

COURT OF APPEAL SITTING

SAINT CHRISTOPHER AND NEVIS

26th – 30th November 2012

APPLICATIONS, MOTIONS AND APPEALS

Case Name:

Vance Amory

v

[1] Thomas Sharpe, QC

[2] The Commission of Inquiry

[3] The Nevis Island Administration

**[4] The Attorney General of St. Kitts and
Nevis**

[High Court Civil Appeal No. 13 of 2009]

Date:

Monday, 26th November 2012

Coram:

The Hon. Mde. Janice M. Pereira, Chief Justice

The Hon. Mde. Louise E. Blenman, Justice of Appeal

The Hon. Mr. Tyrone Chong, QC, Justice of Appeal

[Ag.]

Appearances:

Appellant:

Mr. Jeffrey Nisbett

Respondents:

Mr. Dane Hamilton, QC, with him, Mr. Mark Brantley

Issue:

**Application for conditional leave to appeal to Her
Majesty in Council**

Result / Order:

[Oral delivery]

- 1. The matter is adjourned to Wednesday 28th
November 2012 at 9 a.m.**
- 2. Mr. Jeffrey Nisbett to file skeleton arguments no
later than 3 pm today, 26th November 2012.**

Reason Counsel who had conduct of the matter, Sir Richard Cheltenham, QC, had not filed any skeleton arguments. The Court therefore adjourned the matter to allow Mr. Jeffrey Nisbett to file the skeleton arguments and to present the application.

Case Name: [1] Joseph Parry
[2] Hensley Daniel
v
Mark Brantley

[High Court Civil Appeals Nos. 3, 4 and 5 of 2012]

Date: Monday, 26th November 2012

Coram: The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:

Appellants:	Mr. Anthony Astaphan, SC, instructed by Ms. Angela Sookoo of Sylvester Anthony and Associates
Respondent:	Mr. Douglas Mendes, SC, with him, Mr. Dane Hamilton, QC, instructed by the firm of Daniel, Brantley and Associates

Issue: Application to revise and review costs decision in respect of judgment of the Court of Appeal delivered in August 2012

Result / Order: [Oral delivery]
1. The applicant shall file and serve further written submissions in this matter no later than 10th December 2012.
2. The respondent shall file and serve further

written submissions 14 days thereafter on 24th December 2012.

3. The applicants shall file and serve submissions in reply no later than 3rd January 2013 and thereafter the matter to be determined on those submissions.

Reason:

The Court was of the opinion that it may become necessary for it to revisit certain issues, and that these issues would be more appropriately dealt with by the original panel that heard the appeal.

Case Name:

Steven G. Hites

V

[1] Anguilla Business Services Ltd

[2] St. Kitts Scenic Railway Limited

[3] Jeffery D. Hamilton

[High Court Civil Appeal No. 7 of 2012]

Date:

Monday, 26th November 2012

Coram:

**The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

Mr. Terence Byron

Respondents:

Mr. Damian Kelsick, with him, Mr. Garth Wilkin

Issue:

Application for leave to appeal

Result / Order:

[Oral delivery]

1. Leave to appeal is granted in High Court Civil Appeal No. 7 of 2012.
2. The applicant in High Court Civil Appeal No. 8 of

2012 is hereby granted an extension of time for the filing of the Notice of Appeal to 17th December 2012.

3. High Court Civil Appeal Nos. 7 and 8 of 2012 are hereby consolidated.
4. The applicants shall file and serve one record for the purposes of this appeal.
5. The record of appeal shall consist of the judgment, orders granting leave, the applications in the court below, the affidavits in support and any evidence filed in reply.
6. The applicants shall file and serve skeleton arguments by 24th December 2012.
7. The respondents to file and serve skeleton arguments no later than 7th January 2013. Thereafter the matter to be placed on the list for determination by the Court.
8. Mr. Byron has conduct of preparing the order.

Reason:

There was no opposition to the grant of leave to appeal.

Case Name:

[1] United Company Rusal Plc
[2] United Company Rusal Investment
Management LLC

V

[1] Corbiere Holdings Ltd.
[2] Raleigh Investments Inc.

[High Court Civil Appeal Nos. 16 of 2012]

[1] Corbiere Holdings Ltd.
[2] Raleigh Investments Inc.

V

[1] United Company Rusal Plc
[2] United Company Rusal Investment
Management LLC

[High Court Civil Appeal No. 19 of 2012]

Date: Monday, 26th November 2012

Coram: The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:

Intended Appellants / Applicants: Mr. Mark Brantley

Respondents: Mr. Anthony Gonsalves (for Corbiere Holdings Limited and Raleigh Investment Inc., the respondents in Civil Appeal No. 16 of 2012, and the intended appellants/applicants in No. 19 of 2012)

Issue: Application for leave to appeal – Interlocutory appeal – Adjournment of hearing

Result / Order:

UPON THE APPEAL of United Company Rusal plc and United Company Rusal Investment Management Limited (together, “Rusal”) from the order of Redhead J. dated 11 November 2011, whereby Redhead J. struck out Rusal’s Re-re-amended statement of claim dated 20 July 2011 (“the Appeal”)

AND UPON THE APPLICATION by Corbiere Holdings Limited and Raleigh Investments, Inc. (together, the “Defendants”) dated 23 August 2012, seeking this court’s permission to appeal the costs order of Wallbank J. dated 8 August 2012 (the “Permission Application”)

AND UPON HEARING counsel for Rusal, and counsel for the Defendants

AND UPON the parties having agreed terms for the disposal of the Appeal the Permission Application, and the related applications specifically identified below

IT IS ORDERED BY CONSENT THAT:

1. The Appeal is allowed, and the order of Redhead J. dated 11 November 2011 is set aside with no order as to costs save as set out below.
2. Upon Rusal undertaking to pay US\$275,000 to the Defendants by 11 December 2012 in full and final settlement of the Defendants' entitlements to costs pursuant to paragraph 3 of the order of Bannister J. dated 27 February 2011, the Permission Application is dismissed.
3. Each of the following applications is also dismissed, in each case, with no order as to costs:
 - 3.1 The Defendants' application dated 30 October 2012 to adjourn both the Appeal and the Permission Application.
 - 3.2 Rusal's application dated 2 November 2012 to adduce additional evidence in relation to the Appeal.
 - 3.3 The Defendants' application dated 16 November 2012 to adjourn Rusal's application dated 2 November 2012.

Reason:

The parties to the appeal consented to the above order, which was filed on 22nd November 2012.

Case Name:

Kareem Vinton né Glasford

v

**[1] First Caribbean International Bank
(Barbados) Limited**

[2] Bronwen Glasford

[High Court Civil Appeal No. 24 of 2012]

Date:

Monday, 26th November 2012

Coram:

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

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

Appearances:

**Intended Appellant /
Applicant:** No appearance of the applicant (Kareem Vinton né
Glasford – litigant in person)

Respondents: Mr. Damian Kelsick (for First Caribbean
International Bank (Barbados) Limited)
Mr. Jason Hamilton holding papers for Mr. Lindsay
Grant (counsel for Mr. Bronwen Glasford)

Issues:

Application for leave to appeal – Application for an
adjournment

Result / Order:

[Oral delivery]
1. The matter is adjourned.
2. The matter is to be put on the Chamber list for
consideration.

Reason:

The applicant was not present in court.
Additionally, Mr. Lindsay Grant and Mr. Jonel
Powell, who were also appearing in the matter, were
off island.

Case Name:

**Naomi Darren also known as Naomi
Darabaner**

V

[1] Intrust Trustees (Nevis) Limited

[2] In-Trust Limited

[3] Steven Slom

**[High Court Civil Appeal Nos. 2 and 12 of
2012]**

Date:

Monday, 26th November 2012

Coram:

The Hon. Mde. Louise E. Blenman, Justice of Appeal

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

Appearances:

Applicant: Ms. Angela Cozier

Respondents: Mr. Frank E. Walwyn, with him, Ms. Kalisia Isaacs

Issues:

Application for consolidation in Civil Appeals No. 2 and 12 of 2012 – Application for leave to appeal – Application for stay of execution – Application for Review by Full Court of paragraph of order of Pereira JA refusing stay of proceedings

Result / Order:

[Oral delivery]

- 1. The matter is adjourned with directions to counsel and applicant. The applicant is directed to prepare and serve records of appeal in relation to each of the applications before the Court within 14 days.**
- 2. Skeleton arguments to be filed and exchanged by both parties if necessary within 14 days of filing and service of the record of appeal.**
- 3. All applications are adjourned to be dealt with at the next sitting of the Court of Appeal in the Federation of St. Kitts and Nevis in the month of March 2013.**
- 4. Wasted costs in the sum of \$2,000.00 to be paid as agreed within 14 days of this order by the applicant.**

Reasons:

The matter was not yet ready to proceed. No record had been prepared and counsel for the applicant had to be called to attend court; she was not ready to proceed with the hearing of the application.

The Court was not in possession of certain documents to which Ms. Cozier was referring but which formed part of the two bundles that she had. Ms. Cozier had no extra copies of these documents.

Counsel for the respondent, Mr. Walwyn, had not

been provided with the documents either. Ms. Cozier requested an adjournment because the Court was unable to follow her.

STATUS HEARING

Case Name:

Jerome Herbert

V

Shermel Stapleton

[High Court Civil Appeal No. 20 of 2007]

Date:

Monday, 26th November 2012

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant:

Ms. Angela Inniss (Inniss and Inniss)

Respondent:

Ms. Miselle O'Brien-Norton (Dublin and Johnson)

Issues:

**Application for time to prosecute appeal –
Application to strike out appeal**

Result / Order:

[Oral delivery]

The appeal is struck out with costs to the respondent in the sum of \$750.00.

Reason:

The matter was four years old and the appellant had done nothing to move his case forward. The respondent filed an application to strike out the appeal and after a year, nothing had been done. The respondent has been without the benefit of her judgment. The Court considered this unjust and unfair and accordingly struck out the appeal for want of prosecution.

Case Name:

**Eugene Hamilton
v
[1] Cedric Liburd
[2] Leroy Benjamin
[3] Wayland Vaughn**

[High Court Civil Appeal No. 25 of 2011]

Date:

Monday, 26th November 2012

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant:

Ms. Constance V. Mitcham, with her, Ms. Marguerite Foreman, Ms. Teshari John and Ms. Revi Warner

Respondents:

**Mr. Delano Bart, QC (for the first respondent)
Mr. O'Neil Simpson (of the Attorney General's Chambers)**

Issue:

Appeal against quantum of fees awarded

Result / Order:

[Oral delivery]

The Registrar of the High Court is directed to arrange 1 transcript of the proceedings [before Mr. Justice Thomas in Chambers] within six (6) weeks of date of this Order, and when the transcript is prepared, give immediate notice to the parties that copies are available on payment of the prescribed fee.

Parties shall comply with Rules 62.11 and 62.12 of the CPR 2000 and applicable practice directions.

Appeal set down for hearing at the sitting of the Court of Appeal in Saint Christopher and Nevis scheduled for June 2013.

Reason: The parties were unable to prepare and file the record because the judge's notes had not been prepared. Additionally, counsel for the appellants indicated that they would not be available for the next sitting of the Court in March 2013.

Case Name: GTIB Inc.
v
[1] Energo Holdings Corporation
[2] International Investments Ltd.
[3] OAG Fund Ltd. aka OAG Ltd
[High Court Civil Appeal No. 20 of 2010]

Date: Monday, 26th November 2012

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:
Appellant: Ms. Camilla Cato holding papers for Mr. Gerhard Wallbank of Webster Dyrud Mitchell
Mr. John Thyme holding a watching brief for the first appellant
Respondents: No appearance

Issue: Status of matter

Result / Order: [Oral delivery]
Status Hearing adjourned to the next sitting of the Court of Appeal in St. Christopher and Nevis scheduled for March 2013.

Reason: The record did not indicate who the Notice of Hearing had been served on.

Case Name:

[1] The Constituency Boundaries
Commission
[2] The Electoral Commission
[3] The Supervisor of Elections
[4] The Governor General
[5] The Speaker of the National Assembly
[6] The Hon. Denzil L. Douglas, Prime
Minister
[7] The Attorney General of St. Christopher
and Nevis
v
[1] The Hon. Mark Brantley
[2] The Hon. Shawn K. Richards

[High Court Civil Appeal No. 14 of 2009]

Date:

Monday, 26th November 2012

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant:

Ms. Tasha Powell-Williams, with her, Mr. O'Neil
Simpson (Attorney General's Chambers)

Respondent:

Ms. Constance V. Mitcham, with her, Ms. Marguerite
Foreman, Ms. Teshari John and Ms. Revi Warner

Issue:

Status of matter

Result / Order:

[Oral delivery]
The appeal is discontinued with no order as to
costs.

Reason:

The appeal originating out of the Constituency
Boundaries case and elections having taken place
in the year 2010, the matter was spent.

Case Name:

Syonia Powell

v

Phillip Walters

[High Court Civil Appeal No. 7 of 2007]

Date:

Monday, 26th November 2012

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant:

Mr. Perry Joseph of Daniel, Brantley & Associates

Respondent:

No appearance

Issue:

Status of matter

Result / Order:

[Oral delivery]

The Registrar of the High Court is to arrange to have completed the transcript of the proceedings and when they are prepared, give immediate notice to parties that the transcript is available upon payment of the prescribed fees.

Parties are to comply with rules 62.11 and 62.12 of CPR 2000 and applicable practice directions.

Appeal is set down for further status hearing in the next sitting in Saint Christopher and Nevis.

Reason:

The transcripts were not prepared as yet.

Case Name:

Noel Heath

v

Louise Sebastien-Martin

[High Court Civil Appeal No. 16 of 2010]

Date: Monday, 26th November 2012

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant:	Ms. Miselle O'Brien-Norton of Dublin and Johnson
Respondent:	No appearance

Issue: Status of matter

Result / Order: [Oral delivery]
The appeal is discontinued with no order as to costs.

Reason: The appellant is now deceased. Counsel had filed a notice of discontinuance.

Case Name:

**Travia Douglas
v
[1] Javid Warner
[2] Quick Service Restaurants (St. Kitts-
Nevis) Limited (dba Dominos Pizza)**

[High Court Civil Appeal No. 6 of 2010]

Date: Monday, 26th November 2012

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant:	No appearance
Respondent:	Mr. Anthony Gonsalves, with him, Mr. Arudranauth Gossai

Issue: **Status of matter**

Result / Order: **[Oral delivery]**
The appeal is dismissed as of 15th June 2010. No order as to costs.

Reason: **A notice of discontinuance was filed on 15th June 2010.**

Case Name: **Lynn Bass**
v
St. Kitts-Nevis-Anguilla National Bank Limited

[High Court Civil Appeal No. 4 of 2009]

Date: **Monday, 26th November 2012**

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

Appearances:

Appellant: **Ms. Constance V. Mitcham, with her, Ms. Marguerite Foreman, Ms. Teshari John and Ms. Revi Warner**

Respondent: **Ms. Keisha Spence**

Issue: **Status of matter**

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

Counsel for the respondent shall make available to counsel for the appellant on or before 20th January 2013 the notes of hearing of counsel for the respondent.

Counsel for all parties shall meet on or before 20th

February 2013 to agree on transcript of the proceedings to be prepared from judge's notes and notes of counsel for the respondent.

Following production of transcript, parties shall comply with Rules 62.11 and 62.12 of CPR 2000.

Failing agreement by the parties on production of the transcript, the matter shall be set down for Status Hearing at the next sitting of the Court of Appeal in St. Christopher and Nevis in March 2013.

Reason:

The Court was unable to prepare the transcript; the judge's notes of evidence was not a complete record.

Case Name:

Hotel Equity Fund IV, LLC

v

Ernestine Celestine

[High Court Civil Appeal No. 5 of 2010]

Date:

Monday, 26th November 2012

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant:

Ms. Kalisia Isaacs, with her, Ms. Charmaine Millington (Myrna R. Walwyn & Associates)

Respondent:

No appearance

Issue:

Status of matter

Result / Order:

[Oral delivery]

Leave is granted to the firm of Myrna Walwyn & Associates to be removed from the record as counsel for the appellant.

Copy of this order shall be served on the appellant out of the jurisdiction of this Court via registered mail at the known address of the appellant.

Reason:

Counsel received an order from the High Court dated 8th October 2012 to be removed from the record and sought leave to give notice to the appellant who resided out of the jurisdiction.

Case Name:

**Caribbean Cable Communications Limited
v
[1] The Nevis Island Administration
[2] The Nevis Island Public Utilities
Commission**

[High Court Civil Appeal No. 8 of 2009]

Date:

Monday, 26th November 2012

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: No appearance

Respondent: No appearance

Issue:

Status of matter

Result / Order:

**[Oral delivery]
Adjourned to the next sitting of the Court of Appeal in March 2013.**

Reason:

There was no indication of whether either side was served. Counsel did not show up for either party.

Case Name: Kristoff Pemberton (an Infant by his Mother
& Next Friend Renita Pemberton)
v
[1] Devi Singh
[2] Jairan Kellowan

[High Court Civil Appeal No. 6 of 2007]

Date: Monday, 26th November 2012

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:
Appellant: Mr. Perry Joseph of Daniel, Brantley & Associates
Respondent: Ms. Keisha Spence of Kelsick, Wilkin & Ferdinand

Issue: Status of matter

Result / Order: [Oral delivery]
Adjourned to the next sitting of the Court to allow the appellant and/or respondent to make any necessary application to the Court.

Reason: The appellant had received the transcript of proceedings but the record was not ready as yet. Counsel requested that the appeal be set down for the next sitting of the Court to allow the appellant to make any necessary applications.

Case Name: Leslie Farrell
v
The Director of Public Prosecutions

[High Court Criminal Appeal No. 3 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against sentence – Robbery – Unlawful wounding

Result / Order: [Oral delivery]
The record of appeal is to be prepared by the Court Office.

Reason: The record of appeal had not been prepared as yet.

Case Name: Emmanuel Mills
v
The Director of Public Prosecutions

[High Court Criminal Appeal No. 7 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence for rape – Attempted robbery – Robbery

Result / Order: [Oral delivery]
Record of appeal is to be prepared by the Court Office.

Reason: The record of appeal had not been prepared as yet.

Case Name: Jermul Jules
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 8 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:
Appellant: In person
Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence for robbery

Result / Order: [Oral delivery]
The record of appeal is to be prepared by the Court Office.

Reason: The record of appeal had not been prepared as yet.

Case Name: **Craig Bradshaw**
V
The Director of Public Prosecutions
[High Court Criminal Appeal No. 9 of 2011]

Date: **Monday, 26th November 2012**

Before: **The Hon. Mde. Janice M. Pereira, Chief Justice**

Appearances:

Appellant: **In person**

Respondent: **Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon**

Issue: **Status of matter – Appeal against conviction and sentence – Unlawful carnal knowledge**

Result / Order: **[Oral delivery]**
The record of appeal is to be prepared by the Court Office.

Reason: **The record of appeal was not prepared as yet.**

Case Name: **Keithley Griffin**
V
The Director of Public Prosecutions
[High Court Criminal Appeal No. 10 of 2011]

Date: **Monday, 26th November 2012**

Before: **The Hon. Mde. Janice M. Pereira, Chief Justice**

Appearances:

Appellant: **In person**

Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Unlawful carnal knowledge

Result / Order: [Oral delivery]
The record of appeal is to be prepared by the Court Office.

Reason: The record of appeal was not prepared as yet.

Case Name: David Morton
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 11 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant: Mr. John Cato

Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Rape

Result / Order: [Oral delivery]
The record of appeal is to be prepared by the Court Office.

Reason: The record of appeal was not prepared as yet.

Case Name: Samuel Tyson
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 12 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:
Appellant: In person
Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Indecent assault

Result / Order: [Oral delivery]
The record of appeal is to be prepared by the Court Office.

Reason: The record of appeal was not prepared as yet.

Case Name: Joseph Gardener
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 18 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against sentence – Wounding with intent

Result / Order: [Oral delivery]
The record of appeal is to be prepared by the Court Office.

Reason: The record of appeal was not prepared as yet.

Case Name: Talbert Warner
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 20 of 2010]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against sentence – Embezzlement

Result / Order: [Oral delivery]
The matter is adjourned to the next sitting of the Court in March 2013.

Reason: The record of appeal was complete and the matter was ready to be heard.

Case Name: Hance Lawrence
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 21 of 2010]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant:	In person
Respondent:	Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against sentence – Possession of firearm and ammunition without licence

Result / Order: [Oral delivery]
The matter is scheduled for Tuesday, 27th November 2012.

Reason: The record of appeal was complete and the matter was ready to proceed.

Case Name: **Glenville Maynard**
V
The Director of Public Prosecutions
[High Court Criminal Appeal No. 23 of 2010]

Date: **Monday, 26th November 2012**

Before: **The Hon. Mde. Janice M. Pereira, Chief Justice**

Appearances:

Appellant:	In person
Respondent:	Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: **Status of matter – Appeal against conviction and sentence – Robbery**

Result / Order: **[Oral delivery]**
The record of appeal is to be prepared by the Court Office.

Reason: **The record of appeal was not prepared as yet.**

Case Name: **Ourtic Gillard**
V
The Director of Public Prosecutions
[High Court Criminal Appeal No. 10 of 2009]

Date: **Monday, 26th November 2012**

Before: **The Hon. Mde. Janice M. Pereira, Chief Justice**

Appearances:

Appellant:	In person
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Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction – Robbery

Result / Order: [Oral delivery]
The matter is completed.

Reason: The matter had already been dealt with by the Court of Appeal.

Case Name: Kevin Jones
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 5 of 2010]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:
Appellant: In person
Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Rape

Result / Order: [Oral delivery]
The matter is to be heard on Tuesday, 27th November 2012.

Reason: The record of appeal was complete and the matter

was ready to be heard.

Case Name: **James Ham**
V
The Director of Public Prosecutions
[High Court Criminal Appeal No. 7 of 2010]

Date: **Monday, 26th November 2012**

Before: **The Hon. Mde. Janice M. Pereira, Chief Justice**

Appearances:

Appellant:	In person
Respondent:	Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: **Status of matter – Appeal against conviction and sentence – Rape**

Result / Order: **[Oral delivery]**
The record of appeal is to be prepared by the Court Office.

Reason: **The record of appeal was not prepared as yet.**

Case Name: **Vernon Lake**
V
The Director of Public Prosecutions
[High Court Criminal Appeal No. 3 of 2010]

Date: **Monday, 26th November 2012**

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Rape

Result / Order: [Oral delivery]
The record of appeal is to be prepared by the Court Office.

Reason: The record of appeal was not prepared as yet.

Case Name: Alfred Henry
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 6 of 2010]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence

Result / Order: [Oral delivery]
The matter is adjourned to the next sitting of the Court in March 2013.

Reason: The record of appeal was complete and the matter was ready to be heard.

Case Name: Tamboei Huggins
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 18 of 2010]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant:	In person
Respondent:	Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Burglary

Result / Order: [Oral delivery]
The matter is adjourned to the next sitting of the Court in March 2013.

Reason: The record of appeal was complete and the matter was ready to be heard.

Case Name: John Harvey
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 16 of 2010]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant:	In person
Respondent:	Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against sentence – Unlawful carnal knowledge

Result / Order: [Oral delivery]
The matter is adjourned to the next sitting of the court in March 2013.

Reason: The record of appeal was complete and the matter was ready to be heard.

Case Name: Jermaul Jules
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 12 of 2010]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant:	In person
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Respondent:	Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon
Issue:	Status of matter – Appeal against sentence – Larceny
Result / Order:	[Oral delivery] The appeal is dismissed.
Reason:	The time was already spent.
Case Name:	Eldean Phipps v The Director of Public Prosecutions [High Court Criminal Appeal No. 25 of 2010]
Date:	Monday, 26th November 2012
Before:	The Hon. Mde. Janice M. Pereira, Chief Justice
Appearances:	
Appellant:	In person
Respondent:	Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon
Issue:	Status of matter – Appeal against conviction and sentence – Shooting with intent to do grievous bodily harm
Result / Order:	[Oral delivery] The matter is adjourned tentatively to Wednesday, 28th November 2012.

Reason: The record of appeal was complete and the matter was ready to be heard.

Case Name: Rawle Benjamin
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 24 of 2010]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:
Appellant: In person
Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Robbery

Result / Order: [Oral delivery]
The matter is adjourned to the next sitting of the Court in March 2013.

Reason: To allow the record of appeal to be prepared.

Case Name: Jamie Wilkinson
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 13 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Wounding with intent to do grievous bodily harm

Result / Order: [Oral delivery]
The record of appeal is to be prepared by the Court Office.

Reason: The record of appeal was not prepared as yet.

Case Name: Joseph Herbert
V
The Director of Public Prosecutions
[High Court Criminal Appeal No. 14 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Buggery

Result / Order: [Oral delivery]
The record of appeal is to be prepared by the Court Office.

Reason: The record of appeal was not prepared as yet.

Case Name: Gibson Blake
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 15 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:
Appellant: In person
Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against sentence – House breaking – Larceny

Result / Order: [Oral delivery]
The record of appeal is to be prepared by the Court Office.

Reason: The record of appeal was not prepared as yet.

Case Name: **Mario Harvey**
V
The Director of Public Prosecutions
[High Court Criminal Appeal No. 16 of 2011]

Date: **Monday, 26th November 2012**

Before: **The Hon. Mde. Janice M. Pereira, Chief Justice**

Appearances:

Appellant:	In person
Respondent:	Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: **Status of matter – Appeal against conviction and sentence – Buggery**

Result / Order: **[Oral delivery]**
The record of appeal is to be prepared by the Court Office.

Reason: **The record of appeal was not prepared as yet.**

Case Name: **Joevin Dowell**
V
The Director of Public Prosecutions
[High Court Criminal Appeal No. 17 of 2011]

Date: **Monday, 26th November 2012**

Before: **The Hon. Mde. Janice M. Pereira, Chief Justice**

Appearances:

Appellant:	In person
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Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against sentence – Receiving

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

Reason: The sentence was already spent.

Case Name: Neil Harvey
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 19 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:
Appellant: In person
Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Appeal against conviction and sentence – Wounding with intent

Result / Order: [Oral delivery]
The record of appeal is to be prepared by the Court Office.

Reason: The record of appeal was not prepared as yet.

Case Name: Carl Warner
V
The Director of Public Prosecutions
[High Court Criminal Appeal No. 20 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant:	In person
Respondent:	Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Assault

Result / Order: [Oral delivery]
The record of appeal is to be prepared by the Court Office.

Reason: The record of appeal was not prepared as yet.

Case Name: Razba Matthew
V
The Director of Public Prosecutions
[High Court Criminal Appeal No. 21 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant:	In person
Respondent:	Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Manslaughter

Result / Order: [Oral delivery]
The matter is adjourned to another sitting of the Court pending preparation of the record.

Reason: The record of appeal was not prepared as yet.

Case Name:

Newrish Nital
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 22 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant:	Ms. Miselle O'Brien-Norton of Dublin and Johnson holding papers for Mr. Anthony Johnson
Respondent:	Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Three counts of fraud – False pretence

Result / Order: [Oral delivery]

The record of appeal is to be prepared as a matter of urgency. The matter is adjourned to the next sitting of the Court in March 2013.

Reason: The record of appeal had not been prepared as yet.

Case Name: Jason Liddie
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 23 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:
Appellant: In person
Respondent: Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Receiving

Result / Order & Reason: [Oral delivery]
Matter adjourned to another sitting of the Court pending preparation of the record as a matter of urgency since the appellant was sentenced to 3 years.

Case Name: Ourtic Gileard
v
The Director of Public Prosecutions

[High Court Criminal Appeal No. 25 of 2011]

Date: Monday, 26th November 2012

Before: The Hon. Mde. Janice M. Pereira, Chief Justice

Appearances:

Appellant:	In person
Respondent:	Ms. Rhonda Nisbett-Browne, with her, Ms. Greatess Gordon

Issue: Status of matter – Appeal against conviction and sentence – Robbery

Result / Order: [Oral delivery]
The matter is adjourned to another sitting of the Court pending preparation of the record.

Reason: The record had not been prepared as yet.

Case Name:

**The Director of Public Prosecutions
v
Kenrick Hendrickson**

[High Court Criminal Appeal No. 2 of 2011]

Date: Tuesday, 27th November 2012

Coram: The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:

Appellant:	Ms. Rhonda Nisbett-Browne, Director of Public Prosecutions [Ag.], with her, Dr. Dennis Merchant
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and Ms. Greatess Gordon

Respondent: **In person**

Issue: **Appeal against sentence – Indecent Assault –
Whether sentence imposed was extremely lenient –
Application by the respondent for an adjournment
to speak with counsel**

Result / Order: **[Oral delivery]
The hearing of the appeal is adjourned to the next
sitting in the Federation in March 2013.**

Reason: **The respondent had been served late. The Court
was therefore of the opinion that he should be given
more time to prepare for the appeal and retain
counsel.**

Case Name: **Vinceroy Chumney
v
The Director of Public Prosecutions**

[High Court Criminal Appeal No. 11 of 2010]

Date: **Tuesday, 27th November 2012**

Coram: **The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]**

Appearances:

Appellant: **In person**

Respondent: **Ms. Greatess Gordon, with her, Ms. Rhonda Nisbett-
Browne, Director of Public Prosecutions [Ag.], and
Dr. Dennis Merchant**

Issue: Appeal against sentence – Application to withdraw appeal – Breaking and entering

Result / Order: [Oral delivery]
Leave is granted to withdraw appeal and accordingly, the appeal is dismissed.

Reason: The appeal was withdrawn by the appellant.

Case Name: Jason Rouse
v
The Director of Public Prosecutions
[High Court Criminal Appeal No. 10 of 2010]

Date: Tuesday, 27th November 2012

Coram: The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:
Appellant: In person
Respondent: Ms. Rhonda Nisbett-Browne, Director of Public Prosecutions [Ag.], with her, Ms. Greatess Gordon and Dr. Dennis Merchant

Issue: Appeal against sentence – Receiving

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

Reason: The Court could see no reason to disturb the sentence imposed by the learned trial judge. The appellant had previous convictions and the offence

was committed while he was on bail for another offence. This was an aggravating factor and the learned trial judge would have taken that into account. Also, the learned trial judge made it clear that he took into consideration the fact that the appellant had spent some time on remand.

Case Name: Leon Sutton
V
The Director of Public Prosecutions
[High Court Criminal Appeal No. 22 of 2010]

Date: Tuesday, 27th November 2012

Coram: The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:
Appellant: No appearance of or on behalf of the appellant
Respondent: Ms. Greatess Gordon

Issue: Appeal against sentence – Breaking and entering

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

Reason: The appellant had already served his time in prison and been released.

Case Name: Hance Lawrence

V
The Director of Public Prosecutions

[High Court Criminal Appeal No. 21 of 2010]

Date: Tuesday, 27th November 2012

Coram: The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mr. Chesley Hamilton

Respondent: Ms. Rhonda Nisbett-Browne, Director of Public Prosecutions [Ag.], with her, Dr. Dennis Merchant and Ms. Greatess Gordon

Issue: Appeal against sentence – Possession of Firearm and ammunition without licence

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

Reason: The Court was of the view that the learned trial judge erred in principle in sentencing the appellant, by starting at a point that was too high (in relation to the term of imprisonment). The notional starting point should have been 8 years considering the mitigating factors. The appellant admitted to owning the gun and pleaded guilty at an early stage. In light of this, the Court was of the opinion that a sentence of 5 years would have been more appropriate, and then taking into consideration the time which the appellant spent on remand, he should serve 4 years in prison, this term starting from 5th October 2010, which was the date of sentencing.

Case Name:

**Louis Richards
v
The Director of Public Prosecutions**

[High Court Criminal Appeal No. 30 of 2008]

Date:

Tuesday, 27th November 2012

Coram:

**The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

In person

Respondent:

Ms. Rhonda Nisbett-Browne, Director of Public Prosecutions [Ag.], with her, Dr. Dennis Merchant and Ms. Greatess Gordon

Issue:

Appeal against conviction – Murder – Application by Mr. Jason Hamilton to be removed from the record as counsel for the appellant – Application to have matter adjourned to March 2013 to allow appellant to retain new counsel

Result / Order:

[Oral delivery]

- 1. Counsel Mr. Jason Hamilton is granted leave from acting for and on behalf of the appellant Louis Richards.**
- 2. The hearing of this appeal is adjourned to next sitting of the Court in March 2013.**

Reason:

The Court took into consideration the fact that the appellant had indicated that he was aware of the motion filed by Mr. Hamilton to be removed from the record and also the fact that he (the appellant) had come prepared to represent himself.

The Court however noted the difficulties the appellant had in arguing his appeal, and given the serious nature of the offence, time was given to

allow him to seek legal counsel to assist him with the appeal.

Case Name:

**Wycliffe Liburd
v
The Director of Public Prosecutions**

[High Court Criminal Appeal No. 18 of 2009]

Date:

Tuesday, 27th November 2012

Coram:

**The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

In person

Respondent:

**Dr. Dennis Merchant, with him, Ms. Rhonda Nisbett-Browne, Director of Public Prosecutions [Ag.], and
Ms. Greatess Gordon**

Issue:

**Appeal against conviction and sentence – Murder –
Whether there were inconsistencies in the
identification evidence – Whether the learned trial
judge failed to follow the principles laid down in R v
Turnbull – Whether the learned trial judge failed to
properly direct the jury having regard to the
evidence that was before the Court – Whether the
sentence imposed was too harsh**

Result / Order:

[Oral delivery]

- 1. Appeal against conviction fails and is dismissed.
The conviction is accordingly affirmed.**
- 2. The sentence is varied to the extent that the
period of time to consider before the appellant
comes up for the consideration of mercy is
varied to reflect 25 years.**

Reason:

The Court was of the opinion that there was no merit in any of the appellant's grounds of appeal against his conviction.

The trial judge properly dealt with the inconsistencies and with how to approach the evidence in general. He gave a balanced direction within the Turnbull guidelines. Furthermore, the learned trial judge conducted a well-balanced summation. It was open to the jury having heard the evidence of the witnesses to accept or reject it and the jury clearly accepted the witness' evidence as opposed to that put forward on behalf of the appellant.

With regard to the sentence imposed, the learned trial judge conducted a sentencing hearing and took into account the appellant's previous convictions, school background, psychiatric report, the aggravating factors (the fact that the killing was done in broad daylight (without having regard to passersby) and also that 5 bullets were discharged), as well as the mitigating factors. The learned trial judge spoke of the unqualified right to life and fact that one should only resort to killing in exceptional circumstances; there was no evidence that the deceased had attacked the appellant. Though this was not the worst of the worst cases, the murder was brutal, cold blooded and brazen and the Court agreed with the judge's decision to sentence the appellant to life imprisonment.

The learned trial judge noted that the appellant asked for money and when he did not get any he fired first 3 shots and then afterwards, 2 shots. The appellant would have had time to reconsider his actions during this time and he chose not to.

The learned trial judge also considered the question of remorse and was of the view that the appellant showed none.

In the sentence of life before consideration of mercy for release, no time period was fixed. The Court considered that it should fix a minimum time before

mercy is considered and held that twenty five years would be appropriate.

Case Name:	Alexter Amory V The Director of Public Prosecutions [High Court Criminal Appeal No. 13 of 2010]
	Leon Phillip V The Director of Public Prosecutions [High Court Criminal Appeal No. 15 of 2010]
Date:	Tuesday, 27th November 2012
Coram:	The Hon. Mde. Janice M. Pereira, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]
Appearances:	Appellants: In person
	Respondent: Ms. Rhonda Nisbett-Browne, Director of Public Prosecutions [Ag.], with her, Dr. Dennis Merchant and Ms. Greatess Gordon
Issues:	Appeal against conviction and sentence – Armed robbery – Application for adjournment to next sitting of Court of Appeal
Result / Order:	[Oral delivery] The hearing of the appeal is adjourned to the next sitting of the Court in March 2013.
Reason	Counsel for the appellant, Dr. Henry Browne, QC was sick.

Case Name:

**William Gift
v
The Director of Public Prosecutions**

[High Court Criminal Appeal No. 26 of 2010]

Date:

Tuesday 27th November 2012

Coram:

**The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]**

Appearances: Appellant:

In person

Respondent:

Ms. Rhonda Nisbett-Browne, Director of Public Prosecutions [Ag.], with her, Dr. Dennis Merchant and Ms. Greatess Gordon

Issues:

Appeal against conviction and sentence – Wounding – Whether the sentence imposed on the appellant is too severe

Result / Order:

[Oral delivery]

- 1. The appeal against conviction is dismissed. The conviction is accordingly affirmed.**
- 2. The appeal against sentence dismissed and sentence affirmed.**

Reason

The Court has examined the summation of the learned trial judge and held that it was a balanced summation, and the conviction was supported by the evidence led.

The learned trial judge took into account the principles of sentencing, the fact that the appellant had previous convictions for a similar offence and that the appellant was a person prone to violence.

He also took into account that there were opportunities for rehabilitation which the appellant did not seem to consider.

The sentence imposed was reasonable and therefore, the Court can find no basis on which to interfere with it.

Case Name:	Vernon Lake V The Director of Public Prosecutions [High Court Criminal Appeal No. 3 of 2010]
Date:	Tuesday, 27th November 2012
Coram:	The Hon. Mde. Janice M. Pereira, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Tyrone Chong, QC, Justice of Appeal [Ag.]
Appearances:	Appellant: In person
	Respondent: Ms. Rhonda Nisbett-Browne, Director of Public Prosecutions [Ag.], with her, Dr. Dennis Merchant and Ms. Greatess Gordon
Issues:	Appeal against conviction – Indecent Assault – Whether the lack of corroboration should have resulted in a dismissal of the charge – Whether a sentence of 5 years was too harsh
Result / Order:	[Oral delivery] 1. The appeal against conviction is dismissed. 2. The appeal against sentence dismissed. Sentence affirmed.
Reason:	The Court took the view that even though corroboration would have been helpful in a case of this nature, it was not necessary to ground a

conviction. There was sufficient evidence to support the conviction. The trial judge's summation was balanced.

The learned trial judge took into account the fact that the appellant did not have any previous convictions. The Court also took into account the age of the girl, the kind of indecency involved and also the threats of violence. The learned trial judge was of the opinion that the young lady was basically set up, trapped and taken advantage of.

In the circumstances the Court could find no reason to set aside the sentence of the learned trial judge.

Case Name:

Kevin Jones

V

The Director of Public Prosecutions

[High Court Criminal Appeal No. 5 of 2010]

Date:

Tuesday, 27th November 2012

Coram:

**The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]**

Appearances: Appellant:

Mr. Chesley Hamilton

Respondent:

Ms. Rhonda Nisbett-Browne, Director of Public Prosecutions [Ag.], with her, Dr. Dennis Merchant and Ms. Greatess Gordon

Issues:

**Criminal appeal against conviction – Rape –
Application for an adjournment**

Result / Order:

[Oral delivery]

- 1. All skeleton arguments are to be filed and served by the appellant and respondent no later than**

15th February 2013.

- 2. The hearing of the appeal on the request of the appellant is adjourned to the next sitting of the Court in March 2013.**

Reason

Mr. Chesley Hamilton indicated that he had only received the record of appeal the previous Saturday (24th November 2012).

Case Name:

Henry Alfred Williams

V

The Director of Public Prosecutions

[High Court Criminal Appeal No. 6 of 2010]

Date:

Tuesday, 27th November 2012

Coram:

**The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]**

Appearances: Appellant

In person

Respondent:

Ms. Rhonda Nisbett-Browne, Director of Public Prosecutions [Ag.], with her, Dr. Dennis Merchant and Ms. Greatess Gordon

Issue:

Application for leave to withdraw appeal against conviction – Whether the sentence imposed by the learned trial judge was too harsh

Result / Order:

[Oral delivery]

The appeal is dismissed. The appellant's sentence and conviction are affirmed.

Reason

The Court was of the opinion that the crime committed by the appellant was particularly

heinous. Furthermore, the Court found that the appellant did not in any way feel that what he did was wrong.

The Court could see no reason to interfere with the sentence imposed by the learned trial judge.

Case Name:

**Hesketh Trevor Chapman
v
Nevis Cooperative Banking Company
Limited (now called RBTT Bank (SKN)
Limited)**

[High Court Civil Appeal No. 32 of 2003]

Date:

Wednesday, 28th November 2012

Coram:

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

Appearances:

Appellant:

Ms. Joan Slack

Respondent:

Ms. Deidre Williams

Issues:

Missing documents – Whether this prevents matter from moving forward

Result / Order:

[Oral delivery]

- 1. The Court office under the direction of the learned Registrar is directed to make available to the appellants and the respondents the notes of evidence of the trial below and this is to be done on or before 31st January 2013.**
- 2. The appellant is to file and exchange the record of appeal on or before 15th February 2013.**
- 3. The parties are to file and exchange skeleton**

arguments on or before the 22nd February 2013.

4. The matter is fixed for hearing during the sitting of the Court in the Federation in the month of March 2013. This would be the final adjournment. The appellant has conduct of this Order.

Reason:

Counsel for the appellant, Ms. Joan Slack indicated that she made an application for the Notes of Evidence and that she had not received them as yet. Counsel for the respondent indicated that she also needed to get some missing documents in order for her to proceed with the appeal.

Case Name:

[1] Vernon S. Veira
[2] Vernon S. Veira & Associates
v
[1] Guy Mitchell
[2] Amy Mitchell

[High Court Civil Appeal No. 21 of 2010]

Date:

Wednesday, 28th November 2012

Before:

The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:

Appellants:

Dr. Vernon S. Veira (in person)

Respondents:

Ms. Camilla Cato holding papers for the firm of Webster Dyrud Mitchell

Issue:

Whether the learned trial judge erred in deciding that special damages could be assessed under Part 12 of the Civil Procedure Rules 2000 which damages were never pleaded or proved – Whether the learned

trial judge erred in law in ruling that the only right the appellants had was the right to cross examine the respondents on their affidavit filed after judgment

**Result / Order
& Reason:**

IT IS ORDERED that:

- 1. The time served is too short. The seven (7) days notice was not adhered to. The substantive hearing of the appeal is adjourned to the next sitting of the Court of Appeal.**
- 2. Hearing of the application for counsel to be removed from record is adjourned for hearing in chambers on a date to be determined.**

Case Name:

**Vance Amory
v
[1] Thomas Sharpe, QC
[2] The Commission of Inquiry
[3] The Nevis Island Administration
[4] The Attorney General of St. Kitts and
Nevis**

[High Court Civil Appeal No. 13 of 2009]

Date:

Wednesday, 28th November 2012

Coram:

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

Appearances:

Appellant:

Mr. Jeffrey Nisbett

Respondent:

Mr. Dane Hamilton, QC, with him, Mr. Mark Brantley

Interested Party:

**Mr. O'Neil Simpson from the Attorney-General's
Chambers**

Issues: Application for leave to appeal to Her Majesty in Council against a decision of the Court of Appeal dated 27th August 2012 allowing with costs an appeal from the High Court which rejected an application for Judicial Review

Result / Order: [Oral delivery]
Leave is refused. No order as to costs.

Reason: The Court was not of the view that there was any matter of public interest that warranted the Court's discretion to grant leave to the Privy Council.

The appellant failed to meet the threshold for leave by not showing that:

1. there was a constitutional provision to settle;
2. a law was not settled; or
3. there were serious issues to be settled.

STATUS HEARING

Case Name: Eldean Phipps
v
The Director of Public Prosecutions

[High Court Criminal Appeal No. 25 of 2010]

Date: Wednesday, 28th November 2012

Coram: The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:

Appellant:	In person
Respondent:	Ms. Rhonda Nisbett-Browne, Director of Public Prosecutions [Ag.], with her, Dr. Dennis Merchant and Ms. Greatess Gordon

Issues: Appeal against conviction and sentence – Shooting with intent to do grievous bodily harm – Whether transcript ready

Result / Order: [Oral delivery]
The Court office, under the supervision of the Registrar, is directed to make available and have served on the appellant a copy of the transcript no later than 31st January 2013.

The Registrar is to have the record of appeal prepared by 8th February 2013 and served on the respondent and the appellant.

Parties are to file and exchange skeleton arguments on or before 15th February 2013 and the matter is to be dealt with at the next sitting of the Court in the Federation.

The Registrar is to make sure the appellant gets a copy of the Order in the event that the appellant gets a lawyer.

Reason: The transcript in the matter was not yet prepared.

APPLICATIONS AND APPEALS

Case Name:

[1] David Goldgar
[2] Caribe (Realties) Canada Limited /
Immeubles Caribe Ltee
[3] Betts Realty Limited
[4] Spas Limited
v
Wycliffe Baird

[High Court Civil Appeal No. 16 of 2011]

Date: Wednesday, 28th November 2012

Coram: The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:

Appellants: Mr. Terence Byron, with him, Mr. Vincent Byron

Respondent: Mr. Damian Kelsick

Issues: Proprietary estoppel – Whether the learned trial judge was correct in coming to the conclusion that there were other live issues to be considered – Specific performance

Result / Order: [Oral delivery]
Appeal is dismissed. Costs ordered in the sum of \$5,000.00 to be paid by the appellant to the respondent.

Reason: The Court was of the opinion that the learned trial judge did not err in saying that there were live issues that remained to be considered. The right to specific performance did remain a live issue.

The learned trial judge was correct when he said that the Honourable Justice Francis Belle had only dealt with preliminary issues. The issue relating to specific performance was still to be determined.

Case Name: Phil Hobson
v
Jonathan Liburd

[Magisterial Civil Appeal No. 5 of 2012]

Date: Wednesday, 28th November 2012

Coram: The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:
Appellant: Ms. Farida Hobson
Respondent: Ms. Midge Morton

Issues: Claim for money owed to appellant for electrical services rendered to respondent – Whether decision of learned magistrate was unreasonable and cannot be supported having regard to the evidence – Whether learned magistrate erred in calling witness Deon Daniel to testify in the case when it was clear that he had no connection to the case and could not assist the Court

Result / Order: [Oral delivery]
Appeal against decision of the learned magistrate is dismissed. Costs in the sum of \$1,000.00.

Reason: The Court was not of the view that the learned magistrate erred or that the decision was unreasonable and could not be supported having regard to the evidence.

Case Name: Devon Ryan
v
Chief of Police

[Magisterial Criminal Appeal No. 2 of 2012]

Date: Wednesday, 28th November 2012

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

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

Appearances:

Appellant: Mr. Jason Hamilton

Respondent: Ms. Greatess Gordon, with her, Dr. Dennis Merchant
and Ms. Rhonda Nisbett-Browne, Director of Public
Prosecutions [Ag.]

Issue: Possession of firearm and ammunition without
licence

Result / Order [Oral delivery]
Appeal against sentence is allowed. Sentence is
varied to the extent of time served.

Reason: The Court took into account the fact that the
appellant had pleaded guilty but was still given the
maximum sentence; there was no discount for his
guilty plea.

Case Name:

**Kirt Boddie
v
The Chief of Police**

[Magisterial Criminal Appeal No. 3A of 2012]

Date: Wednesday, 28th November 2012

Coram: The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mr. Chesley Hamilton

Respondent: Ms. Greatess Gordon, with her, Ms. Rhonda Nisbett-
Browne, Director of Public Prosecutions [Ag.] and

Dr. Dennis Merchant

Issues: Possession of controlled drug with intent to supply
– Whether sentence was unduly harsh and severe

Result / Order: [Oral delivery]
Appeal against sentence is allowed. The sentence of the learned magistrate is varied as follows:

The appellant is fined the sum of \$50,000.00 EC to be paid in 6 months from today's date, in default, 2 years in prison.

Reason: The Court took into consideration the fact that the appellant had no previous convictions and also the amount of drugs involved. The Court also did a means test of the appellant to determine his means to pay the fine.

Case Name: Shesil Somersall
v
The Chief of Police

[Magisterial Criminal Appeal No. 1 of 2012]

Date: Wednesday, 28th November 2012

Coram: The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mr. Chesley Hamilton

Respondent: Ms. Rhonda Nisbett-Browne, Director of Public Prosecutions [Ag.], with her, Dr. Dennis Merchant and Ms. Greatess Gordon

Issues: Possession of a controlled drug with intent to supply – Appellant ordered to pay \$50,000.00 in 3 months or spend 18 months in prison – Whether the learned magistrate erred in her finding of guilt – Whether sentence was unduly harsh

Result / Order: [Oral delivery]
1. Appeal against conviction is dismissed. The appellant is sentenced to 18 months in prison from today's date.
2. The appeal against sentence is allowed.

Reason: In coming to a decision, the Court took into account the fact that the appellant had no previous convictions as well as the means test that was done to determine whether or not the appellant was in a position to pay a fine.

Case Name: Sylvester Edwards
v
Shirley Burnham

[Magisterial Civil Appeal No. 9 of 2011]

Date: Wednesday, 28th November 2012

Coram: The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:
Appellant: Mr. Hesketh Benjamin holding papers for Dr. Henry Browne, QC (counsel for the appellant)
Respondent: Mr. Jason Hamilton holding papers for Mr. Karlweis Liburd

Issues: Application for adjournment to next sitting of Court in March 2013

Result / Order: [Oral delivery]
The appeal is adjourned for hearing at the next sitting of the Court in the Federation.

Reason: Counsel for the appellant requested an adjournment and there was no objection raised by counsel for the respondent.

Case Name: Collin Ward
v
Brian Lewis

[Magisterial Civil Appeal No. 3 of 2012]

Date: Wednesday, 28th November 2012

Coram: The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Tyrone Chong, QC, Justice of Appeal
[Ag.]

Appearances:

Appellant:	Mr. Jason Hamilton holding papers for Mr. Karlweis Liburd
Respondent:	Mr. Hesketh Benjamin

Issues: Application to withdraw the appeal

Result / Order: [Oral delivery]
1. Leave to withdraw the appeal is granted. Appeal stands dismissed.
2. By consent no order as to costs.

Case Name:

**Neil Duporte
v
The Chief of Police**

[Magisterial Criminal Appeal No. 3 of 2012]

Date:

Wednesday, 28th November 2012

Coram:

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

Appearances:

Appellant:

Mr. Chesley Hamilton (amicus curiae)

Respondent:

**Ms. Rhonda Nisbett-Browne, Director of Public
Prosecutions [Ag.], with her, Dr. Dennis Merchant
and Ms. Greatess Gordon**

Issues:

Application for an adjournment

Result/Order:

**[Oral delivery]
The matter is adjourned to the next sitting of the
Court in March 2013.**

Reason:

**Learned counsel Mr. Hamilton, who appeared
amicus on behalf of the appellant, requested an
adjournment in order to prepare submissions on
behalf of the appellant. There was no objection by
the prosecution.**