

Court of Appeal Sitting
St Vincent and the Grenadines

19th – 23rd May 2008

Coram: **Hon. Justice of Appeal Ola Mae Edwards (Ag).**

Date **CHAMBERS**
19th May 2008

Case **APPLICATIONS**
Everard Gellizeau v Ulric Hutchinson
Civil Appeal No. 9 of 2007

Appearances:
Appellant:- Mr. Carlyle Dougan Q.C. for the Appellant.
Respondent:- Mr. Emery W. Robertson with Mr. Emery Robertson Jr. for the Respondent.

Issue: Application for extension of time to file record of appeal and skeleton arguments

Result: Application granted. Record of Appeal filed on the 20th March 2008 is deemed to have been validly filed. Skeleton arguments of appellant to be filed and served by 30th June 2008. Skeleton arguments of respondent to be filed and served by 30th July 2008. Matter traversed for hearing in the October 6 to 10th 2008 sitting of the Court of Appeal.

Date: 19th May 2008

Case **Ralph Scott v Natasha Phillips**
Civil Appeal No. 15 of 2007

Appearances:
Appellant:- Mr. Perry Joseph for Appellant.
Respondent:- Mr. Emery Robertson for Respondent.

Issue: Application to dismiss appeal.

Result: Notice of appeal filed on 16th May 2007 struck out with costs of \$2,000.00 to Appellant.

Reasons: No action has been taken by the Appellant since the Notice of Appeal has been filed.

Date: 19th May 2008

Case: **Othniel Sylvester v Frederick Bruce-Lyle et al**
Civil Appeal No. 17 of 2007

Appearances:

Appellant:- Mr. Emery Robertson for the Appellant.
Respondent:- Mr. Bertram E. Commissioning Q.C. with Ms. Mira Commissioning for the Respondent.

Issue: 1. Application for leave for an interested party to be heard in the appeal.
2. Application to change the date fixed for the hearing of the appeal to the date fixed for the Dominica sitting in December 2008.

Result: The Danish Foundation the party directly interested to assist the Court at the hearing of the appeal to file and serve skeleton arguments by 20th September 2008. Date of October 6th to 10th will remain as hearing date.

Reasons: Civil Procedure Rules overriding objective. CPR 1.1 dictates that this matter be dealt with expeditiously and the court must take into account the need to allot an appropriate share of its resources to other cases in Dominica. Matter may impact negatively on the Dominica list having regard to its nature.

Date: 19th May 2008

Case: **Romano Durham v Commissioner of Police
Magisterial Criminal Appeal No. 82 of 2007**

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. for Respondent.

Issue: Application for leave to appeal against sentence.

Result: Appellant to file leave to appeal by today, 19th May 2008. A copy to be served on the D.P.P. Matter adjourned to 20th May 2008.

Date: 19th May 2008

Case: **Fred George v The Queen
Criminal Appeal No. 1 of 2008**

Appearances:

Appellant:- In Person.
Respondent:- Mr. Carl Williams for the Respondent.

Issue: Application to amend grounds of appeal.

Result: Matter was not heard.

Reason: Substantive appeal dealt with in open court and subsequently dismissed.

Date 19th May 2008

Case: **Everton Tannis v The Queen**
Criminal Appeal No. 11 of 2008

Appearances:

Appellant:- In Person.
Respondent:- Mr. Carl Williams for the Respondent.

Issue: Application for extension of time to file appeal.

Result: Notice of Appeal to be filed by 19th May 2008. Matter adjourned to 20th May 2008.

Date 19th May 2008

Case: **Carl Ollivierre v Wilbert Lewis**
Civil Appeal No. 4 of 2008

Appearances:

Appellant:- Mr. Stanley K. John for the Appellant absent.
Respondent:- Mr. Moet Malcolm for the Respondent.

Issue: Application for stay of execution.

Result: High Court to prepare transcript of notes of evidence pursuant to C.P.R. 62.9 (b). Notice to be served on the parties when available. Applicant not present or represented by his counsel, application for stay is dismissed. Cost of \$500.00 to the Respondent.

Date 19th May 2008

Case: **Enrico Johnny v The Commissioner of Police**
Magisterial Criminal Appeal No. 4 of 2008

Appearances:

Appellant:- In Person.
Respondent:- Mr. Carl Williams for Respondent.

Issue: Application for extension of time to file appeal.

Result: Matter adjourned to 20th May 2008.

Reason: Application for leave to appeal filed.

Date 19th May 2008

Case: **Atiba Lockhart v The Commissioner of Police
Magisterial Criminal Appeal No. 5 of 2008**

Appearances:

Appellant:- In Person.
Respondent:- Mr. Carl Williams for the Respondent.

Issue: Application for extension of time to file appeal.

Result: Matter adjourned to 20th May 2008.

Reason: Application for leave to appeal filed.

Date 19th May 2008

Case: **Marvick Frederick v The Commissioner of Police
Magisterial Criminal Appeal No. 9 of 2008**

Appearances:

Appellant:- In Person.
Respondent:- Mr. Carl Williams for the Respondent.

Issue: Application for extension of time to file appeal.

Result: Appeal dismissed.

Reason: Appellant's sentence expires 7th June 2008. Appellant did not file notice of leave to appeal.

Coram: **Hon. Justice of Appeal Denys Barrow - President
Hon. Justice of Appeal Tyrone Chong (Ag.)
Hon. Justice of Appeal Dane Hamilton (Ag.)**

Case: **APPLICATION – OPEN COURT
Michele Andrews PC 16 v The Director of Public Prosecutions et al
Civil Appeal No. 3 of 2008**

Appearances:

Appellant:- Mr. Emery Robertson, Ms. Kay Bacchus-Browne, Ms. Nicole Sylvester,
Mrs. Sharon Morris-Cummings for the Appellant.
Respondent:- Mr. Richard Cheltenham Q.C. with Mr. Joseph Delves for First Respondent.
Mr. Anthony Astaphan S.C. with Mr. Stephen Williams for Second Respondent.
Mr. Parnel Campbell Q.C. for Third Respondent.

Issue: Application for leave to appeal.

Result: Matter stood down to consider decision.

Date 19th May 2008

Case: **HIGH COURT CRIMINAL APPEALS AGAINST SENTENCE**
Kemeon Cozier v The Queen
Criminal Appeal No. 19 of 2007

Appearances:

Appellant:- Ms. Samantha Robertson holding for Mr. Ronald Marks for the Appellant.
Respondent:- Mr. Colin Williams, D.P.P. for the Respondent.

Issue: Manslaughter – Appeal against sentence of ten (10) years imprisonment.

Result: Appeal dismissed.

Reason: Appellant withdraws appeal.

Date: 19th May 2008

Case: **Ralford Ranger v The Queen**
Criminal Appeal No. 21 of 2007

Appearances:

Appellant:- Ms. Samantha Robertson holding for Mr. Ronald Marks for the Appellant.
Respondent:- Mr. Colin Williams, D.P.P. for the Respondent.

Issue: Manslaughter – Appeal against sentence of ten (10) years imprisonment.

Result: Appeal dismissed.

Reason: Appellant withdraws appeal.

Date 19th May 2008

Case: **Farrax Prescott v The Queen**
Criminal Appeal No. 22 of 2007

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. for the Respondent.

Issue: Robbery – Appeal against sentence of five (5) years imprisonment.

Result: Appeal dismissed.

Reason: The Court can find no reason to interfere with the sentence.

Date: 19th May 2008

Case: **Devon Clarke v The Queen**
Criminal Appeal No. 23 of 2007

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. for the Respondent.

Issue: Attempted Robbery – Appeal against sentence of seven (7) years imprisonment.

Result: Appeal dismissed.

Reason: The Court can find no reason to interfere with the sentence.

Date 19th May 2008

Case: **Dennis Samuel v The Queen**
Criminal Appeal No. 24 of 2007

Appearances:

Appellant:- Appellant is Deceased.
Respondent:- Mr. Colin Williams D.P.P. for the Respondent.

Issue: Buggery – Appeal against sentence of eight (8) years imprisonment.

Result: Appeal dismissed.

Reason: Appellant is deceased.

Date 19th May 2008

Case: **Fred George v The Queen**
Criminal Appeal No. 1 of 2008

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P., for the Respondent.

Issue: Aggravated Burglary – Appeal against sentence of fifteen (15) years imprisonment.

Result: Appeal dismissed.

Reason: The Court finds no reason to interfere with the sentence.

Date: 19th May 2008

Case: **Turnley Francois v The Queen**
Criminal Appeal No. 2 of 2008

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams, D.P.P., for the Respondent.

Issue: Manslaughter – Appeal against sentence of eight (8) years imprisonment.

Result: Traversed to next sitting of this Court.

Date: 19th May 2008

Case: **Calvert Buntyn v The Queen**
Criminal Appeal No. 3 of 2008

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams, D.P.P., for the Respondent.

Issue: Robbery – Appeal against sentence of seven (7) years imprisonment.

Result: Appeal dismissed.

Reason: Sentence appropriate in the circumstances.

Date: 19th May 2008

Case: **Curtis Joseph v The Queen**
Criminal Appeal No. 4 of 2008

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams, D.P.P., for the Respondent.

Issue: Robbery – Appeal against sentence of seven (7) years imprisonment.

Result: Appeal dismissed.

Reason: Court finds no reason to interfere with decision of court. Sentence appropriate in the circumstances.

Date: 19th May 2008

Case: **Michael Browne v The Queen**
Criminal Appeal No. 5 of 2008

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams, D.P.P., for the Respondent.

Issue: Wounding – Appeal against sentence of ten (10) years imprisonment.

Result: Appeal dismissed.

Reason: Sentence justified in the circumstances. No reason to interfere with the decision of the Court.

Date: 19th May 2008

Case: **Atiba Jones v The Queen**
Criminal Appeal No. 9 of 2008

Appearances:

Appellant:- Mr. Jaundy Martin for the Appellant.
Respondent:- Mr. Colin Williams D.P.P. for the Respondent.

Issue: Robbery, Assault & Use of Firearm – Appeal against sentences of eight (8) years, three (3) years and seven (7) years to run concurrently. The appellant sought to have the term of imprisonment run from the date he was first remanded.

Result: Appeal dismissed.

Reason: Further the Appellant to get the benefit of a guilty plea he should have pleaded guilty from the date he was first remanded and not have waited until the date he was arraigned.

Date 19th May 2008

Case: **HIGH COURT CRIMINAL APPEALS AGAINST CONVICTION**
Pascal Williams v The Queen
Criminal Appeal No. 2 of 2006

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. for the Respondent.

Issue: Murder – Appeal against conviction and sentence of eighteen (18) years imprisonment.

Result: Appeal dismissed.

Reason: The court was of the view that in such a case where an accomplice gives evidence and the accused exercises his right not to give evidence, and thus there is no evidence from the Appellant, the Appellant finds himself in a situation where a jury had evidence before them from one of the two persons present. It is therefore open to the jury to believe the one who testified. Having said that, the Court is fully aware that there is no legal obligation to the Appellant to prove anything.

Date 19th May 2008

Case: **Donald Edwards v The Queen**
Criminal Appeal No. 1 of 2007

Appearances:
Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. for the Respondent.

Issue: Manslaughter – Appeal against conviction and sentence of seven (7) years imprisonment.

Result: Matter stood down until 20th May 2008.

Date 19th May 2008

Case: **Levi Roberts v The Queen**
High Court Criminal Appeal No. 3 of 2007

Appearances:
Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. for the Respondent.

Issue: Abduction and Attempted Buggery – Appeal against conviction and sentences of five (5) and ten (10) years to run concurrently.

Result: Matter stood down to await the arrival of attorney.

Date 19th May 2008

Case: **Digby Lewis v The Queen**
Criminal Appeal No. 5 of 2007

Appearances:
Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. with Mr. Carl Williams for the Respondent.

Issue: Rape – Appeal against conviction and sentence of five (5) years imprisonment.

Result: Matter stood down to consider decision.

Date 19th May 2008

Case: **Adrian Neverson v The Queen**
Criminal Appeal No. 6 of 2007

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. for the Respondent.

Issue: Wounding – Appeal against conviction and sentence of three and a half (3 ½) years imprisonment.

Result: Appeal dismissed.

Reason: Appellant withdraws appeal.

Date 19th May 2008

Case: **Digby Lewis v The Queen**
Criminal Appeal No. 5 of 2007

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. with Mr. Carl Williams for the Respondent.

Issue: Rape – Appeal against conviction and sentence of five (5) years imprisonment.

Result: Appeal is dismissed against conviction and sentence.

Reason: There was no basis for saying that the jury came to a decision that no reasonable jury could have arrived at. It was a question of whether to believe the virtual complainant or the defendant. What matters is whether the verdict which was given by the jury was in fact one that they could properly arrive at. The Court does not have any lurking doubt. In relation to the sentence, that sentence was as low as it could have been.

Date 19th May 2008

Case: **Donald Edwards v The Queen**
Criminal Appeal No. 1 of 2007

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. for the Respondent.

Issue: Manslaughter – Appeal against conviction and sentence of seven (7) years imprisonment.

Result: Appeal dismissed.

Reason: Appellant withdraws appeal.

Date 19th May 2008

Case: **Levi Roberts v The Queen**
High Court Criminal Appeal No. 3 of 2007

Appearances:

Appellant:- Mrs. Kay Bacchus-Browne for Appellant.
Respondent:- Mr. Colin Williams D.P.P. for the Respondent.

Issue: Abduction and Attempted Buggery – Appeal against conviction and sentences of five (5) and ten (10) years to run concurrently.

Result: Appeal dismissed. Sentence affirmed. Time spent on remand would be taken into consideration.

Reason: There is no hope of success in relation to appeal against conviction. In relation to sentence the high period of sentence imposed initially jumps out. However, when the antecedents are taken into consideration and further, the fact that the judge made a conscious decision which she expressed that she must impose a sentence to protect society from the unremorseful appellant.

Corum: **Hon. Justice of Appeal Ola Mae Edwards (Ag.) - President**
Hon. Justice of Appeal Tyrone Chong (Ag.)
Hon. Justice of Appeal Dane Hamilton (Ag.)

Date: 20th May 2008

Case: **APPLICATIONS**
Michele Andrews PC 16 v The Director of Public Prosecutions et al
Civil Appeal No. 3 of 2008

Appearances:

Appellant:- Mr. Emery Robertson for the Appellant.
Respondent:- Mr. Parnel Campbell Q.C. for the Respondent.

Issue: Application for leave to appeal.

Result: Decision to be given tomorrow if not reserved.

Date 20th May 2008

Case: **HIGH COURT CIVIL APPEALS**
Ivan O’Neal v Diane Caroline O’Neal et al
Civil Appeal No. 11 of 2007

Appearances:

Appellant:- Mr. Emery Robertson for the Appellant.
Respondent:- Mr. Samuel Commissiong for the Respondent.

Issue: The Learned Master erred in his failure to set aside a default judgment.

Result: Decision will be handed down later today.

Date 20th May 2008

Case: **Yvonne M. Miguel v Leo H. Miguel**
Civil Appeal No. 16 of 2007

Appearances:

Appellant:- Mr. Carl Glasgow for the Appellant.
Respondent:- Mr. Parnel R. Campbell Q.C. with Mr. McCauley Peters for the Respondent.

Issue: The learned judge erred in his findings that under the terms of the property settlement the Respondent is entitled to a one-half share of the matrimonial home.

Result:

1. That the Appellant's Appeal be dismissed.
2. That the Appellant and the Respondent are entitled to the matrimonial Property described in Deed Number 2746 of 1982 in equal shares tenants in common.
3. That there be no order as to costs.

Reasons: The Court was of the view that beneficial interest under Section 34 could not be isolated and taken by itself in considering division of property. There were several other factors to consider under the section and the court is mandated to put the respondent in the position that he would be in had the marriage continued and each party assumed their obligations and responsibilities to each other.

Date 20th May 2008

Case: **MAGISTERIAL CRIMINAL APPEALS AGAINST SENTENCE**
Feron Roberts v Commissioner of Police
Magisterial Criminal Appeal No. 59 of 2007

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. with Mr. Carl Williams for the Respondent.

Issue: Possession of firearm and ammunition without a licence – Appeal against sentence four (4) years and four (4) months imprisonment.

Result: Appeal dismissed.

Reason: Offence committed whilst on suspended sentence.

Date: 20th May 2008

Case: **Gerald Whittington v Commissioner of Police
Magisterial Criminal Appeal No. 64 of 2007**

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. with Mr. Carl Williams for the Respondent.

Issue: Possession of a false passport – Appeal against sentence of two and a half (2 ½) years imprisonment.

Result: Appeal against sentence is allowed. Sentence varied to 1 year. Deportation order confirmed.

Reason: Sentence excessive in the circumstances. The Appellant came into the country by air and had been in the country for 2 weeks before his arrest.

Date: 20th May 2008

Case: **Raphael Robinson v Commissioner of Police
Magisterial Criminal Appeal No. 76 of 2007**

Appearances:

Appellant:- In Person
Respondent:- Mr. Colin Williams D.P.P. and Mr. Carl Williams for the Respondent.

Issue: Trespassing and stealing – Appeal against sentence for the offences on the following complaints:

Suit No. 247/07 – 3 years imprisonment; No. 246/07 – 3 years imprisonment; No. 248/07 – 3 years imprisonment; No. 249/07 – 1 year imprisonment; 244/07 – 4 years imprisonment; No. 234/07 – 3 years imprisonment; 235/07 – 2 years imprisonment; 233/07 – 3 years imprisonment; 236/07 – 1 year imprisonment; 237/07 – 1 year imprisonment; 238/07 – 1 year imprisonment; 253/07 – 18 months imprisonment; 251/07 – 1 year imprisonment; 252/07 – 1 year imprisonment; 250/07 – 18 months imprisonment; 242/07 – 4 years imprisonment; 239/07 – 4 years imprisonment; 241/07 – 1 year imprisonment; 240/07 – 1 year imprisonment; 232/07 – 1 year imprisonment; 231/07 – 4 years imprisonment; 254/07 – 9 months imprisonment; 255/07 – 1 year imprisonment; 257/07 – 1 year imprisonment; 256/07 – 1 year imprisonment. Defendant will serve 10 years imprisonment.

Result: Appeal dismissed.

Reason: Appellant has an extensive list of previous convictions for dishonesty and is a recidivist and has made a career of crime.

Date: 20th May 2008

Case: **Kashorn John v Commissioner of Police
Magisterial Criminal Appeal No. 86 of 2007**

Appearances:

Appellant:- Mr. Bertram Stapleton for the Appellant.
Respondent:- Mr. Colin Williams D.P.P. and Mr. Carl Williams for the Respondent.

Issue: Possession of a firearm without a licence – Appeal against sentence of three (3) years in prison – Whether sentence is excessive having regard to the offence and personal circumstances of the appellant – Leave granted to appeal against conviction – Whether the homemade gun the appellant was in possession of is a firearm within the definition of “firearm” under the Firearms Act

Result: Judgment reserved.

Date: 20th May 2008

Case: **Shurn Rodriguez v Commissioner of Police
Magisterial Criminal Appeal No. 6 of 2008**

Appearances:

Appellant:- Mr. Stephen Williams for the Appellant.
Respondent:- Mr. Colin Williams and Mr. Carl Williams for the Respondent.

Issue: Stealing – Appeal against suspended sentence of six months in jail, suspended for two years - Compensation to the virtual complainant to be paid in the sum of \$8,500 to be paid in two months in default six months in prison – Whether sentence is excessive

Result: Appeal against sentence is allowed. The order is varied as follows: Appellant to pay \$3,500 in compensation to be paid within six months in default 3 months imprisonment. Restitution order made in respect of items recovered. Suspended sentence stands.

Reason: The learned magistrate had failed to carry out a means test for the appellant and the sentence was excessive having regard to the personal circumstances of the appellant and the fact that the goods had been recovered.

Date: 20th May 2008

Case: **Nelson Ballantyne v Commissioner of Police
Magisterial Criminal Appeal No. 8 of 2008**

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. and Mr. Carl Williams for the Respondent.

Issue: Possession of a firearm without licence – Appeal against sentence of one (1) year imprisonment.

Result: Appeal dismissed.

Reason: The Court was of the view that the Magistrate considered all of the mitigating factors factors and applied the relevant principles. In light of the circumstances the sentence imposed was fair.

Date 20th May 2008

Case: **Everton Tannis v The Queen
Criminal Appeal No. 11 of 2008**

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. and Mr. Carl Williams for the Respondent.

Issue: Wounding - Appeal against sentence of 6 years – Whether sentence excessive

Result: Traversed to the next sitting of this Court.

Reason: Record of Appeal not available from Magistrate's Court at this time.

Date 20th May 2008

Case: **Atiba Lockhart v The Commissioner of Police
Magisterial Criminal Appeal No. 5 of 2008**

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. and Mr. Carl Williams for the Respondent.

Issue: Possession of 380 grammes of marijuana – Appeal against sentence of 1 year.

Result: Appeal withdrawn.

Reason: The Record of Appeal was not available from the Magistrate's Court at this time and the Appellant will have completed serving his sentence before the next sitting of the court of the Appeal.

Date: 20th May 2008

Case: **Romano Durham v Commissioner of Police
Magisterial Criminal Appeal No. 82 of 2007**

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. and Mr. Carl Williams for the Respondent.

Issue: Possession of firearm, ammunition – appeal against sentence of 3 years and 6 months to run concurrently.

Result: Traversed to the next sitting of this Court.
Reason: Record of Appeal not available from Magistrate's Court at this time.

Date 20th May 2008

Case: **Enrico Johnny v The Commissioner of Police
Magisterial Criminal Appeal No. 4 of 2008**

Appearances:

Appellant:- In Person.
Respondent:- Mr. Colin Williams D.P.P. and Mr. Carl Williams for the Respondent.

Issue: Possession of a firearm, ammunition – Appeal against sentence of 2 years and 6 months to run consecutively.

Result: Traversed to next sitting of this Court.

Reason: Record of Appeal not available from Magistrate's Court at this time.

Date 20th May 2008

Case: **HIGH COURT CIVIL APPEALS
Ivan O'Neal v Diane Caroline O'Neal et al
Civil Appeal No. 11 of 2007**

Appearances:

Appellant:- Mr. Emery Robertson for the Appellant.
Respondent:- Mr. Samuel Commissiong for the Respondent.

Issue: Whether the learned Master erred in his failure to set aside a default judgment.

Result: Appeal allowed. The matter was remitted to the High Court to proceed as a fixed date claim and for case management. Each party to bear their own costs.

Reason: Both parties were non-compliant of the Rules. The action was for recovery of possession and related declarations and the rules required that it ought to have commenced by fixed date claim. The summary judgment that was entered by the court was not a default judgment under Part 13 that could have been set aside by the Master and a summary judgment cannot be validly obtained in a fixed date claim matter under the rules. The learned Master had no jurisdiction to hear and set aside a summary judgment. The court was of the view that the overriding objective under the CPR and powers given to the Court under the Supreme Court Act demand that the appeal be allowed.

Date 20th May 2008

MAGISTERIAL CRIMINAL APPEALS AGAINST CONVICTION

Case: **Relton John v Commissioner of Police**
Magisterial Criminal Appeal No. 7 of 2008

Appearances:

Appellant:- In Person
Respondent:- Mr. Colin Williams D.P.P. and Mr. Carl Williams for the Respondent.

Issue: Assault causing actual bodily harm – Appeal against conviction and sentence of being placed on a bond in the sum of one thousand dollars for one year in default three months in jail.

Result: Appeal dismissed.

Reason: The Court is of that view the despite the discrepancies pointed out by the Appellant the Magistrate’s decision was reasonable in her finding that beyond reasonable doubt he did in fact punch his wife.

Date: 20th May 2008

Case: **Hayden Antoine v Commissioner of Police**
Criminal Appeal No. 14 of 2008

Appearances:

Appellant:- Mr. Bertram Stapleton for the Appellant.
Respondent:- Mr. Colin Williams D.P.P., and Mr. Carl Williams for the Respondent.

Issue: Indecent - Assault: Appeal against conviction and sentence of eighteen (18) months imprisonment – Whether the Magistrate erred in her findings of fact and the law.

Result: Appeal dismissed.

Reason: The Court is of the view that the Magistrate was endeavouring to resolve the question of credibility and the learned Magistrate was not reversing the burden of proof in her comments that there is no evidence before her to come to the conclusion that there is some motive or malice for the witnesses not to speak the truth. The Court is of the view that there was ample evidence before the Magistrate to convict the Appellant.

Date: 20th May 2008

Case: **Michael Gibson v Commissioner of Police**
Criminal Appeal No. 15 of 2008

Appearances:

Appellant:- Mr. Stephen Williams for the Appellant.
Respondent:- Mr. Colin Williams D.P.P. and Mr. Carl Williams for the Respondent.

Issue: Possession of a firearm without licence – Appeal against conviction and sentence of three (3) years imprisonment.

Result: Appeal allowed. Conviction quashed.

The Court was of the view that the conviction is unsafe. As there were two complaints for illegal possession of firearms involving 2 accused. One of which was found not to be a firearm and on the evidence that was before the court it cannot be said beyond a reasonable doubt that the weapon was found not to be a firearm was the subject of the complaint upon which the appellant was convicted.

Date 20th May 2008

Case: **MAGISTERIAL CIVIL APPEAL**
Frank Cropper v Cleve Cropper
Magisterial Civil Appeal No. 2 of 2007

Appearances:

Appellant:- Mrs. Kay Bacchus-Browne for the Appellant absent.
Respondent:- Mr. Stephen Williams holding for Mr. Ronald Marks for the Respondent.

Issue: Whether the learned Magistrate erred in law in the decision to evict the Appellant From the property he was occupying.

Result: Dismissed for want of prosecution.

Reason: Mr. Williams informed the Court that Mr. marks told him that the matter settled at Mediation and this matter has been traversed on three previous sittings at the request of counsel for the parties to facilitate mediation.