

COURT OF APPEAL SITTING

MONTSERRAT

Thursday, 1st November 2012

APPLICATIONS AND APPEALS

Case Name:

Yusuf Muhammed

v

Selsi Limited

**[Magisterial Labour Tribunal No. 1 of
2012]**

Date:

Thursday, 1st November 2012

Coram:

**The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

Mr. Jean Kelsick

Respondent:

Mr. David Brandt

Issues:

**Appeal against decision of the Labour Tribunal
– Whether Part 61 of the Civil Procedure Rules
2000 provides a remedy to an appellant where a
tribunal failed to state a case**

Result / Order:

[Oral delivery]

- 1. The Fixed Date Claim Form filed by the appellant on 30th October 2012 is to be treated as a Fixed Date Claim Form filed in the High Court and is remitted to the High Court Judge to deal with it according to the rules as applicable under CPR 61.2.**
- 2. Upon the tribunal filing the Case Stated, the Fixed date Claim and the Case Stated shall be treated as having been filed under CPR 61.6 and the appeal shall be set down for hearing.**

Reason:

The appellant filed the fixed date claim form in the Court of Appeal. Additionally the fixed date claim form was filed and served late. The application requiring the Labour Tribunal to state a case ought to more appropriately be fixed for hearing before a judge of the High Court as the filing of the Case Stated is a prerequisite to the engagement of the appeal process.

Case Name:

**Oswald Esberry
v
Commissioner of Police**

**[Magisterial Criminal Appeal No. 2 of
2012]**

Date:

Thursday, 1st November 2012

Coram:

**The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

Mr. David Brandt

Respondent:

**Ms. Kathyann Pyke, Director of Public
Prosecutions**

Issues:

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

**Result / Order /
Reason:**

**[Oral delivery]
By consent, the appeal is withdrawn with leave
of the Court.**

Case Name:

James White Jr.

V

Felix Awudo

[Magisterial Civil Appeal No. 1 of 2012]

Date:

Thursday, 1st November 2012

Coram:

**The Hon. Mde. Janice M. Pereira, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

Mr. David Brandt

Respondent:

Mr. Jean Kelsick

Issue:

Whether appeal ripe for hearing – No memorandum of reasons for decision given by the Magistrate as required pursuant to sections 112(1) and (2) of the Magistrate Court Act Cap. 2.02

**Result / Order /
Reason:**

[Oral delivery]

- 1. The Magistrate to provide a Memorandum of Reasons as required by section 112(1) of the Magistrate's Court Act Cap. 2.02 for her decision given on 29th November 2011. The said Memorandum of Reasons shall be furnished to the Registrar of the High Court in Montserrat with a copy to each of the parties no later than Monday, 3rd December 2012.**
- 2. The Registrar of the High Court shall serve upon the Magistrate a copy of this Order no later than Friday, 9th November 2012.**
- 3. The appellant shall file and serve skeleton arguments no later than Tuesday, 18th December 2012.**
- 4. The respondent shall file and serve skeleton**

arguments no later than 8th January 2013.

5. Copies of the Memorandum of Reasons and skeleton arguments as filed shall be transmitted to the Court of Appeal Headquarters in St. Lucia by 14th January 2013.
6. Thereafter, the matter shall be set down for hearing before the court provided all relevant rules and practice directions have been followed.
7. Mr. Brandt to prepare the draft Order to be settled by the Registrar.