



# The Court of Appeal for Bermuda

Ref. A/50

Friday, 17<sup>th</sup> April 2015

**CIRCULAR NO: 7 of 2015**

**TO ALL COUNSEL**

**COURT OF APPEAL CALENDAR: 4<sup>th</sup> JUNE 2015 to 19<sup>th</sup> JUNE 2015 SESSION**

I enclose herewith a Draft Cause List for the forthcoming session. The Honorable President, Sir Scott Baker, has directed that Appellants and Respondents should be prepared to proceed with their appeals on very short notice at any time during the appeal period, and not only on the listed date. This also applies to these on the "Reserve List" as other appeals may collapse. Kindly note Item 8 as it refers to reducing needless duplication of authorities.

**REMINDER: The last Thursday in the June Session (June 18<sup>th</sup>) will be reserved for directions on future Criminal appeals. Mark your calendars now.**

1. The Draft Cause List constitutes a '*Notice of Hearing*' of the upcoming dates to all involved in the appeals.
2. The session will begin on **Thursday, 4<sup>th</sup> June 2015** and will probably end on or about **Friday, 19<sup>th</sup> June 2015**. The President of the Court of Appeal has directed me to say that if there are changes to the list, they will be made for the convenience of the Court and not at the convenience of Counsel.
3. Appellants (including anyone acting "In Person") are reminded that they are to observe the *Rules of the Court of Appeal* as well as what is set out in this Circular, when submitting further applications or documentation.
4. **CIVIL APPEALS:** Counsels are reminded to provide their Submissions and Authorities in accordance with the dates ordered by the Registrar at the Settling of the Record hearing. As the Court of Appeal Judges are travelling from overseas, it is necessary to have all Submissions received in a timely manner. This allows all appeals to proceed expeditiously. Counsels are reminded of **Circular No. 1 of 2007**, wherein only Core Bundles are to be submitted for "big" Civil Appeals.
5. **CRIMINAL APPEALS:** Ensure that you have filed your Legal Aid Certificate with us. Submission dates were provided by the Court to counsel at the Review/Directions Hearing in the March 2015 Session. Please adhere to these Directions.
6. **If a date has not be given to file submissions by either the Court or the Registrar:** Appellants' Submissions and Authorities must be submitted to the Registry on or before **Wednesday, 13<sup>th</sup> May 2015**; the Respondents' Submissions and Authorities are to be submitted by close of business on **Friday, 22<sup>nd</sup> May 2015**. This supersedes any and all prior Circulars. The fact that there are negotiations ongoing between the parties is not a good reason for refraining from submitting the Submissions.
7. Kindly notify the Court of Appeal Officer when you are ready to file your submissions. This will ensure acknowledgement of their receipt, appropriate filing and direction thereafter.
8. The Justices have requested that the Authorities provided in the bundles only contain the head note and the relevant pages/passages that are being cited. More than that will be extraneous. *With consideration now being given to the UK Practice Direction 52C Section 29, counsel are advised to consult with each other and exchange authorities. These authorities (no more than 10 each) shall be combined in one binder, preferably the Appellant's, for the Court to have at their disposal during the hearing. This will reduce duplicated authorities.*
9. If there are to be any changes to the filed Submissions, the onus is on the Appellant/ Respondent to update their filed documents **at the convenience** of the Court Officer.
10. If an adjournment of an appeal for good reason has to be sought, the Appellant must notify the Registrar and the Respondent of this intension prior to filing the documents. In no less than **four days** prior to the start of the session, the Appellant must file a Notice of Motion with Affidavit in support to request the adjournment of the appeal and appear before the Court when duly summoned. This does not guarantee that the request will be granted. Be ready to proceed with your appeal in any event.
11. Once an appeal is listed, please rectify your calendars of any conflicting cases in the Courts below.
12. Finally, because of the schedule and the pressure of work that will be on the Court of Appeal Judges while they are here, Appellants are asked to notify the Registrar of the Court and the Respondent(s) as soon as possible if they intend to abandon an appeal. The Notice of Abandonment should be filed shortly after said notification.

Copy: Attorney General's Chambers  
Department of Corrections  
Director of Public Prosecutions  
Legal Aid  
Bermuda Bar Association  
Senior Magistrate

  
Registrar of the Court



# In The Court of Appeal for Bermuda

## DRAFT CAUSE LIST- JUNE 2015

**N.B.** DATES HAVE NOT YET BEEN ASSIGNED – THE LISTING PRESENTED IS ONLY A LIST – NOT AN INDICATION OF ANY ORDER IN WHICH THE APPEALS MAY BE HEARD BETWEEN JUNE 4, 2015 AND JUNE 19, 2015!!  
**PLEASE KEEP YOUR CALENDARS FLEXIBLE!!!**

### CIVIL

**Corporation of Hamilton -v- The Attorney General et al** [Civil Appeal No. 21 of 2014](#)  
**(NOA against the decision of Kawaley CJ on 5 November 2014) (1)**

MDM (M Diel) - Applicant  
AGC (G Howard) - Respondent  
SC (C Foley) - Intervener

**Minister of Finance-v- AD** [Civil Appeal No. AD of 2015](#)

**(NOA against the decision of Hellman J on 27 January 2015) (1)**

CHW (D Kessaram) - Appellant

**Flannery -v- Flannery** [Civil Appeal No. 9 & 12 of 2014](#)

**(NOM for Leave to Appeal to the COA) (.5)**

Applicant in Person  
Marshall Diel & Myers (G. Marshall) - Respondent

**Marc Bean JP MP v Michael Dunkley JP MP** [Civil Appeal No. 3 of 2015](#)

**(NOA against decision of Kawaley CJ on 3 December 2014) (1)**

J2 (E Johnson) - Appellant  
MJM (A Dunch) - Respondent

### CRIMINAL

**Andre Blackstock & Kenton Butterfield-Smith v R** [Criminal Appeals Nos. 26 & 27 of 2013](#)

**(Conviction – Conspiracy to Import – Greaves, J) (2)**

MS (L Mussenden) – 1<sup>st</sup> Appellant  
Pettingill & Co. (M Pettingill) – 2<sup>nd</sup> Appellant  
DPP – Respondent

**Ramano Mills v R** [Criminal Appeal No. 9 of 2014](#)

**(Sentence – Handling a Firearm et al – Simmons, J) (.5)**

Lions Chambers (K Worrell) - Appellant  
DPP - Respondent

**Vincent Outerbridge v R** [Criminal Appeal No. 1 of 2014](#)

**(Conviction – Wounding – Greaves, J)**

Mussenden Subair (L Mussenden) - Appellant  
DPP - Respondent

**R v Cleveland Rogers** [Criminal Appeal No. 18 of 2014](#)

**(Sentence – Unlawful Carnal Knowledge – Greaves, J)**

DPP (K King) - Appellant  
Mussenden Subair (J Rogers) - Respondent

### REVIEW / DIRECTIONS

**Noet Barnett v R** [Criminal Appeal No. 4 of 2012](#)

**(Conviction/Sentence – Attempted Murder – Greaves, J)**

Christopher's (E Christopher) - Appellant  
DPP - Respondent

**Devon Hewey & Jay Dill v R** [Criminal Appeal Nos. 9 & 11 of 2013](#)

**(Conviction/Sentence – Premeditated Murder et al – Greaves, J)**

Lions Chambers (K Worrell) – Hewey  
Mussenden Subair (L Mussenden) - Dill  
DPP - Respondent

**Darrin Virgil v R** [Criminal Appeal No. 2 of 2015](#)

**(Conviction – Conspiracy to Import – Greaves, J)**

Mussenden Subair (L Mussenden) - Appellant  
DPP - Respondent