

COURT OF APPEAL SITTING
ANTIGUA AND BARBUDA
Tuesday 17th May to Friday 20th May 2011

		<u>DELIVERED JUDGMENT</u>
Case Name:		Kemba Swanston v The Director of Public Prosecutions [Criminal Appeal No. 21 of 2006] St. Christopher and Nevis
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Miss Stacy-Ann Osborne holding papers for Inniss and Inniss
	Respondent:	Mr. Anthony Armstrong Director of Public Prosecutions holding papers for Mrs. Pauline Hendrickson Director of Public Prosecutions of St. Christopher and Nevis
Issue:		<i>Criminal appeal against conviction for murder and attempted murder – Appellant tried alone on indictment charging 4 other persons and the appellant jointly – Co-defendants pleaded guilty to lesser offences including manslaughter and sentenced – At appellant’s subsequent trial former co-defendants testified as defence witnesses – Former co-defendants testimony exculpated appellant whilst admitting sole liability for crimes and asserting that appellant did not participate in their activities which resulted in the death and injury of the victims – Whether the learned trial judge’s directions to the jury on joint enterprise prejudiced the appellant and deprived him of a fair trial – Manner in which evidence of convicted former co-defendants was dealt with by trial judge – Whether the evidence of the former co-defendants required the trial judge to give any specific warning – Whether the contradictory and conflicting testimony of the prosecution witnesses was capable of rebutting the evidence of the former co-defendants</i>

<p>Result and Reason:</p>		<p>Held: dismissing the appeal and affirming the appellant’s conviction for murder that:</p> <ol style="list-style-type: none"> 1. It was unnecessary for the Prosecution to specify in the indictment exactly what function the appellant and the four former co-defendants were performing in committing the crimes. There are no provisions comparable to section 2 of the Jamaica Offences Against the Person Act in the Offences Against the Person Act¹ under which the appellant was indicted. Unlike the situation in Jamaica, murder in the Federation of Saint Christopher and Nevis is not categorized by statute as either capital or non-capital. Consequently, apart from the judge giving directions to the jury on the law of joint enterprise, the prosecution in the case at bar were not obligated to satisfy the three additional tests for capital murder formulated by the Privy Council in the previous Jamaican case Daley v The Queen² and re-iterated in Andrew Hunter and Marlon Moodie³ before the appellant Kemba Swanston could be found guilty of murder, namely: (1) that the appellant Kemba Swanston by his own act caused the death of the deceased Dennis Trotman; (2) that the appellant inflicted or attempted to inflict grievous bodily harm on the person murdered; (3) that the appellant himself used violence on the deceased in the course of furtherance of the attack. In the circumstances, these Jamaican decisions cannot assist the appellant in his appeal. 2. Kurt Mills, Leon Norford, Antwan Thompson and Kenneth Mills’ previous acceptance of full responsibility and for that matter sole responsibility for the crimes charged, did not render it logically impossible for the appellant to be guilty of the offences on the indictment as charged. The case against the appellant was that he was involved in a joint enterprise with these defence witnesses in the attack and injury to the victims. The testimony of these defence witnesses did not implicate the appellant. Their evidence exculpated the appellant, and did not fall within the ambit of any recognized category of evidence which would attract a mandatory or specific warning.
----------------------------------	--	---

¹ Chapter 56, The Revised Edition 1961 of the Laws of St Christopher and Nevis.

² [1998] 1 W.L.R. 494 at 501 A-B.

³ Privy Council Appeal No. 64 of 2002 (Jamaica).

		<p>3. Apart from the directions given to the jury on how they should assess and evaluate the evidence of all of the witnesses who testified at the trial of the appellant, it would have been better, if the jury had been warned that they must put the conviction of Kurt Mills, Leon Norford, Antwan Thompson and Kenneth Mills out of their minds in deciding whether or not to accept their version of the events. However, this is not a substantial error, and no miscarriage of justice resulted from this omission. Even if the jury heeded such a warning, there was an abundance of evidence on the prosecution's case to negative or rebut the evidence of the appellant and his defence witnesses. The jury rejected their evidence that the appellant did not jointly participate with the others in committing the crimes. Despite the discrepancies in the prosecution's case, the jury were entitled to accept, and by their verdict clearly accepted the evidence of the prosecution witnesses whose testimony fixed the appellant as an active participant in the joint attack on the bus and the victims.</p> <p>4. Having regard to how the prosecution pitched its case, it was open to the jury to find the appellant not guilty of murder, but guilty of manslaughter depending on their findings regarding the intention of the appellant. That he was found guilty of murder while the other participants were convicted for manslaughter would offend no established legal principles.</p>
		<u>APPLICATIONS AND APPEALS</u>
Case Name:		Nigel Hamilton-Smith et al v Alexander Fundora [Civil Appeal No. 50 of 2010] Alexander Fundora v Nigel Hamilton-Smith et al [Civil Appeal No. 52 of 2010]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		

	Appellant:	Mr. Kendrickson Kentish
	Respondent:	Mr. Craig Christopher
Issue:		Discharge Order of a single judge, stay of execution, interim conservatory order
Result and Reason:		Matter was discontinued by the parties. The court noted that the matter was discontinued and the terms under which it was discontinued
Case Name:		Kevil Nelson v The Queen [Criminal Appeal No. 15 of 2009]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Sir Richard Cheltenham QC
	Respondent:	Mr. Anthony Armstrong Director of Public Prosecutions with Miss Shanon Jones
Issue:		Whether to adduce fresh evidence
Result and Reason:		By consent, the hearing of this application is adjourned to the next sitting of the Court of Appeal in Antigua and Barbuda in September 2011
Case Name:		Vere C. Bird III v The Daily Observer Ltd. et al [Civil Appeal No. 10 of 2011]
Date:		Tuesday 17th May, 2011

Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Dane Hamilton QC
	Respondent:	Mr. Hugh Marshall Jr.
Issue:		Leave to appeal
Result and Reason:		<ol style="list-style-type: none"> 1. By consent the appeal for leave to appeal is granted 2. The appeal will be heard during this sitting of the court at a time to be notified
Case Name:		Richard Charles Sayer v Caribbean Developments (Antigua) Limited [Civil Appeal No. 9 of 2011]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Miss Veronica Thomas
	Respondent:	Mr. John Fuller
Issue:		Leave to appeal
Result and Reason:		The application for leave to appeal having being withdrawn is accordingly dismissed with no order as to costs

Case Name:		Igors Kippers et al v Stanford International Bank Limited [Civil Appeal No. 25 of 2010]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Kendrickson Kentish
	Respondent:	Sir Richard Cheltenham QC with Mr. Kelvin John
Issue:		Appeal against judgment
Result and Reason:		(1) The defendant/respondent shall file and serve written submissions within 21 days of this order (2) The claimant/appellant shall file and serve a response if necessary within 2 weeks thereafter. Both parties agreed on this approach so that the matter can move forward
Case Name:		Caribbean Star Airlines Ltd. v Elliott Armin Streete [Civil Appeal No. 33 of 2008]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Hugh Marshall Jr.
	Respondent:	Dr. David Dorsette
Issue:		Appeal be dismissed

Result and Reason:		(1) The application filed 27 th January, 2011 by the respondent to dismiss the appeal is granted (2) The appellant shall pay \$13,333.33 costs to respondent/applicant in these appeal proceedings The appeal would have been automatically dismissed from the date of 6 th December, 2010 of the Unless Order
Case Name:		HMB Holdings Limited v The Attorney General of Antigua and Barbuda [Civil Appeal No. 7 of 2010]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mrs. Stacy Richards-Anjo
	Respondent:	Mr. Justin Simon QC
Issue:		Appeal against Board of Assessment decision
Result:		(1) Solicitors for the respondent shall file and serve written submissions within 21 days of today's date (2) Solicitors for the appellant may file submissions in response if necessary within 21 days of service (3) The hearing of this appeal is adjourned to the next sitting of the Court of Appeal in Antigua and Barbuda, failing such early scheduling, the Court will advise of the next date (4) Costs of today shall be in the appeal
Reason:		An adjournment was requested and directions were given to move the matter forward
Case Name:		Glenroy Aska v The Bank of Nova Scotia [Civil Appeal No. 12 of 2011]

Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Steadroy Cutie Benjamin with Mr. Damien Benjamin
	Respondent:	Miss Judith Dublin
Issue:		Stay of execution
Result and Reason:		By consent the matter is adjourned to the next sitting of the Court of Appeal in Antigua and Barbuda in September 2011
Case Name:		Elmeade Jarvis v The Queen [Criminal Appeal No. 3 of 2011]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Sherfield Bowen holding papers for Mrs. Constance Mitchum
	Respondent:	Mr. Anthony Armstrong Director of Public Prosecutions with Miss Shanon Jones
Issue:		Bail pending appeal
Result:		Matter adjourned to Wednesday 18 th May, 2011
Reason:		Counsel for the appellant was not available, out of state.

Case Name:		Javier George v The Queen [Criminal Appeal No. 3 of 2006]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Steadroy Cutie Benjamin
	Respondent:	Mr. Anthony Armstrong Director of Public Prosecutions with Miss Shanon Jones
Issue:		Appeal against conviction and sentence
Result:		(1) Appeal against conviction is withdrawn and accordingly dismissed (2) Appeal against sentence is allowed to the extent that sentence is reduced from 15 to 9 years to run from 2 nd August 2004 when the appellant was detained
Reason:		Court found that the sentence was excessive in all of the circumstances of the case.
Case Name:		Levi Lamazon v The Queen [Criminal Appeal No. 2 of 2007]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Steadroy Cutie Benjamin
	Respondent:	Mr. Anthony Armstrong Director of Public Prosecutions with Miss Shanon Jones

Issue:		Appeal against conviction and sentence
Result:		(1) The appeal against conviction is withdrawn and accordingly dismissed (2) The appeal against sentence is allowed to the extent it is reduced to time served
Reason:		Court found that the sentence was excessive in all of the circumstances of the case.
Case Name:		Craig Smith v The Queen [Criminal Appeal No. 10 of 2008] Clayton Francis v The Queen [Crim. Appeal No. 11 of 2008] Noel Melvin v The Queen [Criminal Appeal No. 12 of 2008] Marlon Phoenix v The Queen [Crim. Appeal No. 14 of 2008]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Cosbert Cumberbatch for Messrs Smith, Francis and Melvin Miss Denecia Thomas holding papers for Mr. Ralph Francis for Mr. Phoenix
	Respondent:	Mr. Anthony Armstrong Director of Public Prosecutions with Miss Shanon Jones
Issue:		Appeal against conviction and sentence
Result and Reason:		The application made by the learned Director of Public Prosecutions for adjournment of the matter to the next sitting of the Court of Appeal in Antigua and Barbuda in September, 2011 is allowed and accordingly appeals are traversed to that sitting

Case Name:		Joseph W. Horsford v Geoffrey Croft [Civil Appeal No. 29 of 2010]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	In Person
	Respondent:	Mrs. Stacy-Ann Osborne
Issue:		Stay of execution
Result:		The matter is adjourned to next sitting of the Court of Appeal in Antigua and Barbuda in September 2011 where it will be ripe for hearing.
Reason:		The appellant had only received notes of evidence 2 weeks prior to hearing and in the meantime had filed amendments to his grounds of appeal and skeletal arguments.
Case Name:		Grenville Radio Limited v Harold Lovell [Civil Appeal No. 3 of 2011]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Steadroy Cutie Benjamin
	Respondent:	Miss E. Ann Henry
Issue:		Leave to appeal

Result and Reason:		Application for leave to appeal is dismissed with costs to the respondent of \$1500 to be paid by applicant. The master heard application to set aside judgment in default of defence but did not set aside. A disclaimer is not one of the defences at common law to a claim of defamation in the absence of specific statutory provision. The court will not overturn the master's decision.
Case Name:		Robin Mark Darby v LIAT (1974) Limited [Civil Appeal No. 13 of 2011]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Dane Hamilton QC
	Respondent:	Mr. Kendrickson Kentish
Issue:		Leave to appeal
Result and Reason:		(1) Application for leave to appeal is granted (2) Application is also treated as appeal (3) Appeal is allowed on the ground that the master disregarded the mutual concession and agreement of both parties on jurisdiction point. Matter is remitted to master to determine the application on its merits (4) No order as to costs
Case Name:		Diana Lynn Hendricks v Thyra Hendricks-Henry [Civil Appeal No. 31 of 2009]
Date:		Tuesday 17th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal

		His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	In Person
	Respondent:	No appearance
Issue:		Leave to appeal
Result and Reason:		<p>(1) Court hereby orders that a copy of the report filed on 6th December 2010 be provided to the appellant by Wednesday 18th May, 2011</p> <p>(2) The appellant may file a response to the court or take such other steps as she may wish.</p> <p>(3) This case is scheduled for report at next sitting of Court of Appeal in Antigua and Barbuda in during the week of 19th September 2011</p>
		<u>STATUS HEARING</u>
Case Name:		Austin Martin v The Attorney General of Antigua and Barbuda [Civil Appeal No. 15 of 2009]
Date:		Tuesday 17th May, 2011
Before:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Dane Hamilton QC with Mr. Alfred James
	Respondent:	Mr. Justin Simon QC
Issue:		Appeal against judgment
Result:		Matter adjourned to the next sitting of the Court of Appeal in Antigua and Barbuda during the week of 19 th September 2011

Reason:		Notes of evidence not completed as yet and will be ready by September 2011
Case Name:		Asot Michael et al v The Attorney General of Antigua and Barbuda et al [Civil Appeal No. 20 of 2009]
Date:		Tuesday 17th May, 2011
Before:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag)
Appearances:		
	Appellant:	Mr. Anthony Asthaphan SC with Mr. John Fuller
	Respondent:	Mr. Justin Simon QC
Issue:		Appeal against judgment
Result:		Matter adjourned to the next sitting of the Court of Appeal in Antigua and Barbuda in September 2011
Reason:		Notes of evidence not completed as yet and will be ready by September 2011
Case Name:		Charles Joseph v Antigua Commercial Bank [Civil Appeal No. 24 of 2010]
Date:		Wednesday 18th May, 2011
Coram:		President Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Davidson Baptiste, Justice of Appeal His Lordship the Hon. Mario Michel, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	In Person

	Respondent:	Mrs. Tracy Benn-Roberts
Issue:		Appeal against judgment
Result and Reason:		Matter stood down to 19 th May, 2011
Case Name:		Elmeade Jarvis v The Queen [Criminal Appeal No. 3 of 2011]
Date:		Wednesday 18th May, 2011
Coram:		President Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Davidson Baptiste, Justice of Appeal His Lordship the Hon. Mario Michel, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Sherfield Bowen holding papers for Mrs. Constance Mitchum
	Respondent:	Mr. Anthony Armstrong Director of Public Prosecutions with Miss Shanon Jones
Issue:		Bail pending appeal
Result and Reason:		Application for bail denied and the Registrar is directed to have the notes of evidence prepared urgently so that the appeal can be prosecuted
Case Name:		Cedric Liburd v Eugene Hamilton et al [Civil Appeal No. 17 of 2010] St. Christopher & Nevis Hon. Attorney General of St. Christopher & Nevis v Cedric Liburd et al [Civil Appeal No. 18 of 2010] St. Christopher & Nevis
Date:		Wednesday 18th May, 2011

Coram:		President Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Davidson Baptiste, Justice of Appeal His Lordship the Hon. Mario Michel, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Dr. Henry Brown with Mr. Sylvester Anthony
	Respondent:	Dr. Lloyd Barnett with Mr. Arudranauth Gossai for the Attorney General Mr. Terrance Byron with Messrs Vincent Byron and McClure Taylor for 1 st Respondent in Civil Appeal No. 17 of 2010 and 2 nd Respondent in Civil Appeal No. 18 of 2010
Issue:		Appeal against judgment
Result and Reason:		Decision reserved and parties will be notified of date for delivery
Case Name:		Brigette Rosemarie Neipp v Gloria Watt [Civil Appeal No. 16 of 2008]
Date:		Wednesday 18th May, 2011
Coram:		President Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Davidson Baptiste, Justice of Appeal His Lordship the Hon. Mario Michel, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Vere Bird III
	Respondent:	Dr. David Dorsette
Issue:		Appeal against judgment
Result and Reason:		Decision reserved for delivery during this sitting

Case Name:		Pascal Williams et al v Tyrone Herbert et al [Civil Appeal No. 27 of 2009]
Date:		Thursday 19th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Davidson Baptiste, Justice of Appeal
Appearances:		
	Appellant:	Miss E. Denecia Thomas
	Respondent:	No appearance
Issue:		Appeal against judgment
Result and Reason:		Matter stood down
Case Name:		The Liquidators of Eurofed Bank Limited (In Liquidation) v The Supervisory Authority [Civ. App. No. 51 of 2010]
Date:		Thursday 19th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Davidson Baptiste, Justice of Appeal
Appearances:		
	Appellant:	Mr. Anthony Asthaphan SC with Mr. Nicholas Fuller
	Respondent:	Mr. Justin Simon QC
Issue:		Registration and enforcement of a foreign order - interests
Result and Reason:		(1) Counsel for the parties shall assist the Court on the following issue by way of further written submissions – whether in the event of a forfeiture of the Lazarenko funds the interest accrued or accruing in respect of the principal sum so the fund follows

		<p>the principal with effect from the date when the liquidation commenced to the extent that all principal and interest accrued and reference to the Lazarenko funds are to be treated as the proceeds of crime</p> <p>(2) Counsel for the appellant shall file and serve written submissions on or before 17th June, 2011</p> <p>(3) Counsel for the respondent shall file and serve written submissions on or before 11th July, 2011</p> <p>(4) Counsel for the appellant may file and serve written submissions in reply by 25th July, 2011 if necessary</p> <p>(5) Decision on this appeal is reserved to a date to be notified</p>
Case Name:		Jewellers Warehouse v Linelle Solomon [Civil Appeal No. 22 of 2010]
Date:		Thursday 19th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Davidson Baptiste, Justice of Appeal
Appearances:		
	Appellant:	Dr. David Dorsette
	Respondent:	Mr. Hugh Marshall Jr. with Mr. Mark Harris
Issue:		Appeal against judgment of Industrial Court
Result:		Appeal is dismissed with costs of \$3000 to be paid by the appellant to the respondent.
Reason:		The employee showed improvement in performance and was dismissed nonetheless. Further the warning letter did not include the ground upon which the employee was subsequently dismissed
Case Name:		Pascal Williams et al v Tyrone Herbert et al [Civil Appeal No. 27 of 2009]

Date:		Thursday 19th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Davidson Baptiste, Justice of Appeal
Appearances:		
	Appellant:	Miss E. Denecia Thomas
	Respondent:	Mrs. Maureen Payne-Hyman
Issue:		Appeal against judgment
Result and Reason:		(1) Hearing of this appeal is adjourned to the next sitting of the Court of Appeal in Antigua and Barbuda in September, 2011 (2) The registrar shall serve the respondents with the notice of hearing
Case Name:		G90 Building Systems Limited v Leonard Drew et al [Civil Appeal No. 28 of 2010]
Date:		Thursday 19th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Davidson Baptiste, Justice of Appeal
Appearances:		
	Appellant:	Dr. David Dorsette
	Respondent:	Mr. Charlesworth Browne
Issue:		Appeal against judgment
Result and Reason:		(1) Appeal is allowed and the Order of the Judge is set aside (2) Matter is remitted to the High Court for proper hearing which should include invitation for cross-examination

		(3) The respondent shall pay costs of \$1500 to the appellant
Case Name:		Clarence Pilgrim v Public Service Commission [Civil Appeal No. 2 of 2011]
Date:		Thursday 19th May, 2011
Coram:		His Lordship the Hon. Chief Justice, Hugh Rawlins Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Davidson Baptiste, Justice of Appeal
Appearances:		
	Appellant:	Mr. Hugh Marshall Jr. with Mr. Mark Harris
	Respondent:	Mrs. Karen Defrietas-Rait
Issue:		Costs
Result:		There is no order as to costs in this appeal
Reason:		This was a Judicial Review matter under Part 56.3 (6) CPR 2000 and there was nothing to show that the appellant had acted unreasonably in bringing the appeal.
Case Name:		Malaka Parker v First Caribbean International Bank Ltd. [Civil Appeal No. 1 of 2011]
Date:		Thursday 19th May, 2011
Coram:		President Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.) His Lordship the Hon. Mario Michel, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Dr. David Dorsette
	Respondent:	Mrs. Nelleen Rogers-Murdoch with Mrs. Fidela S. Corbin

Issue:		Appeal against judgment
Result and Reason:		Matter stood down to 20 th May, 2011
Case Name:		Charles Joseph v Antigua Commercial Bank [Civil Appeal No. 24 of 2010]
Date:		Thursday 19th May, 2011
Coram:		President Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.) His Lordship the Hon. Mario Michel, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	In Person
	Respondent:	Mrs. Tracy Benn-Roberts
Issue:		Appeal against judgment
Result and Reason:		(1) Appeal is allowed with no order as to costs (2) Judgment given to appellant. Application allowed as the court was satisfied that the respondent bank had used the wrong basis for the calculation of interest on the judgment debt awarded in the Court of Appeal. No limitation issue arose as time ran from the date of the decision in the Court of Appeal which was well within the limitation period
Case Name:		Vere C. Bird III v The Daily Observer Ltd. et al [Civil Appeal No. 10 of 2011]
Date:		Thursday 19th May, 2011
Coram:		President Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.) His Lordship the Hon. Mario Michel, Justice of Appeal (Ag.)

Appearances:		
	Appellant:	Mr. Dane Hamilton QC
	Respondent:	Mr. Hugh Marshall Jr.
Issue:		Leave to appeal
Result and Reason:		Appeal is dismissed and no order as to costs. The master was correct in the stand she took
Case Name:		Everton Welch v The Attorney General [Civil Appeal No. 5 of 2011]
Date:		Friday 20th May, 2011
Coram:		President Her Ladyship the Hon. Janice Pereira, Justice of Appeal His Lordship the Hon. Davidson Baptiste, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Dr. David Dorsette
	Respondent:	Mrs. Carla Brookes-Harris
Issue:		Compensation for unlawful detention
Result and Reason:		Appeal is dismissed with no order as to costs
Case Name:		Brigette Rosemarie Neipp v Gloria Watt [Civil Appeal No. 16 of 2008]
Date:		Friday 20th May, 2011
Coram:		President His Lordship the Hon. Davidson Baptiste, Justice of Appeal

		His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.) His Lordship the Hon. Mario Michel, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Mr. Vere Bird III
	Respondent:	Dr. David Dorsette
Issue:		Appeal against judgment
Result and Reason:		Appeal is allowed and costs of \$9333.33 is awarded to the appellant representing two-thirds of costs below. The declaration of the learned trial judge that the personal representative of Mr. Charles Watt was entitled to 30% of the shares in Overseas Property Bond Management Limited was set aside
Case Name:		Malaka Parker v First Caribbean International Bank Ltd. [Civil Appeal No. 1 of 2011]
Date:		Friday 20th May, 2011
Coram:		President His Lordship the Hon. Davidson Baptiste, Justice of Appeal His Lordship the Hon. Don Mitchell QC, Justice of Appeal (Ag.) His Lordship the Hon. Mario Michel, Justice of Appeal (Ag.)
Appearances:		
	Appellant:	Dr. David Dorsette
	Respondent:	Mrs. Nelleen Rogers-Murdoch with Mrs. Fidela S. Corbin
Issue:		Appeal against judgment
Result and Reason:		(1) Appeal is upheld and the matter is remitted to the master for case management (2) Costs to the appellant awarded in the court below and two-thirds of those costs in the Court of Appeal