

COURT OF APPEAL SITTING
SAINT VINCENT AND THE GRENADINES
11TH FEBRUARY TO 15TH FEBRUARY 2013

COURT NO. 1

APPLICATIONS

Case Name: Daniel Cummings et al v Dr. Ralph Gonsalves
Civil Appeal No. 18 of 2011

Date: 11th February 2013

Coram: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman

Appearances:

Appellant: Mr. Emery Robertson for the Appellant.

Respondent: Mr. Grahame Bollers for the Respondent.

Issues: Application for leave to appeal.

Result and Reason: Matter stood down.

Case Name: Edward Taylor v The Queen
Criminal Appeal No. 14 of 2011

Date: 11th February 2013

Coram: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman

Appearances:

Appellant: Appellant In Person.

Respondent: Mr. Colin Williams, D.P.P., for the Respondent.

Issues:	Application for leave for counsel to be assigned.				
Result and Reason:	(1) The Appellant be assigned Counsel from the roster of legal aid counsel kept by the Registrar and selected by the Registrar to assist the Appellant in the conduct of hearing. (2) The Registrar shall furnish counsel selected from the roster the Record of Appeal, pursuant to Court of Appeal Rules in respect of Criminal Appeals. (3) The hearing of the Appeal is adjourned to the next sitting of the Court of Appeal in this jurisdiction.				
Case Name:	Atiba Bess v The Queen Criminal Appeal No. 19 of 2012				
Date:	11th February 2013				
Coram:	The Hon. Chief Justice Janice Pereira The Hon. Justice of Appeal Davidson Baptiste The Hon. Justice of Appeal Louise Blenman				
Appearances:	<table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top; width: 20%;">Appellant:</td> <td>Appellant In Person.</td> </tr> <tr> <td style="vertical-align: top;">Respondent:</td> <td>Mr. Colin Williams D.P.P. for the Respondent.</td> </tr> </table>	Appellant:	Appellant In Person.	Respondent:	Mr. Colin Williams D.P.P. for the Respondent.
Appellant:	Appellant In Person.				
Respondent:	Mr. Colin Williams D.P.P. for the Respondent.				
Issues:	Application for leave for counsel to be assigned .				
Result and Reason:	(1) The Appellant be assigned Counsel from the roster of legal aid counsel kept by the Registrar and selected by the Registrar to assist the Appellant in the conduct of hearing. (2) The Registrar shall furnish counsel selected from the roster the Record of Appeal,				

pursuant to the Court of Appeal Rules in respect of Criminal Appeals.

- (3) The hearing of the Appeal is adjourned to the next sitting of the Court of Appeal in this jurisdiction.

Case Name: Annel Young v The Queen
Criminal Appeal No. 27 of 2012

Date: 11th February 2013

Coram: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman

Appearances:

Appellant: Appellant In Person.

Respondent: Mr. Colin Williams, D.P.P. for the Respondent.

Issues: Application for leave for counsel to be assigned.

Result and Reason:

(1) The Appellant be assigned Counsel from the roster of legal aid counsel kept by the Registrar and selected by the Registrar to assist the Appellant in the conduct of hearing.

(2) The Registrar shall furnish counsel selected from the roster the Record of Appeal, when available pursuant to Court of Appeal Rules in respect of Criminal Appeals.

APPEALS

Case Name: Michael Wilson v The Queen
Criminal Appeal No. 9 of 2012

Date: 11th February 2013

Coram: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman

Appearances:

Appellant: Appellant In Person.

Respondent: Mr. Colin Williams, D.P.P. for the Respondent.

Issues: Notice of Appeal – For mention

Result and Reason: No order made. Record is not ready.

APPLICATIONS

Case Name: Daniel Cummings et al v Dr. Ralph Gonsalves

Civil Appeal No. 18 of 2011

Date: 11th February 2013

Coram: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman

Appearances:

Appellant: Mr. Emery Robertson for the Appellant.

Respondent: Mr. Grahame Bollers for the Respondent.

Issues: Application for leave to appeal.

Result and Reason:

(1) The application for leave to appeal is not properly before the court and is hereby dismissed.

(2) The applicant shall bear the respondent's costs fixed in the sum of \$1,000.00.

This is an application for leave to appeal filed on 6th December 2011 in respect of a judgment in default entered on 16th April 2008. The application is therefore not in accordance with

Civil Procedure Rules 2000 Part 62.2 as it has not been made timely. There is no application for extension of time before the court for its consideration.

STATUS HEARING

Case Name: McConnie Yammie and Company Limited v Richard Williams et al
Civil Appeal No. 3 of 2010

Date: 11th February 2013

Before: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman

Appearances:

Appellant:	Mr. Emery Robertson for the Appellant.
Respondent:	Mr. P.R. Campbell Q.C. for the First and Second Respondent. Mrs. Kay Bacchus-Browne for the Third Respondent.

Issue: Status Hearing.

Result: Application to be placed on Chamber hearing list.

Reason: Parties to comply with Practice Directions 2 and 3 of 2008.

Case Name: The Attorney General of St. Vincent & the Grenadines v Frank Da Silva et al
Civil Appeal No. 7 of 2011

Date: 11th February 2013

Before: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman

Appearances:

Appellant: Mr. P.R. Campbell Q.C. for the Appellant.

Respondent: Miss Nicole Sylvester and Ms. Patina Knights for the Respondents.

Issues: Status Hearing.

Result/Order: Matter traversed to the next sitting of the Court
of Appeal. (For mention.)

Reason: By consent.

Case Name: Kensley Dougan v Cora Cambridge et al
Civil Appeal No. 2 of 2011

Date: 11th February 2013

Before: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman

Appearances:

Appellant: Mr. Carlyle Dougan Q.C. and Miss Nicole Sylvester for the Appellant.

Respondent: Ms. Paula David for the First, Second and Third Respondents.

Issues: Status Hearing.

Result /Order No order made.

Reason: Parties to do as they see fit.

Case Name: Vernetta Skerit v Nicole Patterson
Civil Appeal No. 5 of 2010

Date: 11th February 2013

Before: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman

Appearances:

Appellant:	Ms. Nicole Sylvester and Ms. Patina Knights for the Appellant.
Respondent:	Ms. Patricia Marks for the Respondent.

Issue: **Status Hearing.**

Result: **Status hearing adjourned to the next sitting of the Court of Appeal in this jurisdiction.**

Case Name: **Emery Robertson Jnr. V National Commercial Bank (SVG) Ltd.
Civil Appeal No. 7 of 2010**

Date: **11th February 2013**

Before: **The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman**

Appearances:

Appellant:	Mr. Emery Robertson Snr. for the Appellant.
Respondent:	Mr. Richard Williams for the Respondent.

Issue: **Status Hearing.**

Result: **Matter stood down until later in the day.**

Reason: **Substantive matter to be heard.**

Case Name: **Emmanuel Johnson-Chijoke et al v The Commissioner of Police et al
Civil Appeal No. 13 of 2010**

Date: **11th February 2013**

Before: **The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman**

Appearances:

Appellant: Mr. Jomo Thomas for the Appellants.
Respondent: Mr. Richard Williams for the Respondents.

Issues: Status Hearing.

Result/Order: Notice of Appeal filed in 15 of 2010 be treated as a counter-notice of Civil Appeal 13 of 2010.

Case name: The Commissioner of Police et al v
Emmanuel Johnson Chijioke
Civil Appeal No. 15 of 2010

Before: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman

Appearances:

Appellant: Mr. Richard Williams for the Appellant.
Respondent: Mr. Jomo Thomas for the Respondent.

Issue: Status Hearing.

Result/Order: Notice of Appeal filed in 15 of 2010 be treated as a counter-notice of Civil Appeal 13 of 2010.

Case Name: Reynold Williams aka Rene Sandy v
Mazeline Gabriel
Civil Appeal No. 14 of 2010

Date: 11th February 2013

Before: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman

Appearances:

Appellant: Mr. Emery Robertson for the Appellant.
Respondent: No appearance of the Respondent.

Issue:	Status Hearing.
Result / Order:	No order made.
Reason:	Counsel should do what is necessary.
Case Name:	Adnan Mkhoul v James Edson Ambrose Civil Appeal No. 6 of 2011
Date:	11th February 2013
Before:	The Hon. Chief Justice Janice Pereira The Hon. Justice of Appeal Davidson Baptiste The Hon. Justice of Appeal Louise Blenman
Appearances:	
	Appellant: Mr. Emery Robertson for the Appellant.
	Respondent: Mr. Richard Williams for the Respondent.
Issues:	Application for leave to discharge the order of a single judge.
Result/Order:	Appeal is withdrawn. Consent order entered as order of court.
Reason:	Consent order filed.
Case Name:	Ralph E. Gonsalves v Matthew Thomas et al Civil Appeal No. 9 of 2011
Date:	11th February 2013
Before:	The Hon. Chief Justice Janice Pereira The Hon. Justice of Appeal Davidson Baptiste The Hon. Justice of Appeal Louise Blenman
Appearances:	
	Appellant: Mr. Richard Williams for the Appellant.
	Respondent: No appearance of the Respondent.

Issues:	Status Hearing.
Result/Order:	With leave of the court, appeal filed is hereby withdrawn.
Case Name:	Mary Duncan v Christopher Adams Civil Appeal No. 15 of 2011
Date:	11th February 2013
Before:	The Hon. Chief Justice Janice Pereira The Hon. Justice of Appeal Davidson Baptiste The Hon. Justice of Appeal Louise Blenman
Appearances:	
Appellant:	Mr. Sylvester Raymond-Cadette for the Appellant.
Respondent:	Mr. Stephen Huggins for the Respondent.
Issues:	Status Hearing.
Result/Order:	No order made.
Reason:	Nothing pending before the Court as there is no appeal commenced in respect of order granting extension of time and leave to appeal made on 21st February 2012.
Case Name:	Howards Driving School Ltd. v Ismay Dennie Magisterial Civil Appeal No. 1 of 2010
Date:	11th February 2012
Before:	The Hon. Chief Justice Janice Pereira The Hon. Justice of Appeal Davidson Baptiste The Hon. Justice of Appeal Louise Blenman
Appearances:	
Appellant:	Ms. Nicole Sylvester and Ms. Patina Knights for the Appellant.
Respondent:	No appearance of the Respondent.

Issue: Status Hearing.

Result / Order: Notice to be served on the Respondent for hearing on Wednesday 13th February 2013 at 2:30 p.m.

Case Name: Emery Robertson Jnr. v. National Commercial Bank (SVG) Ltd.
Civil Appeal No. 7 of 2010

Date: 11th February 2013

Before: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Davidson Baptiste
The Hon. Justice of Appeal Louise Blenman

Appearances:

Appellant:	Mr. Emery Robertson Snr. for the Appellant.
Respondent:	Mr. Richard Williams for the Respondent.

Issue: Status Hearing.

Result: With leave of the court the appeal is withdrawn with no order as to cost. The matter is remitted to the court below for a date to be fixed for the first hearing of the fixed date claim in accordance with CPR 27.2.

Case Name: The Queen v Adonijah Caine
Criminal Appeal No. 4 of 2012

Date: 12th February 2013

Coram: The Hon. Justice of Appeal Davidson Baptiste,
President
The Hon. Justice of Appeal Louise Blenman
The Hon. Justice of Appeal Mario Michel

Appearances:

Appellant:	Mr. Colin Williams, D.P.P., for the Appellant.
Respondent:	Ms. Nicole Sylvester and Ms. Lakiesha John for the Respondent.

Issues: No-case submission.

Result and Reason: Leave is granted to the Director of Public Prosecutions to withdraw appeal. The appeal is hereby dismissed having been withdrawn.

Case Name: Romeo Charles v The Queen
Criminal Appeal No. 3 of 2012

Date: 12th February 2013

Coram: The Hon. Justice of Appeal Davidson Baptiste,
President
The Hon. Justice of Appeal Louise Blenman
The Hon. Justice of Appeal Mario Michel

Appearances:

Appellant: Mr. Jomo Thomas for the Appellant.

Respondent: Mr. Colin Williams D.P.P. for the Respondent.

Issues: Wounding – Appeal against sentence of a fine of \$2,500.00 to be paid in five years, in default 5 years imprisonment.

Result and Reason: The appeal against sentence is allowed and the term of imprisonment is varied to 1 year to the extent that the Appellant has been imprisoned from 6th February 2012, it is ordered that he be discharged from prison.

Court’s ruling is a majority decision of Blenman JA and Baptiste JA. Justice Michel has dissented. The majority is of the view that the Learned Trial Judge exceeded his jurisdiction when he ordered the term of 5 years imprisonment in default of payment of compensation of \$25,000.00. The provisions of Section 29 of the Criminal Code clearly sets out the maximum term of imprisonment, that is one year, in default of payment of compensation exceeding \$500.00.

Case Name: **Letting Patterson v The Queen**
Criminal Appeal No. 8 of 2010

Dale Quashie v The Queen
Criminal Appeal No. 9 of 2010

Date: **12th February 2013**

Coram: **The Hon. Justice of Appeal Davidson Baptiste,**
President
The Hon. Justice of Appeal Louise Blenman
The Hon. Justice of Appeal Mario Michel

Appearances:

Appellant:	Mrs. Kay Bacchus-Browne for the First Appellant.
	Ms. Samantha Robertson for the Second Appellant.
Respondent:	Mr. Colin Williams, D.P.P., Mr. Colin John Asst. D.P.P., Mr. Kareem Nelson Crown Counsel for the Respondent.

Issues: **Robbery – Appeal against conviction and sentence of 15 years and 10 years imprisonment.**

Result and Reason:

- (1) The Respondent is to provide disclosure of all Police statements in this matter on or before 12th March 2013.**
- (2) The Respondent is granted leave to file skeleton arguments on or before 12th April 2013.**
- (3) The Appellants are granted leave to file further submissions if required on or before 28th April 2013.**
- (4) Hearing of the appeal is traversed to the next sitting of the Court of Appeal in this jurisdiction during week of 27th May 2013.**

Case Name: **Urion Frederick v The Queen**
Criminal Appeal No. 14 of 2012

**Zeroy Joseph v The Queen
Criminal Appeal No. 15 of 2012**

Date: 12th February 2013

Coram: The Hon. Justice of Appeal Davidson Baptiste,
President
The Hon. Justice of Appeal Louise Blenman
The Hon. Justice of Appeal Mario Michel

Appearances:

Appellant: Mrs. Kay Bacchus-Browne for the Appellant.

Respondent: Mr. Colin Williams, D.P.P., and Ms. Sejilla McDowall Crown Counsel for the Respondent.

Issues: Robbery – Appeal against conviction and sentence of ten years imprisonment.

Result and Reason: The hearing of this appeal is traversed to the next sitting of the Court of Appeal in this jurisdiction during the week commencing 27th May 2013.

Case Name: Pius Alvis v The Queen
Criminal Appeal No. 3 of 2011

Date: 12th February 2013

Coram: The Hon. Justice of Appeal Davidson Baptiste,
President
The Hon. Justice of Appeal Louise Blenman
The Hon. Justice of Appeal Mario Michel

Appearances:

Appellant: Appellant In Person.

Respondent: Mr. Colin Williams D.P.P. and Ms. Sejilla McDowall Crown Counsel for the Respondent.

Issues: Rape and Kidnapping – Appeal against conviction and sentence of 15 years and 8

years imprisonment, sentences to run concurrently.

Result and Reason:

Appeal against conviction and sentence is dismissed. There is no merit in appeal against conviction. The court is of the view that the Learned Trial Judge put the case to the jury properly. The Learned Trial Judge asked jury to disregard the medical report. The case against the Appellant was very strong. In terms of sentence the court is of the view that the Trial Judge did not err. This court can find no reason to interfere with the decision.

Case Name:

**Azari Ash v The Queen
Criminal Appeal No. 6 of 2011**

**Che Bute v The Queen
Criminal Appeal No. 9 of 2011**

Date:

12th February 2013

Coram:

**The Hon. Justice of Appeal Davidson Baptiste,
President
The Hon. Justice of Appeal Louise Blenman
The Hon. Justice of Appeal Mario Michel**

Appearances:

Appellant: Mr. Carlyle Dougan Q.C. for Appellant No. 1.
Mr. Jomo Thomas and Ms. Shirlan Barnwell for Appellant No. 2.

Respondent: Mr. Colin Williams D.P.P., Mr. Colin John Asst. D.P.P., Ms. Ayanna Dabreo and Mr. Kareem Nelson Crown Counsel for the Respondent.

Issues:

Murder – Appeal against conviction and sentence of life imprisonment for each accused.

Result and Reason:

(1) Oral application of Appellants to deem Notice of Appeal filed on August 4th and 12th 2011 properly filed is granted.

- (2) The Director of Public Prosecution is to file and serve skeleton submissions in response to the application to adduce new evidence on or before 13th March 2013 and in response to the application on 28th March 2013.
- (3) The deponents of the affidavits are to attend to give oral evidence at the hearing of the appeal to give evidence and to be cross-examined.
- (4) The hearing of the appeal is traversed to the next sitting of the Court of Appeal in this jurisdiction during the week commencing 27th May 2013.

Case Name: Oscar Charles v The Queen
Criminal Appeal No. 2 of 2012

Date: 12th February 2013

Coram: The Hon. Justice of Appeal Davidson Baptiste,
President
The Hon. Justice of Appeal Louise Blenman
The Hon. Justice of Appeal Mario Michel

Appearances:

Appellant:	Appellant In Person.
Respondent:	Mr. Colin John Asst. D.P.P., Ms. Ayanna Baptiste and Mr. Kareem Nelson Crown Counsel for the Respondent.

Issues: Buggery and unlawful sexual intercourse – Appeal against conviction and sentence of 15 years imprisonment.

Result and Reason:

- (1) Appeal against conviction is dismissed.
- (2) Appeal is allowed in terms of sentence. The Learned Trial Judge sentence was 15 years imprisonment but the maximum but

**the maximum sentence is 10 years
imprisonment for the offence of buggery.**

**(3) Sentence is varied to 10 years
Imprisonment for the offence of buggery.**

(4) Sentence for sexual intercourse is affirmed.

(5) Sentences to run concurrently.

**Case Name: Darron Phillips v The Queen
Criminal Appeal No. 18 of 2012**

Date: 12th February 2013

**Coram: The Hon. Justice of Appeal Davidson Baptiste,
President
The Hon. Justice of Appeal Louise Blenman
The Hon. Justice of Appeal Mario Michel**

Appearances:

Appellant: Appellant In Person.

**Respondent: Mr. Colin John Asst. D.P.P., and Ms. Ayanna
Baptiste Crown Counsel for the Respondent.**

**Issues: Robbery – Appeal against conviction and
sentence of five (5) years imprisonment.**

**Result and Reason: Appellant having withdrawn his appeal against
conviction and sentence is dismissed.**

**Case Name: Somers Dublin Ltd A/C KBCS et al v
Monarch**

**Pointe Fund Limited
Civil Appeal No. 40 of 2012**

Date: 13th February 2013

**Coram: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Louise Blenman
The Hon. Justice of Appeal Don Mitchell (Ag.)**

Appearances:

Appellant: Mr. Gabriel Moss Q.C. with him Ms. Claire Robey for the Appellant.
Respondent: Mr. Oliver Clifton with him Mr. Barry Isaacs Q.C. for the Respondent.

Issues: Interlocutory appeal.

Result and Reason: Judgment reserved.

Case Name: Howards Driving School Ltd. v Ismay
Dennie
Magisterial Civil Appeal No. 1 of 2010

Date: 13th February 2012

Before: The Hon. Chief Justice Janice Pereira
The Hon. Justice of Appeal Louise Blenman
The Hon. Justice of Appeal Don Mitchell (Ag.)

Appearances:

Appellant: Ms. Patina Knights for the Appellant.
Respondent: Respondent In Person.

Issue: Status Hearing.

Result / Order:

- (1) It is ordered that the Magistrate's Office furnishes the Registrar of the High Court with a transcript of all the proceedings covering all the days on which the matter came up for hearing before him no later than 26th March 2013.
- (2) The Magistrate's Office shall also furnish for inclusion in the Record of Appeal all exhibits or copies thereof tendered in evidence in the said matter before 26th March 2013.
- (3) The Registrar of the High Court shall cause a copy of this order to be served on the

**Magistrate's Office no later than 22nd
February 2013.**

- (4) On receipt of the Further Transcript and exhibits, copies of the same shall be served upon the parties so that the Respondent ought to be served.**
- (5) The hearing of this appeal is adjourned to the next sitting of the Court of Appeal in this jurisdiction during the week commencing 27th May 2013.**