum of \$1,200.00 for interim monetary relief for the benefit of the children namely Aquila St. Bernard, Ashanti St. Bernard and Iana St. Bernard commencing November 1<sup>st</sup> 2013 for a period of two (2) years.
3. The appellant shall continue to pay the school fees for the said children.
4. Costs to the respondent in the sum of \$1,000.00.
5. The order of Her Worship Karen Noel, Magistrate Southern District of the 17<sup>th</sup> day of September 2012 is hereby discharged save for paragraphs 1 and 2 thereof.

**Case Name:**

**[1] Anthony George  
v  
[1] The Commissioner of Police  
[2] The Director of Public Prosecutions  
[3] The Magistrate of the Southern  
District  
[4] Joseph Goddard  
[GDAMCRAP2013/0001]**

**Date:**

**Wednesday, 30<sup>th</sup> October 2013**

**Coram:**

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal  
The Hon. Mde. Louise E. Blenman, Justice of Appeal  
The Hon. Mr. Don Mitchell, Justice of Appeal  
[Ag.]**

**Appearances:**

**Appellant:**

**No appearance**

**Respondent:**

**Ms. Crisan Greenidge for the second respondent**

**Mr. Adebayo Olowu for the first and third respondents**

**Issue:**

**Case management of appeal**

**Result / Order:**

**[Oral delivery]  
The matter is adjourned to the next sitting of the Court of Appeal in Grenada during the week commencing 24<sup>th</sup> February 2014.**

**Reason:**

**The appellant was out of state and had not been served with the notice of hearing.**

|                        |                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Case Name:</b>      | <b>Grenada &amp; Carriacou Investments<br/>v<br/>Atlantic Partnership<br/><br/>[GDAHCVAP2012/0020]</b>                                                                                                                                                                                                                                                                                                             |
| <b>Date:</b>           | <b>Wednesday, 30<sup>th</sup> October 2013</b>                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Coram:</b>          | <b>The Hon. Mr. Davidson K. Baptiste, Justice of Appeal<br/>The Hon. Mde. Louise E. Blenman, Justice of Appeal<br/>The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]</b>                                                                                                                                                                                                                                          |
| <b>Appearances:</b>    |                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Appellant:</b>      | <b>Mr. Kenroy Samuel, with him, Ms. Keisha Lander</b>                                                                                                                                                                                                                                                                                                                                                              |
| <b>Respondent:</b>     | <b>Mr. Alban John, with him, Ms. Thandiwe Lyle</b>                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Issues:</b>         | <b>Civil appeal – Interlocutory appeal – Extension of time to file witness statements – Relief from sanctions</b>                                                                                                                                                                                                                                                                                                  |
| <b>Result / Order:</b> | <b>[Oral delivery]<br/>1. Leave is given to the appellant to file and serve the bundle requested in accordance with CPR 62.10 and to include the written reasons of the trial judge or in default of the written reasons the transcript of the hearing.<br/>2. Hearing of this appeal is traversed to the next sitting of the Court of Appeal in Grenada in the week commencing 24<sup>th</sup> February 2014.</b> |
| <b>Reason:</b>         | <b>The Court was not aware that leave to appeal was granted by the lower court. There was no order to this effect on the Court's file. Further, the appellant challenged the findings of the trial judge without obtaining the judge's reasons in</b>                                                                                                                                                              |

writing for the assistance of the Court of Appeal. In addition, there was the failure to file a proper bundle as required by the Rules and Practice Directions (Part 62.10 CPR 2000 applied).