

COURT OF APPEAL SITTING

**SAINT LUCIA
8th to 11th July 2013**

JUDGMENTS

Case Name: Mitchel Joseph aka “Bage”
V
The Queen
[SLUHCRA2011/0001]

Date: Monday, 8th July 2013

Coram: The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mr. Davidson Baptiste, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant:	Mr. Horace Fraser holding papers for Mr. Shawn Innocent
Respondent:	Mrs. Victoria Charles-Clarke, Director of Public Prosecutions

Issues: Criminal appeal – Murder – Evidence Act – Whether the trial judge erred in allowing evidence of confessional statements and admissions – Whether trial judge erred in failing to conduct voir dire – Whether trial judge erred in failing to give reliability warning – Whether counsel’s incompetence rendered conviction unsafe – Sentence – Death penalty – Whether killing of policeman fell within the worst of the worst category

Result & Reason: Held: dismissing the appeal against conviction and allowing the appeal against sentence to the extent that the sentence of death is quashed and a sentence of life imprisonment is

substituted, that:

1. The common thread running through sections 70 and 71 of the Evidence Act is that the issue of admissibility has to be raised by the defendant. Defence counsel raised no objection or challenge to the admissibility of any admission or confession to engage the operation of sections 70 or 71 of the Evidence Act. Even if the issue of admissibility were raised under section 70, the admission and the making of the admission would not have been caught by any of the conduct proscribed by that section. The circumstances surrounding the making of the statement did not involve any violent, oppressive, inhumane or degrading conduct towards the defendant or any other person, nor was there any threat of conduct of that kind or any promise made to the defendant to any other person. Further, in relation to section 71, the circumstances in which the confession was made were such as to make it unlikely that its truth was adversely affected. In the circumstances, the confession or admission would not be inadmissible.

Sections 70 and 71 of the Evidence Act applied.

2. The framers of the Evidence Act were clearly cognizant of the myriad of facts and varying circumstances attendant upon the criminal investigatory process and the conduct of a criminal trial which may impact upon fulfillment of the requirements of the sections. Accordingly, the Evidence Act empowers the court to admit evidence to which sections 72 and 73 apply notwithstanding lack of compliance or insufficiency of compliance with their requirements. The discretion conferred upon the court is not at large, being circumscribed by the dictates of the sections. In exercising its discretion, the

court has to be satisfied of matters such as the practicability of compliance and whether in the special circumstances of the case admission would be contrary to the interest of justice. There was no challenge by the appellant to the statements and admissions being put into evidence. As such there was no preliminary question to be answered as to whether the evidence should be admitted. The learned judge rightly exercised his discretion to admit the evidence by looking at the circumstances under which the statements were made. Accordingly, it cannot be successfully argued that it would have been unfair to the appellant to admit the evidence.

Sections 72 and 73 of the Evidence Act applied.

3. Having regard to the nature of and the reason for non-compliance with sections 72(2) and 73(1) of the Evidence Act and the surrounding circumstances, the learned judge would have properly exercised his discretion under sections 72(5) and (6) and 73(3) of the Evidence Act by admitting the Rights in Custody Form. In the special circumstances of the case, it was not contrary to the interest of justice to admit the evidence. Further, in the circumstances there was no unfair prejudice to the appellant by the admission of the evidence and the trial judge would have properly exercised his discretion under section 115 of the Evidence Act as the probative value of the evidence was substantially outweighed by the danger of unfair prejudice.

Sections 72, 73 and 115 of the Evidence Act applied.

4. It was not necessary to conduct a voir dire in this case as the determination of the question whether the confessional statement or oral representations should be admitted

did not depend on the judge finding that a particular fact existed. The appellant did not contend that he did not make the statements neither was there any challenge to the voluntariness of the evidence. The learned judge rightly exercised his discretion to admit the evidence by looking at the circumstances under which the statements were made, and it was not unfair to the appellant to admit the evidence.

Section 142(1) of the Evidence Act applied.

5. The failure to give a section 136 warning does not inexorably lead to the conclusion that a resulting conviction is unsafe. Much may depend on the circumstances of the case, including the nature of the evidence in question, the strength of evidence against the appellant, and whether the evidence of the witness in respect of which the warning was not given, is supported by other evidence in the case. The evidence against the appellant was most compelling. The prosecution's case did not depend solely on the admission or confession of the appellant, but was supported by other evidence in the case. Given the strength of the case, the jury would inevitably have arrived at the same verdict even if a section 136 warning had been given. In the circumstances, the failure to give a section 136 warning did not result in a miscarriage of justice.

Section 136 of the Evidence Act applied; Andrew Milton and Dennis Campbell v R Territory of the Virgin Islands High Court Criminal Appeal BVIHCRA2009/0006; BVIHCRA2009/0007 followed.

6. It is only in exceptional circumstances that the mistakes or omissions of counsel will be sufficient to set aside a guilty verdict as being unsafe or lead to a miscarriage of justice. To achieve that result, counsel's

conduct must be so extreme as to result in a denial of due process to his client. In the circumstances of this case it cannot be said that counsel's omissions achieved that result. Having regard to the nature of the appellant's criticisms of his counsel, it cannot be said that the matters complained of had any adverse impact on the fairness of the trial or the safety of the verdict. The appellant's defence was always that he did not have or fire the gun which killed Remy and that Remy was shot by the police. The jury evidently believed the compelling evidence of the prosecution and rejected the appellant's defence.

Mark Teeluck et al v The State [2005] UKPC 14 applied; Ann Marie Boodram v The State [2001] UKPC 20 applied; Anderson v HM Advocate 1996 JC 29 applied.

7. For the death penalty to be imposed, two cardinal principles must be satisfied. The first principle is that the death penalty should be imposed only in cases which on the facts of the offence are the most extreme and exceptional, 'the worst of the worst' or 'the rarest of the rare'. The second principle is that there must be no reasonable prospect of reform of the offender and that the object of punishment could not be achieved by any means other than the ultimate sentence of death. If the murder cannot be characterised as the worst of the worst, the first aspect of the second principle, whether there is a reasonable prospect of reform, does not arise. The killing of a police officer in the execution of his duty is no doubt a grave crime. However, on the facts, the murder cannot be categorized as the most extreme and exceptional. It cannot fall into the category of the worst of the worst or the rarest of the rare. A killing is not to be regarded as the worst of the worst simply by reason of its inclusion in a particular type of murder category. Thus, the categorization of

the killing as capital murder under the Criminal Code – as it involved the killing of a policeman in the execution of his duty – would not by itself transform the killing into the category of the worst of the worst.

Daniel Dick Trimmingham v The Queen [2009] UKPC 25 followed; Ernest Lockhart v The Queen [2011] UKPC 33 applied; Maxo Tido v The Queen [2011] UKPC 16 applied.

8. The murder of a police officer in the execution of his duty is undoubtedly a very serious crime. The use of a firearm in the execution of the crime is also a very grave matter. A sentence of life imprisonment is proportionate and appropriate in the circumstances of this case.

TELECONFERENCE

Case Name:

**Sonera Holding B.V.
v
Cukorova Holding A.S.**

**[BVIHCMAP2013/0001]
(Territory of the Virgin Islands)**

Date:

Thursday, 11th July 2012

Coram:

**The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

**Mr. Sydney Bennett, QC with him Mr. Ben
Valentin**

Respondent:

Ms. Arabella Di Iorio with her Mr. James Nadin

Issues:

Civil Appeal – Provisional Charging Order –
Injunction to support Charging Order –
Injunction to restrain disposition of assets after
redemption of shares – Equity of redemption in
respect of charged shares validly appropriated
– Whether amounting to present beneficial
interest – Civil Procedure Rules Part 48

**Result /
Reason:**

Held: allowing the appeal to the extent of
granting the injunction restraining Cukurova
from disposing of its interest or the interest of
CFI or the interest of CTH, howsoever held, in
TCH whether by sale, transfer, charge,
liquidation or any other means whatsoever, and
dismissing the applications to grant the
provisional charging order and an injunction,
restraining Cukurova from using the Charged
Shares as security for a loan to finance the
redemption of the Shares, and making no order
as to costs, that:

1. The Privy Council in its judgment delivered on 30th January 2013 held that notwithstanding the appropriation of the Charged Shares by Alpha, Cukurova retained an equity of redemption in the Charged Shares and was entitled to relief from forfeiture. Cukurova's equity of redemption is a present equitable interest in the Charged Shares which is a sufficient interest in respect of which Sonera could apply for a charging order under Part 48 of the CPR. However, in the circumstances of this case, the court declines to exercise its discretion to grant the provisional charging order sought as to do so will more than likely have the effect of preventing the re-acquisition of the Charged Shares by Cukurova thus destroying the very equity of redemption which it now has. Cukurova will then be in the position of having no assets in the jurisdiction and the judgment debt will be unenforceable. These factors, though unusual, must be relevant considerations in

the exercise of the discretion having regard to the objective of a charging order which is enforcement of a judgment.

The Royal Oak Company Limited v Iktilat [2008] EWHC 1703 applied; London and South Western Railway Co. v Gomm [1882] 20 Ch D 562 cited; Chattey and another v Farndale Holdings Inc. and others [1996] EWCA Civ 696 cited; Bircham & Co., Nominees (2) Ltd and another v Worrell Holdings Limited [2001] EWCA Civ 775 cited.

2. An injunction should not be granted to prevent Cukurova from acquiring an even more valuable asset that will be subject to the jurisdiction of the BVI courts in circumstances where it does not have any other assets in the jurisdiction. Further, the findings of material non-disclosure are confirmed.

Hadmor Productions Limited v Hamilton [1983] AC 191 at 220 applied

3. The injunction restraining Cukurova immediately upon the redemption of the Charged Shares, whether acting by its directors, officers, servants or agents or otherwise howsoever from taking any steps to dispose of its interest or the interest of CFI or the interest of CTH, howsoever held, in TCH whether by sale, transfer, charge, liquidation or any other means whatsoever” is re-imposed having regard to the following:

- (a) Sonera is an unpaid judgment creditor of Cukurova for over \$1 billion and there is no evidence that Cukurova intends to pay the outstanding judgment debt.

- (b) This Injunction will not interfere with Cukurova’s redemption of the Charged Shares, but it will give Sonera some security against what will become

Cukurova's even more valuable asset in the jurisdiction; and

- (c) The balance of convenience favours the re-imposition of the injunction. Cukurova will have completed the redemption of the Charged Shares by the time the injunction becomes effective and it will affect only future dispositions of the Charged Shares which should not take place without the court's approval in light of the substantial judgment debt that Cukurova still owes to Sonera.

STATUS HEARING

Case Name:

**Urban St. Brice
v
The Attorney General**

[SLUHCVAP2012/0027]

Date:

Monday, 8th July 2013

Before:

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

Appearances:

Appellant:

No appearance

Respondent:

No appearance

Issue:

Status of the matter

Result / Order:

The matter is stood down.

Reason:

No one appeared for the appellant, and Mr. Dwight Lay (counsel on record for the

respondent) was in another courtroom appearing before the full Court when the matter was called.

Case Name: Randa Prospere
v
The Queen
[SLUHCRA2009/0001]

Date: Monday, 8th July 2013

Before: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

Appearances:

Appellant: No appearance

Respondent: Mrs. Victoria Charles-Clarke, Director of Public Prosecutions

Issue: Status of the matter

Result / Order: [Oral delivery]
1. The matter is adjourned to the next status hearing scheduled for the week commencing 9th December 2013.
2. The appellant is to indicate whether he intends to pursue the appeal.
3. The Registrar of the High Court is to cause the Order to be served on the appellant.

Reason: The appellant was not present and there was no indication that he was aware of the day's hearing.

Case Name: **Boniface Christophe**
v
The Police
[SLUHCRAP2010/0002]

Date: **Monday, 8th July 2013**

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

Appearances:

Appellant:	In person
Respondent:	Mrs. Victoria Charles-Clarke, Director of Public Prosecutions

Issues: **Status of the matter – Criminal appeal against conviction and sentence of 25 years and 10 years imprisonment to run consecutively – Rape – Robbery**

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

- 1. The Registrar of the High Court is to cause the transcript of proceedings to be completed.**
- 2. The matter is adjourned to the next status hearing scheduled for the week commencing 9th December 2013 for report.**

Reason: **The transcript of proceedings was not yet ready. Attorney at law, Mr. Colin Foster indicated to the Court that he was prepared to assist the appellant amicus.**

Case Name: **Kim Florent**

V
The Queen

[SLUHCRAP2012/0001]

Date: Monday, 8th July 2013

Before: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

Appearances:

Appellant: In person

Respondent: Mrs. Victoria Charles-Clarke, Director of Public Prosecutions

Issue: Status of the matter

Result / Order: [Oral delivery]

1. The Registrar of the High Court is to cause the transcript of the proceedings to be completed.
2. The matter is adjourned to the next status scheduled for the week commencing 9th December 2013 for report.

Reason: Counsel for the respondent indicated to the Court that the transcript was yet to be received by the office of the DPP.

Case Name: Lenzie Polemis
V
The Queen

[SLUHCRAP2011/0002]

Date: Monday, 8th July 2013

Before: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

Appearances:

Appellant: Mr. Colin Foster holding papers for Mr. Daasrean Greene

Respondent: Mrs. Victoria Charles-Clarke, Director of Public Prosecutions

Issue: Status of the matter

Result / Order:

[Oral delivery]

1. The appellant is to file and serve skeleton arguments with authorities on or before 15th October 2013.
2. The respondent is to file skeleton arguments in response on or before 15th November 2013.
3. The matter is set for hearing at the next sitting of the Court of Appeal scheduled for the week commencing 9th December 2013.

Reason:

The Director of Public Prosecutions informed the Court that although the transcript of proceedings had been sent to the High Court on 28th June 2013, it had not been transmitted to the office of the DPP as yet.

Mr. Colin Foster indicated that Mr. Greene had also applied for the transcript but had not received it as yet.

Case Name:

Peter Solomon

v

The Queen

[SLUHCRA2005/0004]

Date: Monday, 8th July 2013

Before: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

Appearances:

Appellant: Ms. Wauneen Louis-Harris

Respondent: Mrs. Victoria Charles-Clarke, Director of Public Prosecutions

Issues: Status of the matter – Murder – Appellant’s case to have been periodically reviewed by Court – Case management directions

Result / Order: [Oral delivery]

1. The Director of Prisons is to furnish the Court on or before the 30th day of July 2013 with a full report on the prisoner, Peter Solomon addressing Solomon’s conduct during detention, his responses to the punishment and any counseling and or rehabilitation programmes sponsored by the prison authorities, his attitude to the crime, for example genuine sorrow and remorse and any recommendations by the Director of Prisons for the guidance of the Court.
2. A Social Inquiry Report in respect of the prisoner is to be prepared and filed on or before 15th August 2013.
3. A psychiatric or psychological report into the prisoner is to be conducted of the applicant and the report is to be submitted to the Court on or before the 31st day of August 2013.
4. The matter is adjourned to the week commencing 18th September, 2013 for hearing by the High Court Judge.

Reason: It was ordered in 2007 that the appellant be brought before the Court periodically for his case to be reviewed. The Court made the necessary order to facilitate this review

process.

Case Name: **Tanzanite International Limited**
v
The Attorney General of Saint Lucia

[SLUHCVAP2008/0039]

Date: **Monday, 8th July 2013**

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

Appearances:

Appellant: **Ms. Renee St. Rose**

Respondent: **Mr. Raulston Glasgow, Solicitor General**

Issue: **Status of the matter**

Result / Order: **[Oral delivery]**
The matter is adjourned to the next status hearing in Saint Lucia scheduled for the week commencing 9th December 2013 for report.

Reason: **The last time this matter came up for hearing counsel for the parties were instructed to produce notes to settle the file. This had not been done as yet. Ms. St. Rose informed the Court that the Registry had been unable to produce any notes from the hearing since the matter had not been recorded.**

Further, counsel for the respondent indicated that the files had been located in archives of the Attorney General's Chambers, but that more time was needed to get them prepared so that they can be passed on to the other side.

Case Name:

**Josephat Mathurin
V
Saint Lucia National Housing
Corporation**

[SLUHCVAP2010/0014]

Date:

Monday, 8th July 2013

Before:

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

Appearances:

Appellant:

**Ms. Wauneen Louis-Harris holding papers for
Mr. Vern Gill**

Respondent:

Mr. Leslie Mondesir

Issues:

Status of the matter – For report

Result / Order:

[Oral delivery]

**The matter is adjourned to the next status in
Saint Lucia scheduled for the week
commencing 9th December 2013 for report.**

Reason:

**The transcript of proceedings was still yet to be
prepared.**

Case Name:

**The Attorney General
V
Josephat Small**

[SLUHCVAP2011/0027]

Date: Monday, 8th July 2013

Before: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

Appearances:

Appellant: Ms. Brender Portland-Reynolds

Respondent: No appearance

Issue: Status of the matter

Result / Order / Reason: [Oral delivery]

1. The respondent, Josephat Small, is to be served personally with the notice of appeal.
2. The matter is adjourned to the next status hearing in Saint Lucia scheduled for the week commencing on 9th December 2013 for report.

Case Name: Martin Devaux
v
Mark Goddard

[SLUHCVAP2010/0028]

Date: Monday, 8th July 2013

Before: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

Appearances:

Appellant: No appearance

Respondent: No appearance

Issue: Status of the matter

Result / Order: [Oral delivery]
The matter is adjourned to the next status hearing in Saint Lucia scheduled for the week commencing on 9th December 2013.

Reason: No appearance of either counsel or parties.

Case Name: Urban St. Brice
v
The Attorney General
[SLUHCVAP2012/0027]

Date: Monday, 8th July 2013

Before: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

Appearances:
Appellant: In person
Respondent: Mr. Dwight Lay

Issue: Status of the matter

Result / Order: [Oral delivery]
1. The respondent is to file and serve submissions and authorities in response to the appellant's submissions on or before 15th September 2013.
2. The matter is set down for hearing at the next sitting of the Court of Appeal in Saint Lucia scheduled for the week commencing 9th December 2013.

Reason: The respondent was not served with the submissions of the appellant.

Case Name: [1] Cameron Wayne Ernest
v
[1] The Director of Public Prosecutions
[2] PC 490 George Leopold

[SLUHCV2013/0504]
[no magisterial appeal number]

Date: Monday, 8th July 2013

Before: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

Appearances:

Appellant: No appearance

Respondent: Mrs. Victoria Charles-Clarke, Director of Public Prosecutions

Issues: Status of the matter – For mention

Result / Order: [Oral delivery]
The matter is adjourned to the next status hearing in Saint Lucia scheduled for the week commencing 9th December 2013.

Reason: There was no appearance by the appellant.

Case Name: William Gerard
v
The Police

[no magisterial appeal number]

Date: Monday, 8th July 2013

Before: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

Appearances:

Appellant:	No appearance
Respondent:	Mrs. Victoria Charles-Clarke, Director of Public Prosecutions

Issues: Status of the matter – For mention

Result / Order: [Oral delivery]
The matter is adjourned to the next status hearing in Saint Lucia scheduled for the week commencing 9th December 2013.

Reason: There was no appearance by the appellant.

APPLICATIONS AND APPEALS

Case Name:

**Fire Service Association
v
The Attorney General
[SLUHCVAP2013/0011]**

Date: Monday, 8th July 2013

Coram: The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
[Ag.]

**The Hon. Mr. John Carrington, Justice of Appeal
[Ag.]**

Appearances:

Appellant: Mrs. Cynthia Hinkson-Ouhla

Respondent: Mr. Dwight Lay with him Ms. Jans Drysdale

Issues:

Application for extension of time to file notice of appeal – Application for leave to appeal

Result / Order:

[Oral delivery]

The notice of appeal filed herein having been withdrawn, costs are awarded to the respondent agreed in the sum of \$500.00.

Reason:

The Court held that there was no application before it. An application must set out the grounds on which an applicant is making the application and an affidavit in support ought to be attached. What was before the Court was a notice of appeal in substance albeit called an application. The Court concluded that since that was the case, there was nothing before the Court for its consideration.

Case Name:

[1] Margaret Lynch

[2] Anthea Lynch

v

[1] Bernard Prospere

[2] Justin Prospere

[SLUHCVP2011/0046]

Date:

Monday, 8th July 2013

Coram:

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

[Ag.]
The Hon. Mr. John Carrington, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mr. Horace Fraser

Respondent: Ms. Eugene Dickson holding papers for Mr. Leon Theodore-John

Issue: Application for conditional leave to appeal to Her Majesty in Council against decision of 26th March 2013

Result / Order: [Oral delivery]
The petition for leave to appeal to Her Majesty in Council is hereby dismissed; the same being out of time in accordance with section 4 of the West Indies Associated States (Appeals to the Privy Council Order 1967) which stipulates the time for filing of a notice of motion or petition to this Court as 21 days.

Reason: Counsel for the appellant filed the petition for leave to appeal to Her Majesty in Council on 10th May 2013, which meant that the application was filed out of time. The Court determined that counsel's reliance on the Judicial Committee (Appellant Jurisdiction) Rules Order 2009, No. 224 was incorrect and further held that the time for filing the petition before this Court is governed by the West Indies Associated States (Appeals to the Privy Council) Order 1967.

Case Name: [1] Alexis Alcide as Heir to the Estate of Gerald Alcide aka Gerald Alcide Jn Marie
aka George Alcide
[2] Alexis Alcide as Administrator of the Estate of Emilienne Alcide (nee Gilbert)

V

**[1] Josephine Lansiquot as Executrix of
the Estate of Joseph Alcide c/o Monica
Alcide of Bagatelle, Castries**

**[2] John Cherubin as Administrator of
the Estate of Veronica Alcide of Monchy**

[3] Monica Alcide of Bagatelle, Castries

[SLUHCVAP2012/0007]

Date: Monday, 8th July 2013

Coram: The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
[Ag.]
The Hon. Mr. John Carrington, Justice of Appeal
[Ag.]

Appearances:
Appellant: In person

Respondent: Mr. Vern Gill

Issues: Civil appeal – Real property – Abuse of process
– Interest in land

Result / Order: [Oral delivery]
1. The appeal is adjourned to the next sitting of
the Court of Appeal during the week
commencing 9th December 2013.
2. Costs to the appellant in the sum of \$1000.00
to be paid by the respondents on or before
31st July 2013.

Reason: Counsel for the respondent failed to file the
requisite documents despite the order of the
Court stating that skeleton arguments should
be filed and served on or before 26th April 2013.
The skeleton arguments were also not served
on the appellant. The Court, being mindful of
the prejudice occasioned to the appellant, who
appeared in person, awarded costs to reflect

counsel's non-compliance, which resulted in the appeal being adjourned.

Case Name:

**Jeff McVane
v
Bertly Ferdinand**

[SLUMCRAP2010/0002]

Date:

Monday, 8th July 2013

Coram:

**The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
[Ag.]
The Hon. Mr. John Carrington, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

No appearance

Respondent:

Mr. Stephen Brett

Issues:

**Criminal appeal against conviction –
Application for possession of firearm without
licence**

Result / Order:

[Oral delivery]

- 1. The appeal herein is struck out for want of prosecution.**
- 2. The sentence made by the magistrate remains.**

Reason:

The appellant has shown no interest in prosecuting the appeal. Furthermore, the bench warrant was unexecuted as the investigating officer was unable to locate the appellant's place of residence.

Case Name:

**Terry Charles
v
The Police (PC 56 Allyn Prospere)
[SLUMCRAP2011/0019]**

Date:

Monday, 8th July 2013

Coram:

**The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
[Ag.]
The Hon. Mr. John Carrington, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

Mr. Colin Foster

Respondent:

Ms. Tina Mensah

Issues:

**Criminal appeal against conviction –
Possession of unlicensed firearm – Oral
application for adjournment**

Result / Order:

[Oral delivery]

- 1. The appeal is adjourned to the next sitting of the Court of Appeal in St. Lucia during the week commencing 9th December 2013. This is the final adjournment.**
- 2. It is further ordered that the appellant shall file and serve skeleton arguments together with copies of authorities relied on, on or before Wednesday, 31st July 2013.**
- 3. The respondent shall file and serve skeleton arguments in response together with authorities relied on, on or before Friday, 30th August 2013.**

Reason:

Counsel for the appellant indicated that he was unable to get in contact with his client, Mr. Terry Charles, to take further instructions and was

only able to do so on Friday, 5th July 2013. As such, counsel requested that the matter be traversed to the next sitting of the Court of Appeal in St. Lucia.

The respondent had no objection to the application for adjournment.

Case Name:

David Pilgrim

v

The Police

[SLUMCRAP2011/0021]

Date:

Monday, 8th July 2013

Coram:

**The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
[Ag.]
The Hon. Mr. John Carrington, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

Mr. Al Elliot

Respondent:

Mr. Stephen Brett

Issues:

Criminal appeal against conviction – Forfeiture proceedings

Result / Order:

[Oral delivery]

The matter is stood over for hearing on Wednesday, 10th July 2013.

Reason:

The Court took notice that the notes of evidence were received by the appellant on Friday, 28th June 2013 and that the respondent received the appellant's submissions on Friday, 5th July 2013. Owing to this, the respondent was unable

to file any submissions in response.

Counsel for the respondent stated that the submissions should be received by the Court by Monday afternoon, 8th July 2013.

Case Name:

Wayne Philogene

v

The Police

[SLUMCRAP2012/0002]

Date:

Monday, 8th July 2013

Coram:

**The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
[Ag.]
The Hon. Mr. John Carrington, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

Mr. Alfred Alcide

Respondent:

Ms. Tina Mensah

Issues:

**Criminal appeal against conviction – Driving
without due care and attention – For mention –
Oral application for adjournment**

Result / Order:

[Oral delivery]

- 1. The appellant shall file and serve skeleton arguments on or before Wednesday, 31st July 2013.**
- 2. The respondent shall file and serve skeleton arguments in response on or before Friday, 30th August 2013.**
- 3. The hearing of the appeal is adjourned to the next sitting of the Court commencing 9th December 2013.**

Reason: Counsel requested an adjournment in the matter. Counsel indicated to the Court that he was out of the country and returned to the State on Sunday, 7th July 2013. Furthermore, the police report, which counsel deemed essential to the case, was still missing.

Counsel for the respondent had no objection to the application for adjournment.

Case Name: **Magdaline Joseph**
v
The Police
[SLUMCRAP2012/0006]
[SLUMCRAP2012/0006A]

Date: Monday, 8th July 2013

Coram: The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
[Ag.]
The Hon. Mr. John Carrington, Justice of Appeal
[Ag.]

Appearances:
Appellant: Mr. Al Elliot holding papers for Mr. Jeannot Walters
Respondent: Ms. Tina Mensah

Issues: Criminal appeal against conviction –
Abandonment of juvenile – Oral application for adjournment

Result / Order: [Oral delivery]
1. The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in St.

Lucia during the week commencing 9th December 2013.

2. The appellant shall file and serve skeleton arguments on or before Wednesday, 31st July 2013.
3. The respondent shall file and serve skeleton arguments in response on or before Friday, 30th August 2013.

Reason:

Mr. Al Elliot informed the Court that counsel on record for the appellant was unable to file submissions due to personal reasons; consequently, an adjournment was requested.

The respondent had no objection to the application for adjournment.

The Court went further to place on record the Court's disapproval of attorneys' lack of filing of submissions on behalf of litigants. The Court stated that the rules of court are exceedingly clear and requested that there be greater adherence to the rules.

Case Name:

**River Doree Holdings Limited
v
Attorney General of Saint Lucia**

[SLUHCVP2012/0028]

Date:

Wednesday, 10th July 2013

Coram:

**The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. John Carrington, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

Mr. Stanley Marcus, QC with him Ms. Kimberly Roheman and Ms. Debra James

Respondent: Mr. Raulston Glasgow with him Ms. Jan Drysdale

Issues: Civil appeal – Lease agreement – Possession of land – Compulsory acquisition – Whether appellant entitled to ownership of land

Result / Order: Judgment reserved.

Case Name: David Pilgrim
v
The Police (PC 24 Luncheon)
[SLUMCRAP2011/0021]

Date: Wednesday, 10th July 2013

Coram: The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
[Ag.]
The Hon. Mr. John Carrington, Justice of Appeal
[Ag.]

Appearances:
Appellant: Mr. Al Elliot
Respondent: Mr. Stephen Brett

Issues: Criminal appeal against conviction – Forfeiture proceedings

Result / Order: Judgment reserved.

Case Name:

**Joan Marquis
v
The Attorney General of Saint Lucia**

[SLUHCVAP2012/0013]

Date:

Thursday, 11th July 2013

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]
The Hon. Mr. John Carrington, Justice of Appeal [Ag.]**

Appearances:

Appellant:

Mr. Dexter Theodore

Respondent:

Ms. Brenda Portland-Reynolds with her Ms. Jans Drysdale

Issues:

Civil appeal – Landlord and tenant – Whether respondents subletting of property for the remainder of the term of lease resulted in the respondent's landlord, General Investments Ltd., becoming the landlord of the appellant

Result / Order:

[Oral delivery]

- 1. The appeal is allowed and the claim is remitted to the High Court for hearing and determination.**
- 2. Costs in the cause.**

Reason:

The Court was of the view that the learned trial judge did not answer the preliminary question posed for determination which was, "what is the effect in law of the fact that the sublease was set to expire on the same day or after the head lease". The Court also took cognizance of the fact that the determination of the question posed would not dispose of the claim.